

# CODE OF ORDINANCES

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# BRASELTON, GEORGIA

Prepared April 2011  
with amendments through  
February 2013



# Table of Contents

## GENERAL PROVISIONS

<b>CHAPTER 1: GENERAL PROVISIONS</b> .....	<b>1-1</b>
Section 1-101    How Code Designated and Cited. ....	<a href="#">1-1</a>
Section 1-102    Rules of Construction.. ....	<a href="#">1-1</a>
Section 1-103    Definitions.....	<a href="#">1-2</a>
Section 1-104    Section Headings. ....	<a href="#">1-3</a>
Section 1-105    Effect of Repeal or Expiration of Code Section or Ordinance. ....	<a href="#">1-3</a>
Section 1-106    Amending Code. ....	<a href="#">1-3</a>
Section 1-107    Altering Code. ....	<a href="#">1-3</a>
Section 1-108    Severability. ....	<a href="#">1-3</a>
Section 1-109    Penalty Where No Penalty Provided. ....	<a href="#">1-4</a>
Section 1-110    Ordinances Not Affected by Code. ....	<a href="#">1-4</a>

## CHAPTER 2: ELECTIONS..... [2-1](#)

Article I.    IN GENERAL.....	<a href="#">2-1</a>
Section 2-101    Adoption of State Rules and Regulations. ....	<a href="#">2-1</a>
Section 2-102    Authority to Conduct Municipal Elections. ....	<a href="#">2-2</a>
Section 2-103    Expenses. ....	<a href="#">2-2</a>
Article II.    REGISTRATION. ....	<a href="#">2-2</a>
Section 2-201    Election Superintendent, Registrars and Deputy Registrars. ....	<a href="#">2-2</a>
Section 2-202    Elector Qualifications.. ....	<a href="#">2-3</a>
Section 2-203    Reserved. ....	<a href="#">2-3</a>
Section 2-204    Challenge of Registration List. ....	<a href="#">2-3</a>
Section 2-205    Permanency of Registration. ....	<a href="#">2-4</a>
Section 2-206    Absentee Registration. ....	<a href="#">2-4</a>
Section 2-207    Elector Identification. ....	<a href="#">2-5</a>
Article III.    CANDIDATES.....	<a href="#">2-6</a>
Section 2-301    Notice of Candidacy, Name on Ballot. ....	<a href="#">2-6</a>
Section 2-302    Notice of Candidacy, Write-in Vote. ....	<a href="#">2-6</a>
Section 2-303    Qualifying Fees. ....	<a href="#">2-7</a>
Section 2-304    Campaign Financing Disclosure. ....	<a href="#">2-7</a>
Article IV.    VOTING. ....	<a href="#">2-7</a>
Section 2-401    Election Officials. ....	<a href="#">2-7</a>
Section 2-402    Election Districts. ....	<a href="#">2-8</a>
Section 2-403    Polling Places. ....	<a href="#">2-8</a>
Section 2-404    Date of Election. ....	<a href="#">2-8</a>
Section 2-405    Reserved. ....	<a href="#">2-8</a>
Section 2-406    Absentee Ballots. ....	<a href="#">2-8</a>
Section 2-407    Vote Required for Election. ....	<a href="#">2-8</a>
Section 2-408    Contested Elections. ....	<a href="#">2-9</a>

## CHAPTER 3: ADMINISTRATION..... [3-1](#)

Article I.    IN GENERAL.....	<a href="#">3-2</a>
Section 3-101    Exercise of Governmental Authority. ....	<a href="#">3-2</a>
Section 3-102    Code of Ethics.....	<a href="#">3-2</a>
Section 3-103    Administrative Policy and Procedures.....	<a href="#">3-6</a>
Section 3-104    Oaths. ....	<a href="#">3-7</a>
Section 3-105    Bonds.....	<a href="#">3-7</a>
Section 3-106    Compensation. ....	<a href="#">3-7</a>
Article II.    THE MAYOR AND TOWN COUNCIL GENERALLY. ....	<a href="#">3-7</a>
Section 3-201    Election. ....	<a href="#">3-7</a>
Section 3-202    Qualifications for Office.....	<a href="#">3-7</a>

Section 3-203	Vacancies..	<a href="#">3-8</a>
Section 3-204	Meetings..	<a href="#">3-8</a>
Section 3-205	Rules for the Conduct of Business..	<a href="#">3-9</a>
Section 3-206	Legislative Authority Generally..	<a href="#">3-11</a>
Article III.	THE MAYOR..	<a href="#">3-11</a>
Section 3-301	General Authority..	<a href="#">3-11</a>
Section 3-302	Duties..	<a href="#">3-11</a>
Article IV.	THE MANAGER..	<a href="#">3-11</a>
Section 3-401	General Authority..	<a href="#">3-11</a>
Section 3-402	Duties..	<a href="#">3-12</a>
Section 3-403	Term of Office..	<a href="#">3-12</a>
Article V.	THE TOWN CLERK AND TREASURER..	<a href="#">3-12</a>
Section 3-501	Election..	<a href="#">3-12</a>
Section 3-502	Term of Office..	<a href="#">3-12</a>
Section 3-503	Bond..	<a href="#">3-12</a>
Section 3-504	Duties of Town Clerk..	<a href="#">3-12</a>
Section 3-505	Duties of Town Treasurer..	<a href="#">3-13</a>
Section 3-506	Compensation..	<a href="#">3-13</a>
Article VI.	OFFICERS AND EMPLOYEES..	<a href="#">3-13</a>
Section 3-601	The Town Attorney..	<a href="#">3-13</a>
Section 3-602	Public Officers and Employees - Labor Practices; Strikes by Public Employees Prohibited..	<a href="#">3-14</a>
Section 3-603	Employment Handbook..	<a href="#">3-15</a>
Article VII.	MUNICIPAL PROPERTY..	<a href="#">3-15</a>
Section 3-701	Motor Vehicles..	<a href="#">3-15</a>

## CHAPTER 4: REVENUE AND FINANCE [4-1](#)

Article I.	TAXES..	<a href="#">4-2</a>
Section 4-101	Reserved..	<a href="#">4-2</a>
Section 4-102	Malt Beverage Excise Tax..	<a href="#">4-2</a>
Section 4-103	Wine Excise Tax..	<a href="#">4-2</a>
Section 4-104	Distilled Spirits Excise Tax..	<a href="#">4-2</a>
Section 4-105	Reserved..	<a href="#">4-2</a>
Section 4-106	Distilled Spirits Sold by the Drink; Excise Tax..	<a href="#">4-2</a>
Section 4-107	Reserved..	<a href="#">4-2</a>
Section 4-108	Gross Direct Premiums Tax..	<a href="#">4-2</a>
Section 4-109	Reserved..	<a href="#">4-2</a>
Section 4-110	Hotel-Motel Excise Tax..	<a href="#">4-3</a>
Section 4-111	Public Utility Franchise Tax..	<a href="#">4-5</a>
Section 4-112	Local Option Sales Tax..	<a href="#">4-6</a>
Section 4-113	Reserved..	<a href="#">4-6</a>
Section 4-114	Municipal Tax Sales..	<a href="#">4-6</a>
Section 4-115	Occupation Tax..	<a href="#">4-6</a>
Article II.	RESERVED..	<a href="#">4-14</a>
Article III.	BUDGET..	<a href="#">4-14</a>
Section 4-301	Fiscal Year..	<a href="#">4-14</a>
Section 4-302	Requirement of Annual Balanced Budget..	<a href="#">4-14</a>
Section 4-303	Adoption of Budget Ordinances or Resolutions..	<a href="#">4-14</a>
Section 4-304	Budget Officer..	<a href="#">4-14</a>
Section 4-305	Procedures for Adoption of Budget by the Town, its Agencies, and Authorities..	<a href="#">4-14</a>
Section 4-306	Form and Content of Budget..	<a href="#">4-15</a>
Section 4-307	Adoption..	<a href="#">4-15</a>
Section 4-308	Reserved..	<a href="#">4-15</a>
Section 4-309	Reserved..	<a href="#">4-15</a>
Section 4-310	Amendments..	<a href="#">4-15</a>
Section 4-311	Audits Required..	<a href="#">4-15</a>
Section 4-312	Conduct of Audits..	<a href="#">4-15</a>
Section 4-313	Contents of Audit Reports..	<a href="#">4-16</a>

Section 4-314	Forwarding Audits to State Auditor.....	<a href="#">4-16</a>
Section 4-315	Public Inspection of Audits.....	<a href="#">4-16</a>
Section 4-316	Annual Report, Submitted to the Department of Community Affairs.....	<a href="#">4-16</a>
Section 4-317	Capital Program.....	<a href="#">4-16</a>
Section 4-318	Transfer of Appropriations.....	<a href="#">4-16</a>
Section 4-319	Emergency Appropriations.....	<a href="#">4-17</a>
Section 4-320	Lapse of Appropriations.....	<a href="#">4-17</a>
Article IV.	WATER AND SEWER REVENUE.....	<a href="#">4-17</a>
Section 4-401	Water and Sewer Revenue Account.....	<a href="#">4-17</a>
Article V.	TOWN STORAGE OF MOTOR VEHICLES.....	<a href="#">4-17</a>
Section 4-501	Fees for Town Storage of Motor Vehicles.....	<a href="#">4-17</a>

**CHAPTER 5: MUNICIPAL COURT.....** [5-1](#)

Section 5-101	Scope of Jurisdiction.....	<a href="#">5-1</a>
Section 5-102	Appointment and Qualifications of Judge.....	<a href="#">5-1</a>
Section 5-103	Required Training for Judges of Municipal Courts.....	<a href="#">5-1</a>
Section 5-104	Bailiff.....	<a href="#">5-1</a>
Section 5-105	Record of Cases.....	<a href="#">5-2</a>
Section 5-106	Limitations.....	<a href="#">5-2</a>
Section 5-107	Service of Summons.....	<a href="#">5-2</a>
Section 5-108	Subpoenas.....	<a href="#">5-2</a>
Section 5-109	Failure to Obey Summons or Subpoena.....	<a href="#">5-2</a>
Section 5-110	Arrest and Bond.....	<a href="#">5-2</a>
Section 5-111	Forfeiture of Bond.....	<a href="#">5-2</a>
Section 5-112	Court Cost.....	<a href="#">5-3</a>
Section 5-113	Malicious Prosecution.....	<a href="#">5-3</a>
Section 5-114	Collection of Fines.....	<a href="#">5-3</a>
Section 5-115	Appeal.....	<a href="#">5-3</a>

**CHAPTER 6: URBAN REDEVELOPMENT AGENCY.....** [6-1](#)

Section 6-101	Project Area, Generally.....	<a href="#">6-1</a>
Section 6-102	Exercise of Powers.....	<a href="#">6-1</a>
Section 6-103	Terms of Office of Commissioners and Initial Appointments.....	<a href="#">6-1</a>
Section 6-104	Preparation of Urban Redevelopment Plan.....	<a href="#">6-2</a>
Section 6-105	Financing.....	<a href="#">6-2</a>
Section 6-106	Urban Redevelopment Plan.....	<a href="#">6-2</a>
Section 6-107	Project Area.....	<a href="#">6-2</a>

**CHAPTER 7: IDENTITY THEFT PROTECTION PROGRAM.....** [7-1](#)

Article I.	Identify Theft Prevention Program.....	<a href="#">7-1</a>
Section 7-101	Short Title.....	<a href="#">7-1</a>
Section 7-102	Purpose.....	<a href="#">7-1</a>
Section 7-103	Definitions.....	<a href="#">7-1</a>
Section 7-104	Findings.....	<a href="#">7-2</a>
Section 7-105	Process of Establishing a Covered Account.....	<a href="#">7-2</a>
Section 7-106	Access to Covered Account Information.....	<a href="#">7-2</a>
Section 7-107	Credit Card Payments.....	<a href="#">7-3</a>
Section 7-108	Sources and Types of Red Flags.....	<a href="#">7-3</a>
Section 7-109	Prevention and Mitigation of Identity Theft.....	<a href="#">7-4</a>
Section 7-110	Updating the Program.....	<a href="#">7-5</a>
Section 7-111	Program Administration.....	<a href="#">7-5</a>
Section 7-112	Outside Service Providers.....	<a href="#">7-5</a>
Article II.	Treatment of Address Discrepancies.....	<a href="#">7-6</a>
Section 7-201	Purpose.....	<a href="#">7-6</a>
Section 7-202	Definitions.....	<a href="#">7-6</a>
Section 7-203	Policy.....	<a href="#">7-6</a>
Section 7-204	Furnishing Consumer's Address to Consumer Reporting Agency.....	<a href="#">7-6</a>

Section 7-205	Methods of Confirming Consumer Addresses.....	<a href="#">7-6</a>
---------------	---	---------------------

**CHAPTER 8: REVOLVING LOAN FUND..... [8-1](#)**

Section 8-101	Goals. ....	<a href="#">8-1</a>
Section 8-102	Objective.....	<a href="#">8-1</a>
Section 8-103	Scope. ....	<a href="#">8-1</a>
Section 8-104	Eligible Activities. ....	<a href="#">8-1</a>
Section 8-105	Ineligible Borrowers.....	<a href="#">8-2</a>
Section 8-106	Ineligible Activities.....	<a href="#">8-2</a>
Section 8-107	Definitions.....	<a href="#">8-2</a>
Section 8-108	Eligibility. ....	<a href="#">8-3</a>
Section 8-109	Applicant Requirements. ....	<a href="#">8-3</a>
Section 8-110	Terms and Conditions. ....	<a href="#">8-4</a>
Section 8-111	Recaptured Funds. ....	<a href="#">8-5</a>
Section 8-112	Conflict of Interest. ....	<a href="#">8-5</a>

**CHAPTER 9: NATIONAL INCIDENT MANAGEMENT SYSTEM..... [9-1](#)**

Section 9-101	Standardized Unified Incident Command System. ....	<a href="#">9-1</a>
---------------	--	---------------------

**PART II: PUBLIC HEALTH AND SAFETY**

**CHAPTER 10: FIRE PREVENTION AND PROTECTION. .... [10-1](#)**

Section 10-101	State Minimum Fire Safety Standards.....	<a href="#">10-1</a>
----------------	--	----------------------

**CHAPTER 11: TRAFFIC CONTROL..... [11-1](#)**

Section 11-101	Uniform Rules of the Road. ....	<a href="#">11-1</a>
Section 11-102	Speed Limit on Public Streets. ....	<a href="#">11-1</a>
Section 11-103	Traffic Ordinance. ....	<a href="#">11-1</a>
Section 11-104	Speed Limits, On-system and Off-system ....	<a href="#">11-2</a>
Section 11-105	Golf Cart Ordinance. ....	<a href="#">11-5</a>

**CHAPTER 12: SOLID WASTE MANAGEMENT..... [12-1](#)**

Section 12-101	Definitions.....	<a href="#">12-1</a>
Section 12-102	General. ....	<a href="#">12-2</a>
Section 12-103	Requirements for service providers.....	<a href="#">12-3</a>
Section 12-104	Penalties.....	<a href="#">12-3</a>
Section 12-105	Enforcement.....	<a href="#">12-3</a>

**CHAPTER 13: AIR QUALITY CONTROL. .... [13-1](#)**

Section 13-101	Open Burning. ....	<a href="#">13-1</a>
Section 13-102	Exhibit A: Open Burn Ban Rules. ....	<a href="#">13-1</a>

**CHAPTER 14: NOISE REGULATION..... [14-1](#)**

Section 14-101	Purpose.....	<a href="#">14-1</a>
Section 14-102	Definitions.....	<a href="#">14-1</a>
Section 14-103	Powers and duties.....	<a href="#">14-2</a>
Section 14-104	Duties and responsibilities of other departments.....	<a href="#">14-2</a>
Section 14-105	Sound measurement procedures.....	<a href="#">14-2</a>
Section 14-106	Sound level limitations.....	<a href="#">14-3</a>
Section 14-107	Exemptions.....	<a href="#">14-3</a>
Section 14-108	Specific prohibited acts.....	<a href="#">14-4</a>
Section 14-109	Temporary relief.....	<a href="#">14-5</a>
Section 14-110	Penalties.....	<a href="#">14-5</a>

**PART III: PUBLIC WORKS AND PROPERTY**

**CHAPTER 15: RESERVED**..... [15-1](#)

**CHAPTER 16: RESERVED**..... [16-1](#)

**CHAPTER 17: RESERVED**..... [17-1](#)

**CHAPTER 18: RESERVED**..... [18-1](#)

**CHAPTER 19: RESERVED**..... [19-1](#)

**CHAPTER 20: WATER and SEWER**..... [20-1](#)

**Article I. Water and Sewer Rates, Application, Meter Reading, Complaints, Wastewater Allocation, etc.**..... [20-2](#)

        Section 20-101 Rate Schedule..... [20-2](#)

        Section 20-102 Extraordinary Rates..... [20-2](#)

        Section 20-103 Application for Water and Sewer Service..... [20-2](#)

        Section 20-104 Connection Fees..... [20-3](#)

        Section 20-105 Minimum Charges..... [20-3](#)

        Section 20-106 Town's Responsibility and Liability..... [20-3](#)

        Section 20-107 Consumer's Responsibility and Liability..... [20-3](#)

        Section 20-108 Rules for Outdoor Water Use..... [20-4](#)

        Section 20-109 Procedure for Violations..... [20-4](#)

        Section 20-110 Access to Premises and Extensions of System..... [20-4](#)

        Section 20-111 Change of Occupancy..... [20-5](#)

        Section 20-112 Meter Reading — Billing — Collecting..... [20-5](#)

        Section 20-113 Suspension of Service..... [20-5](#)

        Section 20-114 Complaints — Adjustments..... [20-6](#)

        Section 20-115 Wastewater Allocation & Capacity Certification Procedures..... [20-6](#)

        Section 20-116 Penalties for Violations..... [20-7](#)

**Article II. Sewer Use Ordinance**..... [20-7](#)

        Section 20-201 Purpose and Policy..... [20-7](#)

        Section 20-202 Abbreviations..... [20-7](#)

        Section 20-203 Sewage and Waste Disposal; Impoundment of Surface Waters..... [20-8](#)

        Section 20-204 Connection to Public Water and Wastewater Systems Required; Septic Tanks and Individual Sewage Management Systems; Certificate of Occupancy..... [20-8](#)

        Section 20-205 Duty of owner and occupant to properly operate and maintain septic tanks and other permitted individual sewage management systems..... [20-8](#)

        Section 20-206 Connection to public sewer required upon failure of septic tank or individual sewage management system..... [20-8](#)

        Section 20-207 Separate building sewers required..... [20-8](#)

        Section 20-208 Reserved..... [20-9](#)

