

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and not included in the Code or recognized and continued in force by reference therein, are hereby specifically repealed.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

Lewis B. Harper, Council Member

Kimberly A. Morris, Clerk

Scott A. Israel, Council Member

Ted H. Britt, Council Member

Jake C. Kunz, Council Member

Todd A. Speer, Council Member

CHAPTER 3 - ADVERTISING AND SIGNS

ARTICLE 1

Signs

Sec. 3-1.01. Short title.

This ordinance shall hereafter be known and cited as the "sign ordinance".

Sec. 3-1.02. Definitions.

(a) For purposes of this Article I, certain words are hereby defined. Words used in the present tense shall include the future, the singular shall include the plural, and the plural shall include the singular. The word "shall" is mandatory and not discretionary. The word "person" includes a firm, corporation, association, trust or partnership or other entity. The word town shall mean the Town of Brooks, Georgia.

(b) Unless otherwise indicated, the following words and terms shall have the meaning ascribed herein:

Advertising device means any structure or device erected or intended for the purposes of displaying advertising or any object for attracting attention situated upon, above, or attached to real property.

Animated sign means any sign, or attention getting device, with action, motion, changing colors, or having characteristics that require electrical or mechanical energy, including wind-activated elements such as spinners and aerial devices.

Area of sign. Only one face of a double-faced sign, as defined herein, bearing identical copy on each side shall be used in computing the area, otherwise both sides shall be used in computing area.

- (1) *Ground sign/monument sign.* The area of a ground sign shall mean and shall be computed as the entire area within a continuous perimeter, enclosing the limits, of all writing representation, emblem, or any figure or similar character, together with any frame, other material, open space, or color forming an integral part of the display or used to differentiate such sign from the background upon which it is placed. The supports or structure upon which any sign is supported shall be included in determining the sign area whenever such supports are designed in such a manner as to form an integral part of the display; however, provided that the area of the frame shall not be included in computing the area when the frame is composed of stone or brick and provided the frame contains or has attached no copy, words, writing, letters, or advertisement, but may not be internally illuminated, and provided that the surface area of the frame that is parallel to the display of the sign is no greater than 100 percent of the area of the sign displayed. A ground sign may include

individual letters, numbers, figures, mounted on a surface composed of stone or brick or other permanent structures called monument signs. The area of monument signs shall be computed as provided for wall signs.

- (2) *Wall sign.* The area of a wall sign shall mean and shall be computed using the smallest contiguous square, circle, rectangle, triangle, or combination thereof, that would encompass the external limits of the writing, representation, emblem, or other display, together with any material or color forming any integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed. When a wall sign is formed by placing individual letters, numbers, or figures on the wall, without a distinguishing background, the area shall be determined by a contiguous perimeter drawn around all letters, numbers, figures, trademark, or other symbols, enclosing the limits of writing. Any letters, numbers, figures, trademarks, or graphics separated by 36 inches or more shall be considered two separate signs.
- (3) *Three dimensional sign.* The area of a three dimensional sign shall be determined by a contiguous perimeter drawn around the three dimensional sign enclosing the limits of the three dimensional sign; said perimeter to be drawn around the vertical plane through the sign which creates the perimeter with the largest area. The three dimensional sign shall be treated as a double sided sign for purposes of sign area; therefore, the area of the above described perimeter shall be doubled, which product shall be the area of the sign for purposes of this sign ordinance.

Awning and canopy sign means a sign imposed or painted upon any roof-like structure that provides either permanent or temporary shelter for adjacent walkways or entrances to a building or property. Awning and canopy signs are prohibited, except see Sec. 3-1.10, Downtown Historic District signs.

Banner means a sign with or without characters, letters, illustrations, or ornamentation, applied to cloth, paper, plastic or fabric of any kind with only such material for backing, the same being characteristically hung or displayed on buildings or suspended in midair, across streets, passageways, and other areas visible to the general public. See special temporary signs.

Bench sign means any sign attached to or painted upon a bench or other seat placed in the public view and meant to be for public use or viewing. Bench signs are prohibited.

Building face projection means the facade area of a building, generally parallel to the street, excluding roofs, covered sidewalks, or facade areas which are perpendicular to the street. For applicants located in a planned center, the building face projection shall be that portion of the front facade that the applicant occupies.

Building line means a line established in general, parallel to the front street line, between which line and the street no part of a building shall project.

Changeable copy sign means a sign on which panels of copy may be changed manually in the field, or boards or backgrounds upon which changeable letters or changeable panels may be placed.

Designated agent means a person who is licensed as a real estate broker or salesperson by the State of Georgia, and who is contracted with the owner(s) of land to sell, lease or manage said land or parts thereof.

Double-faced sign means a sign which has two display areas against each other, where one face is designed to be seen from one direction and the other face from another direction, and where the two display areas are no more than; 19 inches apart at any location on the displays.

Entrance sign means any monument sign placed at the intersection of a public street and a private entryway into an apartment complex, or condominium complex.

Erect means to build, construct, attach, paint, hang, place, replace, suspend, or affix or fabricate a sign, which shall also include painting of wall sign or other graphics.

Exposed neon means neon tubing left uncovered or exposed to view on exterior of structure or a building. Exposed neon is prohibited.

Flag sign means flag or flags on a pole. Flag sign are exempt from permitting requirements.

Flashing sign means a sign, the illumination of which is not kept constant in intensity at all times when in use, and which exhibits marked changes in lighting effects, or displays visible movement achieved by electrical, electronic or mechanical means, or displays an optical illusion of movement by means of a design that presents a pattern capable of giving the illusion of motion or changing of copy, or with lights or illuminations that flash, move, rotate, scintillate, blink, flicker, or vary intensity or color. Illuminated signs shall not be considered as flashing signs. Flashing signs are prohibited except for authorized public safety uses.

Ground sign means a permanently affixed sign, which is wholly independent of a building for support.

Height of a ground sign or monument sign means the vertical distance from the base of the sign at normal grade to the top of the highest component of the sign. Normal grade shall be the predominant grade after construction, exclusive of any filling, berming, mounding or excavating for the purpose of locating or elevating the sign. Base shall be where the sign support meets, or should meet, the normal grade. Signs with a height of greater than six feet are prohibited, except that the structure of the monument may extend to seven feet above normal grade.

Illuminated sign, external means a sign illuminated by an external light source not mounted to the sign and directed toward such sign.

Illuminated sign, internal means a sign illuminated by an' internal light source.

Lot means a parcel of land which meets all requirements of the town, including zoning and subdivision requirements, for a legally developable lot for the zoning district in which it is located, meets all of the minimum size, dimension, road frontage and other requirements for a developable lot within its zoning district, and which may be developed or used for purposes consistent with those permitted within its zoning district.

Mobile sign means any sign which is mounted or designed for mounting on wheels, or which is mounted or designed for mounting on a towed vehicle, and the primary purpose of which is advertising. Mobile signs are prohibited.

Monument sign means a free standing sign mounted directly upon the ground and not raised by vertical supports.

Multiple frontage lots means those lots that have frontage on two or more public streets.

Neon means a lamp or tube filled with electrically charged gas thereby creating a light source.

Neon accents means neon lighting around windows (inside or outside the window), building facades, rooflines, doors, signs, and other building structures, building projections or designs upon buildings. Neon accents are prohibited.

Non-residential zoning means a lot zoned for commercial, office, retail, professional, Industrial, institutional or government use. For purposes of this ordinance those lots zoned for mixed residential and commercial use shall be considered "non-residential zoning".

Non-conforming sign means signs, which, on March 16, 2009 the effective date of this sign ordinance, which were pre-existing or legally erected under previous sign restrictions, and which became or have become non-conforming with respect to the requirements of this ordinance.

Obscene means obscene material as defined by O.C.G.A. § 16-12-80 and as may be amended or superceded or judicially interpreted from time to time.

Outparcel means a lot carved from a planned center which is in compliance with all town requirements and ordinances for legal stand-alone lot on which a free standing building is constructed which building meets all town setback requirements.

Pennant and streamers mean several small flags connected to a single line. See spectacular signs.

Planned center, office, commercial, or industrial means a group of two or more retail stores, service establishments, offices, industries, or any other businesses,, or combination thereof; consisting of individual buildings or units which are adjacent or abutting one another, and which are planned to serve the public, and which share

common amenities or common area, sidewalks, parking areas or driveways, excepting outparcels.

Political campaign signs means legal signs as determined pursuant to O.C.G.A § 16-758.

Portable sign means any sign which is not permanently affixed, including, but not limited to, signs mounted, painted or affixed on vehicles parked in such a manner as to serve the purpose of an advertising device, or not routinely parked at the immediate premises of the business or entity indicated, advertised or identified by said sign. Portable signs are prohibited, except for authorized public safety use.

Roof sign means any sign, graphic, or advertising device erected or maintained wholly or partially on or over the roof of a building. This requirement does not include those signs that may be mounted on parapets or mansards, which may extend above the roofline. Roof signs are prohibited.

Shopping center is a planned center.

Sidewalk, sandwich sign, or A-frame sign means a moveable sign not permanently secured or attached to the ground or surface upon which it is located. Sidewalk, sandwich and A-frame signs are prohibited, except see Sec. 3-1.10, Downtown Historic District Signs.

Sign means any surface, frame, letter, figure, character, mark, plane, point, design, picture, stroke, stripe, reading matter, material, fabric, device, object, three-dimensional object, or display which bears lettered, numbered, pictorial, or sculptured matter, designed to convey information visually or to draw attention and which is exposed to public view. For the purpose of this ordinance, the term "sign" shall not include those devices located, entirely within a building or structure, unless such devices are considered window signs; additionally the term "sign" shall include all structural members used to erect or mount same, and any company colors, trademarks, service marks, brand names, logos, symbols, or roof shapes, which are generally used by the company in the design of its buildings, and are generally used, or identified, as trade styles or other identifying marks or symbols of the company's business.

Sign face means the part of a sign that is or can be used for display of message.

Special temporary sign means a temporary sign or banner for use during time allowed per Sec. 3-1.09 of this ordinance.

Spectacular sign or device means animated signs, flags, streamers, pennants, balloons and other air or gas filled devices, search lights, lasers, beacons, or other light projecting devices. Spectacular signs or devices are prohibited. Inflatable devices designed to be used for children jumping/playing which are actually in use, shall not be considered a spectacular sign or device. Any such device which has not been used for a period of 8 consecutive hours shall be deemed a spectacular sign.

Stake sign means any temporary sign with supported by uprights which are placed into the ground, and not supported by or suspended from any building with signable area not greater than five square feet. Stake sign may not be more than five feet high to the top of the sign component, when placed and standing in ground. A stake sign may not be placed within the right-of-way.

Subdivision sign means a monument sign placed at the intersection of two public roads where one of the roads is the main thoroughfare into and out of a commercial or residential subdivision.

Swinging or projecting sign means a sign projecting perpendicularly more than 12 inches from the outside wall or walls of any building or supports upon which it is located.

Temporary sign means a sign of nonpermanent nature which shall not remain displayed for a time period exceeding 30 consecutive days.

Tenant sign means a sign within a property zoned as a shopping center or planned center, and not designed or placed so as to be read from a public road. Each tenant is allowed up to 108 square inches of signage. Such signs shall be uniform as to color, graphic style, size and color.

Traffic instructional sign means a sign used to give direction or specific instruction to motorist or pedestrians upon or near roads, streets, parking, sidewalks, within public areas (privately or government owned) in which the public is generally invited to enter or transverse. (These areas are more specifically described in Sec. 3-1.03, paragraph 10). Such sign shall contain only instructional information related to vehicular and pedestrian traffic control. The size, shape, color, height, location, and lettering of traffic instructional and control signs shall be substantially similar to that used by the Georgia Department of Transportation and the Town of Brooks. Traffic instructional sign is a traffic control device under the jurisdiction of the town's zoning administrator.

Trailer sign. See: Mobile sign. Trailer signs/mobile signs are prohibited.

Unit means a portion of a planned center which by town ordinances and codes may be occupied by a single use or tenant, and which is segregated from other uses or tenants within the planned center by 360 degrees of vertical walls (may include doors and windows) and a floor and a ceiling, and which has a separate entrance to the outside.

Vehicle sign means any sign painted, drawn or affixed to or on a vehicle including an automobile, truck or trailer.

Wall sign means a sign applied to or mounted to the wall or surface of a building or structure, the display surface of which does not project more than 15 inches from the outside face of the wall of such building or structure, and does not extend above the highest horizontal line of the wall. The vertical surface of a canopy is not a wall for purposes of this ordinance; however, see variances, Sec. 3-1.17.

Window sign means any type of sign located entirely within the interior of a building or structure, and placed near a window or door, the letters, numbers, pictorial or sculptured matter of which is visible from the exterior of the premises.

Sec. 3-1.03. Purpose.

The mayor and council find that:

- (1) Proper regulation of signs is a necessary prerequisite to a peaceable, orderly, and safely designed business environment.
- (2) An improperly regulated sign environment imposes health and safety dangers to the public.
- (3) The result of effective sign regulation will be to lessen hazardous conditions, confusion, and visual clutter, caused by the proliferation, improper placement, illumination and excessive height and size of signs that compete for the attention of pedestrian and vehicular traffic, and impede vision of traffic, traffic controls signs, and devices.
- (4) Uncontrolled and unlimited signs may result in a roadside clutter that impedes the flow of information thereby defeating the purpose of signage, and that impedes the flow of information from traffic signs and signals thereby creating hazards to drivers and pedestrians.
- (5) Uncontrolled and unlimited signs degrade the aesthetic attractiveness of the natural and manmade attributes of the community and thereby undermine the economic value of tourism, visitation, and permanent economic growth.
- (6) Through proper regulation of signs, the attractiveness and economic well being of the Town of Brooks will be enhanced as a place to live, work and conduct business.
- (7) Signs provide an important medium through which individuals may convey a variety of noncommercial and commercial messages. However, left unregulated, signs can become a threat to public safety as well as a traffic hazard. Such signs may also constitute an aesthetic nuisance and be a detriment to property values and the town's public welfare. The mayor and council intend by enacting this ordinance to:
 - a. Balance the rights of individuals to convey their message through signs and the right of the public to be protected against the unrestricted proliferation of signs;
 - b. Further, the objectives of the town's comprehensive plan;
 - c. Protect the public health, safety, welfare, and aesthetics of the town;
 - d. Reduce traffic and pedestrian hazards;
 - e. Maintain the historical image of the town;

- f. Protect property values by minimizing the potentially adverse effects and visual blight caused by signs;
 - g. Promote economic development; and
 - h. Ensure the fair and consistent enforcement of sign regulations.
- (8) Further, the town has an obligation and a right to protect the rights of adjoining landowners to adequate light and air, to promote desirable living conditions and the sustained stability of neighborhoods, to protect property against blight and deprivation and encourage the most appropriate use of land, buildings, and other structures throughout the town.
- (9) Accordingly, in consideration of the town's rights and obligations to promote traffic safety to preserve property values, to provide for the convenience and enjoyment of public travel, to eliminate annoyance to travelers, to attract tourists, residents and industry, to serve the public health, safety and morals, to advance the general prosperity of the community, and to serve the general welfare, the town hereby imposes the regulations contained in this ordinance.
- (10) The Town Council finds that there is compelling state interest in the Town and State being able to safely regulate the speed, direction and flow of vehicular and pedestrian traffic in and around public roads, streets and sidewalks, and quasi-public roads, streets and sidewalks in private property where the general public, invited by the owner, routinely and customarily enters, transverses, and parks by vehicle and/or by foot. The Town has a compelling state interest in the public safety and welfare of motorists and pedestrians in these areas, the safe and expedient access of public safety vehicles such as police, fire and rescue equipment to such areas. The Town has a compelling state interest to regulate vehicular and pedestrian traffic such as to prevent or minimize collisions and the injury or death to persons caused thereby, or the damage to property, both public and private. Therefore, the Town determines that there is a compelling State interest in the Town's zoning administrator regulating the type, traffic control message and placement of all traffic control signs and devices in the areas described above. The Town also has a compelling state interest in insuring that private entities are not allowed to display in the areas described above, signs that imitate or emulate traffic instructional and control signs, devices or messages in such a way as may reasonably be mistaken by the public as true traffic control signs or devices, and thereby could reasonably be expected to cause a motorist or pedestrian to make an improper maneuver which will place the motorist or pedestrian or other motorist or pedestrian in danger of collision or injury due to such improper maneuver. Therefore the Town has a compelling state interest in regulating such signs in the areas described above which imitate or emulate a traffic instructional and control sign or device and which may reasonably be confusing to motorists or pedestrians in these areas.

Sec. 3-1.04. Administration

The provisions of this Article shall be administered by the zoning administrator of the Town of Brooks, Georgia, or his designee.

Sec. 3-1.05 Sign permit required

(a) Required. Except where specifically excluded by other provisions of this ordinance, it shall be unlawful for any person, firm or corporation to post, display, substantially change, change or modify sign face or face panels, alter, or erect, reconstruct, replace or reset a sign or advertising device in the Town of Brooks, Georgia without first having obtained an authorization to erect a sign and thereafter a permit in the manner prescribed herein.

(b) Application for permits. Application for authorization to erect a sign shall be made upon forms provided by the zoning administrator, and shall contain or have attached thereto the following information:

- (1) Name, address and telephone number of the property owner and applicant;
- (2) Address of building, structure, or lot to which or upon which the sign is to be attached or erected;
- (3) Position of the sign in relation to nearby buildings or structures and other signs. Setbacks from right-of-ways, property lines and easements.
- (4) Complete calculations establishing the area of sign;
- (5) Such other information as the zoning administrator shall require to show full compliance with this and all other ordinances of the town;

(c) Fees. Fees for authorizations and permits shall be \$25.00 per action or permit.

(d) Notification. The town shall process all sign authorization and permit applications within 45 days of the town's actual receipt of a completed application and a sign authorization and permit fee. The town shall give notice to the applicant of the decision of the town by hand delivery, by mailing to the address on the authorization and permit application, or by fax as provided on the application on or before the 45th day after the town's receipt of the completed application. Notice shall be deemed to have been given upon the date of mailing (if mailed), date of faxing (if faxed), or date of hand delivery (if hand delivered). If the town fails to act within the 45-day period, applicant shall notify the zoning administrator in writing of the failure and the town council shall meet within ten days of the zoning administrator's receipt of such notice and shall issue or deny the authorization to erect a sign. Upon failing to so act, the authorization to erect the sign shall automatically be granted; however, the final permit procedure must be followed by the applicant.

(e) Denial. In the event the zoning administrator determines or learns at any time that the applicant has not properly completed the application for authorization to erect

the proposed sign, he shall promptly notify the applicant of such fact and shall automatically deny the application. In the event the zoning administrator determines that all requirements for approval of the application for authorization have not been met, he shall then deny the application.

(f) Issuance of an authorization. Upon the filing of an application for an authorization and permit and the payment of all necessary fees as required by this specifications submitted and the premises upon which the proposed sign is to be erected, and if it shall appear that the proposed sign is in compliance with all the requirements of this ordinance and all other ordinances and laws of the town, and if a business, that the business has registered and paid any tax due pursuant to the town's occupation tax ordinance, he/she shall then issue an authorization to erect the sign pursuant to the application and any conditions placed upon the authorization by the town. If the work authorized thereby has not been completed within 180 days after the date of issuance and a final permit has not been requested in writing, the authorization shall become null and void and no final permit may be issued.

(g) Appeal procedure. Any applicant who is dissatisfied by a decision of the zoning administrator may appeal such decision to the town council. Such appeal shall be in writing and shall be filed with the zoning administrator within ten days of the decision being appealed. The town council will schedule the matter for hearing within 45 days of the appeal being filed and at such meeting may continue the matter ten days for further investigation affirm, reverse, or modify the determination of the zoning administrator. The town council shall make its final determination on the appeal within ten days of the close of the hearing.

(h) Within ten days after completion of the erection of a sign pursuant to an approved application and an authorization to erect, and within 180 days of the issuance of an authorization, the applicant shall deliver to the zoning administrator a written request for a final permit along with current and dated color photographs of each face of the sign (at least three inch by five inch in size) and a signed affidavit that the photographs are current and accurate photographs of the sign's faces as of the date on the photographs, that the sign was and is erected as described in the application as conditioned, and authorized by the town, including the size, location, building materials, height and lighting. Within ten business days of the filing of a request for a final permit, the zoning administrator shall issue the final permit or deny the final permit because of the applicant's failure to properly and timely submit the written request for final permit, failure to properly and timely document the request, or failure to properly and timely erect the sign as described in the application conditioned and authorized by the town. Notification of a denial shall be effectuated pursuant to paragraph (d) above, and the applicant shall have the appeal rights as provided at paragraph (g). Failure of the zoning administrator to approve or deny the application for a final sign permit within said ten business days of the applicant properly and timely filing with the town a fully and properly documented application for final permit shall constitute an approval of the final permit.

(i) An applicant who has failed to complete the erection of a sign within 180 days of the issuance of an authorization or who fails to request a final permit within ten days of erection of a sign pursuant to an authorization or who fails to apply for a final permit within 180 days of the issuance of an authorization or who's request for a final permit is denied, shall remove the sign or parts of the sign within 30 days of notice from the zoning administrator, to remove the sign or parts of the sign. Failure to so remove the sign shall constitute a separate ordinance violation for each day that the sign or part of the sign-is not removed from the proposed site and upon conviction, the applicant and/or owner or tenant of the sign site shall be guilty of an ordinance violation and shall be subject to fines or imprisonment as authorized by the town's Charter.

(j) Furthermore, if the sign or part of the sign is not removed within said 30 days, the town may remove the sign or part of the sign and charge the applicant and/or owner of the site the cost of removal and disposal.

(k) Non-Residential Allowable Signs. In non-residential zoning districts, signs shall be permitted as herein provided:

- (1) Lots with one building (not planned centers), which building is currently occupied pursuant to a current and valid county certificate of occupancy, shall be entitled to:
 - i. On single frontage lot, combination of one wall and one ground sign equal to five percent of the building face projection (subject to ground sign and wall sign size limitations per Sec. 3-1.06(c)); or
 - ii. Single building on double frontage lots are allowed a total of 75 percent of the building facade, and may have one additional wall sign, and one additional ground sign (subject to ground sign and wall sign size limitations per Sec. 3-1.06(c)), When calculating their allowed square footage, buildings on double frontage lots shall base their calculations on the facade with the primary entrance and/or architectural features of the building. Otherwise, the facade used shall be that facade which faces the public road of the greatest capacity.
- (2) Each legal town lot, in non-residential zoning districts shall be entitled to one stake sign, which may not be placed within a right-of-way.
- (3) Lots of less than three acres, in non-residential zoning district shall be entitled to one temporarily single-face ground sign up to 20 square feet.
- (4) Window signs, except see limitations at Sec. 3-1.10, Downtown Historic District signs. Window signs are not calculated as part of the overall signage allowed per property and must meet the sign material requirements of this ordinance.

- (5) A lot zoned non-residential, which is three acres or more in size, may display a permitted temporary, double-sided ground sign, with a sign face not more than 20 square feet per side. The required permit may be issued for no longer than one year. The sign may not be placed within ten feet of a right-of-way.
 - (6) A lot zoned non-residential, containing a licensed business which provides and utilizes a vehicle drive through permitted by definition in the zoning ordinance or by a special exception-granted by the town council, at which the public transacts business, may display one additional permitted single faced ground sign not to exceed 35 square feet, in addition to the signage allowed in this Sec. 3-1.05 located adjacent to the drive through lane with a font size no larger than three inches, and the message face of which is directed towards the motorist passing through the drive through lane.
- (l) Residential Allowable Signs. In residential zoning districts, signs shall be permitted as following subject to the provisions herein provided:
- (1) Two stake signs per lot in residential zoning districts not placed within the right-of-ways.
- (m) General Regulations.
- (1) Changeable copy shall be limited to ground signs, but cannot be used on entrance or subdivision signs.
 - (2) Any sign authorized by this ordinance is allowed to contain noncommercial copy or commercial copy, except for traffic instructional signs.
 - (3) Traffic instructional signs shall be placed by the owner at such locations and for such purposes as required by the towns zoning administrator. A traffic instructional sign plan shall be submitted to the town for approval by the town's zoning administrator with the master signage plan for planned centers, shopping centers, office or industrial complex, or subdivision.
 - (4) Apartment complex, condominium complex, a non-subdivided industrial or commercial complex or other building with multiple residential dwelling units or multiple commercial units shall be permitted one double-sided sign at the complex entrance, each side of which shall not exceed 35 square feet signage area, computed per Sec. 3-1.02(b) "Area of Sign", or two one-sided signs, each sign not to exceed 35 square feet signage area, computer per Sec. 3-1.02(b) "Area of Sign". The height of the sign shall not exceed six feet.

Sec. 3-1.06 Regulated signs.

(a) All signs or advertising devices not specifically permitted in a zoning district as a sign exempt from permitting Sec. 3-1.16 shall be regulated signs, which are prohibited except as provide for under this ordinance and upon issuance of a permit by the town. The zoning administrator or his designee is authorized to issue sign permits for any sign that meets the standards and limitations set forth herein.

(b) Ground signs as defined in Sec. 3-1.02(b) which are permanent shall be permitted in non-residential zoning districts. No ground sign shall have a height greater than six feet above normal grade, or an area greater than 35 square feet for lots with a single building and 45 square feet for planned centers. A ground sign shall not be located within ten feet of a street right-of-way. Changeable copy shall not exceed 20 percent of the area of the sign face. Ground signs, are allowed only on lots upon which there is a building which is currently occupied pursuant to a current and valid county certificate of occupancy or which is currently being developed under an active Town of Brooks building permit.

(c) Wall signs as defined in Sec. 3-1.02(b) shall be permitted in non-residential zoning districts. Permitted area of wall signs shall not exceed 50 square feet. Except for double frontage lots per Sec. 3-1.05(k)(1)(ii) no single building or unit shall be permitted more than one wall sign. Wall signs are allowed only upon a building which is currently occupied pursuant to a current and valid town certificate of occupancy or which is currently being developed under an active Town of Brooks building permit.

Sec. 3-1.07 Construction and maintenance requirements.

(a) No sign shall be constructed in such a manner which will hinder vehicle traffic or pedestrians or block any entrances or exists from any sidewalk or building or any windows, doors, fire escapes. Each sign shall be securely erected and free of any protruding nails, tacks and wire.

(b) No sign shall be constructed with any type material, finished letters, characters or surface that will reflect sunlight or any other type of light of such an intensity to hinder vehicle traffic or in any way create a nuisance to the surrounding area.

(c) Except for stake signs, as defined in this ordinance a sign containing wood in its structure, face or frame or any part thereof shall be painted or stained.

(d) No wall sign or its supports shall protrude more than 15 inches from the wall on which it is mounted.

(e) All signs shall be constructed in such a manner and fastened in such a way to prevent movement by wind action.

(f) No wood, metal or any other type of supports for ground signs shall be less than four by four inches in size for each support or less than three inches in diameter if circular.