        Section 20-209 Reserved..... [20-9](#)

        Section 20-210 Reserved..... [20-9](#)

        Section 20-211 Prohibited Discharges..... [20-9](#)

        Section 20-212 Federal and State Requirements..... [20-10](#)

        Section 20-213 Wastewater Pretreatment Permit Application..... [20-11](#)

        Section 20-214 Sampling and Testing Procedures..... [20-12](#)

        Section 20-215 Significant Industrial Users..... [20-12](#)

        Section 20-216 Discharge Permits..... [20-12](#)

        Section 20-217 Reporting Requirements..... [20-15](#)

        Section 20-218 Maintenance of Records..... [20-18](#)

Section 20-219	Regulation of Waste Received from Other Jurisdictions..	<a href="#">20-18</a>
Section 20-220	Industrial Pretreatment Facilities.....	<a href="#">20-19</a>
Section 20-221	Sand and Oil/Grease Interceptors.....	<a href="#">20-19</a>
Section 20-222	Accidental Discharges.....	<a href="#">20-20</a>
Section 20-223	Hauled Wastewater..	<a href="#">20-20</a>
Section 20-224	Affirmative Defenses to Discharge Violations..	<a href="#">20-21</a>
Section 20-225	Town's Right of Revision..	<a href="#">20-21</a>
Section 20-226	Dilution.....	<a href="#">20-21</a>
Section 20-227	High Strength Wastewater Surcharge..	<a href="#">20-21</a>
Section 20-228	Reserved..	<a href="#">20-23</a>
Section 20-229	Reserved..	<a href="#">20-23</a>
Section 20-230	Reserved..	<a href="#">20-23</a>
Section 20-231	Reserved..	<a href="#">20-23</a>
Section 20-232	Reserved..	<a href="#">20-23</a>
Section 20-233	Reserved..	<a href="#">20-23</a>
Section 20-234	Reserved..	<a href="#">20-23</a>
Section 20-235	Reserved..	<a href="#">20-23</a>
Section 20-236	Reserved..	<a href="#">20-23</a>
Section 20-237	Reserved..	<a href="#">20-23</a>
Section 20-238	Reserved..	<a href="#">20-23</a>
Section 20-239	Reserved..	<a href="#">20-23</a>
Section 20-240	Reserved..	<a href="#">20-23</a>
Section 20-241	Enforcement..	<a href="#">20-23</a>
Section 20-242	Notice of Violation..	<a href="#">20-24</a>
Section 20-243	Consent Orders..	<a href="#">20-24</a>
Section 20-244	Injunctive Relief.....	<a href="#">20-24</a>
Section 20-245	Termination of Discharge.....	<a href="#">20-24</a>
Section 20-246	Emergency Suspensions.....	<a href="#">20-25</a>
Section 20-247	Civil Liability.....	<a href="#">20-25</a>
Section 20-248	Criminal Prosecution..	<a href="#">20-25</a>
Section 20-249	Remedies Non-exclusive..	<a href="#">20-26</a>
Section 20-250	Publication of Users in Significant Noncompliance.....	<a href="#">20-26</a>
Section 20-251	Notification and Delivery of Enforcement Actions.....	<a href="#">20-26</a>
Section 20-252	Reserved..	<a href="#">20-26</a>
Section 20-253	Reserved..	<a href="#">20-26</a>
Section 20-254	Reserved..	<a href="#">20-26</a>
Section 20-255	Reserved..	<a href="#">20-26</a>
Section 20-256	Reserved..	<a href="#">20-26</a>
Section 20-257	Reserved..	<a href="#">20-26</a>
Section 20-258	Reserved..	<a href="#">20-26</a>
Section 20-259	Reserved..	<a href="#">20-26</a>
Section 20-260	Reserved..	<a href="#">20-26</a>
Section 20-261	Reserved..	<a href="#">20-26</a>
Section 20-262	Reserved..	<a href="#">20-26</a>
Section 20-263	Reserved..	<a href="#">20-26</a>
Section 20-264	Reserved..	<a href="#">20-26</a>
Section 20-265	Reserved..	<a href="#">20-26</a>
Section 20-266	Reserved..	<a href="#">20-26</a>
Section 20-267	Reserved..	<a href="#">20-27</a>
Section 20-268	Reserved..	<a href="#">20-27</a>
Section 20-269	Reserved..	<a href="#">20-27</a>
Section 20-270	Reserved..	<a href="#">20-27</a>
Section 20-271	Reserved..	<a href="#">20-27</a>
Section 20-272	General Definitions..	<a href="#">20-27</a>
Section 20-273	Reserved..	<a href="#">20-32</a>
Section 20-274	Effective Date and Conflicting Ordinances..	<a href="#">20-32</a>
Article III.	Grease Management Program..	<a href="#">20-32</a>
Section 20-301	Grease Management Program: Sand and Oil/Grease Interceptors..	<a href="#">20-32</a>

**CHAPTER 21: STORMWATER** ..... [21-1](#)

    Article I.    Illicit Discharge and Illegal Connection. .... [21-1](#)

        Section 21-101    Introduction. .... [21-1](#)

        Section 21-102    General Provisions. .... [21-1](#)

        Section 21-103    Definitions. .... [21-2](#)

        Section 21-104    Prohibitions. .... [21-3](#)

        Section 21-105    Industrial or Construction Activity Discharges. .... [21-4](#)

        Section 21-106    Access and Inspection of Properties and Facilities. .... [21-4](#)

        Section 21-107    Notification of Accidental Discharges and Spills. .... [21-4](#)

        Section 21-108    Violations, Enforcement and Penalties. .... [21-5](#)

    Article II.    POST-DEVELOPMENT STORMWATER MANAGEMENT FOR NEW DEVELOPMENT AND REDEVELOPMENT. .... [21-6](#)

        Section 21-201    General Provisions. .... [21-6](#)

        Section 21-202    Definitions. .... [21-7](#)

        Section 21-203    Permit Procedures and Requirements. .... [21-10](#)

        Section 21-204    Post-Development Stormwater Management Performance Criteria. .... [21-14](#)

        Section 21-205    Construction Inspections of Post-Development Stormwater. .... [21-15](#)

        Section 21-206    Ongoing Inspection and Maintenance of Stormwater Facilities and Practices. .... [21-15](#)

        Section 21-207    Violations, Enforcement and Penalties. .... [21-16](#)

**CHAPTER 22: STREETS, CURBS, AND SIDEWALKS.** ..... [22-1](#)

    Section 22-101    General Regulations. .... [22-1](#)

    Section 22-102    Speed Humps. .... [22-2](#)

**CHAPTER 23: PARKS AND RECREATION.** ..... [23-1](#)

    Article I.    Parks and Recreation Facility Rules. .... [23-1](#)

        Section 23-101    Definitions. .... [23-1](#)

        Section 23-102    Enforcement of Chapter. .... [23-2](#)

        Section 23-103    Penalties for Violation of Chapter. .... [23-2](#)

        Section 23-104    Town of Braselton; powers and duties. .... [23-2](#)

    Article II.    Use of Recreation Facilities. .... [23-2](#)

        Section 23-201    Littering prohibited. .... [23-2](#)

        Section 23-202    Weapons prohibited. .... [23-2](#)

        Section 23-203    Throwing objects prohibited. .... [23-2](#)

        Section 23-204    Annoying noises prohibited. .... [23-3](#)

        Section 23-205    Person conduct. .... [23-3](#)

        Section 23-206    Fires restricted. .... [23-3](#)

        Section 23-207    Damaging or removal of any park property or vegetation prohibited. .... [23-3](#)

        Section 23-208    Possession, use or consumption of alcoholic beverages. .... [23-3](#)

        Section 23-209    Vehicles restricted. .... [23-3](#)

        Section 23-210    Parking restricted. .... [23-3](#)

        Section 23-211    Parking limited to recreation facility users. .... [23-3](#)

        Section 23-212    Commercial activity restricted. .... [23-3](#)

        Section 23-213    Hours open to public restricted. .... [23-4](#)

        Section 23-214    Streams and Rivers regulated. .... [23-4](#)

        Section 23-215    Violation of facility regulations. .... [23-4](#)

        Section 23-216    Animals Restricted. .... [23-4](#)

        Section 23-217    Pyrotechnics restricted. .... [23-4](#)

        Section 23-218    Launching Hot Air Balloons and Hobby Rockets Restricted. .... [23-4](#)

    Article III.    Permits. .... [23-4](#)

        Section 23-301    Permits. .... [23-4](#)

    Article IV.    Authority to Provide for the Regulation and Posting of Rules. .... [23-5](#)

        Section 23-401    Persons Authorized. .... [23-5](#)

**CHAPTER 24: RESERVED.** ..... [24-1](#)

<b>CHAPTER 25: RESERVED</b> .....	<a href="#"><u>25-1</u></a>
<b>CHAPTER 26: RESERVED</b> .....	<a href="#"><u>26-1</u></a>
<b>CHAPTER 27: RESERVED</b> .....	<a href="#"><u>27-1</u></a>
<b>CHAPTER 28: RESERVED</b> .....	<a href="#"><u>28-1</u></a>
<b>CHAPTER 29: RESERVED</b> .....	<a href="#"><u>29-1</u></a>
<b>CHAPTER 30: ANIMALS</b> .....	<a href="#"><u>30-1</u></a>
Section 30-101    Animal Control Regulations.....	<a href="#"><u>30-1</u></a>
Section 30-102    Enforcement.....	<a href="#"><u>30-1</u></a>
<b>CHAPTER 31: GENERAL OFFENSES</b> .....	<a href="#"><u>31-1</u></a>
Section 31-101    Disorderly Conduct.....	<a href="#"><u>31-1</u></a>
Section 31-102    Discharging Firearms, Air Guns, Etc.....	<a href="#"><u>31-2</u></a>
Section 31-103    Report and Treatment of Wounds.....	<a href="#"><u>31-2</u></a>
Section 31-104    Throwing of Missiles.....	<a href="#"><u>31-2</u></a>
Section 31-105    Ball Playing.....	<a href="#"><u>31-2</u></a>
Section 31-106    Bonfires.....	<a href="#"><u>31-3</u></a>
Section 31-107    Reserved.....	<a href="#"><u>31-3</u></a>
Section 31-108    Accumulation of Junk.....	<a href="#"><u>31-3</u></a>
Section 31-109    Abandonment of Motor Vehicles.....	<a href="#"><u>31-3</u></a>
Section 31-110    Loitering.....	<a href="#"><u>31-3</u></a>
Section 31-111    Reserved.....	<a href="#"><u>31-3</u></a>
Section 31-112    Illegal Gambling Devices.....	<a href="#"><u>31-3</u></a>
Section 31-113    Litter Control.....	<a href="#"><u>31-4</u></a>
Section 31-114    Junked Automobiles.....	<a href="#"><u>31-5</u></a>
Section 31-115    Alarm Ordinance.....	<a href="#"><u>31-6</u></a>
Section 31-116    Reserved.....	<a href="#"><u>31-6</u></a>
Section 31-117    Reserved.....	<a href="#"><u>31-7</u></a>
Section 31-118    Reserved.....	<a href="#"><u>31-7</u></a>
Section 31-119    Reserved.....	<a href="#"><u>31-7</u></a>
Section 31-120    Reserved.....	<a href="#"><u>31-7</u></a>
Section 31-121    Other Offenses.....	<a href="#"><u>31-7</u></a>
<b>CHAPTER 32: LICENSING AND BUSINESS REGULATION</b> .....	<a href="#"><u>32-1</u></a>
Article I.    GENERAL REGULATIONS.....	<a href="#"><u>32-1</u></a>
Section 32-101    Application Fees and Deadlines.....	<a href="#"><u>32-1</u></a>
Section 32-102    Procedures for Issuance.....	<a href="#"><u>32-2</u></a>
Section 32-103    Grounds for Non-acceptance of Application and for Revocation, Suspension and Renewals.....	<a href="#"><u>32-2</u></a>
Section 32-104    Time Limit for Payment of License Fees After Approval of Application.....	<a href="#"><u>32-4</u></a>
Section 32-105    Time Limit for Commencement of Business.....	<a href="#"><u>32-4</u></a>
Section 32-106    Renewals and Terminations.....	<a href="#"><u>32-4</u></a>
Section 32-107    Restrictions Upon Transfers.....	<a href="#"><u>32-4</u></a>
Section 32-108    Compliance with State Regulated Businesses.....	<a href="#"><u>32-4</u></a>
Section 32-109    Confidentiality of Information.....	<a href="#"><u>32-4</u></a>
Section 32-110    Display of License.....	<a href="#"><u>32-4</u></a>
Section 32-111    Inspections.....	<a href="#"><u>32-5</u></a>
Section 32-112    Duplicate Licenses.....	<a href="#"><u>32-5</u></a>
Section 32-113    Branch Offices.....	<a href="#"><u>32-5</u></a>
Section 32-114    Joint License.....	<a href="#"><u>32-5</u></a>
Section 32-115    Penalties.....	<a href="#"><u>32-5</u></a>

<b>Article II. BUSINESSES REGULATED.</b>	<b>32-5</b>
Section 32-201 Sales and Use of Alcoholic Beverages.	<a href="#">32-5</a>
Section 32-202 Construction Contractors.	<a href="#">32-20</a>
Section 32-203 Reserved.	<a href="#">32-21</a>
Section 32-204 Insurance Businesses.	<a href="#">32-21</a>
Section 32-205 Reserved.	<a href="#">32-21</a>
Section 32-206 Peddlers and Itinerant Merchants.	<a href="#">32-21</a>
Section 32-207 Charitable Solicitors.	<a href="#">32-24</a>
Section 32-208 Junk Dealers and Junkyards.	<a href="#">32-24</a>
Section 32-209 Pawnshops.	<a href="#">32-25</a>
Section 32-210 Parades.	<a href="#">32-26</a>
Section 32-211 Tattoo Establishments.	<a href="#">32-26</a>
Section 32-212 Massage Businesses.	<a href="#">32-29</a>

**CHAPTER 33: NUISANCES.** [33-1](#)

Section 33-101 Definitions.	<a href="#">33-1</a>
Section 33-102 Proceedings to Abate Generally.	<a href="#">33-1</a>
Section 33-103 Summary Abatement.	<a href="#">33-2</a>
Section 33-104 Unfit Buildings or Structures.	<a href="#">33-2</a>
Section 33-105 Public Health Hazard or General Nuisance on Private Property.	<a href="#">33-2</a>

**CHAPTER 34: FLOOD DAMAGE PREVENTION ORDINANCE.** [34-1](#)

Section 34-101 General Provisions.	<a href="#">34-1</a>
Section 34-102 Definitions.	<a href="#">34-2</a>
Section 34-103 Permit Procedures and Requirements.	<a href="#">34-5</a>
Section 34-104 Standards for Development.	<a href="#">34-7</a>
Section 34-105 Provisions for Flood Damage Reduction.	<a href="#">34-9</a>
Section 34-106 Variance Procedures.	<a href="#">34-12</a>
Section 34-107 Violations, Enforcement and Penalties.	<a href="#">34-13</a>

**CHAPTER 35: SOIL EROSION SEDIMENTATION AND POLLUTION CONTROL.** [35-1](#)

Section 35-101 Definitions.	<a href="#">35-1</a>
Section 35-102 Exemptions.	<a href="#">35-3</a>
Section 35-103 Minimum Requirements for Erosion, Sedimentation and Pollution Control Using Best Management Practices.	<a href="#">35-5</a>
Section 35-104 Application/permit Process.	<a href="#">35-7</a>
Section 35-105 Inspection and Enforcement.	<a href="#">35-9</a>
Section 35-106 Penalties and Incentives.	<a href="#">35-10</a>
Section 35-107 Education and Certification.	<a href="#">35-11</a>
Section 35-108 Administrative Appeal Judicial Review.	<a href="#">35-11</a>
Section 35-109 Effectivity, Validity and Liability.	<a href="#">35-11</a>

**CHAPTER 36: CONSTRUCTION CODES.** [36-1](#)

Section 36-101 State Minimum Standard Codes.	<a href="#">36-1</a>
Section 36-102 Additional Building Codes.	<a href="#">36-1</a>
Section 36-103 Enforcement of Codes.	<a href="#">36-2</a>
Section 36-104 Permit Fees.	<a href="#">36-2</a>
Section 36-105 Inspectors, Inspections, and Violations.	<a href="#">36-2</a>
Section 36-106 Code Compliance Inspections.	<a href="#">36-3</a>

**CHAPTER 37: BURNING, DISMANTLING, OR DEMOLITION OF DWELLINGS, BUILDINGS OR OTHER STRUCTURES.** [37-1](#)

Section 37-101 Burning, Dismantling, or Demolition of Dwellings, Buildings or Other Structures.	<a href="#">37-1</a>
---	----------------------

<b>CHAPTER 38: WATER CONSERVATION ORDINANCE</b> .....	<b>38-1</b>
Article I.    Required Fixtures To Be Used in Construction.....	38-1
Section 38-101    Definitions.....	38-1
Section 38-102    Residential Building Construction.....	38-1
Section 38-103    Commercial Building Construction.....	38-2
Section 38-104    Residential/Commercial Construction.....	38-2
Section 38-105    Exemptions.....	38-2
Section 38-106    Enforcement; Penalty.....	38-2
Article II.    Outdoor Water Use Ordinance.....	38-2
Section 38-201    Intent and Purpose.....	38-2
Section 38-202    Definitions.....	38-2
Section 38-203    Outdoor Irrigation.....	38-3
Section 38-204    Reserved.....	38-3
Section 38-205    Application of Ordinance.....	38-3
Section 38-206    Enforcement.....	38-3
Section 38-207    Penalty.....	38-3
 <b>CHAPTER 39: DEVELOPMENT REGULATIONS, PLANS, and FEES</b> .....	 <b>39-1</b>
Article I.    Development Regulations and Plans.....	39-1
Section 39-101    Development Ordinance.....	39-1
Section 39-102    Comprehensive Plan.....	39-1
Section 39-103    Northeast Georgia Regional Solid Waste Management Plan.....	39-1
Section 39-104    Greenspace Plan.....	39-1
Section 39-105    River Corridor Protection Ordinance.....	39-2
Article II.    Impact Fee Ordinance.....	39-5
Section 39-201    Short Title, Authority, and Applicability.....	39-5
Section 39-202    Findings, purpose, and intent.....	39-5
Section 39-203    Rules of construction and definitions.....	39-5
Section 39-204    Imposition of development impact fees.....	39-8
Section 39-205    Fee assessment and payment--Fee schedule.....	39-9
Section 39-206    Timing of assessment.....	39-9
Section 39-207    Individual assessment determinations.....	39-9
Section 39-208    Timing of fee payment.....	39-9
Section 39-209    Fee certification.....	39-10
Section 39-210    Deposit and expenditure of fees.....	39-10
Section 39-211    Periodic review and amendments.....	39-13
Section 39-212    Administrative appeals.....	39-13
Section 39-213    Enforcement and penalties.....	39-14
Section 39-214    Repealer, severability, and effective date.....	39-14

<b>CHAPTER 40: SEXUALLY ORIENTED BUSINESS</b> .....	<b>40-1</b>
Section 40-101    Purpose.....	40-1
Section 40-102    Definitions.....	40-1
Section 40-103    General Regulations.....	40-3
Section 40-104    Certain activities prohibited.....	40-4
Section 40-105    Sexually oriented business license required.....	40-4
Section 40-106    Operation of unregulated premises unlawful.....	40-4
Section 40-107    Admission of minors unlawful.....	40-4
Section 40-108    Sales to minors unlawful.....	40-4
Section 40-109    Location.....	40-4
Section 40-110    Sexually oriented businesses employees, permits.....	40-5
Section 40-111    Sexually oriented business license.....	40-5
Section 40-112    Application contents.....	40-6
Section 40-113    Applicant to appear.....	40-7
Section 40-114    Application--Investigation.....	40-7
Section 40-115    Persons prohibited as applicants.....	40-7
Section 40-116    Sexually oriented business license--Refusal, appeal.....	40-7

Section 40-117	Sexually oriented business license.....	<a href="#">40-8</a>
Section 40-118	Sexually oriented business license nontransferable.....	<a href="#">40-8</a>
Section 40-119	Change of location or name.....	<a href="#">40-8</a>
Section 40-120	Appeal procedure.....	<a href="#">40-8</a>
Section 40-121	Appeal--Council determines procedure.....	<a href="#">40-8</a>
Section 40-122	Town Council hearing.....	<a href="#">40-9</a>
Section 40-123	Powers of Hearing Officer.....	<a href="#">40-9</a>
Section 40-124	Rules of evidence inapplicable.....	<a href="#">40-9</a>
Section 40-125	Hearing Officer --Report.....	<a href="#">40-9</a>
Section 40-126	Hearing Officer Report--Action by Town Council.....	<a href="#">40-9</a>
Section 40-127	Penalty for violation.....	<a href="#">40-9</a>
Section 40-128	Unlawful operation declared nuisance.....	<a href="#">40-9</a>
Section 40-129	Revocation and appeal.....	<a href="#">40-10</a>
Section 40-130	Occupation tax certificate and annual renewal fees.....	<a href="#">40-10</a>
Section 40-131	Change of location.....	<a href="#">40-10</a>
Section 40-132	Alcoholic beverages--Prohibitions, exceptions.....	<a href="#">40-11</a>

**CHAPTER 41: WELLHEAD PROTECTION ORDINANCE.....** [41-1](#)

Section 41-101	Short Title and Purpose.....	<a href="#">41-1</a>
Section 41-102	Definitions.....	<a href="#">41-1</a>
Section 41-103	Establishment of Wellhead Protection Zone.....	<a href="#">41-1</a>
Section 41-104	Permitted Uses.....	<a href="#">41-2</a>
Section 41-105	Prohibited Uses.....	<a href="#">41-2</a>
Section 41-106	Separation Distances.....	<a href="#">41-2</a>
Section 41-107	Existing Facilities.....	<a href="#">41-2</a>
Section 41-108	Administration.....	<a href="#">41-3</a>

**INDEX**

## **GENERAL PROVISIONS**

# CHAPTER 1: GENERAL PROVISIONS

## Section

1-101	How Code Designated and Cited
1-102	Rules of Construction
1-103	Definitions
1-104	Section Headings
1-105	Effect of Repeal or Expiration of Code Section or Ordinance
1-106	Amending Code
1-107	Altering Code
1-108	Severability
1-109	Penalty Where No Penalty Provided
1-110	Ordinances Not Affected by Code



### Section 1-101      How Code Designated and Cited

The provisions embraced in the following chapters and sections shall constitute and be designated "The Code of the Town of Braselton, Georgia" and may be so cited.

### Section 1-102      Rules of Construction

In the construction of this code and of all sections, the following rules shall be observed unless such construction would be inconsistent with the manifest intent of the Mayor and Town Council.

- 1. General Rule.** All words and phrases shall be construed and understood according to the common and approved usage of the language; but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.
- 2. Gender -- Singular and Plural.** Every word in any code provision or section importing the masculine gender shall extend to and be applied to females as well as males; and every word importing the singular number only shall extend and be applied to several persons or things as well as to one person or thing; and every word importing the plural number only shall extend and be applied to one person or thing as well as to several persons or things.
- 3. Tenses.** The use of any verb in the present tense shall include the future when applicable.
- 4. Joint Authority.** All words purporting to give a joint authority to three (3) or more Town officers or other persons shall be construed as giving such authority to a majority of such officers or other persons unless it shall be otherwise expressly declared in the law giving the authority.
- 5. Delegation of Authority.** Whenever a provision requires the head of a department or other officer of the Town to do some act or perform some duty, it shall be construed to authorize subordinates to do the required act or perform the required duty unless the terms of the provision designate otherwise.
- 6. Computation of Time.** The time within which an act is to be done as provided in any code provision or section or in any order issued pursuant to any section, when expressed in days, shall be computed by excluding the first day and including the last, except that if the last day is a Saturday, Sunday or a legal holiday it shall be excluded; and when any such time is expressed in hours the whole of Sunday, from midnight to midnight, shall be excluded. When the period of time prescribed is less than seven (7) days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.
- 7. Overlapping Provisions.** Where any provision of this code imposes greater restrictions upon the subject matter than any general provisions imposed by this code, the provision imposing the greater restriction or regulation shall be applicable.

**Section 1-103 Definitions**

Words and phrases used in this code shall have the following meanings, unless otherwise specified.

1. **Advice and Consent.** Whenever the term "advice and consent" of the Town Council is used in this code it shall be construed to mean an affirmative vote of the majority of the entire Town Council.
2. **County.** The words "the county" or "this county" shall mean Barrow, Gwinnett, Hall, or Jackson counties, Georgia, as appropriate.
3. **Court.** The word "court" shall mean the Municipal Court of the Town.
4. **Governing Authority, Governing Body.** The words "governing authority" or "governing body" shall mean the Mayor and Town Council of the Town of Braselton, Georgia.
5. **Judge or Recorder.** The words "judge" or "recorder" shall mean the Judge of the Municipal Court of the Town.
6. **Mayor.** The word "mayor" shall mean the Mayor of the Town of Braselton, Georgia.
7. **Mayor and Town Council.** The term "mayor and town council" shall mean the Mayor and Town Council of the Town of Braselton, Georgia.
8. **Misdemeanor.** The term "misdemeanor" shall mean a violation of the state criminal law punishable by a fine not in excess of one thousand dollars (\$1,000.00) or confinement in a county or other jail for a term not exceeding twelve (12) months, or by both such fine and imprisonment.
9. **Municipality.** The word "municipality" shall be construed as synonymous with the term "town," or "municipal corporation."
10. **Oath.** The word "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "affirm" and "affirmed" shall be equivalent to the words "swear" or "sworn."
11. **Ordinance.** The word "ordinance" shall mean a legislative act of the municipal governing body of a general and permanent nature.
12. **Owner.** The word "owner" when applied to a building or to land, shall include any part owner, joint owner, tenant in common, joint tenant by the entirety, of the whole or a part of such building or land.
13. **Person.** The word "person" shall include a corporation, firm, agency, partnership, association, organization, government, and any other group acting as a unit, as well as an individual.
14. **Personal Property.** The term "personal property" shall include every specie of property except real property, as hereinafter defined.
15. **Preceding, Following.** The words "preceding" and "following" shall mean next before and next after, respectively.
16. **Property.** The term "property" means anything of value, including but not limited to real estate, tangible and intangible personal property, contract rights, services, choses in action, and other interests in or claims to wealth, admission or transportation tickets, captured or domestic animals, food and drink, and electric or other power.
17. **Real Property.** The words "real property" shall include lands, tenements, and hereditaments.
18. **Reasonable Time or Notice.** Reasonable time or notice shall be deemed to mean only such time as may be necessary for the prompt performance or the act required.
19. **Resolution.** The word "resolution" shall mean a legislative act of the municipal governing body of a special or temporary character.
20. **Sidewalk.** The word "sidewalk" shall mean any portion of a street between the curb line and the adjacent property line, intended for the use of the pedestrians, but shall not include any unimproved areas between the curb line and improved walkways.
21. **Signature, Subscription.** The word "signature" or "subscription" shall include a mark intended as such when the person cannot write.
22. **State.** The words "state" or "this state" shall mean the State of Georgia.
23. **Street.** The word "street" shall mean and include any public way, road, highway, street, avenue, boulevard, parkway, alley, viaduct or bridge, and the approach thereto, within the town.
24. **Tenant or Occupant.** The word "tenant" or "occupant," when applied to a building or to land, shall include any person holding a written or oral lease of, or who occupies the whole or a part of such building or land, either alone or with others.
25. **Town.** The words "the town" or "this town" shall mean the Town of Braselton, Georgia.

26. **Town Council.** The words "town council" or "the council" shall mean the Town Council of the Town of Braselton, Georgia.
27. **Week.** The word "week" shall mean seven (7) calendar days.
28. **Writing or Written.** The words "writing" and "written" shall include printing and any other mode of representing words and letters.
29. **Year.** The word "year" shall mean a calendar year.

**Section 1-104 Section Headings**

The headings of the several sections and subsections of this code are intended as mere captions to indicate the contents of the section or subsection and shall not be deemed or taken to be titles of such sections, nor as any part of the section or subsection, nor unless so expressly provided, shall they be so deemed when any of such sections or subsections, including the headings, is amended or re-enacted.

**Section 1-105 Effect of Repeal or Expiration of Code Section or Ordinance**

1. The repeal of a code section or ordinance, or its expiration by virtue of any provision contained therein, shall not affect any right accrued or any offense committed, any penalty or punishment incurred, or any proceeding commenced before the repeal took effect or the ordinance expired.
2. When any ordinance repealing a former code section, ordinance, clause or provision, shall be itself repealed, such repeal shall not be construed to revive such former code section, ordinance, clause, or provision, unless it shall be expressly so provided.

**Section 1-106 Amending Code**

1. All ordinances passed subsequent to this code which amend, repeal or in any way affect this code shall be numbered in accordance with the numbering system of this code and printed for inclusion herein. In the case of repealed chapters, sections, and subsections or any part thereof, by subsequent ordinances, such repealed portions may be excluded from the code by omission from reprinted pages affected thereby. The subsequent ordinances as numbered and printed, or omitted in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time as the code and subsequent ordinances omitted are readopted as a new code by the Town Council.
2. Amendments to any of the provisions of this code may be made by specific reference to the section number of this code in the following language: "That section \_\_\_\_\_ of the Code of Ordinances, Town of Braselton, is hereby amended to read as follows . . ." The new provisions may then be set out in full as desired.
3. In the event a new section not heretofore existing in the code is to be added, the following language may be used. "The Code of Ordinances of the Town of Braselton, Georgia, is hereby amended by adding a section (or subsection chapter) to be numbered \_\_\_\_\_, which section reads as follows . . ." The new provision shall then be set out in full as desired.
4. All sections, chapters, or provisions sought to be repealed must be specifically repealed by section, chapter, or provision number, as the case may be.

**Section 1-107 Altering Code**

It shall be unlawful for any person to change or amend by additions or deletions any part or portion of this code, or to insert or delete pages or portions thereof, or to alter or tamper with such code in any manner whatsoever, except by ordinance or resolution or other official act of the Mayor and Town Council.

**Section 1-108 Severability**

The sections, paragraphs, sentences, clauses, and phrases of this code are severable, and if any phrase, clause, sentence, paragraph, or section of this code shall be declared unconstitutional or otherwise invalid by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this code.

**Section 1-109      Penalty Where No Penalty Provided**

1. Whenever in this code or in any ordinance of the town any act is prohibited or is declared to be unlawful, or whenever in such code or ordinance the doing of any act is declared to be unlawful, and no specific penalty is provided therefore, the violation of such provision of this code or any ordinance shall subject the person committing the violation to a fine as provided for in this code or if not provided, as provided for under state law, any or all of such penalties to be imposed at the discretion of the Judge of the Municipal Court.
2. The infliction of a penalty under the provisions of this section shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the provisions of the city's charter or code.

**Section 1-110      Ordinances Not Affected by Code**

Nothing in this Code or the ordinance adopting this Code shall be construed to repeal or otherwise affect the validity of any of the following:

1. Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this Code.
2. Any ordinance or resolution promising or guaranteeing the payment of money for the town or authorizing the issuance of any bonds of the town or any evidence of the city's indebtedness.
3. Any contract or obligation assumed by the town.
4. Any ordinance fixing the salary of any town officer or employee.
5. Any right or franchise granted by the town.
6. Any ordinance dedicating, naming, establishing, locating, relocating, opening, widening, paving, etc., any street or public way in the town.
7. Any appropriation ordinance.
8. Any ordinance which, by its own terms, is effective for a stated or limited term.
9. Any ordinance providing for local improvements and assessing taxes therefor.
10. Any zoning ordinance.
11. Any ordinance dedicating or accepting any subdivision plat.
12. Any ordinance describing or altering the boundaries of the town.
13. The administrative ordinances or resolutions of the town not in conflict or inconsistent with the provisions of this Code.
14. Any ordinance levying or imposing taxes not included in this Code.
15. Any ordinance establishing or prescribing street grades in the town.
16. Any ordinance setting the rate of ad valorem taxes.

No such ordinance shall be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance which is repealed by this chapter; and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code.

## **PART I: ORGANIZATION OF THE GOVERNMENT**

## CHAPTER 2: ELECTIONS

### ARTICLE I. IN GENERAL

#### Section

- 2-101 Adoption of State Rules and Regulations
- 2-102 Authority to Conduct Municipal Elections
- 2-103 Expenses

### ARTICLE II. REGISTRATION

- 2-201 Registrars and Deputy Registrars
- 2-202 Elector Qualifications
- 2-203 Reserved
- 2-204 Challenge of Registration List
- 2-205 Permanency of Registration
- 2-206 Absentee Registration
- 2-207 Elector Identification

### ARTICLE III. CANDIDATES

- 2-301 Notice of Candidacy, Name on Ballot
- 2-302 Notice of Candidacy, Write-in Vote
- 2-303 Qualifying Fees
- 2-304 Campaign Financing Disclosure

### ARTICLE IV. VOTING

- 2-401 Election Officials
- 2-402 Election Districts
- 2-403 Polling Places
- 2-404 Date of Election
- 2-405 Reserved
- 2-406 Absentee Ballots
- 2-407 Vote Required for Election
- 2-408 Contested Elections



### Article I. IN GENERAL

#### Section 2-101 Adoption of State Rules and Regulations

The rules and regulations promulgated by the State Election Board which pertain to municipal elections, together with the provisions of the "Georgia Election Code" contained in Title 21 of the Official Code of Georgia Annotated, are hereby adopted as the rules, regulations, and provisions that shall govern the conduct of municipal general and special elections in this town.

**Section 2-102 Authority to Conduct Municipal Elections**

The Mayor and Council may conduct the election or they may authorize the county within which that municipality wholly or partially lies to conduct any or all elections. In the event the municipality shall by ordinance authorize such county to conduct elections, such municipality may request such county to perform any or all of the functions enumerated in the contract. Such county shall have authority to conduct elections in any and all counties in which any part of such municipality may lie. (See Election Code, *O.C.G.A.* § 21-2-1 et. seq.)

**Section 2-103 Expenses**

Such funds as are necessary for the conduct of elections and for the performance of the duties that are specified by this chapter shall be budgeted and appropriated annually, and from time to time.

**Article II. REGISTRATION**

**Section 2-201 Election Superintendent, Registrars and Deputy Registrars**

1. **Appointment.** The Mayor and Council shall appoint an Election Superintendent, registrars, and deputy registrars in January of each who shall serve at the pleasure of same.
2. **Qualifications.** The Election Superintendent, registrars and deputy registrars shall be able to read, write, and speak the English language. The office of any person who is an election superintendent, registrar, deputy registrar, or member of a board of elections shall be vacated immediately upon such person filing a notice of candidacy for any nomination or office to be voted for at a primary or election or upon such person's giving notice of such person's intent to be a write-in candidate; provided, however, that this ineligibility shall not apply to a chief deputy registrar who is also an elected public officer and who seeks to qualify for reelection to the public office such chief deputy registrar is presently holding. However, nothing contained in this code section shall preclude an election superintendent registrar, deputy registrar, or member of a municipal board of elections from qualifying for office, having such officer's name placed on the ballot, or holding office in a political party or body or serving as a presidential elector, unless otherwise prohibited. No election superintendent, registrar, deputy registrar, or member of a board of elections, while performing the duties of such office, shall engage in political activity on behalf of a candidate, political party or body, or question, including, but not limited to, distributing campaign literature, engaging in any communication that advocates or criticizes a particular candidate, officeholder, or political party or body while on duty, and wearing badges, buttons, or clothing with partisan messages.
3. **Oath.** Prior to entering upon his duties, the election superintendent, and each registrar and deputy registrar shall take the following oath before some officer authorized by law to administer oaths under the laws of the state:  

"I do solemnly swear that I will faithfully and impartially discharge, to the best of my ability, the duties imposed upon me by law as (election superintendent) (registrar)(deputy registrar)."
4. **Term of Office.** Persons appointed to the position of registrar or deputy registrar shall serve at the pleasure of the Mayor and Town Council.
5. **Powers.** The election superintendent, registrars and deputy registrars shall exercise those powers and duties and shall be subject to such regulations as are set forth in the "Georgia Election Code," Title 21 of the *O.C.G.A.*
6. **Resignation or Removal.** Any election superintendent registrar or deputy registrar shall have the right to resign at any time by submitting a resignation to the Mayor and Town Council. The Mayor and Town Council shall have the right at any time to remove one (1) or more of such individuals for cause after notice and hearing. If any individual resigns or is removed for cause, his duties and authority as such shall terminate immediately. In the event of death, resignation, or removal of an election superintendent, registrar or deputy registrar, the Mayor and Town Council shall appoint a successor. Each such appointment shall be entered on the minutes of the Town council meeting at which the appointment is made.
7. **Training.**
  - A. The election superintendent and at least one (1) registrar shall attend a minimum of twelve (12) hours training biennially as may be selected by the Secretary of State.
  - B. The basis for the minimum requirement of training shall be two (2) calendar years.