- (g) Wood signs shall be framed on the two sides attached to the supports, except for hanging and projecting signs allowed in the Downtown Historic District. Supports can be considered framing if the sign is so designed with supports as part of framing on both sign face areas.
- (h) UL, FM or similar approval is required where applicable.
- (i) All signs shall be constructed and maintained in accordance with the provisions of the building code as adopted and from time to time amended by the county.
- (j) Externally illuminated signs shall be lighted so that no lights are positioned in such a manner that light glares or shines into the eyes of motorists or pedestrians as to create a hazardous or dangerous condition.
- (k) No wall sign shall cover wholly or partially any wall opening, nor project beyond the ends or top of the wall to which it is attached.
- (l) All special temporary signs shall be securely installed, and shall meet all applicable safety standards as prescribed by the town's current building code or electrical code,
- (m) All signs at the entrance of complexes shall, be placed on private property and may not be placed within ten feet of a right-of-way.
- (n) Except for subdivision signs described at Sec. 3-1.08 of this Article, all signs must be placed upon a lot, as defined in the town's zoning ordinance and the subdivision regulations. No sign may be placed on any lot, which lot does not meet the minimum lot requirements of the zoning ordinance and subdivision requirements.
- (o) No message or advertisement may be displayed on any portion of the structural supports of any sign.
- (p) All signs regulated by this ordinance shall be kept clean, neatly painted, and free from all electrical and mechanical hazards, including, but not limited to, faulty wiring and loose connections, and the premises surrounding the signs shall be maintained by the owner in a sanitary and inoffensive condition free and clear of all weeds, rubbish, and debris.
- (q) No sign shall be illuminated either internally or externally in any residential district zoned except that entrance signs and subdivision signs may be externally illuminated from dusk until dawn.

Sec. 3-1.08 Subdivisions

- (a) Subdivisions shall be permitted one double-sided ground sign located at the entrance of the subdivision but not within ten (10) feet of the edge of the public right of way each side of which shall not exceed 35 square feet signage area, per Sec. 3-1.02 or two one-sided signs each sign not to exceed 35 square feet signage area, per Sec 3-1.02.

The height of the sign shall not exceed six feet. All subdivision signs shall be placed on private property and may not be placed within ten feet of the edge a right-of-way.

(b) Subdivision homeowner associations may have one 25 square feet changeable copy or glass covered sign located adjacent to the entrance to the subdivision's intersection with the public right of way and located within the common area owned by the homeowner's association but not interfering with sidewalks or streets and the message face directed toward motorist and pedestrians who have entered the subdivision. These signs may not be placed on individual lots. The homeowner association sign shall be the responsibility of the elected officials of the homeowner's association. Subdivisions without elected homeowner association officers must have a designated person responsible for the sign.

Sec. 3-1.09 Special Temporary Signs

Special temporary signs are permitted for no more than 30 consecutive days and only under the following conditions and requirements:

- (1) The maximum size allowance for all such signs used for an event shall be a total of 50 square feet.
- (2) All such signs may be attached to the exterior wall or walls of a building or beneath a canopy or attached to the ground. Such signs attached to the ground must be placed in front of the building or unit within 20-feet of said building or unit. No such sign shall be placed within ten feet of the street right-of-way or in any other manner as to obstruct the view of motorists or pedestrians.
- (3) Special temporary signs for planned centers shall be attached to the exterior wall or walls of a building only.
- (4) All special event signs shall only be displayed for no more than 30 consecutive days and comply with all other applicable regulations and conditions as set forth in this ordinance.
- (5) The owner or the owner's designated agent (but not both at the same time) of a subdivision under development in which the owner of the subdivision owns one or more subdivision lots may obtain a permit, effective for up to one year, to display within the subdivision under development one temporary double-sided ground sign with no more than 20 square feet of sign face per side. A planned center with one out-parcel is not a subdivision for purpose of this paragraph. The sign may not be placed within ten feet of a right-of-way.
- (6) A lot zoned residential which is not within a subdivision platted pursuant to the town's subdivision regulations, and which is three acres or more, in size may display a temporary, double-sided ground sign with a sign face

not more than 20 square feet per side. The sign may not be placed within ten feet of the edge of a right-of-way.

Sec. 3-1.10 Town Center District Signs.

The purpose of the Town Center District Sign Ordinance is to ensure the district's signage is harmonious in proportion, form, color, and materials to the character of the historic district. Visual relatedness is crucial to the goal of an integrated Downtown, and signs play a key role in helping to preserve the historical district's sense of time and place, and achieve the desired effect of charm and compatibility. The ordinance allows businesses to maintain their individual identities, and also become identified with the downtown historic district as a whole.

- (1) *Applicability.* This Sec. 3-1.10 shall apply only to those building structures and uses within the geographical boundaries of the Town Center District (TCD) as established and defined in the town zoning ordinance.
- (2) *Compatibility.* As to signs buildings, structures, and uses within the Town Center District, when a provision of this Sec. 3-1.10 conflicts with any Section in the balance of this ordinance, the provision of this Sec. 3-1.10 shall control. Otherwise, to the extent reasonably possible the provisions of this Sec. 3-1.10 shall be interpreted consistent with the provisions of the balance of this ordinance.
- (3) Signage standards.
 - i. *General.* Signage shall complement the architectural details of the building, and shall not violate or otherwise obscure the architecture of the building to which it is attached. Signs, lettering, or boxed graphics shall not cut across columns, cornices, windowsills, arches or balconies, nor extend above the roofline of any building to which it is attached.
 - ii. *Lettering, size, and construction.* Letters can be painted or mounted directly on a signboard, storefront, wall or window, if in proportion to the storefront. Lots in the Town Center District are allowed the same amount of signage as lots outside of the Town Center District. Inside the Town Center District businesses may also utilize canopy signs, hanging or suspended signs, menu signs and sandwich signs. Provided, however, in no case may the total signage area exceed 7.5 percent of the building face to which the sign is attached. (See Sec. 3-1.05, general regulations for total signage size allowances per business.) Acceptable lettering materials include wood, stone, synthetic stone, metal, vinyl, dimensional plastic, acrylic, or high-density polystyrene foam. The overall design of all signage shall be compatible with the turn-of-the-century theme.

- iii. *Materials.* Signs may be constructed of concrete, brick, wood, stone, metal, glass, or synthetic materials that have the same appearance of the aforementioned natural materials due to their finish. All materials shall be compatible with the building's architecture, and should be colorfast and resistant to corrosion. Signs shall be professionally finished in accordance with the material selected, whether by sanding, painting, staining and/or sealing, with the edges of the sign framed out and/or sealed.
- iv. *Lighting.* All signs in the Town Center District, whether ground signs or wall signs, shall only be illuminated by an external light source, and through craftsmanship and materials, shall reflect Town Center District design aesthetics.
- v. *Colors.* Signs, and all lettering, symbols, and embellishments contained therein, shall be furnished in colors either contained in the Typeset & Color Guide for TCD Signage, or consistent with the colors contained in the Typeset & Color Guide.
- vi. *Awnings and canopies.* Decorative awnings or canopies over doors or windows are permitted in the Town Center District area, and shall not be calculated as part of total signage area allowed under Sec. 3-1.05(k). Professionally applied lettering or symbols may be incorporated into the awning or canopy valance/drop flap, but are restricted to 20 percent of the awning field. Size of the signage shall be computed as for a wall sign at Sec. 3-1.02, definition. Signage pursuant to this paragraph shall be included within the overall amount of signage allowed under Sec. 3-1.05. Awnings or canopies shall clear sidewalks by seven feet in height, and project no more than six feet from the building. Canvas or synthetic look-alike canvas, is the only material permitted for decorative awnings and, canopies. Metal or vinyl may be approved for functional awnings or canopies if "the overall design is consistent with TCD's turn-of-the-century theme. Awnings/canopies may not be backlit.
- vii. *Hanging or suspended signs.* Hanging, suspended, or projecting signs are permitted in the Town Center District, and shall clear sidewalks by seven feet in height, and project no more than 36 inches from the building. Hanging or suspended signs should project from the wall at a 90-degree angle. Hanging or suspending signs over driveways, alleys, or parking areas is prohibited. Hanging, suspended, or projecting signs shall be limited to a maximum size of six square feet, and if double sided shall be calculated as only one sign. One hanging, suspended, or projecting sign per business street frontage is permitted, and shall be calculated as part of the total signage area allowed under Sec. 3-1.05, Attractive hardware for hanging is encouraged.

- viii. *Sandwich board signs (a.k.a. A-frame signs).* Movable sandwich signs, or A-frame signs, may be used in the Town Center District one per building or unit. A sandwich board sign shall have a maximum height of four feet, and a maximum area of eight square feet on one side, and through design, paints lettering, and materials, shall conform to Town Center District aesthetic standards. Sandwich board signs shall not be placed off-site or displayed in such a way as to block or hinder pedestrian traffic. Sandwich board sign may be placed upon public sidewalks, but must leave a minimum of five feet width of sidewalks clear of obstructions for pedestrian traffic. Each building or unit at its main public entrance, used exclusively by said building or unit shall be permitted one sandwich board sign. The sandwich board sign must be placed only on the sidewalk in front of said building or unit or, in the front yard of the building or unit. Such signs must be placed in front of the building or unit within 20-feet of the main public entrance of said building or unit. Signage pursuant to this paragraph shall be included within the overall amount of signage allowed under Sec. 3-1.05.
- ix. *Display Box.* A sign located with ten (10) feet of the main public entrance used exclusively by the relevant building or unit as part of the total signage allowed under Sec. 3-1.05. A display box shall have a clear face to protect the sign from the weather and be constructed to coordinate with the building design.
- x. *Window signs.* Interior window signs, bearing lettered, numbered, or pictorial matter, shall not exceed 25 percent of the total window area exposed to public view. Window signs shall not be included within the overall amount of signage allowed under Sec. 3-1.05.
- xi. *Special temporary signs.* Special temporary signs will be permitted in the Town Center District, and shall conform to Town Center District aesthetic standards.
- xii. *Ground signs.* Ground signs may hang or suspend from a horizontal support that is affixed to the ground by vertical post.
- xiii. *Monument signs.* Monument signs must be located on private property, and never upon any public right-of-way, and no closer than ten (10) feet from the nearest edge of any pavement on a public roadway. The face of the monument sign, and the second face, if a double-sided sign, may not exceed twenty (20) square feet per face side.

Sec. 3-1.11 Planned Centers

(a) A planned center shall be entitled to one monument entrance sign on each street right-of-way fronted. These permitted signs shall be limited to 45 square feet with a maximum height of six feet from grade. No portion of the sign shall include an area for changeable letters.

(b) A planned center shall be entitled to one tenant sign per entrance to a public, right of way. Tenant signs shall not be designed or placed so as to be read from a public road. Each tenant shall be allowed up to 108 square inches of signage. Each panel on a tenant sign shall be of the same size, color, and font.

(c) Each building or unit with a separate entrance, not accessible by other tenants, located in a planned center shall be permitted one wall sign with a maximum area of five percent of the building facade which it is mounted upon (see the definition of "building facade"), but not to exceed 50 square feet. Additional wall signs per Sec. 3-1.06(c) are not allowed for multiple facade frontages. If an entrance to a building is shared by two or more tenants, as in the case of an office building, wall signs on the exterior of the building are not permitted. As an example: a building constructed as a strip center will be allowed wall signs. A building constructed as an office building will not be allowed wall signs.

(1) No permits shall be issued for buildings or units in a planned center unless and until a master signage plan for the planned center has been submitted and approved by the zoning administrator or his designee. The master signage plan shall indicate how all signage will be consistent in:

- i. Lighting.
- ii. Colors.
- iii. Fonts.
- iv. Building materials.
- v. Location in relation to the primary building.
- vi. Proportions.

(2) The owner or the owner's designated agent (but not both at the same time) of a planned center may obtain a permit, effective for up to one year, to display within the planned center one temporary double-sided ground sign with no more than 20 square feet of sign face per side, The sign may not be placed within ten feet of a right-of-way.

Sec. 3-1.12 Enforcement.

Citations for violation of this Article may be issued by the zoning administrator or his/her designee, or a law enforcement officer of the town or of Fayette County. The citation shall be returnable to and tried before a court of proper jurisdiction as

determined by the Town Council. Any person, firm, or corporation violating any provisions of this ordinance may, upon conviction, be fined in an amount, and/or imprisoned for such term as authorized by the town's Charter. Each day said violation shall continue shall constitute a separate offense.

Sec. 3-1.13 Prohibited signs and advertising devices.

The following signs and advertising devices are prohibited in all zoning districts of the town:

- (1) Air and gas filled devices;
- (2) Awning and canopy signs, except see Town Center District signs;
- (3) Bench sign;
- (4) Sign which displays obscene text, copy, message, pictures, forms or structures;
- (5) Flashing, blinking, traveling signs or lights, except for authorized public safety;
- (6) Portable, mobile or trailer signs, except for authorized public safety;
- (7) Sidewalk, sandwich signs, and A-frame signs, except see Sec. 3-1.10, Town Center District signs;
- (8) Signs on a public right-of-way or on town property except exempt traffic control signs and devices;
- (9) Signs which contain or are in imitation of an official traffic control sign or signal or contain the words "stop," "go," "slow," "danger," "detour," "speed limit," "yield" or similar words intended to direct or regulate traffic;
- (10) Signs affixed to utility poles, trees, street markers, and fence posts or placed on any curb, sidewalk, fence, hydrant, bridge or other surface located on public property or over or across any public street;
- (11) Signs that are erected located or maintained in such a manner as to interfere with safe and free ingress or egress of any door or emergency exit or fire escape;
- (12) Spectacular signs;
- (13) Swinging or projecting signs, except see Sec. 3-1.10, Town Center District signs;

- (14) Signs which obstruct sight of motorist or pedestrians so as to create safety hazards for motorists or pedestrians;
- (15) All signs not specifically permitted or allowed by this ordinance.
- (16) Illuminated sign, internal.

Sec. 3-1.14 Non-conforming signs.

Non-Conforming signs may continue in existence subject to the following restrictions:

- (1) No change may be made in the location, shape, height, size, or design of any non-conforming sign, or replacement of or change in the face or message panel of a non-conforming sign except to bring the sign into compliance with the provisions of this ordinance, and a sign permit granted pursuant to this ordinance.
- (2) A non-conforming sign may not be reconstructed, replaced, or reset if it is removed by the owner or agent for the owner for any reason.
- (3) Any sign erected in violation of this ordinance may be removed from any public right-of-way by duly authorized employees of the town, and the responsible party may be cited for such violation
- (4) No additional sign or advertising devise except political campaign signs shall be erected on the same lot with an existing non-conforming sign until the non-conforming sign has been removed or brought into conformity with this ordinance.
- (5) No sign permit may be granted to any applicant, where there exists on the subject lot a non-conforming sign, as defined in this ordinance, an illegal sign, an unpermitted sign, a damaged sign, a sign in need of repair or painting, or a sign in violation of Sec. 3-1.15 of this ordinance.
- (6) A non-conforming sign may not be replaced by another non-conforming sign except where, changed conditions beyond the control of the owner render the sign non-conforming or warrant the sign's repair.
- (7) A non-conforming sign may not be expanded or altered in any manner that increases the degree of nonconformity.

Sec. 3-1.15 Removal of certain signs.

(a) Any sign which has become dilapidated, or any sign which, due to poor maintenance or neglect, has become a visual blight, or by its condition and state of repair is deemed to be dangerous, and any sign which has been erected in a manner which fails to meet the requirements of this ordinance as a legal or a recognized non-conforming sign may be removed by the zoning administrator provided some reasonable attempt has been made to have such sign removed by the owner thereof, and provided further that such removal can be made without damage to any property or sign, except for the cutting or severing of supports for the sign at or near the ground or its attachment to any wall or structure. Any sign removed under the foregoing provision shall be stored by the town at the expense of the sign owner or landowner upon which the sign is located.

(b) In the case of a sign which cannot be removed without risk of property damage and in the case of signs removed and stored as provided herein, the zoning administrator shall cause notice of the same to be mailed to the owner of the sign if the same may be determined or to the owner of the property upon which said sign be located of the impending action pertaining to said sign. Owners shall be given 30 days from the date of receipt of such notice to take appropriate remedial action.

(c) If the permittee or property owner fails to remove or alter the structure so as to comply with the standards herein set forth within 30 days after such notice, the permit for such sign shall be revoked and the permittee or property owner shall be subject to the penalties set forth in Sec. 3-1.12 of this ordinance.

(d) After notification as herein prescribed, the zoning administrator shall cause such signs to be removed and disposed of in the manner provided by law for the disposition of abandoned personal property or nuisance. Cost of such removal shall be paid by owner of sign or properly owner.

(e) No sign removed after the provisions hereof shall be returned to the owner until all expenses incurred in the removal and storage of the same has been paid.

Sec. 3-1.16 Exempt signs.

The following signs and advertising devices are exempt from the permit requirements of this ordinance but must in all respects otherwise comply with this ordinance:

- (1) Window signs, as allowed by this ordinance.
- (2) Flags (flag poles shall be considered as an "accessory structure" under the Town's zoning ordinance as to the location and site of flag poles).
- (3) Two stake signs per lot in residential zoning districts as provided in this ordinance.
- (4) One stake sign per lot in non-residential zoning districts, as provided in this ordinance.
- (5) Special temporary signs pursuant to the terms of this ordinance.

- (6) Political campaign signs.
- (7) All other signs must be permitted by the town before displaying, or they are prohibited.

Sec. 3-1.17 Variances

(a) The zoning administrator can authorize upon application in specific cases such variance from the terms of this ordinance as will not be contrary to the public interest when, due to special conditions, a literal enforcement of the provisions of this ordinance will, in an individual case result in extreme and unusual hardship, so the spirit of this ordinance shall be observed, public safety and welfare secured, and substantial justice done. The mere existence of a non-conforming sign or advertising device shall not constitute a valid reason to grant a variance. A variance may be granted in an individual case of extreme and unusual hardship not self-imposed upon a finding by the zoning administrator that the following conditions exist:

- (1) There exist extraordinary and exceptional conditions pertaining to the property in question resulting from its size, shape, or topography which are not applicable to other lands or structures in the area;
- (2) A literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other similar properties in the town;
- (3) Granting the variance requested will not confer upon the property of the applicant significant privileges which are denied to other similar properties in the town;
- (4) The requested variance will be in harmony with the purpose and intent of this ordinance and will not be injurious to the neighborhood or to the general welfare;
- (5) The variance is not a request to permit a type of sign which otherwise is not permitted in the zoning districts involved;
- (6) The cause for the need for the variance is not created by the applicant, the owner, lessor, or successor in ownership or occupancy.
- (7) Signs may be displaced upon the vertical surface of a canopy only by a variance, upon the applicant reducing the number or square footage of ground or wall signs authorized by this ordinance for the lot in question, so as to reasonably set-off for the additional signs.

- (b) All requests for such variances shall be in written form and filed with the zoning administrator. The zoning administrator shall make a decision on a complete

application within 30 days of the zoning administrator's receipt of the application and shall mail the decision to the applicant at the address shown on the application. The writing shall state the basis of the decision. An applicant dissatisfied with the zoning administrator decision shall appeal to the town council pursuant to the appeal procedure at Sec. 3-1.05(g).

- (c) No change may be made in the location, shape, color, height size, copy or text of any sign subject to a variance unless the sign is brought into compliance with the provisions of this ordinance and a sign permit is granted.
- (d) A change in the owner, lessor, lessee, or user of property served by a sign subject to a variance shall negate the variance, and the sign shall be removed or brought into compliance with the provisions of this ordinance and a new sign permit granted.
- (e) A sign subject to a variance may not be reconstructed, replaced or reset if it is removed for any reason.
- (f) When a sign under a variance has been razed or damaged by any cause, naturally occurring or otherwise, the sign shall not be re-established:
 - (1) If the value of the sign as damaged is 50 percent or less of the value of the signs prior to the damage; or
 - (2) If the estimated cost of repairing the above ground portion of the sign is more than the value of the sign in its damaged condition.

Value shall be established by the zoning administrator or his/her designee and shall be based upon the value of the sign's materials above ground with no allowance for the intrinsic value of the sign or the value of the right to have a sign at that location.

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 to 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, exists 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.

**CHAPTER 31 – ZONING
ZONING ORDINANCE
OF
TOWN OF BROOKS
STATE OF GEORGIA**

ARTICLE 1

PREAMBLE AND FINDINGS

WHEREAS, the Mayor and Town Council of the Town of Brooks approved the preparation of the Comprehensive Plan of the Town of Brooks, Georgia, to be established for the purposes of, among others, promoting the orderly and sustainable development of the City; promoting public health, safety, convenience and general welfare; and

WHEREAS, this Zoning Ordinance (“Ordinance”) was drafted pursuant to the Comprehensive Plan of the Town of Brooks, Georgia which promotes the public health, safety, convenience and general welfare by minimizing traffic congestion; ensuring the access, design and density of land development and use will minimize the risk of fire hazards and fire losses and aide in the safety from fire and panic; providing adequate access to natural light and air; achieving such timing, density, distribution and design of land development and uses as will facilitate an economic, adequate and timely provision of transportation, communication, water supply, sanitary sewer, drainage, sanitation, education, police and fire protection, recreational and other public services; protecting existing development and property against blight and depreciation; preventing flooding of improved property; improving the quality of life through protection of Brooks’s total environment, including prevention of air, land, water, visual and noise pollution; encouraging greater efficiency and economy of land development through natural resource conservation; preventing the overcrowding of land and undue concentration of population and urban sprawl; encouraging the most appropriate use of land, buildings, and other structures throughout Brooks; achieving such density, unit type, design and distribution of housing as will protect and enhance residential property values and facilitate provision of adequate housing for every citizen; preserve the city’s established development patterns and historic district and structures; and for other purposes; and

WHEREAS, the provisions of this Ordinance were developed with specific consideration of the character of various zoning districts and their peculiar suitability for particular uses, and with the general objective of promoting desirable living and working environments, stable neighborhoods, functional and attractive commercial districts and industrial areas and protecting the Town’s natural resources; and

WHEREAS, the provisions of this Ordinance were also developed to accommodate a reasonable balance between the exercise of private property rights and the beneficial use and enjoyment of surrounding properties and for the purpose of promoting health, safety, morals, convenience, order, prosperity, and general welfare of the Town of Brooks, Georgia municipality, the Mayor and Town Council of the Town of Brooks, under the authority of the General Planning and Zoning Act of 1957, Georgia Laws 1957, page 420, Act No. 358, hereby ordains and enacts into law the following Articles and Sections.

WHEREFORE, BE IT AND IT IS HEREBY ORDAINED BY THE MAYOR AND COUNCIL OF THE TOWN OF BROOKS, GEORGIA, AND BY THE AUTHORITY THEREOF:

ARTICLE 2

SHORT TITLE

This ordinance shall be known and cited as “The Zoning Ordinance of the Town of Brooks, Georgia, 2007, revised May 21, 2012, and shall be codified at Chapter 31 of the Town of Brooks Code of Ordinances.”

ARTICLE 3

DEFINITIONS

Words and terms not explicitly defined in this Ordinance shall have the meaning given by common and ordinary use as defined in Merriam-Webster’s New Collegiate Dictionary, -- 11th edition or subsequent edition. The following specific definitions shall apply:

Sec. 31-3.01 Accessory. A use or structure customarily incidental and subordinate to the principal use of structure, and located on the same lot as such principal use or structure.

Sec. 31-3.02 Acre, gross. A measure of land equal to 43,560 square feet.

Sec. 31-3.03 Acre, net. A gross acre less: street rights-of-way, both public and private; all land located within the 100 year flood plain; all water impoundments; and all lands proposed to be dedicated to a governing authority.

Sec. 31-3.04 Alley. A secondary way which affords access to the side or rear of abutting property.

Sec. 31-3.05 Alteration. Any change in the supporting members of a building; and addition to or reduction of a building; and change in use; or any relocation of a building.

Sec. 31-3.06 Agriculture. Agriculture shall be considered to mean the raising of soil crops and livestock in a customary manner on tracts of land at least 5 acres in size and shall include all associated activities. Retail selling of products raised on the premises shall be considered a permissible activity provided that the space necessary for the parking of customer’s vehicles shall be provided off the public right-of-way.

Sec. 31-3.07 Antenna. Any exterior apparatus designed for telephonic, radio, or television communication through the sending and/or receiving of electromagnetic waves.

Sec. 31-3.08 Automobile Service Station. A land use where gasoline, oils, greases, batteries, tires, and general automobile accessories may be provided, but where no part of the premises is used for the storage or dismantling of wrecked or junked vehicles.

Sec. 31-3.09 Basement. The area below the first floor level in a building and having not more than one-half (1/2) of its height above grade.

Sec. 31-3.10 Bathroom. A non-habitable room which affords privacy to a person within the room and which is equipped with a toilet in good working condition, and which further complies with requirements of Sec. 7-3.03.

Sec. 31-3.11 Bedroom. A habitable room which is intended as a place for regular sleeping purposes with sleeping sessions generally lasting in excess of five hours per 24-hour period, and which contains at least one bed and excludes: bathrooms, laundries, furnace rooms, pantries, kitchenettes and utility room, foyers or communicating corridors, stairways, closets, storage space, and hobby and recreation areas in unheated or uninsulated parts of structures below ground or in attics; and which further complies with the requirement of Sec. 7-3.04.

Sec. 31-3.12 Boarding or Rooming House. A building or portion thereof where rooms are provided for compensation to more than three (3) persons who are not transient guests nor members of the operator's family.

Sec. 31-3.13 Breezeway. A roofed, open-sided or screened passageway connecting two structures, such as a house and a garage.

Sec. 31-3.14 Brush. All vegetation detached from the land resulting from land clearing operations or other causes.

Sec. 31-3.15 Buffer. A portion of a tract which is set aside to provide a visual separation from abutting tracts, uses, bodies of water, or streams through the use of natural vegetation or other means including replanting or the provision of supplemental plantings or other visual screening elements of noise attenuation devices. Vegetation within a buffer area shall not be disturbed except for approved access and utility crossings; the clearing of overgrowth and dead or diseased vegetation; replanting; retention and detention facilities; and to construct visual screening elements such as earthen berms, fences and other visual barriers.

Sec. 31-3.16 Buffer, Natural. A portion of a tract which shall be set aside to provide a separation between the use(s) on the tract and adjoining tracts, or use(s) on stream through the use of natural vegetation, replanting, and supplemental plantings. Vegetation within a natural buffer shall not be disturbed except for approved mess and utility crossings. For lakes and/or reservoirs, the natural buffer shall be measured from the normal pool elevation or the natural buffer shall be considered the 100 year flood plain elevation, whichever is greater. For streams and/or creeks, the natural buffer shall be measured from the centerline of the stream, or the 100 year flood plain elevation, whichever is greater. No sewage treatment facility, dumping, discharging, releasing, spraying, or disturbing of any toxic or harmful products is allowed onto the land within the natural buffer.

Sec. 31-3.17 Building. Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any person, animal, process, equipment, goods or property of any kind.

Sec. 31-3.18 Building Height. The vertical distance of a building measured from the average grade elevation to the top of the highest roof surface. See also, Tower Height.

Sec. 31-3.19 Building Line, Front. A line running through a front yard between side property lines as parallel as possible to the street, which represents the nearest point to the abutting street a structure may be built.

Sec. 31-3.20 Building Line. That line located no closer to a property line than the required minimum yards, behind which all structures except as excluded herein shall be located.

Sec. 31-3.21 Building, Principal. A building in which the principal use of the lot is conducted.

Sec. 31-3.22 Business Vehicles. A vehicle that carries or contains commercial or industrial equipment or trade tools on the exterior of the vehicle, including, but not limited to ladders, power equipment and lawn equipment; or a vehicle on which is painted, drawn or attached a sign advertising a commercial business or trade (excepting 2 license plates).

Sec. 31-3.23 Cabana (Pool Cabana). A one roomed shelter with an open side usually facing a pool or lake. The enclosed side should be of a solid nature such as siding, stone, or brick, or finished to match the existing principal structure. The rear wall must be fully enclosed. Side wall enclosure can be limited to a fully enclosed wall for half the length of the proposed wall with the remaining portion being a half wall (half wall must be a minimum 3'-0" in height).

Sec. 31-3.24 Care Home (also know as Assisted Living Home or Facility). See Group Home.

Sec. 31-3.25 Carport. A roofed motor vehicle shelter with at least one open side formed by extension of a roof line from the side of a building in a residential zoning district.

Sec. 31-3.26 Center Line. That line surveyed and monumented by the proper governing authority as the centerline of the street or highway, or if such center line has not been surveyed, it shall be that line running midway between the outside curbs or ditches of the street or highway, or the middle of the traveled roadway of the street.

Sec. 31-3.27 Cemetery. A burial ground.

Sec. 31-3.28 Cemetery, Commercial. The operation of a burial ground where burial sites are sold or exchanged for donations; however, this definition shall not include a cemetery maintained by and adjacent to a church and/or place of worship.

Sec. 31-3.29 Central Sanitary Sewer System. Collection of sanitary sewage via a pipe network, transportation to a common collection point and treatment to the required Department of Natural Resources and/or State of Georgia Health Departments criteria prior to release.

Sec. 31-3.30 Church or other place of worship. A building used for public worship including temples, synagogues and related Sunday School or Church School facilities.

Sec. 31-3.31 Clearing. An activity which removes or disturbs the vegetative cover including trees.

Sec. 31-3.32 Clinic. An establishment where medical or dental patients are admitted for examination and treatment, but where there is no overnight lodging.

Sec. 31-3.33 Club or Lodge, Private. All incorporated or unincorporated associations for civic, social, cultural, religious, fraternal, literary, political, recreational, or like activities, operated for the benefit of the members and not open to the general public.

Sec. 31-3.34 Community Sewer System. A sanitary sewer system provided for a platted subdivision of not less than thirty (30) lots, with collection of sanitary sewage via a pipe network with transportation to a common collection point for on-site treatment via a drip irrigation discharge system. Community sewer systems used must be approved by the Fayette County Health Department. Treatment and discharge areas are to be indicated on the preliminary and final plats. All community residential sewer systems must comply with the rules and regulations promulgated by the Water Protection Branch of the Environmental Protection Division, Department of Natural Resources for the State of Georgia entitled "Land Application by Drip Irrigation" and as hereafter amended, and containing any local amendments adopted by the Town Council.

Sec. 31-3.35 Curb Cut. The point at which vehicular access is provided to a lot from an adjoining curbed street.

Sec. 31-3.36 Day Care Facility. An agency, organization, or individual providing daytime care for four (4) or more individuals, not related by blood or marriage or not the legal wards of the attendant adult. See also, Nursery School or Kindergarten.

Sec. 31-3.37 Density. The number of dwelling units per net acre.

Sec. 31-3.38 Density, High. High density is defined as more than four (4) dwelling units per net acre.

Sec. 31-3.39 Density, Low. Low density is one (1) dwelling unit or fewer per two (2) net acres.

Sec. 31-3.40 Density, Medium. Medium density is one (1) to three (3) dwelling units per net acre.

Sec. 31-3.41 Drive-in. A retail or service enterprise wherein service is provided to the customer on the outside of the principal building.

Sec. 31-3.42 Dwelling. A structure or building or a portion of any structure or building designed, arranged and used for separate and private living quarters for one or more persons living as a single housekeeping unit with permanent separate spaces for living, sleeping, eating, cooking and sanitation, but not including units in hotels, motels, boardinghouses, group homes and like uses. A building or portion of a building designed as a Dwelling Unit for or occupied for residential purposes.

Sec. 31-3.43 Dwelling, Single-Unit. A detached dwelling designed for a single dwelling unit.

Sec. 31-3.44 Dwelling Unit. A residential structure or building or a portion of any structure or building designed, arranged and used for separate and private living quarters for one or more persons living as a single housekeeping unit with permanent separate spaces for living, sleeping, eating, cooking and sanitation (minimum of four separate rooms), but not including units in hotels, motels, boardinghouses, group homes and like uses.

Sec. 31-3.45 Easement. The right or privilege of using another's property for purposes such as constructing and maintaining sanitary sewers, water mains, electric lines, telephone lines, storm sewers, gas lines, bicycle paths, ingress/egress or related purposes.

Sec. 31-3.46 Elevation, Front. The view of a building or group of buildings as seen from directly in front of the structures.

Sec. 31-3.47 Employee. An employee of a business or industry.

Sec. 31-3.48 Erosion and Sedimentation Control Plan. A plan for the control of soil and erosion and sediment resulting from a land-disturbing activity.

Sec. 31-3.49 Farm. A parcel of land devoted to the raising of agricultural products and/or livestock.

Sec. 31-3.50 Feedlot. Any parcel of land upon which the mechanical, hand or other feeding of livestock of a density of more than four (4) animals per acre is performed for a period exceeding fifteen days.

Sec. 31-3.51 Financial Institution. Any trust company, savings bank, industrial bank, saving and loan association, building and loan association, commercial bank, credit union, federal association, investment company, or related business association, which is chartered under federal or state law, solicits, receives or accepts money or its equivalent on deposit and loans money as a regular business.

Sec. 31-3.52 Floor Area, Accessory Structure. The sum of the horizontal areas of the several floors of the structure under roof, excluding any space where the floor to ceiling height is less than six (6) feet.

Sec. 31-3.53 Floor Area, Principal Structure. The area of a dwelling exclusive of unheated attic, basement, garage, carport, patios, and open porches measured from the exterior face of the exterior walls of a dwelling.

Sec. 31-3.54 Garage, Parking. A structure, lot or any portion thereof which is open to the public in which one or more vehicles are housed or kept, not intending exhibition or showroom or storage of cars for sale.

Sec. 31-3.55 Garage, Private. An enclosed accessory building or an enclosed portion of a principal building used only for private storage of permitted motor vehicles.

Sec. 31-3.56 Garage, Repair. A garage intended to be used to make motor vehicle repairs.

Sec. 31-3.57 Garbage. Refuse accumulation of animal, fruit or vegetable matter that attends the preparation, use, cooking, dealing in or storage of meat, fish, fowl fruit or vegetables and any other matter of any nature whatsoever which is subject to decay, putrefaction and the generating of noxious gases or odors, or which during or after decay may serve as breeding or feeding materials for flies or other germ-carrying insects; and any bottles, cans, cartons or other containers.

Sec. 31-3.58 Garden trash. All accumulations of grass or shrubbery cuttings and other rubbish attending the care of land, shrubbery, vines, trees and tree limbs.

Sec. 31-3.59 Gazebo. A freestanding, circular roofed structure open on all sides, but generally enclosed by a railing, and used for outdoor seating in residential zoning districts.

Sec. 31-3.60 Governing Authority. Mayor and Town Council of the Town of Brooks, Georgia.

Sec. 31-3.61 Grading. Altering surfaces to specified elevations, dimensions, and/or slopes: this includes stripping, cutting, filling, stock-piling, and shaping and any combination thereof and shall include the land in its cut or filled condition.

Sec. 31-3.62 Non-Conforming. Any item that is found to have been in effect and in compliance with a previously adopted Zoning Ordinance for the Town of Brooks shall not have to meet the requirements of this edition of the Zoning Ordinance for the Town of Brooks.

Sec. 31-3.63 Group Home. A “personal care home”, “drug treatment center”, “intermediate care home”, “community living arrangement”, and/or “nursing home” or any similar living arrangement licensed by the Georgia Department of Human Resources, defined more thoroughly as follows:

- (a) *Personal Care Home* means any dwelling, whether operated for profit or not, which undertakes through its ownership or management to provide or arrange for the provision of housing, food service, and one or more personal services for two (2) or more adults who are not related to the owner or administrator by blood or marriage; and is licensed as a personal care home by the Georgia Department of Human Resources.
- (b) *Drug Treatment Center* means any dwelling which administers a “drug abuse treatment and education program”, “residential transitional treatment program”, and “narcotic treatment program” (as defined by the Georgia Rules and Regulations of the Georgia Department of Human Resources), and is licensed as a drug treatment center by the Georgia Department of Human Resources.

- (c) *Intermediate Care Home* means a facility which admits residents on a medical referral and maintains the services and facilities for institutional care and has a satisfactory agreement with a physician and dentist who will provide continuing supervision including emergencies; and is licensed as an intermediate care home by the Georgia Department of Human Resources.
- (d) *Community Living Arrangement* means any residence, whether operated for a profit or not, that undertakes through its ownership or management to provide or arrange for the provision of daily personal services, support, care, or treatment exclusively for two (2) or more adults who are not related to the owner or administrator by blood or marriage and whose residential services are financially supported, include or in part, by funds designated through the Department of Human Resources, Division of Mental Health, Developmental Disabilities, and Addictive Diseases; and is licensed as a community living arrangement by the Georgia Department of Human Resources.
- (e) *Nursing Home* means a facility which admits patients on medical referral only and for whom arrangements have been made for continuous medical supervision and maintains the services and facilities for skilled nursing care, rehabilitative nursing care, and has a satisfactory agreement with a physician and dentist who will be available for any medical and/or dental emergency and who will be responsible for the general medical and dental supervision of the home; and is licensed as a nursing home by the Georgia Department of Human Resources.

Sec. 31-3.64 Guest Houses. Guest houses are accessory structures which are allowed in the A-R and residential districts. Only one guest house is allowed per parcel or lot, except as otherwise provided in Sec. 31-5.12 of this Code. Any living area included in a detached garage or swimming pool cabana is a guest house. Guest houses shall be limited to 1,500 heated square feet, except as otherwise provided in Sec. 31-5.12 of this Code. No vehicle shall be interpreted as or used as a Guest House.

Sec. 31-3.65 Home Occupation. An occupation involving the sale of goods or services within the dwelling conducted only by individuals residing within the premises.

Sec. 31-3.66 Hospital. Any institution receiving in-patients, or a public institution receiving outpatients, and authorized under Georgia law to render medical, surgical, and/or obstetrical care. The term “hospital” shall include a sanitarium, with an approved Certificate of Need (CON) from the State Health Planning Agency, for the treatment and care of various forms of mental illness, but shall not include office facilities for the private practice of medicine, dentistry, or psychiatry.

Sec. 31-3.67 Hotel. A building in which overnight accommodations without separate cooking facilities within the guest room are provided to the public. The term “hotel” includes the terms “motel” and “tourist court”.

Sec. 31-3.68 Impervious Surface. A surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water.

Sec. 31-3.69 Industrialized Building. Any non-residential structure or component thereof which is wholly or in substantial part made, fabricated, formed, or assembled in manufacturing facilities for installation on a non-residential building site and has been manufactured in compliance with the Georgia Industrialized Building Act in such a manner that all parts or processes cannot be inspected at the installation site without disassembly, damage to, or destruction thereof.

Sec. 31-3.70 Junk or Salvage Yard. Property used for outdoor storage, keeping, abandonment, sale or resale or junk including but not limited to scrap metal, rags, paper, or other scrap materials, used lumber, salvaged house wrecking and structural steel materials and equipment, or for the dismantling, demolition, or abandonment of automobiles or other vehicles or machinery or parts thereof.

Sec. 31-3.71 Junked Automobile. See Vehicle, Abandoned.

Sec. 31-3.72 Kenel. Any location where more than three (3) dogs, cats, or other animals (and combination of such) are kept for commercial or non commercial purposes. This definition does not include litters of animals of not more than six (6) months age.

Sec. 31-3.73 Kindergarten. See Nursery School or Day Care Facility.

Sec. 31-3.74 Kitchen. Any room containing all of the following: sink, stove, refrigerator, cabinets for storage of food, and counter for food preparation; and which further complies with requirements of Sec. 7-3.02 of this Code.

Sec. 31-3.75 Land Area Per Dwelling Unit. The amount of land in square feet required for each dwelling unit permitted on a lot.

Sec. 31-3.76 Land Disturbance Activity. Any activity which may result in soil erosion from water or wind and the movement of sediments into state water or onto lands within the state, including, but not limited to, clearing, dredging, grading, excavating, transporting and filling of land.

Sec. 31-3.77 Land Disturbance Permit. A permit issued to authorize a Land Disturbance Activity.

Sec. 31-3.78 Landscape Areas. A maintained area of grass or ornamental planting materials.

Sec. 31-3.79 Litter. Waste material, rubbish, brush, garden trash, tin cans, bottles, sand, gravel, concrete, slag, refuse, garbage, trash, debris, dead animals or discarded materials of any and every kind and description.

Sec. 31-3.80 Livestock. Animals that are kept or raised, for use or profit, on a farm, including horses, cattle, goats, sheep, pigs, mules, rabbits and other exotic animals. This term shall be deemed specifically to exclude dogs and cats.

Sec. 31-3.81 Loading Space. Space logically and conveniently located for pick-up and delivery service, scaled to the vehicles expected to be used, and accessible to such vehicles at all times.

Sec. 31-3.82 Lot. A parcel of land of varying size which is designated and legally recorded as a single unit of property, and which complies with Town's requirements for a legal lot.

Sec. 31-3.83 Lot, Corner. A lot located at the intersection of two (2) streets,

Sec. 31-3.84 Lot, Depth. The average distance between the front and rear lot lines.

Sec. 31-3.85 Lot, Interior. A lot which has frontage on only one (1) street.

Sec. 31-3.86 Lot, Landlocked. A lot of record having no frontage on a county or Town maintained street.

Sec. 31-3.87 Lot, Through. A lot other than a corner lot, having frontage on more than one (1) street.

Sec. 31-3.88 Lot Width, Minimum. The minimum distance between side lot lines measured along the front minimum building line for a depth of at least eighty (80) feet.

Sec. 31-3.89 Lot of Record. An area designated as a separate and distinct parcel of land in a legally recorded deed or on a recorded subdivision plat approved in accordance with the Town's Subdivision Rules and Regulations.

Sec. 31-3.90 Lot, Zoning. A parcel of land in single ownership occupied or intended to be occupied by principal uses and accessory uses in accordance with the provisions of this ordinance. A zoning lot must have at least the minimum frontage on a street or public way as stated in this ordinance for its zoning classification, and have at least the minimum land area required by this ordinance for the zoning district within which it is located. A Lot of Record may or may not be a zoning lot.

Sec. 31-3.91 Manufactured Housing. Manufactured housing means a structure, transportable in one (1) or more sections, which, in the travel mode, is eight (8) body feet or more in width or forty (40) body feet or more in length or, when erected on site, it is 320 or more square feet per transportable section and is designed to be used as a dwelling with a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems contained therein. All manufactured housing shall comply with applicable State and local building codes.

Sec. 31-3.92 Mini-Storage Facility. Storage facilities that are leased to the public, but are not intended nor designed for commercial warehousing.

Sec. 31-3.93 Mobile Home. A structure which complies with the certification required by the Secretary of Housing and Urban Development and with the standards established under the current/adopted version of National Mobile Homes and Safety Standards Act.

Sec. 31-3.94 Mobile home lot. A parcel of land in a Mobile Home Park for the exclusive use of the occupants of a single mobile home or single manufactured home.

Sec. 31-3.95 Mobile home park. A parcel of land that has been planned and improved for the placement of mobile homes and manufactured homes for permanent use. Pads within a mobile home park remain the property of the park owner and are rented to tenants. A mobile home park does not include the provision of space for storage, inspection, or sale of unoccupied mobile homes or manufactured homes.

Sec. 31-3.96 Mobile home subdivision. A tract of land planned and improved for the placement of mobile homes and manufactured homes for permanent use on individually owned private lots.

Sec. 31-3.97 Motel. See Hotel.

Sec. 31-3.98 Nonconformance. A legally existing lot, use, building or structure which fails to comply with the provisions herein, as of the effective date of this Ordinance, or as the result of subsequent amendments.

Sec. 31-3.99 Nursery School or Kindergarten. An agency, organization, or individual providing daytime care of four (4) or more children not related by blood or marriage or not the legal wards of the attendant adult. See also, Day Care Facility.

Sec. 31-3.100 Open Space. Land within and related to a development, not individually owned or dedicated for public use, that is designed and intended for the common use or enjoyment of the residents and their guest of the development and may include such complementary structures and improvements as necessary and appropriate.

Sec. 31-3.101 Parking Space. An area for off-street motor vehicle parking.

Sec. 31-3.102 Pavilion. A freestanding roofed structure generally supported by poles and open on the sides with a permanent foundation that is used for picnic/social gatherings.

Sec. 31-3.103 Planning and Zoning Board. The Town of Brooks, Georgia Planning and Zoning Board.

Sec. 31-3.104 Plat. A map, plan or layout of a county, city, town, section or subdivision indicating the location and boundaries of properties.

Sec. 31-3.105 Pole Barn. An open-sided, roofed structure supported by poles, such structure for the storage of farm products, feed, or housing of farm animals or farm equipment in agricultural zoning districts.

Sec. 31-3.106 Public Utility Facilities. A location of or for Public Utilities such as an electric substation or water treatment facility or a location where a business organization (such as an electric company) performing a public service and subject to special governmental regulation and public service commission.

Sec. 31-3.107 Public Water Facility. Mains and services owned and operated by the Fayette County Water System or the Town of Brooks or when approved by the Town Council, a private water system operating under the direct supervision of the Department of Natural Resources.

Sec. 31-3.108 Receptacle. A container that is specifically designed, constructed, and placed for use a depository for litter or solid waste.

Sec. 31-3.109 Recreation Vehicle. A self-propelled or towed vehicle used as a temporary dwelling for travel and recreational purposes. Recreation vehicles shall include camping trailers and travel trailers in addition to self-propelled vehicles.

Sec. 31-3.110 Refuse. Solid waste products having the character or solids rather than liquids and that are composed wholly or partially of materials such as garbage, trash, rubbish, litter, residues from clean up of spills or contamination, or other discarded materials.

Sec. 31-3.111 Reservoir. A reservoir shall be any existing or future impoundment of water for water supply purposes owned and operated by the Town of Brooks or Fayette County.

Sec. 31-3.112 Right of Way. A strip of land designated, reserved, dedicated, or purchased for the purpose of pedestrian or vehicular access or utility line installation.

Sec. 31-3.113 Rubbish. Accumulations of paper, excelsior, rags, wooden or paper boxes or containers, sweepings and all other accumulations of a nature other than garbage which are usual to housekeeping and to the operations of stores, offices and other business places, and such materials as metals, mineral matter, glass, crockery, auto bodies or parts, including automobile tires or tubes and wrecked, inoperative or abandoned or junked motor vehicles, abandoned, junked or inoperable furniture, appliances, machinery or equipment and building material rubble resulting from the construction or alteration of structures or parts of structures and other materials or refuse not usual to housekeeping or the operation of stores and offices, stumps and any abandoned appliances, including but not limited to washers, dryers and stoves.

Sec. 31-3.114 Sediment. Solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, ice, or gravity; the product of erosion.

Sec. 31-3.115 Setback. The area of a lot as designated by this Ordinance in which a structure may not be erected, as measured from the property boundaries of the lot or from the buffer line if a buffer line is required.

Sec. 31-3.116 Setback Line. A line running through a yard a prescribed distance from the boundaries or from buffer if a buffer is required.’

Sec. 31-3.117 Shopping Center. Two (2) or more commercial establishments planned and managed as a single unit with off-street parking and loading facilities provided on the property, complying with the requirements of CH and CC Zoning Districts.

Sec. 31-3.118 Sewer System, Central Sanitary. Collection of sanitary sewage via a pipe network, transportation to a common collection point and treatment and/or disposal to required Department of Natural Resources criteria prior to release.

Sec. 31-3.119 Sewer System, Community Sanitary. A sanitary sewer system provided for the collection of sanitary sewage for a platted subdivision of not less than thirty (30) lots via a pipe network with transportation to a common collection point for on-site treatment per the requirements of the Georgia Department of Natural Resources.

Sec. 31-3.120 Special Exceptions. A use which within certain districts specified by the Ordinance is not permitted as a matter of right, but which may be permitted in accordance with criteria set forth in this ordinance and as approved by the Town Council of the Town of Brooks., Georgia.

Sec. 31-3.121 Storefront Warehouse. A wholesale or retail establishment where at least fifty (50) percent of the building is used for storage of products,

Sec. 31-3.122 Story. That portion of a building, not including a basement., between the surface of any floor and the surface of the floor next above it, or if there is no floor above, then the space between the floor and the ceiling next above it.

Sec. 31-3.123 Street. A roadway for traffic which may or may not be publicly owned.

Sec. 31-3.124 Street, Access. A street intended to carry traffic between commercial uses and a major thoroughfare.

Sec. 31-3.125 Street, Private. A street that is privately owned and used.

Sec. 31-3.126 Street, Public. A street that is used for travel by the general public, whether or not it is owned by a public agency.

Sec. 31-3.127 Street, Residential. A street whose primary function is to provide access to residential uses at a maximum speed of thirty (30) miles per hour.

Sec. 31-3.128 Structure. A combination of materials to form a construction for use, occupancy, or ornamentation, whether installed on, above, or below the surface of land or water. Among other things, structures include buildings, manufactured homes, and swimming pools, but do not include walls or fences.

Sec. 31-3.129 Subdivision. All divisions of a tract or parcel of land into two (2) or more lots, building sites, or other divisions for the purpose, whether immediate or future, of sale, legacy, or building development and includes all divisions of land involving a new street or change in existing streets, and includes re-subdivision and where appropriate to the context, relates to the process of subdividing or to the land or area subdivided.

Sec. 31-3.130 Thoroughfare, Arterial. A street designated to carry traffic into and out of a town/city. A road which is intended to provide high speed (up to 55 miles per hour) travel between or within communities, or to and from collectors and other arterial thoroughfares, with controlled access so that only regionally significant land uses may have direct access to the road.

Sec. 31-3.131 Thoroughfare, Collector. A street designated to carry traffic between minor thoroughfares and major thoroughfares.

Sec. 31-3.132 Thoroughfare, Major. A street designated on the Land Use Plan as a major thoroughfare and being classified as either arterial or collector.

Sec. 31-3.133 Thoroughfare, Minor. A street designated to carry primarily local or neighborhood traffic.

Sec. 31-3.134 Tot Lot (Playground/Play Area). An improved and equipped play area for small children (generally, those up to school age).

Sec. 31-3.135 Tourist Court. See Hotel.

Sec. 31-3.136 Tower. Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, and alternative tower structures.

Sec. 31-3.137 Tower Facilities. Includes towers, antennas, and all accessory buildings and structures, excluding tower anchors.

Sec. 31-3.138 Tower Height. When referring to a tower or tower facilities, the distance measured from ground level to the highest point on the tower or other structure, even if said highest point is an antenna. See also, Building Height.

Sec. 31-3.139 Tower Structure, Alternative. Man-made trees, clock towers, bell steeples, light poles and similar alternative design mounting structures that camouflage or conceal the presence of antennas or towers.

Sec. 31-3.140 Towers and Antennas, Pre-Existing. Any tower or antenna permitted prior to the current adoption of this Zoning Ordinance, Town of Brooks, State of Georgia.

Sec. 31-3.141 Town Council. Town of Brooks, Georgia Town Council.

Sec. 31-3.142 Trailer (Office/Construction Storage Type). A vehicle designed for towing, not intended for use as a dwelling, temporary or permanent, and restricted to such uses as a temporary construction office, sales office and/or storage facility, temporary operations office pending construction of a permanent facility, and the like. Entire structure shall be removed from site within, but no later than 10 days after the certificate of occupancy permit is issued.

Sec. 31-3.143 Tributaries and Streams. Tributaries and streams, whether named or unnamed, that continuously flow to major water supply streams or named tributaries to a major water supply stream.

Sec. 31-3.144 Uses, Conditional. Those uses that are allowed in a particular zoning district, but only under certain specified conditions which may be permitted by the Zoning Administrator in accordance with criteria as set forth in this ordinance.

Sec. 31-3.145 Uses, Permitted. Those uses that are allowed in a particular zoning district as a matter of right.

Sec. 31-3.146 Uses, Principal. The main purpose for which a lot is intended and for which it may be used.

Sec. 31-3.147 Variance. A modification of the terms of this Ordinance granted by the Town Council of the Town of Brooks, Georgia in accordance with criteria as set forth herein.

Sec. 31-3.148 Vegetative Practices. Measures for the stabilization of erosion or sediment producing areas by covering the soil with:

- a. Permanent seeding, sprigging, or planting producing long term vegetative cover, or
- b. Short term seeding, producing temporary vegetative cover, or
- c. Sod, covering areas with a turf of perennial sod forming grass.

Sec. 31-3.149 Vehicle, Abandoned. A vehicle which does not bear a current license plate with an appropriate, current decal affixed thereof, if required, unless said vehicle is stored within a completely enclosed building or unless it is stored on a bonafide sales lot and is in a satisfactory operating condition as deemed by the Georgia State Department of Motor Vehicles.

Sec. 31-3.150 Warehouse. A building in which at least 75 percent of the gross floor area is devoted to retention of goods, merchandise, supplies or other materials produced on site or received in shipment for ultimate sale or shipment elsewhere.

Sec. 31-3.151 Water Impoundment. A body of water confined by a dam, dike, floodgate or other barrier.

Sec. 31-3.152 Yard. A required open space on a lot that is required to be unoccupied by structures and facilities as permitted herein.

Sec. 31-3.153 Yard, Front. The area between a property line adjacent to a thoroughfare and the front building line, extending the full width of the lot.

Sec. 31-3.154 Yard, Rear. The area between the rear property line and the rear building line, extending the full width of the lot.

Sec. 31-3.155 Yard, Side. The area between the side property line and the side building line, extending from the front yard to the rear yard.

Sec. 31-3.156 Zoning. The power of a local government to provide within its territorial boundary for the zoning of property or distracting property for various uses and the prohibition of other or different uses within such zones or districts and for the regulation of development and the improvement of real estate within such zones or districts in accordance with the uses of property for which such zones or districts were established.

Sec. 31-3.157 Zoning Administrator. The person who has been designated by the Town Council of the Town of Brooks, Georgia to administer the enforcement of this Ordinance.

Sec. 31-3.158 Zoning Decision. A final action by the Town Council of the Town of Brooks, Georgia which results in any or all of the following:

- a. The adoption of a zoning ordinance.
- b. The adoption of an amendment to a zoning ordinance which changes the text of the zoning ordinance;
- c. The adoption of an amendment to a zoning ordinance which rezones property from one classification to another;
- d. The adoption of an amendment to a zoning ordinance by the town which zones property to be annexed into the Town; or
- e. The grant of a permit relating to a special use of property.

Sec. 31-3.159 Zoning District. One (1) or more section(s) of the Town of Brooks, Georgia as delineated and designated on the zoning map, within which the zoning regulations are uniform.

Sec. 31-3.160 Zoning Map. The official map(s) of the Town of Brooks, Georgia, entitles “Zoning Map of the Town of Brooks, Georgia”, indicating the location of zoning districts in the Town of Brooks Georgia.

Sec. 31-3.161 Zoning Ordinance. An ordinance or resolution of the Town of Brooks, Georgia establishing procedures and zones or districts within its territorial boundaries which regulate the uses and development standards of property within such zones or districts. The term also

includes the zoning map adopted in conjunction with a zoning ordinance, which shows the zones and districts and zoning classification of property herein.