- C. A waiver of the requirement of minimum training, either in whole or in part, may be granted by the Secretary of State, in his/her discretion, upon the presentation of evidence by the election superintendent or registrar that the individual was unable to complete such training due to medical disability, providential cause, or other reason deemed sufficient by the Secretary of State.
- D. The cost of the training shall be borne by the Town of Braselton from municipal funds.
- E. The minimum training required under this section shall not apply to deputy registrars.

#### **Section 2-202 Elector Qualifications**

Any person desiring to vote in any municipal, general, or special election must:

1. Register as an elector in the manner prescribed by law;
2. Be a citizen of the State of Georgia and of the United States;
3. Be at least eighteen (18) years of age;
4. Be a resident of this (municipality/county); and
5. Be possessed of all other qualifications prescribed by law:
  - A. No person who has been convicted of a felony involving moral turpitude may register, remain registered, or vote except upon completion of the sentence.
  - B. No person who has been judicially determined to be mentally incompetent may register, remain registered, or vote unless the disability has been removed.
  - C. Any person who possesses the qualifications of an elector except those concerning age shall be permitted to register to vote if such person will acquire such qualifications within six (6) months after the day of registration; provided, however, that such person shall not be permitted to vote in a primary or election until the acquisition of such qualifications.

#### **Section 2-203 Reserved**

#### **Section 2-204 Challenge of Registration List**

1. Any elector of the municipality may challenge the right of any other elector of the municipality, whose name appears on the list of electors, to vote in an election. Such challenge shall be in writing and specify distinctly the grounds of such challenge. Such challenge may be made at any time prior to the elector whose right to vote is being challenged voting at the elector's polling place or, if such elector cast an absentee ballot, prior to the close of the polls on the day of the election.
2. Upon the filing of such challenge, the applicable county board of registrars shall immediately consider such challenge and determine whether probable cause exists to sustain such challenge. If the registrars do not find probable cause, the challenge shall be denied. If the registrars find probable cause, the registrars shall notify the poll officers of the challenged elector's precinct or, if the challenged elector voted by absentee ballot, notify the poll officers at the absentee ballot precinct and, if practical, notify the challenged elector and afford such elector an opportunity to answer.
3. If the challenged elector appears at the polling place to vote, such elector shall be given the opportunity to appear before the registrars and answer the grounds of the challenge.
4. If the challenged elector does not cast an absentee ballot and does not appear at the polling place to vote and if the challenge is based on grounds other than the qualifications of the elector to remain on the list of electors, no further action by the registrars shall be required.
5. If the challenged elector cast an absentee ballot and it is not practical to conduct a hearing prior to the close of the polls and the challenge is based upon grounds other than the qualifications of the elector to remain on the list of electors, the absentee ballot shall be treated as a challenged ballot pursuant to *O.C.G.A. § 21-3-291*. No further action by the registrars shall be required.
6. If the challenged elector does not cast an absentee ballot and does not appear at the polling place to vote and the challenge is based on the grounds that the elector is not qualified to remain on the list of electors, the board of registrars shall proceed to hear the challenge pursuant to *O.C.G.A. § 21-2-229*.
7. If the challenged elector casts an absentee ballot and the challenge is based upon grounds that the challenged elector is not qualified to remain on the list of electors, the board of registrars shall proceed to conduct a hearing on the challenge on an expedited basis prior to the certification of the consolidated returns of the election by the election superintendent. The election superintendent shall not certify such consolidated returns until such hearing

is complete and the registrars have rendered their decision on the consolidated returns. If the registrars uphold the challenge, the name of the challenged elector shall be removed from the list of electors and the ballot of the challenged elector shall be rejected and not counted and, if necessary, the returns shall be adjusted to remove any votes cast by such elector. The elector making the challenge and the challenged elector may appeal the decision of the registrars in the same manner as provided in subsection (e) of O.C.G.A. § 21-2-229.

8. If the challenged elector appears at the polls to vote and it is practical to conduct a hearing on the challenge prior to the close of the polls, the registrars shall conduct such hearing and determine the merits of the challenge. If the registrars deny the challenge, the elector shall be permitted to vote in the election notwithstanding the fact that the polls may have closed prior to the time the registrars render their decision and the elector can actually vote, provided that the elector proceeds to vote immediately after the decision of the registrars. If the registrars uphold the challenge, the challenged elector shall not be permitted to vote and, if the challenge is based upon the grounds that the elector is not qualified to remain on the list of electors, the challenged elector's name shall be removed from the list of electors.
9. If the challenged elector appears at the polls to vote and it is not practical to conduct a hearing prior to the close of the polls or if the registrars begin a hearing and subsequently find that a decision on the challenge cannot be rendered within a reasonable time, the challenged elector shall be permitted to vote by having the word "Challenged" and the elector's name written across the back of the elector's ballot notwithstanding the fact that the polls may have closed prior to the time the registrars make such a determination, provided that the elector proceeds to vote immediately after such determination of the registrars. In such cases, if the challenge is based upon the grounds that the challenged elector is not qualified to remain on the list of electors, the registrars shall proceed to finish the hearing prior to the certification of the consolidated returns of the election by the election superintendent. If the challenge is based on other grounds, no further action shall be required by the registrars. The election superintendent shall not certify such consolidated returns until such hearing is complete and the registrars have rendered their decision on the challenge. If the registrars deny the challenge, the superintendent shall proceed to certify the consolidated returns. If the registrars uphold the challenge, the name of the challenged elector shall be removed from the list of electors and the ballot of the challenged elector shall be rejected and not counted and, if necessary, the returns shall be adjusted to remove any votes cast by such elector. The elector making the challenge and the challenged elector may appeal the decision of the registrars in the same manner as provided in subsection (e) of O.C.G.A. § 21-2-229.

#### **Section 2-205      Permanency of Registration**

Registration of an elector will remain permanent if the elector votes in at least one (1) election every three (3) years. If such person does not vote in at least one (1) general or special election or primary in a three (3) year period and does not specifically request continuation of his registration, then the elector's name will be removed from the registration list and he shall be required to re-register in the manner provided for original registration.

#### **Section 2-206      Absentee Registration**

1. Not more than 180 days prior to the date of the primary or election, or runoff of either, in which the elector desires to vote, any absentee elector may make, either by mail, by facsimile transmission, or in person in the registrar's office, an application to the board of registrars of the county of the elector's residence for an official ballot of the elector's precinct to be voted at such primary, election, or runoff. In the case of an elector residing temporarily out of the county or a physically disabled elector residing within the county, the application for the elector's absentee ballot may, upon satisfactory proof of relationship, be made by such elector's mother, father, grandparent, aunt, uncle, sister, brother, spouse, son, daughter, niece, nephew, grandchild, son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law, or sister-in-law of the age of 18 or over. The application shall be in writing and shall contain sufficient information for proper identification of the elector; the permanent or temporary address of the elector to which the absentee ballot shall be mailed; the identity of the primary, election, or runoff in which the elector wishes to vote; the reason for requesting the absentee ballot; the name and relationship of the person requesting the ballot if other than the elector. Except in the case of physically disabled electors residing in the county, no absentee ballot shall be mailed to an address other than the permanent mailing address of the elector as recorded on the elector's voter registration record or a temporary out of county address. Relatives applying for absentee ballots for electors must also sign an oath stating that facts in the application are true. If the elector is unable to fill out or sign such elector's own application because of

illiteracy or physical disability, the elector shall make such elector's mark, and the person filling in the rest of the application shall sign such person's name below it as a witness; provided, however, that one timely and proper application for an absentee ballot for use in a primary shall be sufficient to require the mailing of the absentee ballot to an eligible absentee elector who lives outside the county in which the election is held and is also a member of the armed forces of the United States, a member of the merchant marine of the United States, or a spouse or dependent of a member of the armed forces or the merchant marine residing with or accompanying said member or overseas citizen. Any elector meeting criteria of advanced age or disability specified by rule or regulation of the Secretary of State may request in writing on one application a ballot for a primary as well as for any runoffs resulting therefrom. If not so requested by such person a separate and distinct application shall be required for each primary, run-off primary, election, and run-off election. Notwithstanding the foregoing, a separate and distinct application for an absentee ballot shall be required of the presidential preference primary held pursuant to Article 5 of *O.C.G.A.* § 21-2-381 and for any special election or special primary.

### **Section 2-207 Elector Identification**

1. Each elector shall present proper identification to a poll worker at or prior to completion of a voter's certificate at any polling place and prior to such person's admission to the enclosed space at such polling place. Proper identification shall consist of any one of the following:
  - A. A Georgia driver's license which was properly issued by the appropriate state agency;
  - B. A valid Georgia voter identification card issued under *O.C.G.A.* §21-2-417.1 or other valid identification card issued by a branch, department, agency, or entity of the State of Georgia, any other state, or the United States authorized by law to issue personal identification, provided that such identification card contains a photograph of the elector;
  - C. A valid United States passport;
  - D. A valid employee identification card containing a photograph of the elector and issued by any branch, department, agency, or entity of the United States government, this state, or any county, municipality, board, authority, or other entity of this state;
  - E. A valid United States military identification card, provided that such identification card contains a photograph of the elector; or
  - F. A valid tribal identification card containing a photograph of the elector.
2. Except as provided in Section 2-207.3, if an elector is unable to produce any of the items of identification listed in Section 2-207.1, he or she shall be allowed to vote a provisional ballot pursuant to *O.C.G.A.* Section 21-2-418 upon swearing or affirming that the elector is the person identified in the elector's voter certificate. Such provisional ballot shall only be counted if the registrars are able to verify current and valid identification of the elector as provided in Section 2-207.1 within the time period for verifying provisional ballots pursuant to *O.C.G.A.* Section 21-2-419. Falsely swearing or affirming such statement under oath shall be punishable as a felony, and the penalty shall be distinctly set forth on the face of the statement.
3. An elector who registered to vote by mail, but did not comply with *O.C.G.A.* Section 21-2-220(c), and who votes for the first time in this state shall present to the poll workers either one of the forms of identification listed in subsection Section 2-207.1 or a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of such elector. If such elector does not have any of the forms of identification listed in this subsection, such elector may vote a provisional ballot pursuant to *O.C.G.A.* Section 21-2-418 upon swearing or affirming that the elector is the person identified in the elector's voter certificate. Such provisional ballot shall only be counted if the registrars are able to verify current and valid identification of the elector as provided in this subsection within the time period for verifying provisional ballots pursuant to *O.C.G.A.* Section 21-2-419. Falsely swearing or affirming such statement under oath shall be punishable as a felony, and the penalty shall be distinctly set forth on the face of the statement.

**Article III. CANDIDATES**

**Section 2-301 Notice of Candidacy, Name on Ballot**

1. **Filing.** Each candidate desiring to have his name placed on the ballot for an office to be filled in a municipal, general, or special election shall file personally, or by his agent, notice of his candidacy in the manner and accompanied by the documents and information required below.
  - A. Each candidate or a designee shall file a notice of candidacy in the office of the municipal superintendent of such candidate's municipality during the municipality's qualifying period. Each municipal superintendent shall designate the days of the qualifying period, which shall be no less than three days and no more than five days. The days of the qualifying period shall be consecutive days. Qualifying periods shall comply with the following:
    - (1) In the case of a general election held in an odd-numbered year, the municipal qualifying period shall commence no earlier than 8:30 a.m. on the second Monday in September immediately preceding the general election and shall end no later than 4:30 p.m. on the following Friday.
    - (2) In the case of a general election held in an even-numbered year, the municipal qualifying period shall commence no earlier than 8:30 a.m. on the last Monday in August immediately preceding the general election and shall end no later than 4:30 p.m. on the following Friday; and
    - (3) In the case of a special election, the municipal qualifying period shall commence no earlier than the date of the call and shall end no later than 25 days prior to the election.The hours of qualifying each day shall be from 8:30 a.m. until 4:30 p.m. with one hour allowed for the lunch break; provided, however that municipalities which have normal business hours which cover a lesser period of time shall conduct qualifying during normal business hours for each such municipality. Except in the case of a special election, notice of the opening and closing dates and the hours for candidates to qualify shall be published at least two weeks prior to the opening of the qualifying period..
2. **Designation of Office Sought.** In the event a candidate seeks one (1) of two (2) or more public offices of the Town, each having the same title and to be filled at the same election by the vote of the same electors, charter or ordinance provisions shall govern whether such candidate shall designate the specific office he is seeking. If required to designate the specific office, the candidate shall name his incumbent or give other appropriate designation. Such designation shall be entered on the ballot and ballot labels in such manner that in the ensuing primary or election such candidate shall only oppose the other candidate or candidates, if any, designating the same specific office.

**Section 2-302 Notice of Candidacy, Write-in Vote**

1. No person elected on a write-in-vote shall be eligible to hold office unless notice of his or her intention of candidacy was filed and published no earlier than January 1 and no later than the Tuesday after the first Monday in September prior to the election for county, state, and federal elections; no later than seven (7) days after the close of the municipal qualifying period for municipal elections in the case of a general election; no earlier than January 1 and no later than the Tuesday after the first Monday in June in the case of a nonpartisan election for a state or county office which was not covered by a local Act of the General Assembly on July 1, 2001, which provided for election in a nonpartisan election without a prior nonpartisan primary; no later than the third Monday in July in the case of a nonpartisan election for a state or county office which was not covered by a local Act of the General Assembly on July 1, 2001, which provided for election in a nonpartisan election without a prior nonpartisan primary held in the even-numbered year immediately following the official release of the United States decennial census data to the states for the purpose of redistricting of the legislatures and the United States House of Representatives; or at least twenty (20) or more days prior to a special election by the person to be a write-in candidate or by some other person or group of persons qualified to vote in the subject election, as follows:
  - A. In a state general or special election, notice shall be filed with the Secretary of State and published in a paper of general circulation in the state;
  - B. In a general or special election of county officers, notice shall be filed with the superintendent of elections in the county in which he or she is to be a candidate and published in the official organ of the same county; or

- C. In a municipal general or special election, notice shall be filed with the superintendent and published in the legal organ of the municipality holding the election.
2. In addition to the requirements contained in subsection 1. of this section, the person or persons giving notice of intention of candidacy for a write-in candidate shall also file, with the appropriate official specified in paragraph A., B. or C. of subsection 1. of this section, a copy of the notice as published with an affidavit stating that the notice has been published and including the name of the newspaper and the date of publication, not later than the fifth day after the deadline for filing and publishing such notice. The affidavit may be made by the person giving notice of intention of candidacy or by the publisher of the newspaper in which the notice was published or by an employee of the newspaper designated by the publisher.
  3. No person shall be eligible as a write-in candidate in a special or general primary, a special or general primary runoff, or in a special or general election runoff.
  4. No person shall be eligible as a write-in candidate in a general or special election if such person was a candidate for nomination or election to the same office in the immediately preceding primary.

The Secretary of State or appropriate municipal official shall certify to the election superintendent of each county affected at least ten (10) days prior to the general or special election the names of all persons who have filed notices of intention to be write-in candidates with the Secretary of State or appropriate municipal official.

### **Section 2-303 Qualifying Fees**

1. The Mayor and Council, not later than February 1 of any year in which a general primary, nonpartisan primary, or general election is to be held, and at least thirty five (35) days prior to the special primary or election in the case of a special primary or special election, shall fix and publish a qualifying fee for each county or municipal office to be filled in the upcoming primary or election. Such fee shall be three percent (3%) of the total gross salary of the office paid in the preceding calendar year including all supplements authorized by law if a salaried office; provided, however, that for the offices of clerk of the superior court, judge of the probate court, sheriff, tax commissioner, and magistrate, the qualifying fee shall be three percent (3%) of the minimum salary provided by general law for the office, exclusive of cost-of-living increases and longevity increases. If not a salaried office, a reasonable fee shall be set by the Mayor and Council, such fee not to exceed three percent (3%) of the income derived from such office by the person holding the office for the preceding year or more than thirty-five dollars (\$35.00) for a municipal office.
2. Qualification fees paid to the superintendent of a municipality:
  - A. If the person qualified as a candidate of a political body, fifty percent (50%) shall be transmitted to the state executive committee of the appropriate political body and fifty percent (50%) shall be retained by the superintendent of the municipality; and
  - B. If the person qualifies as an independent or nonpartisan candidate, the superintendent of the municipality shall retain the entire amount of the fees.

Such fees shall be transmitted as soon as practicable by the superintendent of the Town of Braselton, to be applied toward the cost of holding the election.

### **Section 2-304 Campaign Financing Disclosure**

Campaign finance disclosure shall be filed with the Georgia Government Transparency and Campaign Disclosure Committee pursuant to O.C.G.A §21-5-34.

## **Article IV. VOTING**

### **Section 2-401 Election Officials**

1. **Appointment.** The following election officials shall be appointed by the Mayor and Town Council and shall receive such compensation as is provided by same:
  - A. Municipal Election Superintendent
  - B. Chief Manager
  - C. Two (2) Assistant Managers

- D. Clerks, as necessary
- 2. **Qualifications and Powers.** The Municipal Election Superintendent and all poll officers shall meet such qualifications and exercise all such powers and duties as are provided in Title 21 of the *O.C.G.A.*

**Section 2-402 Election Districts**

Each municipal election district shall constitute a separate precinct. The Mayor and Council in which precincts are located may divide or redivide any precinct so as to suit the convenience of the electors and to promote the public interests. All voting precincts which are established or altered after April 15, 1994 must conform with the following requirements.

- 1. All voting precincts established or altered on or April 15, 1994, shall consist of areas which are bounded on all sides only by:
  - A. Visible features which are readily distinguishable upon the ground (such as streets, railroad tracks, streams, lakes, and ridges) and which are indicated upon official Department of Transportation maps, current census maps, town or county planning maps, current census maps, town or county planning maps, official municipal maps, official county maps, or any combination of such maps;
    - (1) The boundaries of public parks;
    - (2) The boundaries of public school grounds;
    - (3) The boundaries of churches; or
  - B. The boundaries of counties and incorporated municipalities.
- 2. The Mayor and Council shall notify the board of registrars within ten days after such changes are adopted.
- 3. The Mayor and Council shall file with the Secretary of State:
  - A. A map reflecting any changes in precincts within 20 days after the changes are made;
  - B. A copy of any communications to or from the United States Department of Justice relating to any precincts within 20 days after such communication is sent or received;
  - C. A copy of any pleading initiating a court action potentially affecting any precincts within 30 days after it is filed;
  - D. A copy of any court order affecting any precincts within 20 days after it is entered; and
  - E. Any other documentation necessary to allow the Secretary of State to maintain a current listing of all precincts in the state.