ARTICLE 4

ESTABLISHMENT OF DISTRICTS

Sec. 31-4.01 Zoning Districts. For the purpose of this Ordinance, the areas contained within the town limits of the Town of Brooks are divided into zoning districts designated as follows:

1. A-R Agricultural - Residential District
2. CC Community Commercial District
3. CH Highway Commercial District
4. M-1 Light Industrial District
5. M-2 Manufacturing and Heavy Industrial District
6. O-I Office - Institutional District
7. TCD Town Center District

Sec. 31-4.02 Grandfathered Zoning Districts. The areas contained within the town limits of the Town of Brooks which were previously zoned, R-80, R-60, R-40, R-20 and R-15 are preexisting Grandfathered uses and shall be referenced on the Land Use Map as follows:

1. Grandfathered R-80 Single Dwelling Unit Residential District
2. Grandfathered R-60 Single Dwelling Unit Residential District
3. Grandfathered R-40 Single Dwelling Unit Residential District
4. Grandfathered R-20 Single Dwelling Unit Residential District
5. Grandfathered R-15 Single Dwelling Unit Residential District

The Town of Brooks does not maintain the infrastructure or services needed to sustain additional area zoned to the density allowed by the Grandfathered Zoning Districts above. The Town of Brooks finds that its density requirements are substantially related to protecting the public safety, morality and welfare of the Town of Brooks. The Town of Brooks wishes to protect the rights of Grandfathered lots which, at the time of the enacting of this Zoning Ordinance, were lawful. This preservation of rights includes, but is not limited to the ability to subdivide a Grandfathered lot to fit all requirements of a higher density Grandfathered District classification as provided for in this Ordinance. While land in a conforming zoning district shall not be rezoned to a Grandfathered Zoning District, such structures and uses made Grandfathered by this

Ordinance and which are located in Grandfathered Districts shall be allowed to continue subject to the terms of this Zoning Ordinance.

Sec. 31-4.03 Land Use Map. The boundaries of each zoning district shall be shown on a map entitled the “Land Use Map of The Town of Brooks, Georgia”. The location and classification of all streets within these districts shall be shown on the Land Use Map. The map shall be dated and entitled by the Mayor and Town Clerk, Town of Brooks, Georgia, Said map and all explanatory matter thereon are hereby made a part of this Ordinance. The Zoning Administrator shall retain said map and all amendments thereto

Sec. 31-4.04 Amendments. If, in accordance with the provisions herein, amendments are made to the aforementioned maps, the Zoning Administrator shall record such amendment on the appropriate map and indicate thereon the effective date of the amendment.

Sec. 31-4.05 Boundary Rule. Where uncertainty exists with respect to the boundaries of any zoning district within the Town of Brooks, Georgia, the following rules shall apply unless otherwise specifically indicated:

- a.** Where the zoning district boundaries are indicated on the zoning map as approximately following the center lines of street, road, highway, railroad right-of-way line, stream bed, river bed, corporate city limits line, militia district line, or land lot line, then such lines shall be construed to be the zoning district boundary lines.
- b.** Where the zoning district boundaries are indicated on the zoning map as being setback from a street, road, highway, railroad, stream, or river and parallel thereto, then such boundaries shall be construed as being at the scaled distance from the centerline of same and parallel thereto.
- c.** Where a zoning district boundary line divides a lot in single ownership at the time of enactment of this Ordinance, the Zoning Administrator may, administratively change the zoning of the smaller portion of said lot to coincide with the zoning of the larger portion of said lot.

ARTICLE 5

GENERAL PROVISIONS

Sec. 31-5.01 Use. No building, structure or land shall be used or occupied, and no building, structure or part thereof shall be erected, constructed, reconstructed, moved, enlarged or structurally altered unless in conformity with the regulations of this Ordinance and the Building Codes of the State of Georgia and any adopted local codes. There shall be only one use per lot, plus authorized accessory uses.

Sec. 31-5.02 Principal Structure or Use. In all residential or agricultural zoning districts no more than one (1) principal structure of use shall be located on a lot or tract except as otherwise provided in this Ordinance. No more than one (1) single dwelling unit shall be allowed on one (1) lot or tract except as otherwise provided in this Ordinance.

Sec. 31-5.03 Use On A Lot. Construction of buildings and structures and establishment of uses shall occur only upon a lot as defined herein.

Sec. 31-5.04 Height and Density. No building or other structure shall hereafter be erected or altered so as to:

- a.** Exceed the height limit; or
- b.** Accommodate or house a greater number of dwelling units per lot than allowed or occupy a smaller lot area per dwelling unit than as required herein.

Sec. 31-5.05 Reduction of Lot Area. No lot shall be reduced in size so that the lot width or depth, size of yard, lot area per dwelling unit or any other requirement of this Ordinance is not maintained. This restriction shall not apply when a portion of a lot is acquired for a public purpose.

Sec. 31-5.06 Yard Service, Required Open Space to One Building. No part of any yard or other open space, or off-street parking or loading space required about, or in connection with, any building for the purpose of complying with this Ordinance, shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building, structure or use except as provided herein.

Sec. 31-5.07 Open Space Not to be Encroached Upon. No open space shall be encroached upon or reduced in any manner except in conformity to the yard, setback, off-street parking spaces, and such other regulations required for the zoning district in which such building is located provided by this Ordinance. Shrubbery, driveways, retaining walls, fences, curbs, and planted buffer strips shall not be construed to be encroachments of yards. Open space areas as required by this Ordinance shall be permanently maintained as open space and appropriately landscaped with trees, shrubs, flowers, grass, stones, rocks, or other landscaping materials. These areas may not be used for vehicular access, parking or similar uses except as otherwise provided herein.

Sec. 31-5.08 Required Open Space May Not be Used by Another Building. No part of any yard, other open space, or off-street parking or loading space required in connection with any building, structure or use by this Ordinance shall be considered to be any part of a required yard or open space or off-street parking or loading space for any other building, structure or use except as provided herein.

Sec. 31-5.09 Encroachment on Public Rights-of-Way. No building, structure, service area or required off-street parking and loading facilities, shall be permitted to encroach on rights-of-way.

Sec. 31-5.10 Single Dwelling Unit. Single dwellings units are permitted uses in A-R and all residential zoning districts.

Sec. 31-5.11 Accessory Uses and Structures. Construction of an accessory structure shall only occur concurrently with or after the construction of the principal structure.

- a. Structure Limitations. Accessory structures shall not be used as dwelling units or for lodging purposes except as provided herein.
- b. Incidental Uses. Upon permit granted by the Zoning Administrator, accessory uses shall be allowed in all districts subject to any restrictions as may be provided elsewhere in this Ordinance. The following accessory uses and structures and similar uses which are customarily incidental to residential use are permitted in A-R and all residential zoning districts except for farm outbuildings which are permitted in the A-R Zoning District only.
 - 1 Energy saving devices
 - 2 Wells
 - 3 Guest houses
 - 4 Pump or well houses
 - 5 Greenhouse — private (less than 500 square feet)
 - 6 Swimming Pool — private
 - 7 Home garden
 - 8 Detached garages
 - 9 Recreational court - private
 - 10 Gazebo
 - 11 Pool Cabana
 - 12 Farm outbuilding (A-R)
- c. Location on Lot. Accessory uses and structures shall conform to the dimensional requirements within each zoning district, except that no structure shall be located between front property line and residential structure except the following: a well, pump house or well house less than seventy (70) square feet, a detached garage less than 900 square feet when connected by a breezeway and located within thirty five (35) feet of the principal dwelling, or farm outbuildings and greenhouses in the A-R Zoning District.
- d. Number. No more than two (2) accessory uses or structures shall be allowed per principal use. Wells, pump houses, well houses of less than thirty five (35) square feet, swimming pools, farm outbuildings, home gardens, greenhouses and accessories incidental to commercial and industrial uses shall not be included in determining the number of accessories. More than two (2) accessory uses or structures may be permitted in A-R Zoning District upon special exception

approved by the Zoning Administrator.

- e. Size. No accessory structure, except farm outbuildings and combination guesthouse/garage or guest house/cabana, shall exceed 900 square feet of floor area. At least fifty (50) percent of the proposed accessory structure shall be enclosed as otherwise provided herein.
- f. Administration. Accessory structures of 200 square feet or greater shall be placed on a permanent foundation and shall require the issuance of a building permit and subsequent inspection.
- g. Temporary Accessory Storage. Portable on demand storage units (PODS) are only allowed on a temporary basis and in conjunction with an on going renovation project for the purpose of storage of household items for a period not to exceed 30 days (longer shall require prior approval of the Planning and Zoning Administrator). PODS are defined as cargo crates, usually constructed of metal, aluminum or steel. Only one temporary accessory storage unit is allowed per lot.
- h. Carports - Detached. A building permit is required prior to installation. The structure must be placed on a permanent foundation (slab), meet all State wind load requirements which shall include appropriate anchoring and only be used to house motor vehicles and trailers. Structures shall be constructed of the same material as the principal structure on the property or of metal.
- i. Temporary Housing (non-emergency).

Temporary Housing in the form of a recreational vehicle or mobile home shall be allowed upon application for and granting of permit for the same, in the following circumstances:

- (a) during initial construction of a principal residence; or
- (b) during extensive renovation or restoration of a principal residence

- 1 Initial temporary housing permits may be issued, as facts and circumstances may warrant in the Zoning Administrator discretion, for any period of between one-and six-months' duration. Renewal permits may be issued provided construction is being, and has been, actively pursued, as facts and circumstances may warrant in the Zoning Administrator's discretion, for any period of between one-and three-months' duration. The combined terms of any initial permit and one additional renewal period shall not exceed twelve months. Should any initial renovation or restoration construction project continue longer than one year, and temporary housing continues to be needed, and provided construction is being, and has been, actively pursued, application may be made to the Zoning Administrator for one additional renewal period, which application must be considered and voted upon by a quorum of Zoning Board

members, and, upon favorable recommendation to the Town Council by such Zoning Board, be considered thereby.

- 2 The allowance of mobile homes as temporary housing pursuant to this section is intended as a convenience and accommodation only, and shall not be construed as allowing such structures except as provided for in this Section.
- 3 Upon the expiration of the temporary permit or an extension, the temporary dwelling shall be immediately removed.
- 4 Except as provided at this Section and “Emergency Procedures”, herein, it shall be unlawful to occupy a recreational vehicle as a residence, except that one recreational vehicle per lot may be utilized for temporary occupancy of guest for a duration not exceeding fourteen (14) continuous days only once per year per lot.

Sec. 31-5.12 Guest Houses.

- a. Number. Guest houses are defined in Sec. 31-3.64 of this Ordinance as accessory structures which are allowed in the A-R and residential zoning districts. Only one (1) guest house is allowed per parcel or lot. Any living area in a detached garage or swimming pool cabana is considered to be a guest house.
- b. Size.
 - i) For all residential lot classifications, and for A-R lots or tracts not exceeding twenty (20) acres in area, no guest house may exceed 1,500 square feet of conditioned and finished floor area. When a guest house is combined with a detached garage or cabana, said total structure shall not exceed 3,000 square feet.
 - ii) For A-R lots or tracts exceeding twenty (20) acres in area, the provisions of Sec. 31-5.12(b)(i) of this Ordinance shall apply; except that, upon application to the Zoning Administrator by the tract owner(s) for, and upon approval by a majority of members of the Planning and Zoning Board of a special exception allowing for the permitting and construction of a guest house the conditioned and finished floor area of which shall not exceed that of the tract’s principal structure, the Town Council may consider and may approve such special exception.
- c. Use Prohibited. Guest houses permitted and built under the provisions of this section shall not be leased or rented for value under any circumstances for any period of time. Violation of this rental/ lease prohibition will result in the guest house being automatically construed to be a principal structure under Sec. 31-5.02 of this Ordinance; in which circumstances the Zoning Administrator, upon learning of such a violation, shall require in a written notification to the property owner that the lease or rental activity be ceased within thirty (30) days of the

certified mail posting of such notification, or personal delivery of such notification. The Zoning Administrator shall have the right to inspect the property within a week following such 30-day period, and if he or she finds evidence of continued rental or leasing of the guest house, shall have the right to demand (in writing, dispatched by certified mail) that the guest house be removed from the property within thirty (30) succeeding days in order to comply with the provisions of Sec. 31-5.02. Noncompliance by the property owner will result in the automatic assessment of the maximum daily fines permitted by Town Charter, the running of such fines to commence on the day of the Zoning Administrator's second written notice to the property owner and to cease when the Zoning Administrator determines that the property is in compliance with the provisions of this subsection. No vehicle shall be used as or interpreted as a Guest House.

d. Setbacks.

- i) For all residential lot classifications, and for A-R lots or tracts not exceeding twenty (20) acres in area, side and rear setbacks shall be the same as those stated for the applicable zoning classification of the lot or tract. Guest houses on such lots or tracts shall be located generally behind the lot's or tract's principal structure. The front setback for the guest house shall be considered the shortest lineal distance in feet between any portion of the rear or side facade of the principal structure and any portion of the front facade of the guest house. Such front setback shall be at least fifty (50) feet.
- ii) For A-R lots or tracts exceeding twenty (20) acres in area, the provisions of Sec. 31-5.12(d)(i) of this Ordinance shall apply; except that, upon application to the Zoning Administrator by the tract owner(s) for, and upon approval by a majority of members of the Planning and Zoning Board of a special exception allowing for the permitting and construction of a guest house anywhere within the normal setbacks required by the tract's zoning classification, except that no portion of such guest house may be closer than fifty (50) feet to any portion of the tract's principal structure. No portion of any such guest house may extend beyond the front facade of the tract's principal structure, unless the applicant can demonstrate compelling evidence that placing such guest house elsewhere on the tract would cause undue hardship. For this purpose, determination both the sufficiency of the applicant's evidence and the perceived degree of his hardship (both principally determinable by the availability and suitability of other sites on the tract or parcel) shall be reserved to the Zoning Administrator.

- e.** Consolidation of separate tracts for purposes of Sec. 31-5.12 (b)(ii) and Sec. 31-5.12(d)(ii), above. Individual owners of contiguous tracts or parcels of land where the total acreage of such tracts or parcels exceeds twenty (20) acres may elect, for purposes of applying for the special exceptions allowed under these

subsections, to have all of their contiguous separate tracts considered as one single consolidated tract solely for purposes of considering the size and placement of a guest house under these subsections. Any guesthouse that may be permitted and built under such tract consolidation expressly precludes the permitting of a second guest house anywhere on any tract which was considered apart of the larger, consolidated tract for this purpose.

f. Other provisions for guest houses:

- i) Guest houses shall not be sold separately from the principal structure unless said guest house is to be moved from the parcel or lot within thirty (30) days from the date of the sale.
- ii) Guest houses shall be occupied by non-permanent guests of the residents of the principal structure, except that invitees of such principal structure residents may occupy a guest house as a permanent home, so long as no rent or lease for value is in effect Non-permanent occupancy of a guest house shall constitute fewer than ninety (90) days within any one-year (1-year) period.
- iii) Prior to the issuance of any permit for a guest house, the applicant shall make a notarized agreement expressly consenting to the conditions of Sec. 31-5.12 of this Ordinance, and consenting to compliance inspections of the property as deemed necessary by the Zoning Administrator.

Sec. 31-5.13 Pavilion. A pavilion is an accessory structure which is allowed in all zoning districts except as otherwise provided herein.

Sec. 31-5.14 Accessory Swimming Pools. Swimming pools accessory to residences shall be enclosed by a fence, before the swimming pool is initially filled with water, of a minimum height of five (5) feet with all gates containing a self-closing, positive latch device to insure that the pool is enclosed at all times. The fence shall be erected at the time of construction of the pool. Swimming pools shall otherwise comply with the current edition of the Swimming Pool Code of Fayette County, and all current amendments.

Sec. 31-5.15 Street Frontage for Access. No principal building to be used for residential purposes shall be erected on any lot which has less than (60) feet frontage on at least one (1) town or county maintained street except as otherwise provided herein..

Sec. 31-5.16 Street Frontage - Industrial/Commercial. All principal buildings to be used for commercial or industrial purposes shall have at least fifty (50) feet frontage on at least one town or county maintained street.

Sec. 31-5.17 Landlocked Property. In the event property is a landlocked lot, the property owner shall be entitled to One (1) building permit, provided:

- a.** No other principal building exists or is being constructed on said property;

- b.** No other valid building permit has been issued prior to the effective date of this Ordinance and is currently valid;
- c.** The property was and continues to be under single ownership since the effective date of this Ordinance;
- d.** The property owner has acquired a sixty (60) foot perpetual easement for vehicular and pedestrian ingress and egress to a town or a county maintained street, and said easement has been duly recorded and made a part of the property deed; and,
- e.** In the event said property is divided into two (2) more tracts, no further building permits shall be issued until such a time as both tracts meet the street/frontage requirements (individually) as specified in this Ordinance.
- f.** The landlocked condition was not caused by act of the owner or his/her successor in title.

Sec. 31-5.18 Lots with Multiple Frontage. In the case of a corner lot, yard setback requirements for the two sides fronting a street shall be equal to that required for the front yard setback for that particular district. The remaining setbacks for a corner lot shall be those required for a side yard. If a building is constructed on a through lot having frontage on two (2) streets not at an intersection, a setback from each street shall be provided equal to the front yard requirement for the district in which the lot is located.

Sec. 31-5.19 Obstruction of Vision. No fence, wall, structure, shrubbery or other obstruction to vision between the height of three (3) feet and fifteen (15) feet, except utility poles and light or street signs, shall be permitted within twenty (20) feet of the intersection of the right of way lines of streets, roads, highways, railroads or any combination thereof: provided, however, that signs, lights or similar objects which are totally located at least twelve (15) feet above the finished grade shall be permitted.

Sec. 31-5.20 Uses Prohibited. If either a use or a class of use is not specifically indicated as being permitted in a district, either a matter of right or as a Conditional Use, then such use, class or use, or structures for such uses shall be prohibited in such district.

Sec. 31-5.21 Emergency Shelters. Emergency shelters are permitted as principal or accessory uses in any district, subject to the yard requirements of the district. Shelters shall be maintained so as not to become a hazard or a blight to the community. The Brooks Town Council may permit as a Special Exception, construction of joint shelters by two (2) or more property owners. When such joint shelters are permitted, the Council may waive the side and rear yard requirements on the property or properties directed involved in order to permit practical and efficient location and construction; provided however, that side yard requirements shall be met when property involved in a joint proposal abuts or adjoins property not included in the proposal.

Sec. 31-5.22 Height Limitations of Walls and Fences. In any residential district, no wall or fence shall exceed eight (8) feet in height and no wall or fence shall exceed four (4) feet in height

within or along the boundary of a front yard. This four (4) foot height limitation does not include property zoned A-R and the use of the property is for farming. No wall or fence shall be constructed in public right of way or future street right of way.

Sec. 31-5.23 Driveways/Entrances. All main entrances to a designated lot shall be a minimum of 30' wide at street, with a radius on both sides to a minimum ten (10) feet wide drive to allow passage of emergency vehicles. Driveway shall be routed and installed to avoid limits to the travel of emergency vehicles.

Sec. 31-5.24 Required Buffers in CC, CH, MI, M2 and OI Districts. In a CC, CH, MI, M2 or OI Zoning District where a lot abuts any residential or AR District, a buffer shall be provided as specified in the following Sections 31-6.02.f.6 for CC, 31-6.03.f.6 for CH, 31-6.04.f.6 for MI, 31-6.05.f.6 for M2 and 31-6.06.f.6 for OI. Off street parking associated with such uses shall be as governed by Article 8 of this Ordinance.

Sec. 31-5.25 Screening of Service Areas Within One Hundred (100) feet of Public Street. Any service area, loading area, effuse or storage areas between a principal building and a public street being visible from said street or lying within one hundred (100) feet of said street shall be screened in view from the public street as specified in this Chapter.

Sec. 31-5.26 Screening Required. Whenever screening is required by this Ordinance, a durable masonry wall, or an oblique wooden fence or a mature hedge (5 gal container or larger) of sufficient construction to provide a visual blind/screen, designed to be compatible with the character of adjoining properties, shall be provided. Such fences and walls shall be at least five (5) feet in height, but no greater than eight (8) feet in height above the finished grade from the ground along the common lot line of the adjoining properties. Wall or fence shall be erected before building occupancy. Hedges or comparable natural plantings shall be of such a variety that average height of at least six (6) feet could be expected by normal growth within no more than three (3) years from the time of planting. At the time of application for a building permit, the applicant shall present a landscape plan prepared by a registered landscape architect or licensed landscaping contractor. Screening or planting must be in place prior to occupancy or a performance bond posted for the estimated cost for the installation of the required screening. If installed within one (1) year from the date of the application for a building permit, the bond shall be returned; however, if the required screening is not completed within the required time period, the bond shall be deemed forfeited and the required screening shall be installed by the Town of Brooks. Fences, walls and plantings required pursuant to this Section shall be attractively maintained, with all dead and diseased plants being replaced at least annually as a condition of occupancy.

Sec. 31-5.27 Buffer Area. The purpose of this article is to establish minimum requirement for buffers. Said requirements are designed to improve the appearance of the Town of Brooks, to minimize noise, glare and erosion; to provide a visual separation between incompatible uses; and to promote conservation. Buffer areas required by this Ordinance shall be established and maintained by the property owner under the following provisions:

- a.** Be maintained as a planted area, using existing vegetation or when required, additional planting as provided herein;
- b.** Be landscaped with trees, shrubs, flowers, grass, stone, rocks and/or other landscape materials;
- c.** Not be used for parking or the location of a structure, other than a fence or drainage improvements required by the Town of Brooks. However, the area may be used for vehicular access and utility easements, but only if these uses are provided approximately perpendicular to the greater distance of the buffer area, and for drainage improvements required by the Town of Brooks based on competent engineering studies which show these improvements to be necessary;
- d.** Except as provided above, the natural topography of the land shall be preserved and natural growth shall not be disturbed beyond that which is necessary to prevent a nuisance, or to thin natural growth where too dense for normal growth, or to remove diseased, misshapen or dangerous and/or decayed timber. However, a slope easement may be cleared and graded where required to prevent soil erosion and upon approval of the Zoning Administrator. This easement may cover no more than twenty (20) percent of the required buffer area, and shall be immediately replanted upon completion of easement improvements;
- e.** Where the conditions described in the preceding paragraph cannot be met because of the topography of the land, the Zoning Administrator may require, in lieu thereof, screening as provided in this Article;
- f.** Any grading improvements or construction adjacent to the buffer area by the property owner shall be conducted far enough from the buffer area so as not to disturb or encroach upon the buffer area;
- g.** Be designated on each plat submitted for approval, and be recorded as a permanent easement;
- h.** Buffer areas must provide a predominantly evergreen screen from the ground to a height of four (4) feet. Screen may include some hardwood or perennial plantings;
- i.** Off-Street parking lots shall be attractively landscaped, and have screening;
- j.** Landscape plans must be submitted prior to the issuance of a Certificate of Zoning Compliance for any development project. Such plan must be approved by the Brooks Town Council;
- k.** All disturbed areas not otherwise addressed in this Ordinance shall have a vegetative ground cover for erosion control;

- l.** No plants with vigorous root systems shall be planted within 10 feet of a public water or sewage easement. Such plants include but are not limited to Eastern Cottonwood, Willow, Lombard Poplar., Cedar, etc;
- m.** Plantings required by this Ordinance shall be attractively maintained. Dead or diseased plants shall be replaced annually by the property owner,

Sec. 31-5.28 Side and Rear Yards Not Required Next to Railroad. Within any residential Zoning District, side yards and rear yards shall not be required adjacent to railroad right of way.

Sec. 31-5.29 Substandard Lots of Record. Any lot of record existing of the time of adoption of this Ordinance, which has an area or a width which is less than required by this Ordinance, shall be subject to the following exceptions and modifications:

- a.** Adjoining Lots. When two (2) or more adjoining lots with continuous frontage are in one (1) ownership at any time after the adoption of this Ordinance, and such lots are individually less than the minimum square footage and/or have less than the minimum width required in the District in which they are located, then such group of lots shall be considered as a single lot or several lots of minimum permitted width and area for the District in which they are located; provided, however, that when such combination of lots would create a single lot having a width and area 1 and 3A times or more that that width and area required by this Ordinance, then such lot may be divided into two lots of equal width and area and said lots used as conforming lots.
- b.** Lots Not Meeting Minimum Lot Size Requirements. Except as set forth in Sec. 31-5.29(a) above, in any district, any lot of record existing at the time of the adoption of this Ordinance which has an area or a width which is less than required by this Ordinance may be used as a building site for a structure or other use permitted in the zoning district; provided, however, that the same yard, setback, open space and other dimensional requirements are met that would be required for a standard lot of required area or width as stipulated herein.

Sec. 31-5.30 Structures Permitted Above the Height Limit. The height limits of these regulation shall not be applied to a church spire, belfry, cupola, dome or ornamental tower not intended for human occupancy, monument, water tower, observation tower, telecommunication antennas/towers, transmission tower, chimney, silos, smokestack, conveyor, flagpole, radio or television tower, mast or aerial, parapet wall not extending four (4) feet above the roof line of a building, and necessary mechanical appurtenances.

Sec. 31-5.31 Permitted Encroachments of Yards and Setbacks. Architectural features such as cornices, eaves, steps, gutters, and fire escapes may project not more than three (3) feet beyond any required setback line, except where such projections would obstruct driveways which are or may be used for access for service and/or emergency vehicles; provided, that in the case of automobile service stations, motels and similar uses which serve the motoring public, canopies shall be allowed over a driveway or walkway within the front yard not to extend from the principal building to a point closer than fifteen (15) feet from the street's right of way.

Sec. 31-5.32 Lots with Well and/or Private Sewage System. Any lot upon which both an individual well, septic tank or private sewage system are to be provided shall be governed by Title 31 of the Official Code of Georgia Annotated, entitled “Public Health”, and shall be further governed by the Georgia Department of Human Resources Rules and Regulation for Individual Sewage Disposal Systems and further by the rules and regulations of the Fayette County Health Department (current edition). Lots using both well and septic tank systems shall not be less than two (2) acres in size.

Sec. 31-5.33 Operation, of Sanitary Landfills. Private landfills shall not be permitted in the Town of Brooks.

Sec. 31-5.34 Requirements for Moving a Building/Structure. No dwelling unit or other permanent structure shall be relocated in the Town of Brooks unless, when relocated, it meets all requirements of this Ordinance and other town code requirements and prior to transportation of the structure, the relocation must be approved accordingly and permitted by the Zoning Administrator.

Sec. 31-5.35 Buildings Under Construction. Nothing in this Ordinance shall require any change in the construction or intended use of a building which is legally under construction or for which a building permit has been issued as of the effective date of this Ordinance and the construction of which shall be diligently pursued until completion. If at any time, construction activity or progress is deemed by the Zoning Administrator not be moving towards a timely completion, then the Zoning Administrator can require the said building to be re-permitted at which time the structure would need to meet all the current requirements set forth in this Ordinance and the current state and local codes.

Sec. 31-5.36 Repair Garage. In the operation of all repair garages/facilities, all body work and/or painting shall be conducted within a fully-enclosed building with proper ventilation and filtration systems for such a facility. No open storage of junk, wrecked vehicles, dismantled parts, or supplies shall be visible beyond the premises.

Sec. 31-5.37 Office Trailer. The temporary use of an office/storage trailer shall require a permit to be issued by the Zoning Administrator prior to locating the trailer on said site. Said permit shall require a fee as established by the Brooks Town Council and shall specify the precise location of the trailer. Said permit may be issued for a six (6) month period. The trailer shall be identified by a sign denoting the name of the business for which it is used.

Sec. 31-5.38 Outside Storage. Outside storage, whether a principal use or an accessory use, shall be allowed only within M-1 and M-2 Zoning Districts unless stipulated herein.

Sec. 31-5.39 Mobile Homes Restricted. Mobile homes and manufactured homes for residential use are only permitted in the MHD zoning district.

Sec. 31-5.40 Telecommunications Antennas/Towers.

- a.** Purpose. The purpose of this article is establish minimum guidelines for the siting of towers and/or antennas. The goals are to advocate the joint use of new and existing tower sites and to provide such services to the community effectively and efficiently. These guidelines are designed to configure towers and antennas in away that minimizes the adverse visual impact to nearby properties by locating towers and antennas in non-residential areas or in areas where the adverse impact to the community is minimal, and to discourage the proliferation of towers throughout the area. An entire tower facility shall be considered as one principal use on a parcel.
- b.** Public Property. Antennas or towers located on public property owned, leased, or otherwise controlled by the governing authority shall be exempt from the requirement of this Ordinance, provided a license or lease authorizing such antenna or tower has been approved by the governing authority.
- c.** Existing Towers. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the planning and zoning board (or the town council as appropriate) that no existing or approved planned tower or structure can accommodate the applicant’s proposed antenna. This inventory should also include the following supplemental; information:
 - 1** No existing towers or structures are located within the geographic area required to meet applicant’s engineering requirements.
 - 2** Existing towers or structures are not of sufficient height to meet applicant’s engineering requirements.
 - 3** Existing towers or structures do not have sufficient structural strength to support applicant’s proposed antenna and related equipment.
 - 4** Applicant’s proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures.
 - 5** The fees or costs required to share art existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed unreasonable.
 - 6** Applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
- d.** Site Plan. Applicants must present a scaled site plan to include power, height, structure standards, access, landscaping, buffers, etc. The tower structure must blend into the environment with as little visual obtrusiveness as possible. The tower site, with any associated buildings, must blend with the setting.
- e.** Federal Requirements. AH towers must meet or exceed standards and regulations of the FAA, FCC and any Federal Agency with regulation authority over towers and/or antennae.

- f.** Safety Standards. To insure the structural integrity of towers/antennae, the owner shall insure that it is maintained in compliance with all applicable building codes and the standards for towers as published by the Electronic Industries Association.
- g.** Setback. All tower facilities must setback from all adjoining property a distance equal to the height of the tower or two hundred (200) feet, whichever is greater.
- h.** Security Fencing. Tower facilities shall be enclosed by fencing not less than eight (8) feet high for security and shall be screened.
- i.** Landscaping and Buffers. Landscaping and buffers shall be supplied as required elsewhere in this ordinance. Existing mature tree growth and natural land forms on site shall be preserved to the maximum extent possible. In some cases, natural growth around the property perimeter may be a sufficient buffer.
- j.** Personal Towers/Antennas. Towers and/or antennas shall be limited to a maximum height of one hundred (100) feet above the finished surrounding grade.
- k.** Owners of all permitted towers within the Town shall, as a condition of such permit, make the tower reasonably available, if technically feasible, for co-location by other users at a reasonable cost.
- l.** Towers are allowed in M-1, M-2 and AR zoning districts by special exception.
- m.** Removal of Abandoned Antennas and Towers. Any antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of such antenna or tower shall remove same within 90 days of receipt of notice from the town notifying the owner of such abandonment. If such antenna or tower is not removed within said 90 days, the zoning administrator shall take appropriate action to effect the removal of the tower, and the owner of such antenna or tower may be prosecuted for a violation of the zoning ordinance. Each day the owner fails to remove the tower or antenna shall constitute a separate violation. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

Sec. 31-5.41 Establishment of Wellhead Protection Zones. There is hereby established a use district to be known as a wellhead protection zone, identified and described as all the area within a circle, the center of which is the center of any Town of Brooks water supply wellhead and the radius of which is 1,500 feet. The designation and regulation of all the property uses and conditions within said district shall comply with the Wellhead Protection Ordinance.

Sec. 31-5.42 Ground and Surface Water Protection. Recognizing the necessity of providing the citizens a safe water supply, it is hereby declared that any area within the Town of Brooks city limits that affects the water supply (i.e. watersheds, wetlands, lakes and other surface water absorption areas) shall meet all applicable county, state and federal ordinances, laws and regulation.

Sec. 31-5.43 Land Use Plan. It shall be the duty of the Town Council, the Planning and Zoning Board and the Zoning Administrator of the Town of Brooks to use the Brooks Land Use Plan as may be amended from time to time as adopted by the Town Council, including all its goals, policies and future land use map, as the official guide of the Town of Brooks in all recommendations and decisions concerning land development and zoning in the Town of Brooks.

Sec. 31-5.44 Group Homes.

- a.** Group Homes, as classified herein, may be allowed in the zoning districts, hereinafter designated, only upon the granting of a special exception permit upon compliance with the standards hereinafter provided. Applications for special exception permit hereunder shall be considered and acted upon by the town council.
- b.** All Personal Care Homes shall comply with the following standards:
 - 1** No Personal Care Home shall be located within 2500 feet of any Community Living Arrangement which is located within a residential zoning district;
 - 2** All Personal Care Homes must provide at least the minimum square footage of bedroom personal space, personal closet space and bathrooms, as required by Town Ordinances, or that amount required by the State of Georgia for the licensing of personal care homes, whichever is greater;
 - 3** Comply with The “Rules and Regulations for Personal Care Homes” Chapter 290-5-35 as promulgated by the Georgia Department of Human Resources, and as hereafter amended, and the same is hereby adopted and made a part hereof;
 - 4** Personal Care Homes shall be allowed only in: C-C, C-H, O-I zoning districts; and
 - 5** Licensed by the Georgia Department of Human Resources as a Personal Care Home.
- c.** All Drug Treatment Centers shall comply with the following:
 - 1** No Drug Treatment Center facility shall be located within 2500 feet of any Community Living Arrangement which is located within a residential zoning district;
 - 2** No Drug Treatment Center facility shall be located within 600 feet of any residence located within a residential zoning district, a daycare center, kindergarten, school or college;

- 3 All Drug Treatment Centers must provide at least the minimum square footage of bedroom personal space, personal closet space and bathrooms, as required by Town Ordinances, or that amount required by the State of Georgia for the licensing of drug treatment centers, whichever is greater; and
 - 4 Comply with The “Rules and Regulations for Drug Abuse Treatment and Education Programs,,” Chapter 290-4-2 and the “Rules and Regulations for Narcotic Treatment Programs,,” Chapter 290-9-12 as promulgated by the Georgia Department of Human Resources, and as hereafter amended, and the same is hereby adopted and made a part hereof;
 - 5 Drug Treatment Centers shall be allowed only in: C-C, C-H, O-I zoning districts; and
 - 6 Licensed by the Georgia Department of Human Resources as a Drug Treatment Center.
- d.** All Intermediate Care Homes shall comply with the following standards:
- 1 No Intermediate Care Home shall be located within 2500 feet of any Community Living Arrangement which is located within a residential zoning district;
 - 2 No Intermediate Care Center shall be located within 600 feet of any residence located within a residential zoning district, a daycare center, kindergarten, school or college;
 - 3 All Intermediate Care Homes must provide the minimum square footage of bedroom personal space, personal closet space and bathrooms, as required by Town Ordinances or that amount required by the State of Georgia for the licensing of Intermediate Care Homes, whichever is greater;
 - 4 Comply with The “Rules and Regulations of Intermediate Care Homes,,” Chapter 290-5-9 as promulgated by the Georgia Department of Human Resources, and as hereafter amended, and the same is hereby adopted and made a part hereof;
 - 5 Intermediate Care Homes shall be allowed only in: C-C, C-H, O-I zoning districts; and
 - 6 Licensed by the Georgia Department of Human Resources as a Personal Care Home.
 - 7 Licensed by the Georgia Department of Human Resources as a Drug Treatment Center.

- e.** All Community Living Arrangements shall comply with the following standards:
 - 1** No Community Living Arrangement which is to be located within a residential zoning district shall be located within 2500 feet of any Personal Care Home, Drug Treatment Center, Intermediate Care Home, Community Living Arrangement, Nursing Home, or any other Group Home;
 - 2** All Community Living Arrangement must provide at least the minimum square footage of bedroom personal space, personal closet space and bathrooms, as required by Town Ordinances or that amount required by the State of Georgia for the licensing of Intermediate Care Homes, whichever is greater; and
 - 3** Comply with The “Rules and Regulations of Community Living Arrangements,” Chapter 290-9-37 as promulgated by the Georgia Department of Human Resources, and as hereafter amended, and the same is hereby adopted and made a part hereof;
 - 4** Community Living Arrangement Homes shall be allowed only in: All Residential Districts, C-C, C-H, O-I zoning districts; and
 - 5** Licensed by the Georgia Department of Human Resources as a Community Living Arrangement.

- f.** Any Nursing Home shall comply with the following standards:
 - 1** No Nursing Home shall be located within 2500 feet of any Community Living Arrangement which is located within a residential zoning district;
 - 2** All Nursing Homes must provide at least the minimum square footage of bedroom personal space, personal closet space and bathrooms, as required by Town Ordinances or that amount required by the State of Georgia for the licensing of Intermediate Care Homes, whichever is greater;
 - 3** Comply with The “Rules and Regulations of Nursing Homes,” Chapter 290-5-8 as promulgated by the Georgia Department of Human Resources, and as hereafter amended, and the same is hereby adopted and made a part hereof;
 - 4** Nursing Homes shall be allowed only in: C-C, C-H, O-I zoning districts; and
 - 5** Licensed by the Georgia Department of Human Resources as a Nursing Home.

- g.** The required separation between Community Living Arrangements, and other Group Homes established above shall be measured in a straight line from the

nearest lot line of such a use to the nearest lot line of the property occupied by or proposed to be occupied by, any other such use.

ARTICLE 6

DISTRICT USE REQUIREMENTS

Sec. 31-6.01 AR Agricultural - Residential District.

- a.** Description of District. This district is composed of certain lands and structures in the town providing areas for agricultural uses and is designed to protect against the depreciating effects of small lots, residential development and those uses which are incompatible to a desirable agricultural or extremely low-density residential environment.
- b.** Permitted Uses. Within the AR Zoning District, the following permitted uses shall be allowed:
 - 1 Single dwelling unit
 - 2 Home occupation
 - 3 Publicly owned recreation centers and similar institutions
 - 4 Growing crops, gardens and forest farming activities
 - 5 Raising and selling livestock, except feed lots
 - 6 Accessory buildings
 - 7 Pools and tennis courts
 - 8 Feedlot
 - 9 Pole Barn
- c.** Conditional Uses: The following conditional uses shall be allowed, provided that all conditions specified under Sec. 31-7.01 of the Zoning Ordinance are met.
 - 1 Cemetery
 - 2 Farm building
 - 3 Golf course
 - 4 Selling crops (including timber) grown on premises
- d.** Special Exceptions. Upon application to and favorable decision by the Town Council, the following special exceptions may be allowed:

- 1 Airports
- 2 Public utility facilities
- 3 Radio and television towers
- 4 Bed and breakfast inns
- 5 Telecommunication towers

e. Dimensional Requirements. The minimum dimensional requirements for a lot within the AR Zoning District shall be as follows:

- 1 Lot areas: 217,800 square feet (5 acres)
- 2 Lot width: 200 feet
- 3 Gross floor area per dwelling unit: 1,800 square feet
- 4 Front yard setback, as measured from the right-of-way:
 - a. 100 feet, arterial or collector thoroughfare
 - b. 75 feet, residential street
- 5 Rear yard setback: 100 feet
- 6 Side yard setback: 50 feet
- 7 Height: none; however, the minimum distance from property lines to any building shall be increased one (1) foot for every two (2) feet or part thereof of building height over 35 feet.

Sec. 31-6.02 CC Community Commercial District.

- a.** Description of District. The district is composed of certain lands and structures in the town providing for convenient community shopping facilities having a broad variety of sales and services.
- b.** Permitted Uses. Within the CC Zoning District, the following permitted uses shall be allowed:

- 1 Amusement facility
- 2 Appliance sale and repair, etc.
- 3 Art studio
- 4 Auto parts store
- 5 Bakery
- 6 Bank, financial institution, etc
- 7 Barber shop
- 8 Beauty shop
- 9 Boarding house
- 10 Business school
- 11 Catering service
- 12 Churches
- 13 Clothing and variety store
- 14 Club, private
- 15 Dance school or studio
- 16 Dental laboratory
- 17 Medical office
- 18 Department store
- 19 Drug store
- 20 Dry goods store
- 21 Florist shop, gift shop
- 22 Flowers, growing and sales
- 23 Food service
- 24 Food store, etc.
- 25 Garden, growing and sales
- 26 Gift shop
- 27 Gunsmith
- 28 Home occupations
- 29 Indoor commercial amusement or recreational activities
- 30 Jewelry shop
- 31 Laundry pick-up station
- 32 Locksmith
- 33 Lodge, private
- 34 Medical laboratory
- 35 Professional/business office
- 36 Messenger service
- 37 Music teaching studio
- 38 Novelty shop

- 39 Office equipment sales and service
- 40 Outdoor commercial amusement or recreational facility
- 41 Parking garage
- 42 Personal service shop
- 43 Photography studio
- 44 Publicly owned recreation center and similar institution
- 45 Radio studio
- 46 Recreation center
- 47 Restaurant
- 48 Rooming house
- 49 School
- 50 Shoe repair
- 51 Shrubbery, growing and sales
- 52 Specialty shop
- 53 Taxidermist
- 54 Taxi service
- 55 Telegraph service
- 56 Television studio
- 57 Tire store
- 58 Watch repair
- 59 Farmers' market

c. Conditional Uses. The following conditional uses shall be allowed provided that all conditions specified under Sec. 31-7.01 of the Zoning Ordinance are met:

- 1 Animal hospital, commercial kennel, or veterinary clinic
- 2 Fraternities and sororities
- 3 Golf course
- 4 Hospital and care home
- 5 Nursery schools and kindergartens
- 6 Radio and television towers.
- 7 Self-service laundry
- 8 Temporary buildings

d. Special Exceptions. Upon application to and favorable decision by the Town Council, the following special exceptions maybe allowed:

- 1 Public utility facilities
- 2 Group Homes

e. Special Regulations. The following regulations shall apply to the CC Zoning District in addition to any other applicable regulation of the Ordinance:

- 1 **Site Plan Requirement:** Prior to the issuance of any development or building permits, a scaled, engineered Site Plan certified by a registered architect or engineer must be submitted to the Zoning Administrator and

approved by the Engineer designated by the Zoning Administration in accordance with the following items which must be contained on the site plan:

- A.** Boundary survey certified by a registered land surveyor;
- B.** Vicinity map;
- C.** Zoning of property and adjacent property;
- D.** Use of proposed building;
- E.** Front, rear, and side yard setback lines;
- F.** Number and size of parking spaces;
- G.** Topographic information with a two (2) foot contour interval.
- H.** Proposed grading and erosion control facilities;
- I.** Storm drainage facilities;
- J.** Water facilities including distance to nearest fire hydrant;
- K.** Sanitary sewer facilities, including percolation test.

2 Georgia Department of Transportation: Driveway permit for drives on state highways.

3 Building Plan Requirement: Also required is a complete set of building plans certified by a registered architect or engineer.

4 Additional Requirement: Such other information as may be essential for determining whether the provisions of this ordinance are being observed may be required.

5 For purposes of ingress and egress to the site there shall be allowed no more than two curb cuts per street per site.

6 Performance Standards: Any existing or proposed use, or portion thereof shall conform to the following performance standards:

A. Any use or portion thereof causing noise shall be operated in such a manner so as not to create a nuisance or hazard on any adjacent property.

B. Any use or portion thereof emitting odorous, toxic or noxious matter shall be controlled in such a manner that no concentration of such matter, at or beyond the lot boundaries, shall be

detrimental to the public health, safety or comfort, or cause injury or damage to any property,

- C.** No smoke or other air pollutant shall be discharged into the atmosphere from any single source of emission (for a period or periods aggregating more than three minutes in any one hour) which impedes vision within apparent opaqueness equivalent to or greater than the No. I designation on the Ringelmann Smoke Chart, as published by the United States Bureau of Mines.
- D.** No use or portion thereof shall cause or emit heat or glare which is perceptible at any point beyond the lot boundaries.
- E.** No use or portion thereof shall cause or emit vibration which is perceptible, without instruments, at any point beyond the lot boundaries.
- F.** All ground areas not covered by structures shall be landscaped or surfaced with concrete, asphaltic concrete, asphalt oil, gravel, or other comparable dust free surfacing and shall be maintained in good condition, free of weeds, dust, trash and other debris, and shall be properly drained and graded. Such development shall be accomplished before issuance of a certificate of occupancy.
- G.** Storage of materials. No material which has been defined as hazardous by the EPA shall be stored or discharged on the property.

7 Utilities. All utilities shall be underground.

8 Use of existing structure(s)

When property containing a lawfully existing building and accessory structures is rezoned to CC for use of the existing buildings, the following shall apply:

- A.** The dimensional requirements shall be reduced to the extent of, but only at the location of, any encroachment by existing structures. Any new construction or improvements, including expansion of any existing structure, shall comply with the dimensional requirements of the Zoning Ordinance.
- B.** In the event that a structure which existed at the time of rezoning, is removed, demolished, or destroyed, any new structure shall comply with the provisions of the applicable district.

f. Dimensional requirements. The minimum dimensional requirements within the CC zoning district shall be as follows:

- 1 Lot area
 - A. 21,780 square feet (1/2 acre) in the Town Center District (TCD), only
 - B. 43,560 square feet (once acre) in all other areas or districts
- 2 Lot width: 125 feet
- 3 Front yard setback, as measured from the right-of-way
 - A. 75 feet, arterial thoroughfare
 - B. 70 feet, collector thoroughfare
 - C. 65 feet, residential street
- 4 Rear yard setback: 15 feet
- 5 Side yard setback: 15 feet
- 6 Buffer: if the rear or side yard abuts a residential or AR Zoning District, a minimum buffer of thirty (30) feet adjacent to the lot line shall be provided in addition to the required setback and the setback shall be measured from the buffer.
- 7 Height: up to 35 feet

Sec. 31-6.03 CH Highway Commercial District.

- a. Description of District. The district is composed of certain lands and structures to provide and encourage proper grouping and development of roadside uses, which include a wide variety of sales and services that will best accommodate the needs of the town and the traveling public, reducing traffic congestion, hazards and blight along the public streets.
- b. Permitted Uses. Within the CH Zoning District, the following uses shall be permitted as long as the area devoted to inside storage does not exceed fifty percent (50%) of the gross floor area of the principal structure:
 - 1 All of those permitted uses allowed within the CC Zoning District
 - 2 Armories, for meetings and training military organizations
 - 3 Athletic events
 - 4 Bookbinding, printing, engraving, blueprinting, photostating shop

- 5 Building, contracting and related activities, e.g. sale and storage of building supplies and materials
- 6 Cabinet manufacturing, repair and installation
- 7 Carnival, rodeo, horse show or athletic event, community fair or other event of interest to the public (temporary in nature)
- 8 Car wash
- 9 Ambulance or rescue squad
- 10 Drive-in restaurant
- 11 Drive-in theater
- 12 Electric Repair
- 13 Freezer locker service, ice storage
- 14 Freight express office
- 15 Funeral home
- 16 Glass sales
- 17 Hotel
- 18 Light commercial wholesaling, when operated in conjunction with or as part of a retail outlet
- 19 Magazine publication and distribution
- 20 Mini-storage facility
- 21 Newspaper publication and distribution
- 22 Pawn shop
- 23 Pest control
- 24 Railroad or bus passenger station
- 25 Rent-alls
- 26 Tourist home
- 27 Trade schools

- 28 Upholstery shop - furniture
- 29 Utility trailers, rentals or sales
- 30 Wholesaling
- c. Conditional Uses: The following conditional uses shall be allowed provided that all conditions specified under Sec. 31-7.01 of the Zoning Ordinance are met:
 - 1 All of those conditional uses allowed within CC Zoning District
 - 2 Cemetery - Commercial
- d. Special Exceptions. Upon application to and favorable decision by the Town Council, the following special exceptions may be allowed:
 - 1 All of those special exceptions allowed with in the CC Zoning District.
 - 2 Experimental laboratory.
 - 3 Group Homes
- e. Special Regulations. The following regulations shall apply to the CH Zoning District in addition to any other applicable regulation of the Ordinance:
 - a. All of those special regulations required within the CC Zoning District.
- f. Dimensional requirements. The minimum dimensional requirements within the CH zoning district shall be as follows:
 - 1 Lot area: 43,560 square feet (1 acre)
 - 2 Lot width: 125 feet
 - 3 Front yard setback, as measured from the right-of-way
 - A. 75 feet, arterial thoroughfare
 - B. 60 feet, collector thoroughfare
 - C. 55 feet, residential street
 - 4 Rear yard setback: 15 feet
 - 5 Side yard setback; 15 feet
 - 6 Buffer: if the rear or side yard abuts a residential or AR Zoning District, a minimum buffer of thirty (30) feet adjacent to the lot line shall be

provided in addition to the required setback. The setback shall be measured from the buffer.

- 7 Height: up to 35 feet
- 8 Screening dimensions: for parking and service areas as provide in this Ordinance.

Sec. 31-6.04 M-l Light Industrial- District.

a. Description of District. The district is composed of certain lands and structures in the town which are suitable for industrial development but where proximity to existing or proposed residential or commercial districts makes it desirable to mitigate the manner and extent of industrial operations and thereby protect the nearby residential or commercial land.

b. Permitted Uses. Within the M-l Zoning District, the following permitted uses shall be allowed:

- 1 Ambulance service
- 2 Amusement facilities, indoor or outdoor
- 3 Appliance sales and repair
- 4 Armories for meeting and training of military organizations
- 5 Athletic events (temporary in nature)
- 6 Automobile or truck sales, service stations, paint shops, parts store including rebuilding or parts, parking lot or garage, tire recapping facilities, upholstery shop
- 7 Bakery
- 8 Blueprinting
- 9 Bookbinding
- 10 Building contracting and related activities, e.g. sale and storage of supplies and materials
- 11 Bus passenger station
- 12 Carnivals (temporary in nature)
- 13 Car wash
- 14 Catering service

- 15 Community fair (temporary in nature)
- 16 Medical laboratory
- 17 Drive-in theater
- 18 Electrical repair
- 19 Engraving
- 20 Express office (freight)
- 21 Farmers' market
- 22 Farm equipment sales
- 23 Feed sales
- 24 Fertilizer sales
- 25 Florist
- 26 Food stores
- 27 Freezer locker service
- 28 Freight express office
- 29 Furniture store
- 30 Glass sales
- 31 Gift shop
- 32 Greenhouse
- 33 Gunsmith
- 34 Hardware
- 35 Home furnishings
- 36 Horse show (temporary in nature)
- 37 Hotel
- 38 Ice storage
- 39 Insecticide sales and storage

- 40** Light manufacturing:
- A.** Appliance and electronic devices assembly plant, including the manufacturing of parts for appliances and electronic devices;
 - B.** Assembly of products from previously prepared materials;
 - C.** Bottling and canning plant;
 - D.** Ceramic products provided that kilns shall only be power by gas or electricity;
 - E.** Construction of signs, including painted signs;
 - F.** Cooperage;
 - G.** Ice manufacturing;
 - H.** Laundry, cleaning and dyeing plants;
 - I.** Light sheet metal products, such as ventilating ducts and eaves;
 - J.** Musical instruments, toys, novelties, and similar products;
 - K.** Manufacturing of food, cosmetic and pharmaceutical products, but not including fish and meat products, sauerkraut, vinegar yeast and rendering plants;
 - L.** Machine shop and related activities;
 - M.** Other manufacturing, processing, packaging, or handling of a similar nature which shall not emit or produce more smoke, noise, odor, dust, vibration, or fumes than the uses listed herein;
 - N.** Tinsmith and roofing service.
- 41** Locksmith
 - 42** Magazine publication and distribution
 - 43** Medical laboratory
 - 44** Motel
 - 45** Newspaper publication and distribution
 - 46** Office trailer
 - 47** Pest control
 - 48** Photostating
 - 49** Planing or saw mill
 - 50** Plant nursery
 - 51** Printing shop
 - 52** Public utility facilities

- 53 Radio studio
- 54 Railroad freight station
- 55 Railroad passenger station
- 56 Recreational facilities, indoor or outdoor
- 57 Rescue squad
- 58 Restaurants
- 59 Rodeo (temporary in nature)
- 60 Saw mill
- 61 Seed sales and storage
- 62 Shrubbery sales
- 63 Taxidermist
- 64 Taxi service
- 65 Television studios
- 66 Theater, drive-in
- 67 Tire sales
- 68 Trade schools
- 69 Utilities, public facilities
- 70 Utility trailer rentals and rent-alls
- 71 Warehousing

c. Conditional Uses: The following conditional uses shall be allowed provided that all conditions specified under Sec. 31-7.01 of the Zoning Ordinance are met:

- 1 Animal hospital, commercial kennel, and veterinary clinic
- 2 Commercial barns
- 3 Lumber yard, or other storage not already specifically listed
- 4 Temporary building

d. Special Exceptions. Upon application to and favorable decision by the Town Council, the following special exceptions maybe allowed:

- 1 Experimental laboratory
- 2 Radio towers
- 3 Television towers

e. Special Regulations. The following regulations shall apply to the M-1 Zoning District in addition to any other applicable regulation of the Ordinance and all of the special regulations required within the CC Zoning District,

f. Dimensional requirements.

- 1 1 Lot area: 43,560 square feet (1 acre)

- 2 2 Lot width: 125 feet
- 3 3 Front yard setback, as measured from the right-of-way
 - A. 80 feet, arterial thoroughfare
 - B. 70 feet, collector thoroughfare
 - C. 55 feet, residential street
- 4 Rear yard setback: 25 feet
- 5 Side yard setback: 25 feet
- 6 Buffer: if the rear or side yard abuts a residential or AR Zoning District a minimum buffer of 75 feet shall be provided adjacent to the lot line in addition to the required setback. The setback shall be measured from the buffer.
- 7 Height: up to 35 feet
- 8 Lot coverage, including structure and parking area: up to 60 percent of total lot area.

Sec. 31-6.05 M-2 Manufacturing and Heavy Industrial District.