**Section 2-403 Polling Places**

The polling place within the precinct shall be the Braselton Police and Municipal Court Building located at 5040 Highway 53. (*Amended January 16, 2007*)

**Section 2-404 Date of Election**

All general municipal elections to fill municipal offices shall be held biennially in odd-numbered years on the Tuesday next following the first Monday in November.

**Section 2-405 Reserved**

**Section 2-406 Absentee Ballots**

Absentee ballots shall be used in all municipal elections, and such use shall be governed by the provisions of Chapter 21 of the *O.C.G.A.*

**Section 2-407 Vote Required for Election**

Candidates for nomination for any public municipal office in any primary, and candidates for any public municipal office in any election shall be nominated or elected by a majority of the votes cast to fill such nomination or public office. Plurality shall mean the receiving by one candidate alone of the highest number of votes cast.

Where no candidate receives a majority of the votes cast, a run-off primary or election shall be held between the candidates receiving the two highest numbers of votes. In the case of a general primary or general election, such runoff shall

be held on the twenty-first day after the day of holding the first primary or election, unless such run-off date is postponed by court order. In the case of a special primary or special election, such runoff shall be held not earlier than the fourteenth day and not later than the twenty-first day after the holding of the first special primary or special election, on a date specified by ordinance or resolution, unless such run-off date is postponed by court order.

**Section 2-408 Contested Elections**

1. **Petition of Contest.** Any person wishing to contest the results of a primary or election shall file a petition with the Town Clerk within five (5) days after the results of the election are certified to the Mayor and Town Council, which petition shall set forth in writing one (1) or more of the following grounds:
  - A. Malconduct, fraud or irregularity by any election official sufficient to change or place in doubt the results;
  - B. When the defendant is ineligible for the nomination or office in dispute;
  - C. Illegal votes received, or legal votes rejected, sufficient to change or place in doubt the result;
  - D. An error in counting the votes or in declaring the result of an election, if such error would change the result; or
  - E. Any other cause which shows that another was the person legally nominated, elected, or eligible to compete in a run-off primary or election.
2. **Notice and Hearing.** Upon the filing of the contest petition, a hearing shall be set before the Mayor and Town Council and written notice stating the time and place of the hearing and containing a copy of the contest petition shall be given to all affected candidates. The hearing will take place not less than ten (10) nor more than thirty (30) days after service of the notice upon the affected candidates, and shall be conducted in an informal manner.
3. **Determination by Mayor and Town Council.** The Mayor and Town Council shall examine the qualifications of electors concerning their right to vote, order a recount of ballots, examine the registration lists, and perform such acts and conduct such examination as may be deemed necessary to determine the validity of a contest of an election, except that any member of the Mayor and Council included in the contest shall disqualify himself from judging the contest.
4. **Appeal.** The final determination of the Mayor and Town Council may be appealed to the Jackson County Superior Court in the manner of appeal from a court of probate, except that such appeal shall be made within ten (10) days after determination of the contest by the Mayor and Town Council.

## CHAPTER 3: ADMINISTRATION

### ARTICLE I. IN GENERAL

#### Section

- 3-101 Exercise of Governmental Authority
- 3-102 Code of Ethics
- 3-103 Administrative Policy and Procedures
- 3-104 Oaths
- 3-105 Bonds
- 3-106 Compensation

### ARTICLE II. THE MAYOR AND TOWN COUNCIL GENERALLY

- 3-201 Election
- 3-202 Qualifications for Office
- 3-203 Vacancies
- 3-204 Meetings
- 3-205 Rules for the Conduct of Business
- 3-206 Legislative Authority Generally

### ARTICLE III. THE MAYOR

- 3-301 General Authority
- 3-302 Duties

### ARTICLE IV. THE MANAGER

- 3-401 General Authority
- 3-402 Duties
- 3-403 Term of Office

### ARTICLE V. THE TOWN CLERK AND TREASURER

- 3-501 Election
- 3-502 Term of Office
- 3-503 Bond
- 3-504 Duties of the Town Clerk
- 3-505 Duties of the Town Treasurer
- 3-506 Compensation

### ARTICLE VI. OFFICERS AND EMPLOYEES

- 3-601 The Town Attorney
- 3-602 Public Officers and Employees - Labor Practices; Strikes by Public Employees Prohibited
- 3-603 Personnel Policy
- 3-604 Drug and Alcohol Free Workplace Policy

### ARTICLE VII. MUNICIPAL PROPERTY

- 3-701 Motor Vehicles



**Article I. IN GENERAL**

**Section 3-101 Exercise of Governmental Authority**

In addition to the other powers which it may have, the governing body of any municipal corporation shall have the following powers, under this chapter, relating to the administration of municipal government:

1. The power to establish municipal offices, agencies, and employments;
2. The power to define, regulate, and alter the powers, duties, qualifications, compensation, and tenure of all municipal officers, agents, and employees, provided that the members of the municipal governing body shall not have the right to fix or change their own terms or the terms of their successors, nor to alter their own salaries or compensation, except pursuant to the authority of *O.C.G.A. § 36-35-4*, nor to alter such duties or responsibilities as are specifically given to a particular elective official by charter;
3. The power to authorize any of the offices, agents, and employees of the municipal corporation to serve, in any manner prescribed by applicable law; any process, summons, notice, or order on all persons, as defined in *O.C.G.A. § 1-3-3* therein named, when:
  - A. The paper to be served rises out of or relates to an activity or condition conducted or maintained by such person within the territorial jurisdiction of the municipal corporation in violation of an applicable law or ordinance; and
  - B. The paper to be served originates in or is issued under the authority of the department or branch of municipal government employing such officer, agent, or employee.

Where any such paper names one or more persons who reside outside the territorial jurisdiction of the municipal corporation, the several sheriffs, marshals, and constables of the several counties of this state are authorized and directed to serve any such paper and make appropriate return of such service by them, as other process is served and returned, on such named persons residing in their respective jurisdictions, upon receipt of a written request to make such service, for the fees allowed for service of process issued by the superior courts of this state;

4. The power to establish merit systems, retirement systems, and insurance plans for all municipal employees and to establish insurance plans for school employees of independent municipal systems and to provide the method or methods of financing such systems and plans;
5. The power to contract with any state department or agency or any other political subdivision for joint services or the exchange of services; to contract with such agencies or subdivisions for the joint use of facilities or equipment; and to contract with any state agency or political subdivision to perform any service or execute any project for such agency or subdivision in which the municipal corporation has an interest;
6. The power to legislate, regulate, and administer all matters pertaining to absentee voting in municipal elections; and
7. The power to grant franchises to or make contracts with railroads, street railways, or urban transportation companies, electric light or power companies, gas companies, steam-heat companies, telephone and telegraph companies, water companies, and other public utilities for the use and occupancy of the streets of the Town, for the purpose of rendering utility services, upon such conditions and for such time as the Mayor and Council of the municipal corporation may deem wise and subject to the Constitution and the general laws of this state.

**Section 3-102 Code of Ethics**

1. **Purpose.** The purpose of this code of ethics is to:
  - A. Encourage high ethical standards in official conduct by town officials;
  - B. Establish guidelines for ethical standards of conduct for all such officials by setting forth those acts or actions that are incompatible with the interest of the town;
  - C. Require disclosure by such officials of private financial or other interest in matters affecting the town; and
  - D. Serve as a basis for disciplining those who refuse to abide by its terms.

2. **Scope.** The provisions of this code of ethics shall be applicable to all elected or appointed town officials.

Notwithstanding anything herein to the contrary, state law and the charter of the town shall be controlling in the event of an actual conflict with the provisions of this code of ethics. This article shall be interpreted to supplement, and not replace, said provisions of state law and the charter.

3. **Definitions.** Solely for the purpose of this code of ethics:

- A. Town official or official, unless otherwise expressly defined does not include town employees but does mean the mayor, members of the town council, municipal court judges (including substitute judges), town manager, town clerk, town attorney, and all other persons holding positions designated by the town charter, as amended. The term "town official" also includes all individuals, including town employees, appointed by the mayor and/or town council as appropriate to town authorities, agencies, commissions, committees, boards, task forces, or other bodies which can or may vote or take formal action or make official recommendations to the mayor and/or town council. By way of example and not limitation, the following individuals fall under the purview of this article: Planning Commission members; Zoning Board of Appeals members; Urban Redevelopment Agency members.
- B. Decision means any ordinance, resolution, contract, franchise, formal action or other matter voted on by the town council or other town board or commission, as well as the discussions or deliberations of the council, board, or commission which can or may lead to a vote or formal action by that body.
- C. Employee means any person who is a full-time or part-time employee of the town.
- D. Immediate family means the spouse, mother, father, grandparent, brother, sister, son or daughter of any town official related by blood, adoption or marriage. The relationship by marriage shall include in-laws.
- E. Incidental interest means an interest in a person, entity or property which is not a substantial interest as defined herein and which has insignificant value.
- F. Remote interest means an interest of a person or entity, including a town official, which would be affected in the same way as the general public. For example, the interest of an official in the property tax rate, general town fees, town utility charges or a comprehensive zoning ordinance or similar matters is deemed remote to the extent that the official would be affected in common with the general public.
- G. Substantial interest means an interest, either directly or through a member of the immediate family, in another person or entity, where:
- (1) the interest is ownership of five percent or more of the voting stock, shares or equity of the entity.
  - (2) the funds received by the person from the other person or entity during the previous 12 months either equal or exceed (a) \$5,000.00 in salary, bonuses, commissions or professional fees, or \$5,000.00 in payment for goods, products or services, or (b) ten percent of the recipient's gross income during that period, whichever is less;
  - (3) the person serves as a corporate officer or member of the board of directors or other governing board of a for-profit entity other than a corporate entity owned or created by the town council; or
  - (4) The person is a creditor, debtor, or guarantor of the other person or entity in an amount of \$5,000.00 or more.
- H. **Prohibitions.**
- (1) No town official shall use such position to secure special privileges or exemptions for himself or herself or others, or to secure confidential information for any purpose other than official duties on behalf of the town.
  - (2) No town official, in any matter before the council or other town body, relating to a person or entity in which the official has a substantial interest, shall fail to disclose for the record such interest prior to any discussion or vote or fail to recuse himself/herself from such discussion or vote as applicable.
  - (3) No town official shall act as an agent or attorney for another in any matter before the town council or other town body.
  - (4) No town official shall directly or indirectly receive, or agree to receive, any compensation, gift, reward, or gratuity in any matter or proceeding connected with, or related to, the duties of his office except as may be provided by law.
  - (5) No town official shall enter into any contract with, or have any interest in, either directly or indirectly, the town except as authorized by state law.

- (a) This prohibition shall not be applicable to the professional activities of the town attorney in his or her work as an independent contractor and legal advisor on behalf of the town.
  - (b) This prohibition shall not be applicable to an otherwise valid employment contract between the town and a town official who is not elected (such as, by way of example, a town manager, town administrator or chief of police).
  - (c) Any official who has a proprietary interest in an agency doing business with the town shall make that interest known in writing to the town council, Town Manager, and Town Clerk.
- (6) All public funds shall be used for the general welfare of the people and not for personal economic gain.
  - (7) Public property shall be disposed of in accordance with state law.
  - (8) No town official shall solicit or accept other employment to be performed, or compensation to be received, while still a town official if the employment or compensation could reasonably be expected to impair such official's judgment or performance of town duties.
  - (9) If a town official accepts or is soliciting a promise of future employment from any person or entity who has a substantial interest in a person, entity or property which would be affected by any decision upon which the official might reasonably be expected to act, investigate, advise, or make a recommendation, the official shall disclose the fact to the town council and shall recuse himself/herself and take no further action on matters regarding the potential future employer.
  - (10) No town official shall use town facilities, personnel, equipment or supplies for private purposes, except to the extent such are lawfully available to the public.
  - (11) No town official shall grant or make available to any person any consideration, treatment, advantage or favor beyond that which it is the general practice to grant or make available to the public at large.
  - (12) A town official shall not directly or indirectly make use of, or permit others to make use of, official information not made available to the general public for the purpose of furthering a private interest.
  - (13) A town official shall not use his or her position in any way to coerce, or give the appearance of coercing, another person to provide any financial benefit to such official or persons within the official's immediate family, or those with whom the official has business or financial ties amounting to a substantial interest.
  - (14) A town official shall not order any goods and services for the town without prior official authorization for such an expenditure. No town official shall attempt to obligate the town nor give the impression of obligating the town without proper prior authorization.
  - (15) No town official shall draw travel funds or per diem from the town for registration and/or attendance at meetings, seminars, training or other educational events and fail to attend such events without promptly reimbursing the town therefore.
  - (16) No town official shall attempt to unduly influence the outcome of a case before the Municipal Court of the Town of Braselton nor shall any town official engage in ex parte communication with a municipal court judge of the Town of Braselton on any matter pending before the Municipal Court of the Town of Braselton.

**4. Conflict of Interest**

- A. A town official may not participate in a vote or decision on a matter affecting an immediate family member or any person, entity, or property in which the official has a substantial interest.
- B. A town official who serves as a corporate officer or member of the board of directors of a nonprofit entity must disclose their interest in said entity to the mayor and council prior to participating in a vote or decision regarding funding of the entity by or through the town.
- C. Where the interest of a town official in the subject matter of a vote or decision is remote or incidental, the town official may participate in the vote or decision and need not disclose the interest.

**5. Board of Ethics**

- A. The Board of Ethics of the Town shall be composed of five (5) residents of the Town to be appointed as follows: the mayor and council members shall each designate one (1) qualified citizen to provide a pool of five (5) individuals who have consented to serve as a member of such Board of Ethics and who will be available for a period of two (2) years to be called upon to serve in the event a Board of Ethics is convened. The Town Clerk shall maintain a listing of these qualified citizens. Upon receipt of a properly verified complaint and timely forwarding of that complaint to the town official charged in the complaint, the Town

Attorney shall publicly draw names randomly from the listing of qualified citizens until three (3) members of the Board of Ethics have been appointed, provided however, if a council member is subject of such complaint, his/her appointed resident shall be disqualified from serving on the three person ethics panel for that respective complaint. Such Board will elect one of its members to serve as chair.

- B. All members of the Board of Ethics shall be residents of the town for at least one (1) year immediately preceding the date of taking office and shall remain a resident while serving on the Board.
- C. All members of the Board of Ethics shall serve a 2-year term.
- D. No person shall serve as a member of the Board of Ethics if the person has, or has had within the preceding one (1) year period, any interest in any contract or contracting opportunity with the town or has been employed by the Town.
- E. Members of the Board of Ethics with any permit or rezoning application pending before the town, or any pending or potential litigation against the town or any town official charged in the complaint shall be disqualified from serving on the Board of Ethics for that complaint. An alternate member of the Board of Ethics shall be selected in the same manner as the disqualified individual.
- F. The members of the Board of Ethics shall serve without compensation. The town council shall provide meeting space for the Board of Ethics and, subject to budgetary procedures and requirements of the Town, such supplies and equipment as may be reasonably necessary for the Board to perform its duties and responsibilities, including a disinterested member of the bar to act as an advisor/presiding officer if necessary.
- G. No person shall serve on the Board of Ethics who has been convicted of a felony involving moral turpitude in this state or any other state, unless such person's civil rights have been restored and at least ten years have elapsed from the date of the completion of the sentence without a subsequent conviction of another felony involving moral turpitude.
- H. No person shall serve on the Board of Ethics who is less than 21 years of age, who holds a public elective office, who is physically or mentally unable to discharge the duties of a member of the Board of Ethics, or who is not qualified to be a registered voter in the Town of Braselton.
- I. Upon appointment, members of the Board of Ethics shall sign an affidavit attesting to their qualification to serve as a member of the Board of Ethics.
- J. Members of the Board of Ethics may be removed by majority vote of the Mayor and Council for cause including, but not limited to, failure to maintain any requirement for qualification to serve on the Board of Ethics.

**6. Receipt of Complaints**

- A. All complaints against town officials shall be filed with the town clerk. Complaints shall be reduced to writing and generally state the alleged violation(s). Upon receipt of a complaint in proper form, the town clerk or the clerk's designee shall forward a copy of the complaint to the town official or officials charged in the complaint within no more than seven (7) calendar days.
- B. All complaints shall be submitted and signed under oath, shall be legibly drawn and shall clearly address matters within the scope of this article.
- C. Upon receipt of a complaint in proper form, the Mayor, or in the event the complaint is in regards to the Mayor, the Mayor Pro Tem, shall appoint two non-interested council members along with the Town Attorney, which shall constitute an investigating committee to determine whether the complaint sets forth significant facts and circumstances so as to warrant a hearing before the Board of Ethics. This investigating committee is empowered to dismiss in writing complaints that it determines are unjustified, frivolous, patently unfounded or fail to state facts sufficient to invoke the disciplinary jurisdiction of the Town Council; provided, however, that a rejection of such complaint by the Board of Ethics shall not deprive the complaining party of any action such party might otherwise have at law or in equity against the town official. Complaints that are not dismissed, shall be forwarded to the Board of Ethics, who is empowered to collect evidence and information concerning any complaint and add the findings and results of its investigations to the file containing such complaint.
- D. The Board of Ethics is empowered to conduct investigations, to take evidence, and to hold hearings to address the subject matter of a complaint.
- E. The Board of Ethics is empowered to adopt forms for formal complaints, notices, and any other necessary or desirable documents within its jurisdiction where the town council has not prescribed such forms.
- F. Findings of the Board of Ethics shall be submitted to the Town Council for action.

- G. To discourage the filing of ethics complaints solely for political purposes, ethics complaints against a person seeking election as a town official, whether currently serving as a town official or not, which are filed between the date of qualifying for municipal office and the date of certification of the election results will be held and will not be processed until the election results for that office have been certified.
- 7. **Service of Complaint.** The town clerk or Board of Ethics as appointed herein set forth shall cause the complaint to be served on the town official charged as soon as practicable but in no event later than seven (7) calendar days after receipt of a proper, verified complaint. Service may be by personal service, by certified mail, return receipt requested or by statutory overnight delivery. A hearing shall be held within sixty (60) calendar days after filing of the complaint. The Board of Ethics shall conduct hearings in accordance with the procedures and regulations it establishes but, in all circumstances, at least one hearing shall include the taking of testimony and the cross-examination of available witnesses. The decision of the Board of Ethics shall be rendered to Mayor and Council within seven (7) calendar days after completion of the final hearing. At any hearing held by the Board of Ethics, the town official who is the subject of inquiry shall have the right to written notice of the hearing and the allegations at least seven (7) calendar days before the first hearing, to be represented by counsel, to hear and examine the evidence and witnesses and, to oppose or try to mitigate the allegations. The town official subject to the inquiry shall have also have the right but not the obligation of submitting evidence and calling witnesses. Failure to comply with any of time deadlines in this section of the article shall not invalidate any otherwise valid complaint or in any way affect the power or jurisdiction of the Board of Ethics or the town council to act upon any complaint.
- 8. **Right to Appeal**
  - A. Any town official or complainant adversely affected by the findings or recommendations of the Board of Ethics may obtain judicial review of such decision as provided in this Section.
  - B. An action for judicial review may be commenced by filing an application for a writ of certiorari in the Superior Court of Jackson County within thirty (30) days after the decision of the Board of Ethics. The filing of such application shall act as supersedeas.
- 9. **Penalty.** Any person violating any provision of this article is subject to:
  - A. Public reprimand or censure by the town council; or
  - B. Request for resignation by the town council.

*(Adopted April 14, 2009, Effective May 11, 2009)*

**Section 3-103 Administrative Policy and Procedures**

- 1. **Officers.** Each officer shall perform all duties required of his office by state law, the charter, and this code, and such other duties not in conflict therewith as may be required by the Town Manager.
- 2. **Department Heads.** All department heads shall:
  - A. Be immediately responsible to the Town Manager for effective administration of their respective department and all activities assigned thereto;
  - B. Keep informed as to the latest practices in their particular field and inaugurate, with the approval of the Town Manager, such new practices as appear to be of benefit to the service and to the public;
  - C. Submit monthly reports of the activities of their respective department to the Town Manager;
  - D. Establish and maintain a system of filing and indexing records and reports in sufficient detail to furnish all information necessary for proper control of departmental activities and to form a basis for the periodic reports to the Town Manager;
  - E. Have power, when authorized by the Town Manager, to appoint and remove, subject to personnel regulations, all subordinates under him; and
  - F. Be responsible for the proper maintenance of all Town property and equipment used in their respective departments.
- 3. **Departments.** Each department shall cooperate with every other department and shall furnish, upon the direction of the Town Manager, any other department such service, labor, and materials as may be requisitioned by the head of each department, as its own facilities permit.
- 4. **Records.** All municipal records, except those which by order of a state court or by law are prohibited from being open to public inspection, shall be open for personal inspection by any citizen of Georgia during the hours of operation of the administrative service herein below prescribed.

5. **Operation of Administrative Service.** All units in the administrative service shall:
- A. **Office Hours.** Be open between the hours of 8:00 a.m. and 5:00 p.m. on weekdays and shall be closed on Saturday, Sunday, and legal holidays.
  - B. **Make Daily Deposit.** Make a daily deposit with the Town Treasurer or his/ her designee(s) of any monies received directly from public.
  - C. **Payment of Monies.** Pay out monies belonging to the Town only in the manner prescribed in the Town of Braselton Financial Policies as adopted by the Town.

**Section 3-104 Oaths**

The town council shall hold an organizational meeting on the Thursday before the second Monday of January, or as otherwise practical, of each year. The meeting shall be called to order and the oath of office shall be administered to the newly elected members as follows:

"I do solemnly (swear) (affirm) that I will faithfully perform the duties of (mayor) (council member) of the Town of Braselton and that I will support and defend the charter thereof as well as the Constitution and laws of the State of Georgia and of the United States of America. So Help Me God."

**Section 3-105 Bonds**

Except as otherwise provided by law, the Mayor and Town Council may require any department head, Town official, or employee, before entering upon the discharge of his duties to give good and sufficient bond in any amount decided by the Mayor and Town Council. Said bond shall be payable to the Town of Braselton for the faithful performance of said duties and to secure against corruption, malfeasance, misappropriation, or unlawful expenditures in office. Said surety bonds shall be obtained from a surety company licensed to do business in the State of Georgia and approved by the Mayor and Town Council. The premiums thereon shall be paid by the Town.

**Section 3-106 Compensation**

Each officer and employee of the Town shall receive such compensation as be provided from time to time by resolution.

**Article II. THE MAYOR AND TOWN COUNCIL GENERALLY**

**Section 3-201 Election**

The members of the town council elected pursuant to this charter shall serve for terms of four years and until their respective successors are elected and qualified unless otherwise provided by law.

For the purpose of electing town council members, the Town of Braselton shall be divided into four voting districts, with one town council member elected from each district. The mayor shall be elected from the town at large.

Only a resident of a particular council voting district may qualify for election from such district and shall be elected by a majority of the voters voting only in such district, and each town council member shall continue to reside in the district from which he or she was elected during his or her term of office. The mayor shall be a resident of the Town of Braselton. Any town council member who moves his or her residence from the district from which he or she was elected shall be deemed to have vacated his or her office. There shall be no primary elections for mayor and town council members in the Town of Braselton and elections for mayor and town council members shall be nonpartisan.

**Section 3-202 Qualifications for Office**

No person shall be eligible to serve as mayor or council member unless he or she shall have been a resident of the town at least 180 days prior to the date of qualifying for mayor or council member; each shall continue to reside therein during his or her period of service and to be registered and qualified to vote in municipal elections of this town.

**Section 3-203      Vacancies**

In case of a vacancy in the office of mayor or Town council from failure to elect, death, removal, or any cause whatsoever, such vacancy shall be filled for the balance of the unexpired term by a special election ordered by the Town Council, provided, however, that if such vacancy occurs within six (6) months of the expiration of the term of that office such office shall remain vacant until filled at the municipal election occurring within those six (6) months. The special election shall be held and conducted in accordance with Chapter 3, Title 21 of the O.C.G.A.

**Section 3-204      Meetings**

1. **Open Meetings.** The public shall at all times be afforded access to all meetings other than executive sessions. Except as otherwise provided by law, all meetings of the Mayor and Council shall be open to the public. All votes at any meeting shall be taken in public after due notice of the meeting and compliance with the posting and agenda requirements.
2. **Regular Meetings.** The regular meetings of the mayor and council shall be held at the Police and Municipal Court Facility on the 2<sup>nd</sup> Monday of each month at 7:00 p.m. unless otherwise ordered by the Town Council; provided, that the Mayor may convene the Town Council whenever in his/her opinion, the public business requires it, and he/she shall do so upon the application of three (3) members of the Town Council. A notice containing the information described in this section shall be posted and maintained in a conspicuous place available to the general public at the regular meeting place facility. No official action may be taken on any issue at a work session.
3. **Called Meetings.** A called meeting may be scheduled by the mayor or at the request of three (3) council members. When any called meeting is to be held, the City will give due notice thereof, the posting of a written notice for at least 24 hours at the place of regular meetings and giving of written or oral notice at least 24 hours in advance of the meeting to the legal organ in which notices of sheriffs' sales are published in the County where regular meetings are held and, upon written request from any local broadcast or print media outlet whose place of business and physical facilities are located in the County, notice by telephone or facsimile to that requesting media outlet at least 24 hours in advance of the called meeting.
4. **Emergency Meetings.** When special circumstances occur and are so declared by the Mayor and Council at the meeting, they may hold a meeting with less than 24 hours notice upon giving such notice of the meeting and subjects expected to be considered at the meeting as is reasonable under the circumstances including notice to said legal organ or a newspaper having a general circulation in the County at least equal to that of the legal organ, in which event the reason for holding the meeting within 24 hours and the nature of the notice shall be recorded in the minutes. Any oral notice required or permitted by this subsection may be given by telephone.
5. **Executive Session.** Executive sessions of the mayor and council may be held for the purpose of conducting business excepted from public access requirements as authorized by O.C.G.A. §§ 50-14-2 and 51-14-3. Minutes of the executive session may be maintained by the town clerk at the direction of the mayor. Any such minutes shall be maintained in a confidential file and shall not be subject to disclosures, except that disclosures of such portions of minutes identifying real estate to be acquired by the mayor and council may only be delayed until such time as the acquisition of the real estate has been completed, terminated, or abandoned or court proceedings have been initiated. Voting on any issue shall not take place during a closed meeting but shall be done, if appropriate, in open session following the executive session.

When any meeting is closed to the public pursuant to Georgia Law, the specific reasons for such closure shall be entered upon the official minutes, the meeting shall not be closed to the public except by a majority vote of a quorum present for the meeting, the minutes shall reflect the names of the members present and the names of those voting for closure, and that part of the minutes shall be made available to the public as any other minutes. Where a meeting is devoted in part to matters within the exceptions provided by law, any portion of the meeting not subject to any such exception, privilege, or confidentiality shall be open to the public, and the minutes of such portions not subject to any such exception shall be taken, recorded, and open to public inspection as provided in Georgia Law.

Executive session minutes must be kept, but are confidential unless reviewed by a court in chambers. Any such minutes shall be maintained in a confidential file and shall not be subject to disclosures, except that disclosures of such portions of minutes identifying real estate to be acquired by the mayor and council may only be delayed

until such time as the acquisition of the real estate has been completed, terminated, or abandoned or court proceedings have been initiated. Voting on any issue shall not take place during a closed meeting but shall be done, if appropriate, in open session following the executive session. The executive session minutes will specify each issue discussed in executive session. If matters are discussed subject to the attorney-client privilege, the fact that an attorney-client discussion occurred and the subject shall be identified, but the substance of the discussion need not be recorded or identified in the minutes [§ 50-14-1(e)(2)(C)]. If a non-exempt topic is brought up in executive session, the Mayor must immediately rule the discussion out of order. If the non-exempt discussion continues, the Mayor must adjourn the meeting. When any meeting is closed to the public, the Mayor and Council shall execute and file with the official minutes of the meeting a notarized affidavit stating under oath that the subject matter of the meeting or the closed portion thereof was devoted to matters within the exceptions provided by law and identifying the specific relevant exception.

Criminal penalty for violation of the Sunshine Laws is up to \$1000. However, the court, as an alternative, may impose civil penalties of up to \$1000 against a person violating the open meetings act. The penalties will increase to \$2500 for subsequent violations in the same calendar year.

6. **Agenda and Minutes.** A formal, written agenda, following the official order, shall be prepared in advance of each meeting. The meeting agenda will be available to the general public one (1) week in advance, and a notice containing such information will be posted and maintained in a conspicuous place available to the public at the regular meeting place of the Town. The agenda shall list all items to be considered at a particular meeting and briefly state what action is requested.

For specially called meetings, other than the regularly scheduled monthly meeting, the agenda shall consist only of the item or items specifically indicated as the purpose of the called meeting in accordance with the Open Meetings Act. Failure to include on the agenda an item which becomes necessary to address during the course of a meeting shall not preclude considering and acting upon such item.

A summary of the subjects acted on and those members present at a meeting shall be written and made available to the public for inspection within 2 business days of the adjournment of a meeting. The minutes of a meeting shall be promptly recorded and such records shall be open to public inspection once approved as official by the agency, but in no case later than immediately following the next regular meeting, but nothing herein shall prohibit the earlier release of minutes, whether approved or not. Said minutes shall, at a minimum, include the names of the members present at the meeting, a description of each motion or other proposal made, and a record of all votes, who voted for and against.

Official minutes of the meetings shall be maintained in the Town Hall. Copies of contracts, maps, or similar material or documents related to actions taken may be included in the minutes or incorporated by reference to an alternate location. Where incorporated by reference, such documents shall be stored in a central location or locations identified by ordinance or resolution.

### Section 3-205 Rules for the Conduct of Business

Except as otherwise provided in this section, Roberts' Rules of Order shall govern the conduct of Town council meetings.

1. **Call to Order.** All meetings of the Town Council shall be open to the public. The Mayor, or in his absence, the Mayor pro tempore, shall take the chair at the hour appointed for any regular, temporarily adjourned, special, or called meeting; and shall immediately call the Town council meeting to order.
2. **Roll Call.** Before proceeding with the business of the Town Council, the Town Clerk or his deputy shall call the roll of the members, and the names of those present shall be entered in the minutes.
3. **Quorum.** A majority of all the members elected to the Town Council shall constitute a quorum at any regular or special meeting of the Town Council and an affirmative vote of a majority of such number shall be sufficient to permit the conduct of all business except that for which a larger vote has been mandated by this code.
4. **Order of Business.** The Business of the Town Council shall be taken up for consideration and disposition in the following order:
  - A. call to order by presiding officer
  - B. approval of minutes of previous meeting

- C. citizen comments
  - D. announcements/reports
  - E. approval of the order of the agenda
  - F. consent agenda
  - G. voting agenda
  - H. other business
  - I. adjournment
5. **Reading of Minutes.** Unless a reading of the minutes of a Town council meeting is requested by a member of the Town Council, such minutes may be approved without a reading if the Town Clerk has previously furnished each member with a copy of thereof.
6. **Reports by Committees.** Any business coming before the Town Council may be referred to a special committee for investigation and report. It shall be the duty of special committee, whenever required by the Mayor to examine any matter referred to such committee, and make a report thereof at the next regular meeting of the Town Council, or show good cause why no report is made, such reports shall not be in writing unless so directed by the presiding officer.

Each special committee shall examine the matters within its jurisdiction, and make such reports and recommendations from time to time as may be necessary.

7. **Manner of Addressing Council.** No member, while the Town Council is in session, shall address the chair, and no member shall interrupt anyone who is speaking, except to call him to order or for explanation.
8. **Limitations on Addressing Town Council.** Any person not a member of Town Council who desires to address the Town Council shall first secure the permission of the presiding officer, and then shall step up in front of the rail, give his name and address in an audible tone of voice for the record, and direct his remarks to the Town Council as a body rather than to any particular member, limiting such remarks to two (2) minutes on matters which no public hearing was held unless additional time is granted by Town Council.
9. **Ordinances, Resolutions, Regulations, Contracts, and Inter-local Agreements.** Unless otherwise provided in this code, all ordinances, resolutions, contracts, and inter-local agreements of the Town shall be prepared, approved, introduced, and adopted in the following manner:
- A. **Preparation.** All ordinances shall be prepared or reviewed by the Town Attorney. No ordinance shall be prepared for presentation to the Town Council unless ordered by a majority vote of the Town Council, or requested in by the Mayor, Town Manager, or prepared by the Town Attorney on his own initiative.
  - B. **Administrative Staff Approval.** All ordinances, resolutions, and contract documents shall, before presentation to the Town Council, have been approved as to form and legality by the Town Attorney or his authorized representative, and shall have been examined and approved for administration by the Town Manager.
  - C. **Introduction and Adoption.**
    - (1) Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain a subject which is not expressed in its title. The enacting clause shall be "the Council of the Town of Braselton hereby ordains..." and every ordinance shall so begin.
    - (2) An ordinance may be introduced by any member of the Town Council and be read at a regular or special meeting of the Town Council. Upon introduction of any ordinance, the Town Clerk shall, as soon as possible, distribute a copy to the Mayor and to each member of the Town Council and shall file a reasonable number of copies in the office of the Town Clerk and at such other public places as the Town Council may designate.
    - (3) No ordinance shall be put on its final passage on the same day it is introduced.
    - (4) All ordinances shall have at least one reading prior to adoption.
    - (5) No ordinance shall relate to more than one (1) subject, which shall be clearly expressed in its title, and no ordinance, or section thereof, shall be amended or repealed unless the new ordinance contains the title of the ordinance or section amended or repealed, and when practicable all ordinances shall be introduced as amendments to this code.
    - (6) An ordinance, resolution, or contract shall be deemed, adopted, or rejected by the Town Council in accordance with the rules which the Town Council shall establish. Such ordinances adopted by the Town Council shall have the full force and effect of law.

- D. **Effective Date.** Except where applicable in Section 3-205 of this chapter or for a zoning amendment, all ordinances shall take effect on the calendar day following the date of adoption unless otherwise specified.
- E. **Emergencies.** To meet a public emergency affecting life, health, property, or public peace, the Town Council may convene on call of the Mayor or three (3) members of the Town Council and may promptly adopt an emergency ordinance, but such ordinance shall not levy taxes; grant, renew, or extend a franchise; regulate the rate charged by any public utility for its services; or authorize the borrowing of money except for loans to be repaid within thirty (30) days. An emergency ordinance shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing the emergency in clear and specific terms. An emergency ordinance may be adopted, with or without amendment, or rejected at the meeting at which it is introduced, but the affirmative vote of at least (3) members of the Town Council shall be required for adoption. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance shall automatically stand repealed thirty (30) days following the date upon which it was adopted, but this shall not prevent reenactment of the ordinance in the manner specified in this section if the emergency continues to exist. An emergency ordinance shall also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.
10. **Recording Vote.** Whenever any member shall request it the yeas and nays of the members present shall be recorded on the minutes on any question taken. In any event, minutes shall be recorded and written so that it can be determined whether any member voted yea, nay, or abstained from voting on any question taken.
11. **Questions of Order.** The presiding officer shall decide all questions of order, but any council member who is dissatisfied with the decision may appeal to the Town Council in the manner provided by Roberts' Rules of Order for appealing from decisions of presiding officers.
12. **Elections.** All elections by the Town Council shall be by ballot, and a majority vote of the whole Town Council shall be necessary to an election.
13. **Executive Session.** The Town Council may, at any time, upon call therefore by the presiding officer or upon motion duly carried by a council member, meet in executive session. Attendance at such sessions shall be limited to the Mayor and members of Town Council and such invites as shall be invited with the unanimous consent of the Mayor and Town Council.

### Section 3-206 Legislative Authority Generally

The Town Council shall exercise the legislative functions of the Town, and may pass any ordinance or resolution that deems best for the government of the Town in the manner set forth in this chapter; provided that same is not in conflict with the charter of the Town, the Constitution or laws of the State of Georgia, or the Constitution or laws of the United States.

## Article III. THE MAYOR

### Section 3-301 General Authority

The Mayor shall be the chief executive and administrative officer of the Town government, shall enforce the laws of the Town, and shall require the faithful performance of all administrative duties.

### Section 3-302 Duties

1. The mayor shall:
  - A. Preside at all meetings of the town council;
  - B. Be at the head of the town for the purpose of service of process and for ceremonial purposes and be the official spokesman for the town and the chief advocate of policy;
  - C. Have the power to administer oaths and to take affidavits;
  - D. Sign as a matter of course on behalf of the town all written and approved contracts, ordinances, and other instruments executed by the town which by law are required to be in writing or designate an alternate;
  - E. Vote on matters before the town council, make a respective motion, and be counted toward a quorum as any other council member; and
  - F. Fulfill such other duties as the town council shall by ordinance establish.

**Article IV. THE MANAGER**

**Section 3-401 General Authority**

The town council shall appoint a town manager who shall be the chief administrative officer of the town and manage and direct the daily operations of the town government in accordance with local ordinances, bylaws, and with policies prescribed by the town council. The town manager shall direct the administrative activities of the town; act as focal point for strategic planning, programming, and budgeting; supervise all town employees; serve as a liaison among the town staff and governing body; assist the general public; and serve on any boards or committees.