- a. Description of District. The district is composed of certain lands and structures in the town providing for those industrial uses which cannot comply with the regulations of the M-1 Zoning District and is located in such a manner as not to be injurious to lands and development in nearby districts.
- b. Permitted Uses. Within the M-2 Zoning District, the following permitted uses shall be allowed:
 - 1 Railroad classification and repair yard
 - 2 Truck terminal
 - 3 All of those uses permitted within the M-1 zoning District except the following:
 - A. Amusement activities, indoor
 - B. Animal hospitals, commercial kennels, veterinary clinic
 - C. Bakery
 - D. Bus passenger station
 - E. Medical laboratory
 - F. Florist
 - G. Food stores
 - H. Gift shop

- I.** Gunsmith
- J.** Hotel or motel
- K.** Locksmith
- L.** Medical laboratory
- M.** Professional laboratory, medical, dental, etc.
- N.** Radio studio
- O.** Railroad passenger station
- P.** Recreational activities, indoor
- Q.** Shell home display
- R.** Shrubbery sales
- S.** Taxidermist
- T.** Television studio
- U.** Trade school
- V.** Veterinary clinic

c. Conditional Uses: The following conditional uses shall be allowed provided that all conditions specified under Sec. 31-7.01 of the Zoning Ordinance are met:

d. Special Exceptions. Upon application to and favorable decision by the Town Council, the following special exceptions may be allowed:

1 All of those special exceptions allowed within the M-1 Zoning District.

e. Special Regulations. The following regulations shall apply to the M-2 Zoning District in addition to any other applicable regulation of the Ordinance:

1 All of those special regulations required within the CC Zoning District.

2 Special Locational and Spatial Requirements.

A. Off-street parking shall be provided in accordance with Article VIII.

B. Parking areas shall not be located within the minimum required front, side, or rear yards of the development. Parking areas are permitted within the minimum required front, side, and rear yards of interior lots within a development.

C. Off-street loading shall be provided in accordance with Article VIII.

3 Performance Standards. Any existing or proposed use, or portion thereof, shall conform to the following performance standards:

A. Any use or portion thereof causing noise shall be operated in such a manner so as not to create a nuisance or hazard on any adjacent property.

- B.** Any use or portion thereof emitting odorous, toxic or noxious matter shall be controlled in such a manner that no concentration of such matter, at or beyond the lot boundaries, shall be detrimental to the public health, safety or comfort, or cause injury or damage to any property.
- C.** No smoke or other air pollutant shall be discharged into the atmosphere from any single source of emission (for a period or periods aggregating more than three minutes in any one hour) which impedes vision within apparent opaqueness equivalent to or greater than the No. I designation on the Ringelmann Smoke Chart, as published by the United States Bureau of Mines.
- D.** No use or portion thereof shall cause or emit heat or glare which is perceptible at any point beyond the lot boundaries.
- E.** No use or portion thereof shall cause or emit vibration which is perceptible, without instruments, at any point beyond the lot boundaries.
- F.** All ground areas not covered by structures shall be landscaped or surfaced with concrete, asphaltic concrete, asphalt oil, gravel, or other comparable dust free surfacing and shall be maintained in good condition, free of weeds, dust, trash and other debris, and shall be properly drained and graded. Such development shall be accomplished before issuance of a certificate of occupancy.

4 Utilities. All utilities shall be underground.

5 Use of existing structure(s). When property containing a lawfully existing building and accessory structures is rezoned to M-2 for use of the existing buildings, the following shall apply:

- A.** The dimensional requirements shall be reduced to the extent of, but only at the location of, any encroachment by existing structures. Any new construction or improvements, including expansion of any existing structure, shall comply with the dimensional requirements of the Zoning Ordinance.
- B.** In the event that a structure, which existed at the time of rezoning is removed, demolished, or purposefully destroyed, any new structure shall comply with the provisions of the applicable district.

f. Dimensional requirements. The minimum dimensional requirements within the M-2 Zoning District shall be as follows:

- 1** Lot area: 87,120 square feet (2 acres)
- 2** Lot width: 125 feet

- 3 Front yard setback, as measured from the right-of-way
 - A. 100 feet, arterial thoroughfare
 - B. 70 feet, collector thoroughfare
 - C. 55 feet, residential street
- 4 Rear yard setback: 25 feet
- 5 Side yard setback: 25 feet
- 6 Buffer: if the rear or side yard abuts a residential or AR Zoning District a minimum buffer of 75 feet shall be provided adjacent to the lot line in addition to the required setback. The setback shall be measured from the buffer.
- 7 Height: up to 35 feet
- 8 Lot coverage, including structure and parking area: up to 60 percent of total lot area.

Sec. 31-6.06 OI Office-Institutional.

a. Description of District. The district is composed of certain lands and structures in the town providing for convenient areas for office, professional, governmental, and institutional facilities having a broad variety of sales and services.

b. Permitted Uses. Within the OI Zoning District, lots and structures may be used for the following purposes as long as the gross floor area devoted to inside storage does not exceed fifteen percent (15%) of the total gross floor area. Outside storage is not permitted. The governing authority of the Town of Brooks is exempt from this storage limitation.

- 1 Schools: elementary, junior high, senior high; public or private
- 2 Churches
- 3 Government offices
- 4 Libraries, museums, and other cultural facilities
- 5 Colleges and universities
- 6 Nursing, trade, business, vocational, and other schools
- 7 Publicly-owned recreational facilities and similar uses
- 8 Ambulance service or rescue squad
- 9 Fire station
- 10 Banks, financial institutions
- 11 Medical and dental clinics and offices
- 12 Laboratories serving medical and dental requirements
- 13 Newspaper or magazine publishing and distribution
- 14 Professional offices
- 15 Medical offices
- 16 Art, dance, and music studio and schools

c. Conditional Uses: The following conditional uses shall be allowed provided that all conditions specified under Sec. 31-7.01 of the Zoning Ordinance are met:

- 1 Hospitals.
- d.** Special Exceptions. Upon application to and favorable decision by the Town Council, the following special exceptions maybe allowed:
- 1 Church cemetery
 - 2 Other offices not specifically listed elsewhere
 - 3 Clubs and lodges
 - 4 Daycare facilities
 - 5 Single dwelling unit=residence
 - 6 Group Homes
- e.** Special Regulations. The following regulations shall apply to the OT Zoning District in addition to any other applicable regulation of the Ordinance.
- 1 All of those special regulations required within the CC Zoning District.
- f.** Dimensional requirements. The minimum dimensional requirements within the OI Zoning District shall be as follows:
- 1 Lot area: 43,560 square feet (1 acre)
 - 2 Lot width: 125 feet
 - 3 Front yard setback, as measured from the right-of-way
 - A.** 75 feet, arterial thoroughfare
 - B.** 70 feet, collector thoroughfare
 - C.** 65 feet, residential street
 - 4 Rear yard setback: 15 feet
 - 5 Side yard setback: 15 feet
 - 6 Buffer: if the rear or side yard abuts a residential or AR Zoning District, a minimum buffer of thirty (30) feet adjacent to the lot line shall be provided in addition to the required setback. The setback shall be measured from the buffer. Additional buffer and setback requirements maybe established as a condition of zoning approval.
 - 7 Height: up to 35 feet
 - 8 Use of existing structure(s).When property containing a lawfully existing building and accessory structures is rezoned to OI for use of the existing buildings, the following shall apply:
 - A.** The dimensional requirements shall be reduced to the extent of, but only at the location of, any encroachment by existing structures.

Any new construction or improvements, including expansion of any existing structure, shall comply with the dimensional requirements of the Zoning Ordinance.

B. In the event that a structure, which existed at the time of rezoning is removed, demolished, or purposefully destroyed, any new structure shall comply with the provisions of the applicable district.

9 Lot coverage. No more than forty percent (40%) of any lot may be covered with buildings or structures. Driveways, parking areas, and sidewalks shall not be included when computing lot coverage.

Sec. 31-6.07 TCD Town Center District.

- a.** Description of District. This district is an overlay district composed of lands and structures of historically diverse uses, embraced in other zoning districts, but by reason of special factors made also subject to additional regulations imposed hereby.
- b.** District Designation. All properties within the district shall have that zoning classification represented by the zoning district in which it is color coded as shown on the Zoning Map of the Town of Brooks, Georgia, adopted and certified by the Mayor and Town Clerk on December 4, 1985, as from time to time amended, together with the zoning classification, “Town Center District” (hereinafter, T.C.D.). Properties within the AR, Agricultural Residential zoning district as shown on said map will be designated “AR-T.C.D.” if also included within the Town Center District.
- c.** Boundaries. Boundaries of the T.C.D. shall be as shown on the Zoning Map of the Town of Brooks, Georgia, as amended or as modified by that transparent Mylar overlay entitled “Brooks Town Center District”, adopted and certified by the Mayor and Town Clerk on September 8, 1993, as amended. Generally, the T.C.D. is comprised of those properties fronting both sides of Highway Connector 85 from Woods Road to the intersection of Brooks/Gable Road. The District continues so as to include those properties fronting the north side of Julia’s Crossing starting at the western point at the railroad tracks and continuing along the north, south and east sides of Gable Road extending to the last property zoned Non-Conforming R-20 on the south side of McIntosh Road as shown on the Zoning Map of the Town of Brooks, Georgia, adopted and certified by the Mayor and Town Clerk on December 4, 1985, as from time to time amended. The district continues so as to encompass those properties on McIntosh Road, which are north of Gable Road and to include those properties on Railroad Street, including the Town of Brooks Park. All properties fronting Church Alley are included in the T.C.D. The final part of the area included in the T.C.D. are those properties fronting on Price Road from Highway 54 Connector westward to the western boundary of the Town Cemetery. The Zoning Map of the Town of Brooks, Georgia, 1985, as amended, is hereby further amended by adding match

points to said map, to correspond with match points on the Mylar overlay entitled "Brooks Town Center District" aforesaid, so that the match points on said overlay and on said zoning map as amended, when superimposed, will cause the boundaries herein defined of the T.C.D. as shown on said Mylar, to correspond with any identical boundaries of properties shown on said original zoning map, and the Mylar overlay herein described shall become an integral part of said original zoning map, as amended.

d. Permitted Uses. Provided that such uses shall meet requirements of the Town of Brooks Wellhead Protection ordinance, the following uses shall be permitted within the T.C.D.:

1 Upon lands also zoned Residential:

- A.** Single dwelling unit detached dwellings;
- B.** Accessory residential uses, including home occupations
- C.** Livestock, as permitted in AR-T.C.D. only

2 Upon lands also zoned Office-Institutional:

- A.** Community or town meeting hall;
- B.** Library;
- C.** Post Office;
- D.** Museum;
- E.** Historical and cultural society;
- F.** Day-care center;
- G.** Church or other place of worship;
- H.** Public and private schools;
- I.** Music centers;
- J.** Performing Arts Theaters, both indoor and outdoor;
- K.** Athletic fields and clubs;
- L.** Municipal services;
- M.** Cemetery - not commercial

3 Upon lands also zoned Commercial:

- A.** Residential dwelling units, if located within a structure also containing a commercial use;
- B.** Lodging, including bed and breakfast inns,
- C.** Retail uses of 5,000 square feet or less;
- D.** Professional offices;
- E.** Restaurants;
- F.** Artists' studios;
- G.** Recreational buildings or uses;
- H.** Medical clinics/facilities
- I.** Elderly care and social care facilities;
- J.** Workshop;

- K.** Automobile parking lots;
- L.** Outdoor commercial;
- M.** Automobile service stations.

4 Upon lands also zoned Manufacturing:

- A.** Gasoline filling stations;
- B.** Automobile repair shops;
- C.** Commercial car washes may be allowed as long as they meet all environmental requirements, including recycle systems;
- D.** Tradesmen's shops;
- E.** Artisan living/working uses;
- F.** Wholesale businesses;
- G.** Public utilities facilities, including substations, pumping stations, and waste treatment facilities treating waste generated primarily in the Town Centers;
- H.** Outdoor sales and services;
- I.** Horticultural uses;

e. Conditional Uses and Special Exceptions. Conditional uses and special exceptions elsewhere authorized in Article 6 shall be authorized within the T.C.D. solely upon application to and approval by the Town Council after design review by the Design Review Board of the Town of Brooks, under procedures and standards applicable to said Board.

f. Special Regulations: All Special Regulations to which a tract within the T.C.D. may be subject under other provisions of Articles 4 and 6 shall apply within the T.C.D.

g. Prohibited Uses. The following uses are prohibited in the T.C.D.:

- 1** Chemical manufacturing, storage or distribution, as a primary use;
- 2** Enameling, plating or painting except artist's studios as a primary use;
- 3** Foundries, moving or hauling terminal or yard, except delivery or pick up of goods or merchandise solely to service businesses in the T.C.D.;
- 4** Prisons, detention centers or half-way houses;
- 5** The manufacture or disposal of hazardous waste materials;
- 6** The manufacture or disposal of radioactive waste;
- 7** Scrap yards;
- 8** Mobile homes;
- 9** Commercial sand, gravel or other mineral extraction;
- 10** Outdoor storage;
- 11** Commercial kennels;
- 12** Tire recapping facility
- 13** Group Homes
- 14** All prohibited uses at Sec. 31-6.14 of the Town's Zoning Ordinance

h. Dimensional Requirements.

- 1** Width. Lots shall have the following widths at the front building line in accordance with the use of the lot:

| <u>Lot</u> | <u>Minimum</u> |
|------------|----------------|
| AR-TCD | 200' |
| R-15-TCD | 100' |
| R-20-TCD | 100' |
| R-40-TCD | 125' |
| CC-TCD | 30' |
| OI-TCD | 30' |
| M1-TCD | 30' |
| M2-TCD | 30' |

- 2** Front Setbacks. Lots shall have the following front setback requirements as measured from the abutting right-of-way of a street or road, in accordance with the use of the lot, as follows:

| <u>Lot</u> | <u>Minimum</u> |
|------------|----------------|
| AR-TCD | 75' |
| R-15-TCD | 40' |
| R-20-TCD | 40' |
| R-40-TCD | 40' |
| CC-TCD | * |
| OI-TCD | * |
| M1-TCD | * |
| M2-TCD | * |

* Applications for building permits or for rezoning of non-residential properties within the T.C.D. shall be reviewed by the Design Review Board, which shall determine an appropriate maximum front setback which may be as low as no setback from right-of-ways or sidewalks, taking into consideration average setbacks of existing adjacent buildings, existence of public sidewalks and easements, the proposed building use, lot topography and configuration and harmony of the proposed structure with existing uses.

- 3** Side-yard Setbacks. Lots shall have the following side-yard setback requirements in accordance with the use of the lot:

| <u>Lot</u> | <u>Minimum</u> |
|------------|----------------|
| AR-TCD | 50' |
| R-15-TCD | 10' |
| R-20-TCD | 10' |
| R-40-TCD | 15' |
| CC-TCD | 5' |

OI-TCD 5'

- 4 Rear-yard Setbacks. Lots shall have the following rear-yard setback requirements in accordance with the use of the lot:

| <u>Lot</u> | <u>Minimum</u> |
|------------|----------------|
| AR-TCD | 100' |
| R-15-TCD | 30' |
| R-20-TCD | 30' |
| R-40-TCD | 30' |
| CC-TCD | 8' |
| OI-TCD | 8' |
| MI-TCD | 25' |
| M2-TCD | 25' |

5. All setbacks in TCD district may be varied by as much as twenty-five (25%) percent as an administrative variance by the Zoning Administrator taking into consideration the average setbacks of existing adjacent structures, location of public sidewalks and public easements, proposed building use, lot topography, and configuration and harmony of the subject structure with existing structures.
6. All setbacks shall be vegetated spaces, except where sidewalks or easements prohibit.

i. Review and Approval Procedures.

- 1 Pre-Application Conference. Prior to filing a formal application for a building permit, rezoning, special exception, variance or other administrative procedure within the T.C.D., the applicant shall confer with the Zoning Administrator to advise the latter of the scope, nature, location and general character of the proposed development. The Zoning Administrator shall advise the applicant of approval procedures herein contained and the data the applicant may need in order to continue the procedure.
- 2 Processing of Application. An applicant for any of the procedures set out in the preceding paragraph shall submit his petition first to the Zoning Administrator, and the latter shall deliver a copy of the petition to the Design Review Board for review and recommendations concerning the application. For all rezoning and where required by a reviewing agency or by this or other Town ordinances, the petition shall contain a development plan and a written summary of intent, and shall show the relationship between the proposed development and the surrounding area, both proposed and existing, as know.

3 Development Plan. The following information shall be submitted as the development plan:

- A.** A general location map;
- B.** A current topographical map clearly showing existing topographic conditions, including contour intervals or no more than two (2) feet based on field survey or photographic methods;
- C.** A map showing the existing flood plains and flood soil as indicated by the United States Department of Housing and Urban Development and the Soil Conservation Service of the United States Department of Agriculture;
- D.** A map showing the relationship of the project to the boundaries of the Town of Brooks Wellhead Protection District(s);
- E.** Existing and proposed land uses on the development site and in surrounding areas for a distance of 500 feet, including the approximate location of all buildings, structure, lots and street;
- F.** The approximate location of existing and proposed utilities, including a preliminary utility and drainage plan;
- G.** The present zoning pattern in the area;
- H.** A legal description of the subject property;
- I.** Detailing drawings of buildings which indicate the proposed architectural style and appearance, as well as exterior material samples to include paint;
- J.** A parking and loading (if appropriate) plan,
- K.** A landscape plan, and
- L.** A light plan.

4 Approval. Issuance of building permits within the T.C.D. may be finally authorized by the Zoning Administrator with concurrence of the Design Review Board; variances and special exceptions, by the Town Council. Subdivision plans and development plans requiring rezoning or submitted independently of a rezoning request, may be finally approved by the Planning and Zoning Board or as set forth in other Town ordinances. Subdivision and development plans submitted incident to a request for rezoning shall be finally approved by the Mayor and Council after notice and hearing(s) as for rezoning generally. When a subdivision or development plan is submitted to any final approving agency, compliance

with such plan as approved shall become a condition of the status or permit granted based thereon; which status or permit may be revoked if such approved plan is subsequently not followed. Notwithstanding anything foregoing, the Zoning Administrator shall not grant, but shall solely review, applications for building permits within the T.C.D. not unconditionally approved by the Design Review Board. He shall forward such application with his recommendations for approval, approval with conditions, or disapproval, to the Mayor and Council whose approval shall be required before a permit is issued in such cases, based upon criteria contained in this herein.

- 5 Permanent Record of Development or Subdivision Plans. The approving agency shall file each approved development or subdivision plan with the Zoning Administrator, who shall cause the same to be filed and indexed, with a record of its approval and the permit or status granted on basis of such plan, in readily retrievable format, to be kept by the Town Clerk among other permanent Town records.
 - 6 Revision of Development Plan. Any change in an approved development or subdivision plan which affects the intent and character of the development, the density or land use pattern, the location or dimensions of streets, or incorporates similar changes, must be approved upon application to the agency which originally approved the plan being revised, via the same procedures implementation of revised plans not so approved is prohibited.
- j.** Interpretation. In the event of a conflict between provisions of this Section and other provisions of Article 6, provisions of this Section shall govern, unless otherwise herein provided.
- k.** Design Review Board. The Town of Brooks Design Review Board shall consist of three members, residents of the Town, appointed by the Mayor and Council and holding no other Town office.
- 1 The Board shall name one of its members as Chairman and another, Vice-Chairman. The Board shall appoint a Secretary, who may be an officer or employee of the Town Council.
 - 2 Meetings shall be held on call of the Chairman, and minutes of all meetings shall be taken, showing the attendance or non-attendance of each member and each member's vote upon each Board recommendation. Such minutes shall be filed with the Town Clerk and shall be kept as a public record.
 - 3 The Board of Design Review shall promptly within ten (10) days, exclusive of Saturdays, Sundays and public holidays as defined by the Official Code of Georgia Annotated, as from time to time amended after

receipt of a request, proposal or other submission required to be made to it hereunder, act upon the same, unless the Chairman determines insufficient information has been submitted to authorize a determination within such period or if other exigency prohibits such prompt action. If requested information for any reason is not made promptly available, all exigencies considered, the Board may defer consideration of the affected application or may act as appropriate without such information. The Board's actions shall be in the form of a recommendation to the Planning and Zoning Board, the Mayor and Council or other agency required hereunder to act on the request, proposal or issue submitted and shall be given due consideration and weight by such other agency or agencies, but the Board's actions shall be non-binding.

- 4 It shall be the duty of the Board to adopt procedures for the conduct of its business, to receive and promptly act upon requests, proposals and other matters required herein to be submitted to it, and to apply in its determinations the standards, procedures and objectives of applicable general laws, this ordinance and other ordinances and regulations of the Town of Brooks, as well as subjective standards of due process, economic and aesthetic considerations, equity, fairness and the overall general welfare of the Town of Brooks and its citizens.

Sec. 31-6.08 Grandfathered R-80 Single Dwelling Unit Residential District.

- a. Description of District. This district is composed of certain lands and structures in the town having a very low-density single dwelling unit residential character and is designed to protect against the depreciating effects of small lot development and those uses incompatible with such a residential environment.
- b. Permitted uses: Within the Grandfathered R-80 Zoning District, the following permitted uses shall be allowed:
 - 1 Single dwelling unit
 - 2 Accessory buildings and uses
 - 3 Non-commercial swimming pools, tennis courts or similar uses
 - 4 Private gardens
- c. Conditional Uses. The following conditional uses shall be allowed provided that all conditions specified under Sec. 31-7.01 of the Zoning Ordinance are met:
 - 1 Home occupation
- d. Special Exceptions. Upon application to and favorable decision by the Town Council, the following special exceptions may be allowed:

- 1 Developed residential recreational/amenity areas
- 2 Community Living Arrangements
- e. Dimensional Requirements. The minimum dimensional requirements within the Grandfathered R-80 Zoning District shall be as follows:
 - 1 Lot area per dwelling: 130,680 square feet (3 acres)
 - 2 Lot width: 200 feet
 - 3 Gross floor area per dwelling unit: 2,500 square feet
 - 4 Front yard setback, as measured from the right-of-way: 100 feet
 - 5 Rear yard setback: 100 feet
 - 6 Side yard setback: 50 feet
 - 7 Height: up to 35 feet

Sec. 31-6.09 Grandfathered R-60 Single- Dwelling Unit Residential District.

- a. Description of District. This district is composed of certain lands and structures in the town, having a very low-density single-dwelling unit residential character and is designed to protect against the depreciating effect of small lot development and those uses incompatible with such a residential environment.
- b. Permitted Uses. Within the Grandfathered R-60 Zoning District, the following permitted uses shall be allowed:
 - 1 All of those permitted uses allowed within the Grandfathered R-80 Zoning District.
- c. Conditional Uses. The following conditional uses shall be allowed provided that all conditions specified under Sec. 31-7.01 of the Zoning Ordinance are met:
 - 1 All of those conditional uses allowed within the Grandfathered R-80 Zoning District.
- d. Special Exceptions. Upon application to and favorable decision by the Town Council, the following special exceptions may be allowed:
 - 1 Developed residential recreational/amenity areas
 - 2 Community Living Arrangements
- e. Dimensional Requirements. The minimum dimensional requirements with in the Grandfathered R-60 Zoning district shall be as follows:

- 1 Lot area per dwelling unit: 87,120 square feet (2 acres)
- 2 Lot width:
 - i. 150 feet, residential street
 - ii. 175 feet, arterial or collector thoroughfare
- 3 Gross floor area per dwelling unit: 2,000 square feet
- 4 Front yard setback, as measured from the right-of-way: 75 feet
- 5 Rear yard setback: 50 feet
- 6 Side yard setback: 20 feet
- 7 Height: up to 35 feet

Sec. 31-6.10 Grandfathered R-40 Single Dwelling Unit Residential District.

- a. Description of District. The district is composed of certain lands and structures in the town, having low-density single-dwelling unit residential character and is designed to protect against the depreciating effects of small lot development and those uses incompatible with such a residential environment.
- b. Permitted Uses. Within the Grandfathered R-40 Zoning District, the following permitted uses shall be allowed:
 - 1 All of those permitted uses allowed within the Grandfathered R-80 Zoning District.
- c. Conditional Uses: The following conditional uses shall be allowed provided that all conditions specified under Sec. 31-7.01 of the Zoning Ordinance are met:
 - 1 All of those conditional uses allowed within the Grandfathered R-80 Zoning District.
- d. Special Exceptions. Upon application to and favorable decision by the Town Council, the following special exceptions maybe allowed:
 - 1 Developed residential recreational/amenity areas
 - 2 Community Living Arrangements
- e. Dimensional Requirements. The minimum dimensional requirements within the Grandfathered R-40 Zoning district shall be as follows:
 - 1 Lot area per dwelling unit: 87,120 square feet (2 acres)

- 2 Lot width:
 - A. 125 feet, residential street
 - B. 150 feet, arterial or collector thoroughfare
- 3 Gross floor area per dwelling unit: 1,500 square feet
- 4 Front yard setback, as measured from the right-of-way
 - A. 60 feet, residential street
 - B. 75 feet, arterial or collector thoroughfare
- 5 Rear yard setback: 30 feet
- 6 Side yard setback: 15 feet
- 7 Height: up to 35 feet

Sec. 31-6.11 Grandfathered R-20 Single Dwelling Unit Residential District.

- a. Description of District. The district is composed of certain lands and structures in the town, having a medium-density single dwelling unit residential character and is designed to protect against the depreciating effects of small lot development and those uses incompatible with such a residential environment.
- b. Permitted Uses. Within the Grandfathered R-20 Zoning District, the following permitted uses shall be allowed:
 - 1 All of those permitted uses allowed within the Grandfathered R-80 Zoning District.
- c. Conditional Uses: The following conditional uses shall be allowed provided that all conditions specified under Sec. 31-7.01 of the Zoning Ordinance are met:
 - 1 All of those conditional uses allowed within the Grandfathered R-80 Zoning District.
- d. Special Exceptions. Upon application to and favorable decision by the Town Council, the following special exceptions maybe allowed:
 - 1 Developed residential recreational/amenity areas
 - 2 Community Living Arrangements
- e. Dimensional Requirements. The minimum dimensional requirements within the Grandfathered R-40 Zoning district shall be as follows:

- 1 Lot area per dwelling unit: 43,560 square feet (1 acre)
- 2 Lot width:
 - A. 100 feet, residential street
 - B. 125 feet, arterial or collector thoroughfare
- 3 Gross floor area per dwelling unit: 1,200 square feet
- 4 Front yard setback, as measured from the right-of-way
 - A. 60 feet, residential street
 - B. 75 feet, arterial or collector thoroughfare
- 5 Rear yard setback: 30 feet
- 6 Side yard setback: 10 feet
- 7 Height: up to 35 feet

Sec. 31-6.12 Grandfathered R-15 Single- Dwelling Unit Residential District.

- a. Description of District. The district is composed of certain lands and structures in the town, having a medium-density single-dwelling unit residential character and is designed to protect against the depreciating effects of small lot development and those uses incompatible with such a residential environment.
- b. Permitted Uses. Within the Grandfathered R-15 Zoning District, the following permitted uses shall be allowed:
 - 1 All of those permitted uses allowed within the Grandfathered R-80 Zoning District.
- c. Conditional Uses. The following conditional uses shall be allowed provided that all conditions specified under Sec. 31-7.01 of the Zoning Ordinance are met:
 - 1 All of those conditional uses allowed within the Grandfathered R-80 Zoning District.
- d. Special Exceptions. Upon application to and favorable decision by the Town Council, the following special exceptions maybe allowed:
 - 1 Developed residential recreational/amenity areas
- e. Dimensional Requirements. The minimum dimensional requirements within the Grandfathered R-40 Zoning district shall be as follows:

- 1 Lot area per dwelling unit: 43,560 square feet (1 acre)
- 2 Lot width:
 - A. 100 feet, residential street
 - B. 125 feet, arterial or collector thoroughfare
- 3 Gross floor area per dwelling unit: 1,100 square feet
- 4 Front yard setback, as measured from the right-of-way
 - A. 60 feet, residential street
 - B. 75 feet, collector thoroughfare
 - C. 75 feet, arterial thoroughfare
- 5 Rear yard setback: 30 feet
- 6 Side yard setback: 10 feet
- 7 Height: up to 35 feet

Sec. 31-6.13 Mobile Home District (MHD). In the mobile home district, the following uses are permitted:

- (1) Mobile homes, manufactured housing, modular homes, and industrialized buildings, provided they are located in an approved mobile home park or mobile home subdivision and are subject to the provisions of the Town's zoning ordinance. As used in this section, the term "mobile home" shall include manufactured housing, modular homes, and industrialized buildings.
- (2) Mobile home parks and subdivisions, provided that each such park or subdivision is at least ten acres in size but no larger than twenty acres in size and provided further that every mobile home park space has an area of not less than 6,050 square feet and every mobile home subdivision lot has an area of not less than 8,000 square feet, and a width at the pad of at least 44 feet. In addition, the following minimum requirements shall be met:
 - a. Each mobile home lot or space shall be directly accessible from an approved internal paved park driveway not less than 24 feet in width. No direct access to mobile home lots or spaces from public streets shall be permitted. No mobile home structure shall be located within 15 feet of any street or drive within the mobile home park or subdivision.
 - b. Mobile homes shall be separated from each other by not less than 20 feet end to end and 25 feet side to side. No portion of any mobile home shall

- be within 50 feet of the park or subdivision boundary.
- c. Each mobile home lot shall include a paved concrete or all-weather patio area having a minimum area of 300 square feet.
 - d. Each mobile home lot shall have at least two paved off-street parking spaces (400 square feet total minimum).
 - e. Each mobile home park or subdivision shall include an area for the storage of boats, travel trailers and/or other vehicles.
 - f. All utilities shall be installed underground.
 - g. Streets, pedestrian walkways and parking areas shall be adequately lighted.
 - h. Within the development, there shall be 700 square feet of the land per living unit improved, landscaped and dedicated as common areas for parks and recreation for the use of residents of the development. These common areas shall be landscaped by the developer and maintained by the owner. Streets, parking areas, required yards and required buffer zones shall not be counted as part of the minimum common area. Recreational facilities shall include swimming pool, tennis court, playground equipment, or athletic fields. The amount and type of recreational facilities to be based upon the expected need for the number of bedrooms to be built in the development.
 - i. All mobile homes and all mobile home lots shall have access to and be serviced by the public water system operated by Fayette County and a public sewage system, and a storm water and surface water management system compliant with Fayette County development standards for such systems.
 - j. On all borders of all mobile home parks and subdivisions there shall be a fifty foot wide landscaped buffer designed by a licensed landscape architect.
 - k. The mobile home park or subdivision shall contain Landscape Areas (designed by licensed landscape architect) within open areas and around recreation areas and between home lots.
 - l. Developer shall provide centralized dumpsters for resident disposal of household garbage and lawn trash. The dumpsters shall be screened.
 - m. The park shall be equipped with fire hydrants as required by the Fayette County Fire Department.
 - n. Home lots shall not contain any outbuildings or accessory buildings. All garages, carports and storage buildings shall be attached and incorporated into the mobile home or manufactured home.
- (3) Developer shall provide a fully-equipped laundrette for use of the mobile home park or mobile home subdivision only.
 - (4) Offices and/or maintenance and storage buildings, incidental to use by management or residents of the mobile home park or mobile home subdivision shall be allowed.
 - (5) All mobile homes or manufactured housing shall be constructed pursuant to the requirements of the National Manufactured Housing Construction

and Safety Standards and shall bear the seal or label of compliance with the Federal Manufactured Housing Construction Safety Standards Act, as the same may be from time to time amended, issued by an agency approved by the Secretary of the Department of Housing and Urban Development.

- (6) All mobile homes and manufactured homes shall be placed upon a 360 degree concrete or masonry foundation, no skirting. The foundation must elevate the structure above the ground with a properly vented crawlspace.
- (7) All mobile homes and manufactured homes shall be installed pursuant to requirements of the Georgia Safety Fire Commission Rules and O.C.G.A. § 8-2-160, et. seq.
- (8) All mobile homes and manufactured homes shall be installed with ground anchors and galvanized continuous lateral tie-down straps.
- (9) All mobile homes and manufactured homes shall be installed with concrete porches and steps at each exterior doors.

Sec. 31-6.14 Prohibited uses. Certain uses of land and buildings are incompatible with existing and future development within the Town limits of the Town of Brooks and are prohibited in all districts. The planning and zoning commission does not have the authority to grant variances or special exceptions for these prohibited uses. Prohibited uses are as follows:

- (1) Yards for the sale, transfer, or temporary holding of livestock, including feed lots.
- (2) Poultry killing, plucking and dressing.
- (3) Meat processing, meat packing, slaughtering, eviscerating, and skinning.
- (4) Rendering of byproducts or slaughtering and killing animals or poultry.
- (5) Landfills of all types.
- (6) Solid waste transfer stations.
- (7) The use of equipment which causes off-site radio or television interference.
- (8) Junkyards of automobiles and/or other materials.
- (9) Motels.
- (10) Outside storage of combustible materials that does not comply with the standards and regulations set forth in the International Fire Code as adopted by the State of Georgia.
- (11) Mines, quarries, sandpits, gravel pits.
- (12) Above ground storage of liquid petroleum products or chemicals of a flammable or noxious nature when 150,000 gallons are stored on one lot or when more than 250,000 gallons are stored in any one tank (excepting propane tanks existing on April 1, 2012).
- (13) Sawmills, milling operations.
- (14) Storage, processing, grinding or transfer stations for stumps, debris, construction waste, demolition waste.
- (15) Within the TCD district, the raising or keeping of a livestock unless the one livestock is raised or kept on a fenced surrounded pasture of at least

- three (3) acres, and one additional acre for each additional one livestock. Livestock shall mean horse, cow, donkey, mule, or similar sized animal.
- (16) Within the TCD district, the boarding of horses for a fee or conducting of horse riding lessons for a fee.
 - (17) Within the TCD district, the raising or keeping of chickens, roosters, ducks, geese or hens except on lots of at least one (1) acre.
 - (18) Within the TCD district, the raising or keeping of more than twenty-five (25) chickens, roosters, ducks, geese or hens, all in total per lot.
 - (19) The raising or keeping of any wild animals categorized as inherently dangerous that requires a license or permit and liability insurance pursuant to Title 27, Chapter 5 of the Official Code of Georgia Annotated.
 - (20) Within the TCD district, the raising or keeping of any swine.
 - (21) Except as provided at Emergency Procedures, Sec. 31-1.01, the occupancy of a recreational vehicle as a residence, except that one recreational vehicle per lot may be utilized for temporary occupancy for guest for a duration not exceeding fourteen (14) continuous days only once per year per lot.

Sec. 31-6.15 Setback Exceptions for Some Parcels/Lots with Existing Structures. Applications for building permits or for rezoning of parcels/lots which have on them a principal building which was built prior to June 8, 1973 may be reviewed by the Town Council which shall determine appropriate front and side setbacks, taking into consideration the location of the existing principal building on the parcel or lot, the average setbacks or sideyards of existing adjacent principal buildings, existence of public sidewalks and public right-of-ways and easements, the proposed building use, lot topography and configuration and harmony of the proposed structure with existing uses.

ARTICLE 7

CONDITIONAL USES, EXCEPTIONS, AND MODIFICATIONS

Sec. 31-7.01 Conditional Use Approval. Conditional Uses include certain uses which are allowed in a particular Zoning District provided that all conditions specified under the Zoning Ordinance are met. The Zoning Administrator shall issue a Conditional Use Permit for each use listed below upon compliance of all specified conditions and approval by the appropriate Town of Brooks officials.

- a.** Special Regulations. Prior to the issuance of development and/or building permits, a Site Plan of the zoning request must be submitted to the Zoning Administrator and approved by the appropriate Town of Brooks officials. This requirement shall apply to all Conditional Uses allowed within the various zoning districts except for: farm buildings, home occupations, single-dwelling unit residences, and temporary meeting and/or events which are conducted no longer than fourteen (14) days per year.

Conditional Uses Allowed.

- 1** Animal Hospital, Kennel (Commercial or Non-commercial), or Veterinary Clinic (Allowed in C-C, C-H, and M-I Zoning District).

 - A.** All structures, pens, runs, or enclosures shall not be located closer than 300 feet from any A-R or residential Zoning District.

- 2** Group Homes (excepting Community Living Arrangements which is governed by this Ordinance) (Allowed in the C-C, C-H, and O-I Zoning District).

 - A.** Minimum lot size - 3 acres.
 - B.** Such uses shall be permitted only on a lot, which fronts on an arterial street, unless such use is part of a planned development which has access to an arterial street.
 - C.** A 50-foot buffer plus the required setbacks shall separate all buildings from any residential or A-R zoning District. The setback shall be measured from the buffer.
 - D.** Minimum setbacks:

 - 1.** Front yard: 100 feet (as measured from a street right-of-way)
 - 2.** Side yard: 50 feet
 - 3.** Rear yard: 50 feet
 - E.** The facility shall comply with all licensing requirements of the State of Georgia.
 - F.** Rooms or suites may not have kitchen facilities; however, a central kitchen shall be provided.
 - G.** Service areas and facilities shall not be located closer than one hundred (100) feet from a residential or A-R district (of which fifty(50) feet shall be a buffer.
 - H.** Comply with Sec. 31-5.44.

- 3** Cemetery and Mausoleum (Human or Pet) (Allowed in the AR and C-H Zoning District).

 - A.** Minimum lot area shall be ten (10) acres for a human cemetery and five (5) acres for a pet cemetery.
 - B.** A crematorium shall not constitute an allowable accessory (or any other sort of approved) use.

- C.** Gravesites shall be set back at least fifty (50) feet from all property lines.
- D.** No structure other than grave markers shall be located within three hundred fifty (350) feet of a residential or A-R Zoning District.
- E.** A twenty (20) foot buffer shall be provided in addition to required setbacks along the property lines which adjoin A-R or residential property.

4 Day Care Facility, (Nursery School or Kindergarten) (Allowed in the C-C, C-H, Zoning District).

- A.** A day care facility may be approved as long as it maintains active certification from the Georgia Department of Human Resources. Should the State certifications lapse or be revoked, the Conditional Use permit shall be null and void.
- B.** A preliminary license report from the Georgia Department of Human Resources shall accompany the application for a Conditional Use Permit.
- C.** Outdoor play areas shall be located to the side or rear of the principal building.
- D.** At least one hundred (100) square feet of outdoor play area shall be provided for each, child during the period of maximum attendance.
- E.** A fence measuring at least four (4) feet in height shall enclose the entire play area.
- F.** If the side or rear yard abuts a residential or A-R Zoning District, a minimum 50-foot buffer shall be provided adjacent to the lot line in addition to the required setback. The setback shall be measured from the buffer.
- G.** Service areas, facilities, and playgrounds shall not be located closer than one hundred fifty (150) feet from a residential or A-R district (of which fifty (50) feet shall be a buffer).
- H.** If adjoining a residential or A-R district., hours of operation shall be limited to Monday through Saturday from 6:00 a.m., to 7:00 p.m. except that all exterior use shall only occur during the hours of 9:30 a.m. to 4:00 p.m.
- I.** A convenient vehicle drop-off area shall be provided permitting vehicles to re-enter the public street in a forward manner.

- 5 Farm Building (Allowed in the A-R Zoning District).
- A. All structures permitted in this category must be bona fide structures to the farming operation.
- 6 Commercial Barn (Allowed in the M-1 Zoning District).
- A. Barns must be located at least 100 feet from all property lines.
- 7 Fraternalities and/or Sororities (Allowed in the C-C and C-H Zoning District).
- A. All facilities shall be located on a collector or arterial street.
- 8 Golf Course (minimum 18-hole regulation) and Related Accessories (Related Accessories limited to: Putting green, chipping green, sand traps, artificial/natural surface, bunkers, club house, pro shop, and snack bar. Allowed in the C-C and A-R Zoning District).
- A. Said facilities shall be for daytime use only.
- B. All structures, greens, and fairways shall be set back at least one hundred (100) feet from any property line.
- C. No outside loudspeaker systems shall be utilized.
- 9 Home Occupation (Allowed in Non-Conforming R-80, Non-Conforming R-60, Non-Conforming R-40, Non-Conforming R-20, Non-Conforming R-15 Zoning District).
- A. Residents. Only residents of the dwelling may be engaged in the home occupation.
- B. Incidental Use. The home occupation shall be clearly incidental to the residential use of the dwelling and shall not change the essential residential character of the building.
- C. Display. Sale. No display of products shall be visible from the street, and only products produced on the premises may be sold on the premises, except that bona fide agricultural products grown on the premises may be displayed in an Agricultural-Residential District.
- D. Area. Use of the building for this purpose shall not exceed thirty-five percent (35%) of the floor area of the principal building.
- E. Alterations. No internal or external alterations inconsistent with the residential use of the building shall be permitted.

- F.** Nuisance. The occupation shall not constitute a nuisance in the neighborhood. Nuisance shall be as determined by the Town Council.
- G.** Accessory Buildings. No accessory buildings or outside storage shall be used in connection with the occupation except as otherwise provided in this Ordinance.
- H.** Music, etc. Instruction in music and similar subjects shall be limited to two (2) students at a time.
- I.** Vehicles. Only vehicles used primarily as passenger vehicles shall be permitted in connection with the operation of a customary home occupation.
- J.** Guests. No more than three (3) non-transient guests may be boarded at any one time as a customary home occupation.
- K.** Uses. The following and similar uses shall not be considered home occupations: Automobile service station, ambulance service, rescue squad, amusement or recreational activities (commercial), animal hospital, commercial kennel, veterinarian clinic, or animal boarding place, automobile and related machine sales, automobile repair or maintenance, pawn shops, acid storage and manufacturing, heavy manufacturing, fortune teller, palm reader.

10 Hospital. (Allowed in the C-C, C-H and O-I Zoning Districts).

- A.** Minimum lot size - 10 acres.
- B.** Such uses shall be permitted only on a lot which fronts on an arterial street unless such use is part of a planned development which has access to an arterial street.
- C.** A 50-foot buffer plus the required setbacks shall separate all buildings from any residential or A-R zoning District.
- D.** Minimum setbacks:
 - 1.** Front yard: 100 feet (as measured from a street right-of-way)
 - 2.** Side yard: 50 feet
 - 3.** Rear yard: 50 feet
- E.** Support services, such as pharmacies, public cafeterias and gift shops are allowed provided such service is in conjunction with an

accessory to the hospital structure. Such business shall be conducted within the primary use structure and shall not exceed ten (10) percent of the primary structure floor area. No outside advertising is allowed.

- 11 Laundry, Self-Service or Otherwise. (Allowed in the C-C and C-H Zoning Districts).
 - A. Central water and central sanitary sewage systems are required.
- 12 Lumber Yard, Coal and/or Other Storage. (Allowed in the M-1 Zoning District)
 - A. Storage area must be enclosed by a fence at least six (6) feet in height.
- 13 Temporary Building. (Allowed in the C-C, C-H, M-1, and M-2 Zoning Districts).
 - A. Said structure must be located on a lot where construction is taking place or on a lot adjacent to a construction site. Such use shall terminate upon completion of the construction site.

Sec. 31-7.02 Non-conformances.

- a. Non-Conforming Lots. Any lot, being a lot of record at the time of passage of this ordinance, other than the lots shown in the Non-Conforming Zoning Districts which uses and standards are specifically stated in the terms of this Ordinance, that fails to comply with the requirements of this Ordinance may:
 - 1 If vacant, be used for a single dwelling unit in the A-R residential district, provided that the height and floor area requirements are complied with and the Zoning Administrator determines that the proposed dwelling be brought into compliance with the applicable yard requirements so as to maintain the intent of this Ordinance.
 - 2 If vacant and in any district other than a residential or A-R district, be used for any use allowed in the applicable district provided that the minimum requirements for height, floor area and yards shall be complied with, and the Zoning Administrator shall determine that other provisions are complied with so as to maintain the intent of this Ordinance.
 - 3 If occupied by a structure containing a conforming use, have the structure improved, enlarged or extended provided that the minimum requirements for height, floor area and yards shall be complied with, and the Zoning Administrator shall determine that other provisions are complied with so as to maintain the intent of this Ordinance.

- b.** Non-Conforming Open Uses of Land. Uses consisting of lots used for storage yards, used car lots, auto wrecking, junk yards, golf driving ranges, miniature golf and similar open uses where the only buildings on the lot are incidental and accessory to the open use of the lot and where such use of the land is not permitted to be established hereafter under this Ordinance in the District in which it is located, shall be governed by the following restrictions in addition to other requirements in this Ordinance.
- 1 When a non-conforming open use of land has been changed to a conforming use, it shall not thereafter be used for any non-conforming use.
 - 2 Non-conforming open uses of land shall not be changed to any but conforming uses.
 - 3 A non-conforming open use of land shall not be enlarged to cover more land than was occupied by that use when it became non-conforming.
 - 4 When any non-conforming open use of land is discontinued for a period in excess of 180 continuous days or 180 days within 365 continuous days six(6) months, any future use of the land shall be limited to those uses permitted in that District under the provisions of this Ordinance. Vacancy and/or non-use of the land, regardless of the intent of the owner or tenant, shall constitute discontinuance under this provision.
- c.** Non-Conforming Use of Structure. Non-conforming uses include structures used at the time of passage of this Ordinance for purposes not permitted in the District or Non-Conforming District in which they are located. They shall, in addition to the other requirements of this Ordinance, be governed by the following restrictions:
- 1 A non-conforming use of a structure may be changed to another non-conforming use upon the finding by the Brooks Town Council that the proposed non-conforming use is similar in its operation and effect on surrounding properties.
 - 2 A non-conforming use of a structure shall not be changed to another non-conforming use that generates more automobile or truck traffic, creates more noise, vibration, smoke, dust or fumes, is a more intensive use of structures than the existing non-conforming use, or is in any way a greater nuisance to the adjoining properties than the existing non-conforming use.
 - 3 A non-conforming use of a structure shall not be extended or enlarged except into portions of the structure which at the time the use became non-conforming, were already erected and arranged for designed for such non-conforming use, except as provided herein. No structural alterations shall be made in any structure occupied by a non-conforming use, which would

in any way increase the floor space, area, or volume or space occupied by the use.

- 4 When any non-conforming use of a structure is discontinued for a continuous period in excess of 180 continuous days or 180 days within 365 continuous days, any future use of the structure shall be limited to those uses permitted in that District under the provisions of this Ordinance, except as provided for herein. Vacancy and/or non-use of the building, regardless of the intent of the owner or tenant, shall constitute discontinuance under the provision.

d. Restoration and Re-use of Non-Conforming Historic Structures. Non-Conforming historic structures previously used for purposes not permitted in the District or Non-Conforming District in which they are located shall be governed by the following restrictions:

- 1 The structure and previous use must be identified in the Georgia Historic Resources Survey conducted for the Historic Preservation Division of the Georgia Department of Natural Resources.
- 2 The structure itself must be the subject of restoration. Any extension, enlargement or alteration of the structure is subject to approval of the Brooks Town Council.
- 3 Areas of consideration for approval of such a request include, but are not limited to,
 - A. Submittal of a site plan
 - B. Restriction of allowable uses
 - C. Parking requirements
 - D. Landscaping requirements
 - E. Signage

Sec. 31-7.03 Reconstruction of Non-Conforming Structures. When a non-conforming structure or a structure containing a non-conforming use, other than those uses and structures lawfully existing at the time of adoption of this Ordinance and existing in a specified Non-Conforming District, is razed or damaged by fire, flood, wind, or act of God, such structure may be reconstructed only if the cost of reconstruction totals less than sixty percent (60%) of the replacement value (as determined by a licensed appraiser) of the structure immediately prior to its incurrence of such damage. The “value of the structure” shall not include the value of any accessory building, well, septic tank or utility in determining the extent of the damage. Structures which do not conform to the yard requirements of this Ordinance shall also be governed by this provision.

Sec. 31-7.04 Changes in Zoning. Any non-conformances created by a change in District boundaries or Ordinance regulations after the date of passage of this Ordinance shall also be governed by the provisions of Sec. 31-7.02.

Sec. 31-7.05 Illegal Non-Conforming Uses. Notwithstanding any other provisions of this Ordinance, as to non-conforming uses unlawful when commenced or which became unlawful thereafter prior to adoption of this Ordinance, this section shall be deemed to impose additional regulations only. It shall not be held or construed permissive of such illegal use nor as recognizing any right to its continuance (except in those instances where rendered conforming by inclusion of the land whereon such use is conducted within a district wherein such use is permitted as shown upon the Zoning Map of the Town of Brooks).

ARTICLE 8

ADMINISTRATION, ENFORCEMENT, PENALTIES

Sec. 31-8.01 Zoning Administrator. This Zoning Ordinance shall be administered and enforced by the zoning administrator who shall be appointed by the mayor and town council. The powers and duties of the zoning administrator include:

- a.** Examining and approving applications pertaining to the use of land, buildings, or structures when the applications conform with provisions of this ordinance.
- b.** Submitting approved applications to Fayette County for all building permits and certificates of occupancy, and keeping permanent records thereof.
- c.** Conducting such inspections of buildings, structures, and uses of land as are necessary to determine compliance with the provisions of this ordinance.
- d.** Maintaining permanent and current records of the zoning ordinance including maps and amendments.

Sec. 31-8.02 If the zoning administrator shall find that any of the provisions of this ordinance are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings or structures; removal of illegal buildings or structures or of illegal additions, alterations or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this ordinance to ensure compliance with or to prevent violation of its provisions.

Sec. 31-8.03 Remedies. In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered, converted or maintained, or any building, structure or land is or is proposed to be used in violation of any provision of this Ordinance, the Zoning Administrator, duly appointed authority for the Town or any other appropriate authority of the Town, may, in addition to other remedies provided by law, and in any combination or sequence, issue a stop-work order terminating all construction and related work on the lot, building or structure until the same is brought into compliance with these laws; refuse to allow the engagement of utilities to the lot, building or structure until the same is brought into compliance with these laws; refuse to issue a

certificate of occupancy until the lot, building or structure is brought into compliance with these laws; or issue a citation for the violation of this Ordinance, requiring the presence of the violator before the court of proper jurisdiction. The court shall give the person a full opportunity to be heard and, if it finds that violation has occurred, the Court shall determine the extent and nature of the violation and the appropriate penalty. Where a violation of this Ordinance has been determined to exist with respect to a building, structure or premises, the Court may, in addition to other remedies provide by law, require that public utility service be withheld there from until such time as the building, structure or premises are no longer in violation.

Sec. 31-8.04 Penalties. Any firm, person or corporation that shall do or fail to-do anything prohibited or required by this Ordinance shall, upon conviction, be guilty of a violation of this Ordinance and shall be fined up to the maximum fine allowed by the Town's Charter and court cost and/or imprisoned for no more than maximum term allowed by Town Charter, or both for each offense. Each day a violation continues shall be deemed as a separate offense.

Sec. 31-8.05 Permit and Licenses Void When Issued in Conflict. Any permit or license issued in conflict with the provisions of this Ordinance shall be null and void.

Sec. 31-8.06 Appeals. Appeals from the decision of the Zoning Administrator with regard to interpretation, administration, and enforcement shall be made to the Town Council.

Sec. 31-8.07 Building Permits. All applications for permits must be approved by the Zoning Administrator before being issued by Fayette County.

ARTICLE 9

PLANNING AND ZONING BOARD

Sec. 31-9.01 Planning and Zoning Board.

- a.** Membership and Appointments. The Town of Brooks Planning and Zoning board, referred to in this Article as the Board, shall consist of five (5) members resident within the Town of Brooks and shall be appointed by the Town Council. None of the Board members shall hold any other public office. Any Board member may be removed upon the majority vote of the Town Council. Any member of the Board shall be disqualified to act upon a matter before the Board with respect to property in which the member has an interest as defined by Secs. 17-1.01 and 17-1.02 of this Code. It shall be deemed cause for removal should any Board member fail, without proper reason, to attend three (3) consecutive meetings.
- b.** Term of Office. The term of office for each member of the Board shall be for three (3) years. The terms shall be staggered as determined by the Town Council. A vacancy in the membership shall be filled for the unexpired term.
- c.** Rules and Procedures. The Board shall elect one of its members as Chairman and another as Vice-Chairman, each serving for one (1) year or until re-elected or a successor is elected. The Vice-Chairman shall have the authority to act as

Chairman in the Chairman's absence. The Board shall appoint a Secretary who may be an officer of Brooks. The Board shall have the authority to adopt rules and procedures approved by Town Council, Meetings of the Board shall be held at the call of the Chairman or the Town Council. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if they are absent or are failing to vote, indicating such fact., and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of said board and shall be of public record.

- d.** Hearings Before the Planning and Zoning Board. Within a reasonable time of the acceptance of any application for amendment of zoning ordinance or zoning classification, the Zoning Administrator shall transmit copies thereof to the Planning and Zoning Board for its review and recommendation to the Town Council. The Planning and Zoning Board shall review and make a recommendation of approval, denial, deferral, or withdrawal without prejudice on each application. A report of the Planning and Zoning Board's decision shall be submitted to the Town Council. The report shall contain the recommendation of the Planning and Zoning Board and all grounds for the recommendation and shall be signed and approved by the Chairman of the Planning and Zoning Board. The Planning and Zoning Board may also recommend amendments to the applicant's request which would reduce the land area for which the application is made, the change of the district requested or recommend conditions of rezoning which maybe deemed advisable so that the purpose of this ordinance will be served and the public health, safety and general welfare secured. If the Planning and Zoning Board fails to submit a report within sixty (60) days from the acceptance of the completed amendment application, it shall be deemed to have recommended the approval of the application. Time for report to the Town Council may be extended with consent of the applicant.

ARTICLE 10

ZONING APPEALS

Sec. 31-10.01 Appeals process.

- a.** Appeals From Actions of the Zoning Administrator. The Town Council shall hear and decide upon appeals were it is alleged there is error in any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of these regulations.
 - 1** Who May Appeal. Appeals to the Town Council may be made by any person aggrieved by any decision of the Zoning Administrator. Such appeals shall be filed no later than thirty (30) days after the date of notification of the decision being appealed by filing with the Zoning Administrator and with the Clerk of the Town Council a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith

transmit to the Town Council all the papers constituting the record upon which the action appealed from was taken.