**Section 3-402 Duties**

1. Discipline, suspend, or remove all employees, excluding the police chief, as further provided by this charter or state law. The manager may designate said authority to the head of a department or office regarding their subordinates;
2. Appoint and hire, when necessary for the good of the town, all employees to fill a vacancy or approved position, provided that the town council shall appoint and hire the police chief. The town manager shall make a recommendation regarding such position;
3. Prepare the annual operating and capital budget and any other budget and submit same to the town council and be responsible for administration of same;
4. Prepare and submit to the town council, as of the end of the fiscal year, a complete report on the finances and administrative activities of the town for the preceding year;
5. See that all laws, ordinances, and policies are duly enforced; and
6. Perform other such duties as may be required by the town council, not inconsistent with the town charter, law, or ordinances.

The town manager’s duties and responsibilities may be further defined or provided by a class specification or job description or as assigned or designated by the town council or employment contract.

**Section 3-403 Term of Office**

The town manager shall serve at the pleasure of the town council and may be suspended or removed by a vote of three council members.

**Article V. THE TOWN CLERK AND TREASURER**

**Section 3-501 Election**

The Town Council shall at its first regular meeting after election and qualification appoint a town clerk who shall not be a council member.

**Section 3-502 Term of Office**

The Town Clerk shall hold office at the pleasure of the Mayor and Council. The same person may hold the offices of Town Clerk, Town Treasurer and Town Manager.

**Section 3-503 Bond**

Before entering upon the duties of his office, the Town Clerk shall give a good and sufficient bond, payable to the Town Council, such bond to be fixed and approved by the Town Council.

**Section 3-504 Duties of Town Clerk**

The Town Clerk shall have the following duties in his capacity as Town Clerk:

1. The town clerk shall be custodian of the official town seal, maintain town council records required by this charter, and perform such other duties as may be required by the town council.
2. To attend all meetings of the Town Council;
3. To keep correct and full minutes of the proceedings of Town Council together with all ordinances and resolutions passed by it, in a properly indexed book or register kept for that purpose;
4. To receive all applications or petitions made to the Town and to place them before the Mayor and Town Council at the meeting of the Town Council next succeeding the receipt thereof;
5. To carefully preserve the records and documents belonging to the Town which are not assigned to the custody of some other office, and to maintain a proper index to all such records and documents so that ready access thereto and use thereof may be had.

**Section 3-505 Duties of Town Treasurer**

The Town Treasurer shall have the following duties in his capacity as Town Treasurer:

1. To receive all money due the Town Council, including taxes, licenses, fees, and other moneys belonging to the Town and pay out the same only upon orders passed by the Town Council and approved by the Mayor, or in his absence, the Mayor pro tempore;
2. To keep a book of accounts showing all money received on behalf of the Town and the source and disposition thereof, which book shall be open for inspection by the public and members of the Town Council;
3. To maintain a uniform system of accounts and keep such other records and accounts as may be required by statute or ordinance;
4. To furnish the Town Council with quarterly statements detailing all receipts and payments of funds for the quarter; and
5. To enforce all laws of Georgia relating to the collection of delinquent taxes and sale or foreclosure for nonpayment of taxes to the Town.
6. The Town Manager may designate an employee or employees to assist the Treasurer in the execution of his/her duties, to insure timely and efficient collection and disbursement of public funds, to insure segregation of financial responsibilities as required by law, to insure best management practices, to implement the financial policies of the Town or for any other good and sufficient reason.

**Section 3-506 Compensation**

The Town Manager shall provide for the compensation of the Town Clerk and Treasurer.

**Article VI. OFFICERS AND EMPLOYEES**

**Section 3-601 The Town Attorney**

1. **Appointment and Qualifications.** The Town Attorney shall be appointed by the Mayor, by and with the advice and consent of the Town Council, and shall serve until a successor is appointed and has qualified. No person shall be so appointed unless he is a member in good standing of the State Bar of Georgia and has been actively engaged in the practice of law for at least three (3) years preceding his appointment.
2. **Oath.** Before entering upon the duties of his office, the Town Attorney shall take the oath prescribed by this code for Town officers.
3. **Powers and Duties.** The Town Attorney shall be the legal advisor and representative of the Town and in such capacity shall:
  - A. Advise the Town Council or its committees or any Town officer, when thereto requested, upon all legal questions arising in the conduct of Town business;
  - B. Prepare or revise ordinances when so requested by the Town Council or any committee thereof, and keep the code of ordinances of the Town up-to-date and properly indexed;
  - C. Give his opinion upon any legal matter or question submitted to him by the Town Council, or any of its committees, or by any Town officer;
  - D. Attend all meetings of the Town Council as directed for the purpose of giving the Town Council any legal advice requested by its members;

- E. Prepare for execution all contracts and instruments to which the Town is a party and approve, as to form, all bonds required to be submitted to the Town;
  - F. Assist in the hiring of solicitors to prepare, when authorized by the Town Council, all charges and complaints against, and appear in the Municipal Court in the prosecution of every person charged with a violation of this code or Town charter, and see to the full enforcement of all judgments or decrees rendered or entered in favor of the Town;
  - G. Represent and defend any and all suits and actions at law or equity brought against the Town, unless otherwise directed by the Town Council;
  - H. Make immediate reports to the Mayor and Town Council of all pending litigation in which the Town has an interest and the status thereof;
  - I. Make an annual report to the Mayor and Town Council of all pending litigation in which the Town has an interest and the status thereof;
  - J. Have the power to adjust, settle, compromise or submit to arbitration, any action, causes of action, accounts, debts, claims, demands, disputes, and matters in favor of or against the Town or in which the Town is concerned as debtor or creditor, now existing or which may hereafter arise not involving or requiring payment to exceed a sum so designated by the Mayor and Council;
  - K. Keep complete and accurate records of the following, which records shall forever remain the property of the Town:
    - (1) all suits in which the Town had or has an interest, giving the names of the parties, the nature of the action, the disposition of the case or its status, if pending, and the briefs of counsel; and
    - (2) all written opinions prepared by the Town Attorney and all certificates or abstracts of titles furnished by him to the Town, or any department or official thereof.
  - L. Render such other legal services as may be required by the Mayor or Town Council.
4. **Compensation.** The Town Attorney shall submit to the Town Council a monthly bill for his services, itemizing the type of work performed for the Town and the number of hours engaged in each type of work during the month.

**Section 3-602 Public Officers and Employees - Labor Practices; Strikes by Public Employees Prohibited**

- 1. As used in this section, the term:
  - A. **Public Employee.** Any person holding a position by appointment or employment in the government of this state or any person holding a position which provides essential public services without which the public health, safety, welfare, or morals would be without which the public health, safety, welfare, or morals would be endangered, by appointment or employment in the government of a county, municipality, school system, or other political subdivision of this state or in any agency, authority, board, commission, or public institution of this state or political subdivision thereof.
  - B. **Public Employment.** The appointment or employment in the government of this state or the government of a county, municipality, school system, or other political subdivision of this state or in any agency, authority, board, commission, or public institution of this state or political subdivision thereof.
  - C. **Strike.** The failure to report for duty, the willful absence from one's position, the stoppage or deliberate slowing down of work, or the withholding in whole or in part of the full, faithful, and proper performance of the duties of employment for the purpose of inducing, influencing, or coercing change in the conditions, compensation, rights, privileges, or obligations of public employment; provided, however, that nothing in this article shall limit or impair the right of any public employee to express or communicate a complaint or opinion on any matter related to the conditions of public employment so long as the same is not designed to and does not interfere with the full, faithful, and proper performance of the duties of employment.
- 2. No public employee shall promote, encourage, or participate in any strike. Provided, however, that no right to collective bargaining currently recognized by law is abridged by this act.
- 3. No person exercising any authority, supervision, or direction over any public employee shall have the power to authorize, approve, or consent to a strike by one or more public employees; and such person shall not authorize, approve, or consent to such strike.
- 4. Any public employee who violates Code Section 45-19-2 shall be deemed to have terminated his or her employment; shall forfeit his or her civil service status, job rights, seniority, and emoluments, if any; and subsequent to such violation shall not be eligible for appointment or reappointment or employment or

preemployment in public employment for a period of three (3) years after such violation except upon the following conditions:

- A. His or her direct or indirect compensation shall in no event exceed that received by him or her immediately prior to the time of such violation;
  - B. His or her direct or indirect compensation shall not be increased for three (3) years after such subsequent appointment or reappointment or employment or preemployment; and
  - C. He or she shall be on probation for period of five (5) years following such appointment or reappointment or employment or preemployment, during which period he or she shall serve without tenure and at the pleasure of the appointing or employing officer of body.
5. Any person who is not a public employee and who shall knowingly incite, agitate, influence, coerce, persuade, or picket to urge a public employee to strike shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by imprisonment not to exceed one year, or by a fine of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00) or both.

**Section 3-603      Employment Handbook**

The Town of Braselton Employment Handbook, September 2011, and as may be amended, is incorporated by reference as if full set out herein.

**Article VII.      MUNICIPAL PROPERTY**

**Section 3-701      Motor Vehicles**

Every motor vehicle which is owned or leased by any county, municipality, regional development center, county or independent school system commission, board, or public authority or which has been purchased or leased by any public official or public employee with public funds shall have affixed to the front door on each side of such vehicle a clearly visible decal or seal containing the name of or otherwise identifying such governmental entity. The requirements of *O.C.G.A.* § 36-89-1 shall not apply to: (1) any vehicle used for law enforcement or prosecution purposes; or (2) any vehicle owned or leased by a county or municipality expressly excepted from the provisions of *O.C.G.A.* § 36-89-1 by a resolution or ordinance adopted by the Mayor and Council following a public hearing on the subauthority of a county or municipality following a public hearing on the subauthority of a county or municipality following a public hearing on the subject held no more than fourteen (14) days prior to the adoption of the ordinance or resolution.

# CHAPTER 4: REVENUE AND FINANCE

## ARTICLE I. TAXES

### Section

- 4-101 Reserved
- 4-102 Malt Beverage Excise Tax
- 4-103 Wine Excise Tax
- 4-104 Distilled Spirits Excise Tax
- 4-105 Reserved
- 4-106 Distilled Spirits Sold by the Drink; Excise Tax
- 4-107 Reserved
- 4-108 Gross Direct Premiums Tax
- 4-109 Reserved
- 4-110 Hotel-Motel Excise Tax
- 4-111 Public Utility Franchise Tax
- 4-112 Local Option Sales Tax
- 4-113 Reserved
- 4-114 Municipal Tax Sales
- 4-115 Occupation Tax

## ARTICLE II. RESERVED

## ARTICLE III. BUDGET

- 4-301 Fiscal Year
- 4-302 Requirement of Annual Balanced Budget
- 4-303 Adoption of Budget Ordinances or Resolutions
- 4-304 Budget Officer
- 4-305 Procedures for Adoption of Budget
- 4-306 Form and Content of Budget
- 4-307 Adoption
- 4-308 Reserved
- 4-309 Budget Message
- 4-310 Amendments
- 4-311 Audits Required
- 4-312 Conduct of Audits
- 4-313 Contents of Audit Reports
- 4-314 Forwarding Audits to State Auditor
- 4-315 Public Inspection of Audits
- 4-316 Annual Report, Submitted to the Department of Community Affairs
- 4-317 Capital Program
- 4-318 Transfer of Appropriations
- 4-319 Emergency Appropriations
- 4-320 Lapse of Appropriations

## ARTICLE IV WATER AND SEWER REVENUE

- 4-401 Water and Sewer Revenue Account

## ARTICLE V TOWN STORAGE OF MOTOR VEHICLES

- 4-501 Fees for Town Storage of Motor Vehicle



**Article I. TAXES**

**Section 4-101 Reserved**

**Section 4-102 Malt Beverage Excise Tax**

1. See Section 32-201.37.B.

**Section 4-103 Wine Excise Tax**

1. See Section 32-201.37.A.

**Section 4-104 Distilled Spirits Excise Tax**

1. See Section 32-201.37.C.

**Section 4-105 Reserved**

**Section 4-106 Distilled Spirits Sold by the Drink; Excise Tax**

1. See Section 32-201.37.D.

**Section 4-107 Reserved**

**Section 4-108 Gross Direct Premiums Tax**

1. **Rate of Levy on Life, Accident, and Sickness Insurers.** There is hereby levied for the year 2012 and for each year thereafter an annual tax based solely upon gross direct premiums upon each insurer writing life, accident and sickness insurance within the State of Georgia in an amount equal to one percent (1%) of the gross direct premiums received during the preceding calendar year in accordance with O.C.G.A. Sec.33-8-8.1. Gross direct premiums as used in this section shall mean gross direct premiums as used in O.C.G.A. Sec. 33-8-4. The premium tax levied by this section is in addition to the license fees imposed by Section 32-204 of this Code.
2. **Rate of Levy on All Other Insurers.** There is hereby levied for the year 2012 and for each year thereafter an annual tax based solely upon gross direct premiums upon each insurer, other than an insurer transacting business in the class of insurance designated in subsection 1 of O.C.G.A. Sec.33-3-5, doing business within the State of Georgia in an amount equal to two and one-half percent (2.5%) of the gross direct premiums received during the preceding calendar year in accordance with O.C.G.A. Sec.33-8-8.2. Gross direct premiums as used in this section shall mean gross direct premiums as used in O.C.G.A. Sec.33-8-4. The premium tax levied by this section is in addition to the license fee imposed by Section 32-204 of this Code.
3. **Due Date and Required Report.** License fees imposed in Sections 1 and 2 of this Section shall be due and payable on the first day of 2012 and on the first date of each subsequent year.
4. **False Information.** It is hereby declared to be a violation of this section for any person, firm, corporation, or agents thereof to knowingly give false or incomplete information on any report herein required to be filed.
5. **Confidentiality of Information.** All reports required to be filed under this section shall be confidential and the information contained therein shall be used solely by the officers of the Town responsible for the administration of this section.
6. **Effective Date.** This section shall become effective January 1, 2012.

*(Adopted November 12, 2001; amended May 9, 2011 )*

**Section 4-109 Reserved**

## Section 4-110 Hotel-Motel Excise Tax

1. **Definitions.** The following words, terms, and phrases, when used in this section, shall have the meanings ascribed to them below, except when the context clearly indicates a contrary meaning:
  - A. **Due Date.** Unless otherwise authorized by the Mayor and Town Council, the due date for hotel-motel excise taxes shall be the twentieth (20th) day after the close of each monthly period for which tax is to be computed. Notwithstanding the foregoing, the Mayor and Town Council may, upon application of a person that keeps financial records on a basis other than monthly, permit, in their discretion, such person to calculate and remit such taxes based on the person's accounting period, provided that (i) such taxes are remitted to the Town within (20) days of the end of the person's accounting period, (ii) such accounting period does not exceed five (5) weeks with respect to the filing and remittance of taxes, and (iii) at the beginning of the fiscal year, the person files with the Town its end dates for the person's fiscal year.
  - B. **Guest Room.** A room occupied, or intended, arranged, or designed for occupancy, by one or more occupants for the purpose of living quarters or residential use.
  - C. **Hotel.** Any structure or any portion of a structure, including any lodging house, rooming house, dormitory, Turkish bath, bachelor hotel, studio hotel, motel, motor hotel, auto court, inn, public club, or private club containing guest rooms and which is occupied, or is intended or designed for occupancy, by guests, whether rent is paid in money, goods, labor, or otherwise. Such term does not include any jail, hospital, asylum, sanitarium orphanage, prison, detention center, or other building in which human beings are housed and detained under legal restraint.
  - D. **Occupant.** Any person who, for a consideration, uses, possesses, or has the right to use or possess any room in a hotel under any lease, concession, permit, right of access, license, or use, or other agreement, or otherwise.
  - E. **Occupancy.** The use or possession, or the right to the use or possession of any room or apartment in a hotel, or the right to the use or possession of the furnishings or to the services and accommodations accompanying the use and possession of the room.
  - F. **Operator.** Any person operating a hotel in this Town including, but not limited to, the owner or proprietor of such premises, lessee, sublessee, lender in possession, licensee, or any other person otherwise operating such hotel.
  - G. **Permanent Resident.** Any occupant as of a given date who has or shall have occupied or has or shall have right of occupancy of any guest room in a hotel for at least ten (10) consecutive days.
  - H. **Person.** An individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, nonprofit corporation or cooperative nonprofit membership, estate, trust, business, trust, receiver, trustee, syndicate, or any other group or combination acting as a unit, the plural as well as the singular number, excepting the United States of America, the State of Georgia, and any political subdivision of either thereof upon which the Town is without power to impose the tax herein provided.
  - I. **Rent.** The consideration received for occupancy valued in money, whether received in money or otherwise, including all receipts, cash, credits, and property or services of any kind or nature, and also the amount for which credit is allowed by the operator to the occupant, without any deduction therefrom whatsoever.
  - J. **Return.** Any return filed or required to be filed as herein provided.
2. **Purpose.** Excise taxes collected by the municipality shall be used for the purposes of promoting, attracting, stimulating, and developing conventions and tourism in the counties and municipalities and for the provision of other local government services.
3. **Rate of Levy.** There is hereby set and levied on each occupant of a guest room of any hotel located within the corporate limits of this municipality a tax in amount of five percent (5 %) of the rent for such occupancy. The tax herein imposed shall be paid upon any occupancy occurring on or after the 20th of each month, although such occupancy is had pursuant to a contract, lease, or other agreement entered into prior to such date.