- 2 Legal Proceedings Stayed. An appeal does not stay the legal proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Town Council that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life and property.
- 3 Extent the Town Council's Power. The Town Council may, in conformity with the provisions these regulations, reverse or affirm the requirement, decision, or determination of the Zoning Administrator. The Town Council may direct the issuance of a permit. It shall be the duty of the Zoning Administrator to carry out the decisions of the Town Council.

b. Request for a Variance. The Town Council may authorize upon application in specific cases such variance from the terms of these regulations as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of these regulations will, in an individual case, result in practical difficulty or unnecessary hardship, so that the spirit of these regulations shall be observed, public safety and welfare secured, and substantial justice done; provide, however, that a variance shall not be granted for a use of land or building or structure that is prohibited by this ordinance in the district in question. A variance may be granted in an individual case upon a finding by the Town Council that all of the following exists:

- 1 There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography; and
- 2 The application of these regulations to this particular piece of property would create a practical difficulty or unnecessary hardship; and
- 3 Such conditions are peculiar to the particular piece of property involved; and
- 4 Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of these regulations; provided, however, no variance may be granted for a use of land or building or structure that is prohibited by this ordinance; and
- 5 A literal interpretation of this Ordinance would deprive the applicant of any rights that others in the same district are allowed; and
- 6 The conditions complained of by the applicant were not actually created or caused by the applicant or its agents or the applicant's successor in title; and

7 Provided that the Town Council may impose or require such additional restrictions and standards as may be necessary to protect the health and safety of workers and residents in the community, and to protect the value and use of property in the general neighborhoods; and provided that wherever the Town Council shall find, in the case of any permit granted pursuant to the provision of these regulations, that any of the terms, conditions, or restrictions upon which such permit was granted are not being complied with, said Town Council shall rescind and revoke such permit after giving notice to all parties concerned and granting full opportunity for a hearing. In exercising the above powers, the Town Council shall not consider any non-conforming use of neighboring lands, structures or building in the same district, and of permitted use of lands, structures or buildings in other districts as grounds or the issuance of a variance.

c. Special Exceptions. The Town Council shall hear and decide upon special exceptions. The application to establish such use shall be approved in a finding by the Town Council that:

1 The proposed use will not be contrary to the purpose of this Ordinance, and

2 The proposed use will not be detrimental to the use of development of adjacent properties or the general neighborhood nor affect adversely the health and safety of residents and works, and

3 The proposed use will not constitute a nuisance or hazard because of the number of persons who will attend or use such facility, vehicular movement, noise or fumes generated, or type of physical activity, and

4 The proposed use will not be affected adversely by the existing uses, and

5 The proposed use will be placed on a lot of sufficient size to satisfy the space requirements of said use, and

6 The parking and all development standards set for each particular use for which permit may be granted shall be met, and

7 Provided, that the Town Council may impose or require such additional restrictions and standards as may be necessary to protect the health and safety of workers and residents in the community, and to protect the value and use of property in general neighborhood, and provide that wherever the Town Council shall find, in the case of any permit granted pursuant to the provisions of these regulations, that any such term, condition or restriction upon which such permit was granted is not be in complied with, said Town Council shall rescind and revoke said permit after giving due notice to all parities concerned and granting full opportunity for a public hearing.

- d.** Requesting for Extension or Enlargement of the Non-Conforming Use of a Structure. The Town Council may authorize upon application in specific cases an extension of any existing non-conforming use which the Town Council is specifically authorized to pass upon under the terms of this Ordinance. Said extensions may be granted in an individual case upon a finding by the Town Council that:
- 1 The use is a nonconformance as defined in these regulations; and
 - 2 The use is in full compliance with all requirements for these regulations applicable to non-conformances; and
 - 3 The extension of said use will not further injure a permitted use on adjacent property in the same district.
- e.** Continuance of Nonconformance. The Town Council may allow a Non-Conforming use to be reestablished after discontinuance as defined in this Zoning Ordinance where it is deemed by the Town Council that:
- 1 The design, construction, and character of the land, building or structure is not suitable for uses permitted in the district in which the nonconformance is situated; and
 - 2 Undue hardships to the property owner would result in not allowing the continuance of a nonconformance; and
 - 3 Adjacent property would not be unduly damaged by such continuance; and
 - 4 The use is to be identical to the prior nonconformance.
- f.** Compliance with Standards. Where an application to the Town Council is initiated due to existing violation of the ordinance and said application is denied, the violation shall be required to be corrected within ten (10) days of such denial or as specified by the Town Council if a greater time period is necessary. The maximum extension of the time shall not exceed thirty (30) days.
- g.** Forms. Appeals, requests for variances, requests for special exceptions and requests for extensions or continuance of non-conformances shall be made on forms provided by the Zoning Administrator, and all information required on said forms shall be provided by the appellant. Forms shall be filed with the Zoning Administrator for the Town Council, and the appellant shall pay the zoning Administrator for expenses incidental to the appeal or application in accordance with the schedule of fees established by the Town Council. No forms shall be accepted by the Zoning Administrator unless it contains all pertinent information and is accompanied by the required fee to defray expenses.

Sec. 31-10.02 Administrative Assistance. The zoning Administrator shall provide such technical assistance as is required by the Town Council to carry out its function under these regulations.

Sec. 31-10.03 Public hearing.

- a.** Notice of hearing Shall Be Given. Before making its decision on an appeal, request for a variance, request for a special exception, or any other matter within this Article XI, the Town Council shall hold a public hearing thereon. Notice of the time and place of such hearing shall be sent to the appellant or petitioner by U.S. Mail to his last known address at least fifteen (15) days prior to the hearing date. Such notice shall contain the name of the appellant or petitioner, the date, time, and place set for the hearing, and a brief statement of the nature of the hearing.
- b.** Public Notice in Newspaper. The Town Council shall give public notice of the hearing on a variance or special exception in a newspaper of general circulation within Fayette County at least fifteen (15) days, but no greater than 45-days, prior to the date of the public hearing.
- c.** Public Notice by Posting. When the Town Council is considering a request for variance or special exception, the notice of the date, time, place and nature of the Town Council's hearing shall also be afforded by the erection of a sign in a conspicuous place to a public street on the subject property. The sign shall be erected at least fifteen (15) days prior to the date of the Town Council's hearing.
- d.** Who May Appeal. Any party may appear at the public hearing in person or by agent or attorney.
- e.** Time Limit on Town Council's Decision. The Town council shall reach a decision following a public hearing within thirty (30) days. The decisions of the Town Council shall be duly adopted and approved by the Town Council.

ARTICLE 11

SCHEDULE OF FEES

Sec. 31-11.01 Fees. A Schedule of Fees shall be established from time to time by the Town Council. The schedule shall be open to the public and shall be kept in the office of the Zoning Administrator and Town Clerk. All fees required by this section shall be in addition to any other fees and charges required under other Ordinances as enacted by the Town Council.

ARTICLE 12

AMENDMENT

Sec. 31-12.01 Initiation of Amendments. Applications to amend this Ordinance may be in the form of proposals to amend the text or proposals to amend the official Zoning Map. An

application to amend the text may be initiated by the Planning and Zoning Board or be submitted to the Planning and Zoning Board by the Town Council or by any person having an interest in property within town. An application to amend the official Zoning Map may be initiated by the Planning and Zoning Board or be submitted to the Planning and Zoning Board by the Town Council or by any person who owns property within the zoning jurisdiction of the town. Unless submitted by the Town Council or the Planning and Zoning Board, all applications for map amendments must be submitted by the owner of the subject property or the authorized agent or owner. Such authorization shall be notarized and attached to the application.

Sec. 31-12.02 Filing. All applications for Amendment, variance or special exception shall be filed with the Zoning Administrator through the Office of the Town Clerk, no later than 5:00 p.m. the first Monday of the month to be heard the following month. Two or more applicants shall not join their respective land in a single application unless each owns a substantial interest in all of such lands.

- a.** Limitation on Frequency of Application Affecting the Same Property. After an application has been received affecting a lot or parcel, or any part thereof, no further application for any change affecting the same property or any part thereof shall be filed within 6 months of the applicant's withdrawal of the application prior to action thereon by Council. Provided, however, that no application for rezoning shall be filed by or accepted from anyone within 12 months of final action on substantially the same rezoning application by the Council, and, provided, further, that this 12-month limitation may not be waived. This provision shall not be construed as impairing the right of the Planning and Zoning Board or the Council to propose amendments at any time on their own initiative.

Sec. 31-12.03 Application for Amendment. Each application to amend the text of this ordinance or the official Zoning Map shall be filed with the Zoning Administrator by delivery to the Town Clerk. Applications shall be submitted in compliance with the following regulations.

- a.** Text amendment applications shall include:
 - 1** Name, address and signature of the applicant(s);
 - 2** Current text provisions to be affected by the amendment;
 - 3** Proposed wording of the text change; and,
 - 4** Reason for amendment request.
- b.** Map amendment applications shall include:
 - 1** A legal description of the tract(s) proposed to be rezoned;
 - 2** Copies of a plat, drawn to scale, showing north arrow, land lot and district, the dimensions, acreage and location of the tract(s), prepared by an

architect, engineer, landscape architect or land surveyor whose state registration is current and valid. His seal shall be affixed to the plat;

- 3 The present and proposed zoning classification for the tract(s) and surrounding area;
 - 4 Existing intermediate regional floodplain and structures;
 - 5 The name(s) and address of the owner(s) of the land and the applicants;
 - 6 A description of the surrounding areas and their permitted use;
 - 7 A preliminary plan indicating the intended use of the property, including, but not limited to, proposed parking, exterior elevations of proposed structures, and such other information as required in the Town's application. In general, the plat plan, with a scale not less than 7 inch per 200 feet shall be acceptable if a subdivision is being proposed for the property, a preliminary plat meeting all the requirements of the Subdivision Regulations shall be submitted;
 - 8 The application number, date of application, and action on all prior applications filed for reclassification of the whole or part of the tract(s); and,
 - 9 The applicant shall file with his application a letter of intent indicating specifically how the property is to be used. Said letter shall be as detailed as necessary to clearly describe the proposed site development.
- c. Properties affected by map amendment applications shall be of a sufficient size and shape to meet the minimum developmental standards of the district for which the application is made.
 - d. An application shall not be withdrawn by the applicant after legal advertising as required herein except as hereinafter provided.
 - e. Unless all information, exhibits, etc., as required herein, are received by the Zoning Administrator at the time the application is filed, all advertising of public hearings and any posting of property shall be delayed until the completed application has been filed.

Sec. 31-12.04 Notice of Hearing. Before recommending action to the Town Council on a proposed amendment to this Ordinance, whether the proposed amendment is a text or map amendment, the Planning and Zoning Board shall hold a public hearing for the purpose of receiving and considering public comment on the merits of the proposed amendment. Said hearing shall be held only after substantial compliance with all required public notification of the hearing as set forth herein.

- 1 The Town shall cause a legal notice to be published in a newspaper of general circulation in Fayette County, Georgia, at least fifteen (15) but not more than forty-five (45) days prior to the required public hearing stating, where applicable, the time and place of said hearing, the location of the property, and the present and proposed zoning classifications.
- 2 Additionally, whenever a proposed amendment to this Ordinance involves changes in the zoning classification of property from one zone to another (map amendment) initiated by application of the property owner, the Zoning Administrator shall cause to have posted in a conspicuous place on the area proposed to be rezoned one or more signs, each of which shall not be less than three (3') square feet in area and each of which shall contain the time, date(s) and location of the public hearing(s) scheduled for the application, the existing zoning on the property and the requested change, and such other information as the Zoning Administrator deems appropriate.

If the property proposed for rezoning does not have frontage on a public street, then an additional sign may be posted on the right-of-way of the nearest public street(s) providing access to the site. No public hearing may be held until said sign(s) have been posted for at least fifteen (15) days prior to the scheduled hearing, but no more than forty-five (45) days prior.

At the time the application is filed, the applicant shall deposit with the Zoning Administrator an amount in accordance with the fee schedule established by the Town Council which will be applied to the cost of the required sign(s). The Zoning Administrator will record the amount in the application file and tender the applicant a receipt for same. If the applicant fails to make said deposit, the application shall be deemed to be incomplete and not accepted, and shall not be submitted to the Planning and Zoning Board until such time as said deposit is made. On the return of the sign to the Zoning Administrator by the applicant, there shall be given to the applicant the remaining amount of said deposit and a statement indicating the amount retained and the reasons thereof.

Sec. 31-12.05 Referral to the Planning and Zoning Board. Within seven (7) days after acceptance for filing of any application for amendment, variance, or special exception, the Zoning Administrator shall determine the appropriate date for hearing, cause a notice and said hearing to be promulgated in accordance with the provisions of this Ordinance and applicable State law, and cause a copy of said application to be transmitted to the Planning and Zoning Board, which shall consider each proposal for amendment and as a basis for its recommendations to the Town Council shall report on the zoning standards at Sec. 31-12.09, among others, as appropriate to the circumstance of the case.

Sec. 31-12.06 Required Analysis. For each and every zoning proposal made to the Planning and Zoning Board, an investigation and recommendation shall be made with respect to each of matters enumerated in Sec. 31-12.09. If a zoning proposal is initiated by a party other than the Planning and Zoning Board or the Town Council, the initiating party shall be required to file a

written, documented analysis of the impact of the proposed zoning with respect to each of the matters enumerated in Sec. 31-12.09, as well as any other supporting materials required by the Planning and Zoning Board or Town Council. The required time for filing of such analysis shall be not less than fifteen (15) days before any hearing or meeting of the Planning and zoning Board at which the zoning proposal will be under consideration by the Town Council. The Planning and Zoning Board shall with respect to each zoning proposal, whether initiated by the Planning and Zoning Board, Town Council, or any other party as provided in Sec. 31-12.01, investigate and make a recommendation with respect to each of the matters enumerated in Sec. 31-12.09, as well as carry out any other duties so charged by the Town Council. All zoning proposals, analyses, investigations and recommendations shall be in writing and shall be a public record.

Sec. 31-12.07 Time limitations on Report of the Planning and Zoning Board. Within sixty (60) days after a proposal for change has been referred to the Town Council, the Planning and zoning Board shall transmit its report to the Town Council, unless the Planning and Zoning Board and the applicant agree to an extension of time.

Sec. 31-12.08 Hearing on Zoning Decisions - Procedures. On all petitions for a proposed Zoning Decision (defined at Sec. 31-3.158) that are referred to the Town council, the council will hold a public hearing on such petitions at a regularly scheduled or properly called special meeting of the council. All public hearings set forth in this section shall be held in the location routinely used by council for council meetings.

- a.** The planning and Zoning Board will hold a public hearing on all petitions referred to it as schedule by the Chairman of the Planning and Zoning Board. The Planning and Zoning Board shall review for recommendation of approval, denial, deferral, or withdrawal without prejudice on each application. Following their review, the Planning and Zoning Board shall report it's findings and recommendations in writing signed by the Chairman. The report may contain recommend amendments to the applicant's request may be deemed advisable so that the purpose of this Ordinance will be served and the public health, safety, and general welfare secured. All public hearings set forth in this section shall be held in the Council Meeting hall in Brooks, Georgia.
- b.** The governing, calling and conducting of hearings before the Planning and Zoning Board or before the Town Council shall be accomplished in accordance with the following policies and procedures:
 - 1** If any person desires a stenographic record of the proceedings, such person shall make arrangement for such on his own volition and shall be responsible for all costs incurred. The Town Clerk shall be notified in writing 24 hours prior to the hearing of the attendance of a stenographer. No stenographer not arranged for in accordance with the section shall be allowed to set up in the hearing room. The Town shall be allowed a copy of the transcript at the stenographer's published and customary cost therefore.

- 2 The Chairman or Mayor shall indicate that a public hearing has been called for the consideration of zoning decisions. Thereupon the Planning and Zoning Board or Town Council shall consider each application on an individual basis.
- 3 For each application, the Chairman or Mayor shall poll the members of the town council as to conflicts of interest with the proposed zoning decision. The mayor shall also poll the applicant and persons speaking in opposition to the proposed zoning decision as to any campaign contributions that they have made to members of the town council and the mayor within the two years immediately preceding the filing of the petition or application for the proposed zoning decision.
- 4 When an application comes up for review, the Chairman or Mayor may ask for a show of hand for those persons who appear in support of/opposition to the petition. If it appears that the number of persons wishing to appear in support of/opposition to the petition is in excess of that which may reasonably be heard, the Chairman or Mayor may request that a spokesman for the group be chosen so that the entire presentation of the positions of those in support of/opposition to the petition shall not exceed thirty (30) minutes for each side.
- 5 After the comments and concerns of the public have been heard the Planning and Zoning Board or Town Council may thereupon request reports from the officers or agents of the Town.
- 6 The applicant for the zoning amendment shall be allowed a short opportunity for rebuttal and final comment,
- 7 After the above procedures have been completed, the chairman or Mayor will indicate that the public hearing is formally closed.
- 8 After the public hearing is closed, the Planning and Zoning Board or Town Council may either vote upon the proposed change or may delay their vote to a subsequent meeting; provided, that notice of the time, date and location when such a zoning decision is to be made shall be announced at the meeting during which the public hearing is held.
- 9 The city clerk shall make available for distribution to the public copies of this Section and Sec. 31-12.09 of the Zoning Ordinances of the Town.

Sec. 31-12.09 Zoning Standards

- a. In ruling on any application for zoning text or map amendment, or on any other legislative or administrative decision referred to them for the exercise of their discretion under provisions of this ordinance, and Zoning Administrator, the Planning and Zoning Board, and the Mayor and Town Council shall act in the best interest of the health, safety, morals and welfare of the Town. In doing so,

they will consider one or more of the following factors as the factors may be relevant to the application:

- 1** The existing land use pattern and whether the proposal is in accord with Town of Brooks Comprehensive Land Use Plan. (The Planning and Zoning Board shall not recommend any change not in accord with the adopted Town of Brooks Land Use Plan but may, where it sees fit, recommend changes in such plans, following which, if such change in plans are officially adopted, the zoning change may be reconsidered without prejudice and without a new application if an application is involved).
- 2** The population density pattern and the availability of public facilities and services and the effect the proposed change would have on demands for public facilities and services in the area in which the change is proposed or generally. Such facilities and services include but are not limited to water supply, sewerage, drainage, transportation, schools, fire and police protection, and solid waste collection and disposal.
- 3** The availability of other appropriate land already zoned for the proposed use, generally and in the area of the proposed change.
- 4** In the area of the proposed change, the adverse effect, if any, such change would have on the balance of land uses by removing land from a category for which it is suited and for which there is a greater public need to a category for which the public need is lesser.
- 5** The effect of uses permitted under the proposed change on the surrounding neighborhood, any substantial adverse influences on desirable living conditions or sustained stability, or any tendencies toward blight and depreciation likely to result from the change.
- 6** Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property.
- 7** Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property.
- 8** Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned.
- 9** The extent to which the adverse impact on the value of the applicant's property promotes the health safety, morals, and general welfare of the public.
- 10** The relative gain to the public, as compared to the hardship imposed upon the individual property owner, if the property zoning is not changed.

- 11 The length of time the property has been vacant as zoned considered in the context of the land development in the area in the vicinity of the property.
 - 12 The possible impact on the environment, including, but not limited to, drainage, soil erosion and sedimentation, flooding, air quality and water quantity.
 - 13 Whether the proposed zoning map amendment will be a deterrent to the improvement or development of adjacent property in accordance with existing regulations.
 - 14 Whether there are substantial reasons why the property cannot be used in accordance with existing regulations.
 - 15 The aesthetic effect of existing and future use of the property as it relates to the surrounding area.
 - 16 The possible effects of the proposed zoning map amendment on the character of a zoning district, a particular piece of property, neighborhood, a particular area or the community.
 - 17 The relation that the proposed zoning map amendment bears to the purpose of the overall zoning scheme, with due consideration given to whether or not the proposed change will help carry out the purposes of these zoning regulations.
 - 18 Applications for a zoning map amendment which do not contain a specific site plan shall carry a rebuttable presumption that such rezoning shall adversely affect the zoning scheme.
 - 19 The consideration of the preservation of the integrity of residential neighborhoods shall be considered to carry great weight,
 - 20 In those instances in which property fronts on a major thoroughfare and also adjoins an established residential neighborhood, the factor of preservation of the residential area shall be considered to carry great weight.
 - 21 Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval or the zoning decision.
- b.** After hearing evidence at the hearing, the Planning and Zoning Board or Town Council shall apply the evidence to the standards of review in making their decision. It will not be required that the Planning and Zoning Board or Town Council consider every criteria contained in the standards of review. It shall be the duty of the applicant to carry the burden of proof that the existing zoning on the property is a significant detriment to the property owner and that the

proposed zoning map amendment promotes the public health, safety, morality or general welfare.

- 1 If the Town Council determines from the evidence presented that the applicant has shown that the proposed zoning map amendment promotes the health, safety, morals and general welfare under the standards of review, then the application shall be granted, subject to those reasonable provisions as may be imposed by the Town Council pursuant to other provisions of this Ordinance. Otherwise such application shall be denied.
- 2 In ruling on any petition in which the petitioner has brought a challenge of the existing zoning classification, the Town Council may impose upon said property any appropriate zoning classification, including provisions allowed by other sections of this ordinance, which might be consistent with the consideration contained above.

Sec. 31-12.10 Zoning Reclassification Reversion Clause. Within one (1) year of the date of rezoning, rezoned property shall be utilized for uses allowed in the new zoning district and as represented in the applicant's rezoning and as approved by Town Council, or shall demonstrate substantial development toward such utilization. Substantial development shall include but not be limited to the construction of permanent structures, permanent foundations or parking lots; however, it shall not include grading, the setting of footings or landscaping. In the case of subdivisions, the approval and filing of a final subdivision plat and performance bond shall be deemed to be substantial development. Failure to so utilize or demonstrate substantial development shall subject the property to reversion to the previous zoning classification. In such event, public hearings shall be held as for rezoning petitions and a final decision rendered by the Town Council.

Sec. 31-12.11 Town Council. Before taking action on a proposed amendment and after receipt of the Planning and Zoning Board's report and recommendation thereon, the Town, Council shall hold a public hearing on the proposed amendment. The Town Council may approve, deny or defer an application at the public hearing. An action to defer shall include a justification of such action and a specific meeting date to which the application is deferred. The Town Council may, by a two thirds (2/3) vote of all members, allow an application to be withdrawn without prejudice with respect to the six (6) month limitation on re-applications provided applicant reapplies within thirty (30) days, otherwise the six (6) month moratorium on re-filing shall apply. The Town Council may add or delete conditions of rezoning so that the purpose of this Ordinance will be served and the public health, safety and general welfare secured. The decision of the Town Council shall be contained in the written minutes of the Council. The minutes shall contain the decision of the Town Council and the grounds the Council found most important to the decision. A copy of the minutes shall be sent to the applicant by certified mail, or personally delivered to the applicant.

Sec. 31-12.12 Provisional Zoning. In deciding upon any application for zoning map amendment, the Mayor and Council may, on their own motion or upon the suggestion of the applicant, grant the application subject to certain provisions necessary to promote and protect the health, safety, morals and general welfare of the Town. Such provisions shall be imposed for the

benefit of the community to lessen any negative effects that the zoning map amendment may cause.

- a.** The Mayor and Council may grant any zoning map amendment and include provisions as follows:
 - 1** Such provisions as are deemed necessary to protect neighbors and to lessen any negative effects of the zoning change;
 - 2** That the rezoning is provisional upon the condition that the applicant or any successor in title may construct only those uses and only in such a manner as is depicted upon any site plan submitted and approved with the application.
 - 3** Prior to final vote being taken upon any application for zoning map amendment in which provisions shall be imposed, such provisions will be announced at the hearing and the applicant shall be afforded an opportunity to present its position on such provisional requirements. If the applicant finds such proposed provisional requirements to be unacceptable, it may, at that time, withdraw its application for zoning map amendment; such withdrawal shall not enable such applicant to re-file for a zoning map amendment prior to expiration of 6 months.
 - 4** If the Mayor and Council adopt a zoning map amendment which contains provisional requirements, such requirements shall become a part of this ordinance and the official zoning map. Such property shall thereafter carry the suffix “-P” to indicate that such property has been provisionally zoned (e.g. AR-P, etc.). Such provisions shall be binding upon all owners of the property until removed or modified by the Mayor and Council, The Zoning Administrator shall so indicate in the records of the zoning actions the existence of the provisional requirements.
 - 5** Provisional requirements may be imposed upon either permitted and/or condition uses in any zoning district. In ruling on such provisional requirements, the Mayor and Council shall utilize the applicable Standards of Review.
 - 6** All rezoning is granted provisional upon the submitted site plan, such property shall revert to its former zoning classification by operation of law if a building permit for such development has not been applied for within one year; and thereafter if development does not proceed continuously and diligently toward completion, provided that the Mayor and Council, at a zoning hearing, may extend this period for good cause shown by the property owner. The zoning administrator may grant “minor” changes to such site plans, provided:
- b.** The applicant can show a hardship requiring such modifications; and

- c. The Zoning Administrator determined that the changes so requested not materially affect the basic design nor negate any special feature which were designed to facilitate traffic or preserve neighborhood character.

Sec. 31-12.13 Amendment to Provisions. Procedures for removing any provisional requirements or reverting zoning shall be the same as a Council initiated zoning amendment.

Sec. 31-12.14 Zoning of Annexed Property. Property annexed into the Town of Brooks shall be assigned a zoning classification provided by this ordinance that conforms to be pre-existing classification and use of the subject property within the County. In the event that this ordinance fails to provide a zoning classification that is comparable to and permits the use or uses allowed under the preexisting zoning classification, and provided further, that the Town Council does approve said annexation, then, in the event, the Town Council shall consider the issue of the initial zoning classification of said property at the same public hearing at which the issue of annexation is to be considered. In the event that the Town of Brooks Zoning Ordinance does provide for a comparable zoning classification, but does not allow those uses permitted under the pre-existing zoning classification., but does not allow those uses permitted under the pre-existing zoning classification, and provided further that the Town Council does approve said annexation, then, in that event, the Town Council may permit such pre-existing uses to be allowed so as not to work a hardship upon the applicant. The Town Council shall conduct such hearing in accordance with the Town of Brooks Zoning Policy and Procedures contained in this Ordinance.

ARTICLE 13

LEGAL STATUS PROVISIONS

Sec. 31-13.01 Provisions or Ordinance Declared to be Minimum Requirements. In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, or general welfare. Whenever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted rules, regulations resolution, deed restrictions, or covenants, the most restrictive or that imposing higher standards shall govern.

Sec. 31-13.02 Penalties for Violation. It is unlawful to violate the provisions of this Ordinance or to fail to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances, special exceptions, provisions, or conditional uses). Any person who violates this Ordinance or fails to comply with any of its requirements shall upon conviction may therefore be fined up to the maximum amount allowed by the Town's Charter and may be assessed court costs in the case. Each day such violation continues shall be considered a separate offense.

- a. The owner or tenants of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent or other person who commits, participates in, assists in, or maintains such violations may each be found guilty of a separate offense and suffer the penalties herein provided.
- b. Nothing herein contained shall prevent the Town from taking such other lawful civil, criminal, quasi-civil or quasi-criminal action as is necessary to prevent or

remedy any violation, such as stop-work orders, denial of permits, or refusal or occupancy permits.

Sec. 31-13.03 Remedies. If any building or structure is constructed, reconstructed, altered, repaired, converted, or if any building, structure or land is used in violation of this Ordinance, the Mayor and Council, the Building Inspector, the Zoning Administrator or any adjacent property owner who would be damaged by such violation, in addition to other remedies, may institute an injunction, mandamus or other appropriate action in proceeding to stop the violation in the case of such building, structure or land use.

Sec. 31-13.04 Severability Clause. Should any section or provision of this Ordinance be declared by the Courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

Sec. 31-13.05 Previous Conditions. All conditions previously imposed on the various properties as part of a prior zoning action of the Mayor and Council are hereby carried forward. Similarly, all conditional uses previously approved are hereby carried forward.

Sec. 31-13.06 Repeal of Conflicting Resolution. All Resolutions and Ordinances of the Town of Brooks or parts of other Resolutions in conflict with this ordinance, are hereby repealed to the extent necessary to give this ordinance full force and effect.

Sec. 31-13.07 Effective Date. This Ordinance shall be in full force and effect on the time of its passage as provided by law.

Sec. 31-13.08 Adoption and Enactment. This Zoning Ordinance was adopted, ordained and enacted by the Mayor and Council after the public hearings stated above on the at an open regularly scheduled meeting of the Town Council, by the following members voting therefore.