No tax shall be levied as provided in this section upon the fees or charges for any rooms, lodgings, or accommodations furnished for a period of more than ten (10) consecutive days or for use as meeting rooms. No tax shall be levied as provided in this section upon the fees or charges for any rooms, lodgings, or accommodations furnished for a period of one (1) or more days for use by Georgia state or local government

officials or employees when traveling on official business. Except as provided in O.C.G.A. § 48 13 51, no tax levied pursuant to this section shall be levied or collected at a rate exceeding six percent (6%) of the charge to the public for the furnishings. (Amended July 1, 2002)

4. **Collection of Tax by Operator.** It shall be the duty of every operator of a hotel located within the municipality to collect the tax on occupants herein above imposed.
5. **Exemption.** Notwithstanding any other provision of this section, no tax shall be imposed hereunder upon a permanent resident.
6. **Registration of Operator.** Every person engaging in or about to engage in business as an operator of a hotel in this Town shall immediately register said business with the Town Clerk or their designee, on a form provided by the Town Clerk or their designee, for such purpose. Persons engaged in such business must register no later than thirty (30) days after the date this section becomes effective; but such grace period for registration after the effective date of the tax shall not relieve any person from the obligation of payment or collection of such tax on and after the date of imposition thereof. The required registration hereunder shall set forth the name which the operator transacts business or intends to transact business, the location of his place or places of business, and such other information as would facilitate the collection of the tax by the Town Treasurer or their designee. The registration shall be signed by the owner if a natural person; by a member or partner in case of ownership by association or partnership; or by an officer in the case of ownership by a corporation.
7. **Separate Registration.** Separate registration shall be required for each place of business of an operator.
8. **Certificate of Taxing Authority.** Upon the registration of an operator as herein above provided, the Town Clerk shall issue to such operator without charge a certificate of authority to collect the tax on occupants. Each certificate shall state the name and location of the business to which it relates.
9. **Due Date and Required Report.** All taxes levied by this section shall be due and payable to the Town Clerk monthly on or before the twentieth (20th) day of every month next succeeding each respective month in which such taxes are collected, and payment shall be accompanied by a return for the preceding monthly period showing the gross rent, rent from permanent residents, taxable rent, and amount of tax collected or otherwise due for the period, and such other information as may be required by the Town Clerk.
10. **Collection Fee Allowed Operators.** Each person collecting the tax authorized by this article shall be allowed a percentage of the tax due and accounted for and shall be reimbursed in the form of a deduction in submitting, reporting, and paying the amount due if the amount due is not delinquent at the time of payment. The rate of the deduction shall be the same rate authorized for deductions from the state sales and use tax under Article 1, Chapter 8 of the O.C.G.A.
11. **Determination If No Return Made.** If any hotel operator fails to file a return as required under the provisions of this section, the Town Treasurer shall make an estimate of the amount of gross rentals of such operator which the period or periods in which the operator failed to file the return and shall be based upon any information which is or may come into the possession of the Town Treasurer.
  - A. **Notice of Determination.** The Town Treasurer or his designated representative shall give to the hotel operator written notice of his determination as herein provided. The notice may be served personally or by mail; if by mail, such service shall be addressed to the operator at his address as it appears in the records of the Town Treasurer. Service by mail is complete when delivered by Certified Mail with a receipt signed by the addressee.
  - B. **Interest on Amount Found Due.** The amount of the determination made hereunder shall bear interest at the rate of five percent (5%) per month, or fraction thereof, from the twentieth (20th) day of the month following the monthly period for which the amount or any portion thereof should have been returned until the date of payment.
12. **Required Records.** Each hotel operator collecting a tax under the provisions of this section shall keep for a period of at least three (3) years all records, receipts, invoices, and other pertinent papers setting forth the rental charged for each occupancy, the date or dates of occupancy, and such other information as the Town Clerk may require.
13. **Administration and Enforcement.** The Town Treasurer shall administer and enforce the provisions of this section for the collection of the tax herein imposed and, in so doing, shall have the following powers:
  - A. To examine, or authorize the examination of, the books, papers, records, financial reports, equipment, and other facilities of and operator renting guest rooms to persons subject to the tax, in order to verify the accuracy of any return made, or if no return is made by the operator, to ascertain and determine the amount required to be paid;

- B. To require the filing of reports by any person or persons having in his or their possession or custody information relating to rentals of guest rooms which are subject to the tax herein levied; and
  - C. To allow a credit on any amount due and payable from persons who paid the tax herein levied but were erroneously or illegally subjected thereto.
14. **Action for Collection of Tax.** At any time within three (3) years after any tax or any portion of such tax required to be collected becomes due and payable, the Town Attorney may bring an action in a court of competent jurisdiction in the name of the Town to collect such amount due together with interest, court fees, filing fees, attorney's fees, and other legal fees incident thereto.
15. **Successors or Assignees of Operator.** If any hotel operator becomes liable for any amount required to be paid by this section and subsequent thereto sells out his business or quits the business, the successors or assignees of such operator shall withhold a sufficient amount of the purchase price to cover such amount due. In the event said purchaser of the business fails to withhold the required amount, he shall become personally liable therefor to the extent of the purchase price.
16. **Penalties.** Any operator or other person who fails to register as required herein, or who fails to furnish any return required to be made, or who fails or refuses to furnish a supplemental return or other data required by the Town Treasurer, or who renders a false or fraudulent return shall be deemed guilty of an offense and upon conviction therefor shall be punished as for other violations of the municipal Code.

NOTE: See Section 1-109 of this Code.

17. **Annual Report.** Each county or municipality imposing a tax as authorized by this section shall, as a condition of continuing authorization to impose the tax, annually file with the Department of Community Affairs a report specifying the rate of taxation and amounts collected and expended pursuant to this article. Such report shall be filed in such form and at such times as may be specified by rule of the Department of Community Affairs.

NOTE: See O.C.G.A. § 48 13 54 pertaining to state parks and O.C.G.A. § 48 13 55 pertaining to charitable trusts or functionally related businesses.

*(Adopted May 12, 2005)*

**Section 4-111 Public Utility Franchise Tax**

1. **Rate of Levy.** This is hereby set and levied on each electric light and power company, gas company, telephone and telegraph company, water company, cable television company, internet provider and any other public utility making use of the streets, alleys, or other public ways or places in the Town of Braselton for the purposes of rendering utility services, a franchise tax in the amount of five percent (5%) of the annual gross revenue received from residential commercial, and industrial sales, unless otherwise specified by Council action or Georgia law.
2. **Franchise fee for state issued cable or video franchise.** The Town hereby requires a franchise fee of 5% of gross revenues generated within the Town for any cable or video state franchise issued in its corporate boundaries by the State of Georgia. *(Amended February 11, 2008)*
3. **Authorized designee.** The Town hereby authorizes the Town Manager or his/her designee, upon receipt of notice to the Town of its right to designate a franchise fee for an applicant for or holder of an existing state franchise, to provide written notice to the Secretary of State and each applicant for or holder of a state franchise within a service area that is wholly or partially located within the Town limits of the five percent (5%) franchise fee rate applicable to such applicant or holder of a state franchise. *(Amended February 11, 2008)*
4. **Due Date and Required Report.** Unless otherwise authorized by the Mayor and Town Council, the public utility franchise tax shall be paid on or before the twentieth (20th) day of the month following the calendar month in which the utility was provided and the sale was made, and payment by a report showing the volume of gross sales by service classification (residential, commercial, industrial) for said preceding month. Notwithstanding the foregoing, the Mayor and Town Council may, upon application of a person that keeps financial records on a basis other than monthly, permit, in their discretion, such person to calculate and remit such taxes based on the person's accounting period, provided that (i) such taxes are remitted to the Town within twenty (20) days of the end of the person's accounting period, (ii) such accounting period does not exceed five (5) weeks with respect

to the filing and remittance of taxes, and (iii) at the beginning of its fiscal year, the person files with the Town its end dates for the person's fiscal year.

(Adopted April 12, 1999; amended February 11, 2008)

**Section 4-112 Local Option Sales Tax**

The Town Council is authorized to levy a local option sales tax in accordance with O.C.G.A. § 48-8-85.

**Section 4-113 Reserved**

**Section 4-114 Municipal Tax Sales**

1. **Time, Place, and Manner of Sale.** The time, place, and manner of the sale of property, both real and personal, for taxes due this municipality shall be the same as that provided by law for sheriffs' sales for state and county taxes.
2. **Sale by Parcels.** When not impracticable, all property sold for municipal taxes shall be so offered for sale that the smallest amount that will bring the amount of taxes and costs shall alone be sold.
3. **Purchase by Town.** The Town Clerk shall attend all sales of property for taxes due the Town and in the event no one person bids for the property put up to be sold as much as the tax due thereon, the Town Clerk shall place a bid for such property for the Town and, if the bid is accepted, take custody of the deed for the Town. No property so purchased by the Town shall ever be sold by the Town except at a public sale thereof to the highest bidder.
4. **Redemption of Property Sold for Taxes.** Any person whose property is sold in obedience to an execution issued for the collection of municipal taxes shall have such rights of redemption of said property as are set forth in Chapter 4, Title 48 of the O.C.G.A. and any other provisions of law not inconsistent therewith.

**Section 4-115 Occupation Tax**

1. **Occupation Tax Required; Occupation Tax Required for business Dealing in the Town**
  - A. For the year 1995 and succeeding years thereafter, each person engaged in any business, trade, profession, or occupation in Braselton, Georgia, whether with a location in Braselton 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 occupation tax for said business, trade, profession, or occupation; which tax and any applicable registration shall be displayed in a conspicuous place in the place of business, if the taxpayer has a permanent business location in Braselton, Georgia, such business tax registration shall be shown to the Town Clerk or his/her designee or to any police officer said, Braselton, Georgia, upon request.
2. Construction of Terms; Definitions
  - A. As used in this section, the term:
    - (1) *Administrative fee* means a component of an occupation tax which approximates the reasonable cost of handling and processing the occupation tax.
    - (2) *Dominant line* means the type of business, within a multiple-line business, that the greatest amount of income is derived from.
    - (3) *In towns or cities* means within one (1) mile of villages, towns, or cities.
    - (4) *Location of office* shall include any structure or vehicle where a business, profession, or occupation is conducted, but shall not include a temporary or construction work site which serves a single customer or project or a vehicle used for sales or delivery by a business or practitioner of a profession or occupation which has a location or office.
    - (5) *Occupation Tax* means a tax levied on persons, partnerships, corporations, or other entities for engaging in an occupation, profession, or business and enacted by a local government as a revenue-raising ordinance or resolution.
    - (6) *Regulatory fees* means payments, whether designated as license fees, permit fees, or by another name, which are required by local government as an exercise of its police power and as a part of or as an aid to regulation of an occupation, profession, or business. The amount of a regulatory fee shall approximate the reasonable cost of the actual regulatory activity performed by the local

government. A regulatory fee may not include an administrative fee. Regulatory fees do not include development impact fees as defined by paragraph (8) of Code Section 36-71-2 or other costs or conditions of zoning or land development.

- (7) *Person* shall be held to include sole proprietors, corporations, partnerships, nonprofits, or any other form of business organization, but specifically excludes charitable nonprofit organizations which utilize fifty percent (50%) of their proceeds for charitable purposes.
- (8) *Practitioner* of profession or occupation is one who by state law requires state licensure regulating such profession or occupation. Practitioners of profession and occupation shall not include a practitioner who is an employee of a business, if the business pays an occupation tax.
- (9) *Employee* means an individual whose work is performed under the direction and supervision of the employer and whose employer withholds FICA, federal income tax, or state income tax from such individual's compensation or whose employer issues to such individual for purposes of documenting compensation a form I.R.S. W-2 but not a form I.R.S. 1099.
- (10) *Gross Receipts* means total revenue of the business or practitioner for the period, including without being limited to the following:
  - (a) Total income without deduction for the cost of goods sold or expenses incurred;
  - (b) Gain from trading in stocks, bonds, capital assets, or instruments of indebtedness;
  - (c) Proceeds from commissions on the sale of property, goods, or services;
  - (d) Proceeds from fees charged for services rendered; and
  - (e) Proceeds from rent, interest, royalty, or dividend income.

Gross receipts shall not include the following:

- (a) Sales, use, or excise taxes;
- (b) Sales returns, allowances, and discounts;
- (c) Interorganizational sales or transfers between or among the units of a parent subsidiary controlled group of corporations, as defined by 26 U.S.C. Section 1563(a)(1), between or among the units of a brother-sister controlled group of corporations, as defined by 26 U.S.C. Section 1563(a)(2), or between or among wholly owned partnerships or other wholly owned entities;
- (d) Payments made to a subcontractor or an independent agent;
- (e) Governmental and foundation grants, charitable contributions, or interest income derived from such funds, received by a nonprofit organization which employs salaried practitioners otherwise covered by this chapter, if such funds constitute eighty percent (80%) or more of the organization's receipts; and
- (f) Proceeds from sales to customers outside the state.

### **3. Administrative and Regulatory Fee Structure; Occupation Tax Structure**

- A. A non-prorated, non-refundable administrative fee of fifteen dollars (\$15.00) shall be required on all business and occupation tax accounts for the initial start-up, renewal, or reopening of those accounts. *(Amended September 13, 2004)*
- B. A regulatory fee will be imposed as provided under O.C.G.A. § 48-13-9 on those applicable businesses. A regulatory fee may not include an administrative fee.
- C. The regulatory fee schedule for persons in occupations and professions is to be determined by the Mayor and Council.
- D. Taxes for businesses that do not begin operation until September 1 or later in any calendar year shall only pay one-half of applicable taxes for said year.

### **4. Occupation Tax Levied; Restrictions.**

- A. An occupation tax shall be levied upon those businesses and practitioners and occupations with one or more locations or offices in the corporate limits of the Town and upon the applicable out-of-state businesses with no location or office in Georgia pursuant to O.C.G.A. § 48-13-7 based upon the following criteria:
  - (1) The number of employees of the business or practitioner.
- B. Occupation Tax Schedule.
  - (1) Number of employees - The tax rate determined by number of employees for each business, trade, profession, or occupation is as follows will be developed and updated from time to time by the

Town clerk's office. This rate is based on the maximum number of employees associated with each business.

<u>Number of Employees</u>	<u>Rate</u>
0-2	\$70.00
3-6	\$100.00
7-10	\$130.00
11-20	\$160.00 plus \$5.00 for each employee under 11
21-50	\$275.00 plus \$4.00 for each employee over 21
51-100	\$400.00 plus \$3.50 for each employee over 51
101 - 200	\$600.00 plus \$3.50 for each employee over 101
201 – 300	\$900.00 plus \$3.50 for each employee over 201
301 – 400	\$1,250.00 plus \$3.50 for each employee over 301
401 and up	\$1,500.00 plus \$3.50 for each employee over 401

Each applicant is also subject to a fifteen dollar (\$15.00) administrative fee. (See Section 4-115.3.A) *(Amended September 13, 2004)*

- C. No export tax shall be imposed upon any item manufactured or produced in this state and shipped by the manufacturer or producer for sale outside the state.
  - D. No county, municipality, or district shall levy or collect any capitation tax whatsoever, except street tax.
  - E. It shall be unlawful for the state or any county, municipality, airport authority, district, or other political subdivision to levy or collect a tax, fee, head charge, or other charge, directly or indirectly, on:
    - (1) Persons traveling in air commerce, whether on regularly scheduled commercial airlines, chartered air flights, or in privately owned civil aircraft;
    - (2) The carriage of persons traveling in air commerce; or
    - (3) The sale of air transportation or on the gross receipts derived from air transportation.
- 5. Paying Occupation Tax of Business with No Location in Georgia.**
- A. The Mayor and Council is authorized to provide by local ordinance or resolution for the levy, assessment, and collection of occupation tax on those businesses and practitioners of professions and of such a local ordinance or resolution if the business or practitioner:
    - (1) Has one or more employees or agents who exert substantial efforts within the corporate limits for the purpose of soliciting business or serving customers or clients; or
    - (2) Owns personal or real property which generates income and which is located in the corporate limits.
  - B. This section supersedes any provisions of local law or Town charter authorizing such taxes.
  - C. Local governments levying occupation tax according to section 4-115.5.A shall comply with O.C.G.A. § 48-13-10 through 48-13-13, except that: gross receipts of a business or practitioner or purposes of this Code section shall include only those gross receipts reasonably attributable to sales or services in this state; employees shall include only those employees engaged in substantial efforts within this state; and nation-wide profitability ratios shall apply only to types of business transacted within this state.
  - D. Businesses and practitioners subject to § 4-115-5.A shall be required to pay occupation tax to only one (1) local government in this state, the local government for the municipal corporation or county in which the largest dollar volume of business is done or service is performed by the individual business or practitioner.

- E. If a business or practitioner subject to § 4-115.5.A provides to the local government in this state which is authorized to levy occupation tax on such business or practitioner proof of payment of a local business or occupation tax in another state which purports to tax the business's or practitioner's sales or services in this state, the business or practitioner shall be exempt from local occupation tax in this state.
6. **Business With One or More locations in Georgia.**
- A. Except as to those businesses and practitioners of professions and occupations excluded by subsection (a) of O.C.G.A. Section 48-13-16, the Mayor and Council is authorized but not required to provide by local ordinance or resolution for the levy, assessment, and collection of occupation tax on those businesses and practitioners of professions and occupations which have one more locations or offices within the corporate limits and to provide for the punishment of violation of such a local ordinance or resolution. The Mayor and Council is authorized to provide local ordinance or resolution for requiring information from businesses and practitioners of professions and occupations doing business within the corporate limits regarding the site of any location or office and payment of occupation taxes or regulatory fees to other local governments and to provide for the punishment for violation of such a local ordinance or resolution. This section supersedes any provision of local law or Town charter authorizing such taxes.
- B. After the effective date of this Act, any local government shall conduct at least one (1) public hearing before adopting any ordinance or resolution regarding the occupation tax.
7. **Each line of Business to Be Identified on Business Registration.** The business registration of each business operated in the Town shall identify the dominant lines of business that the business conducts. No business shall conduct any line of business without first having that line of business registered with the Town Clerk's Office and that line of business being noted by the Town Clerk upon the business registration form which is to be displayed by the business owner. Except as authorized by O.C.G.A. §48-6-93, no business license tax, fee, franchise, or occupation tax shall be levied on any depository financial institution.
8. **The Number of Businesses Considered to Be Operating in the Town.** Where a person conducts business at more than one (1) fixed location, each location or place shall be considered a separate business for the purpose of occupation tax.
9. **Professionals As Classified in O.C.G.A. § 48-13-9( c), Paragraphs 1 through 18.** Practitioners of professions as described in O.C.G.A. § 48-18-9(c)(1) through (18) shall elect as their entire occupation tax one of the following:
- A. The occupation tax based on Number of Employees.
- B. A fee of one hundred dollars (\$100.00) per practitioner who is licensed to provide the service, such tax to be paid at the practitioner's office or location; provided, however, that a practitioner paying according to this paragraph shall not be required to provide information to the local government relating to the gross receipts of the business or practitioner. The per-practitioner fee applies to each person in the business who qualifies as a practitioner under the state's regulatory guidelines and framework.
- C. This election is to be made on an annual basis and must be done prior to January 1 each year.
10. **Practitioners Exclusively Practicing for a Government.** Any practitioner whose office is maintained by and who is employed in practice exclusively by the United States, the state, a municipality or county of the state, instrumentalities of the United States, the state, or a municipality or county of the state shall not be required to obtain a license or pay an occupation tax for that practice.
11. **Purpose and Scope of Tax.** The occupation tax levied herein is for revenue purposes only and is not for regulatory purposes, nor is the payment of the tax made a condition precedent to the practice of any such profession, trade, or calling. The occupation tax only applies to those businesses and occupations which are covered by provisions of O.C.G.A. §§ 48-13-5 to 48-13-26. All other applicable businesses and occupations are taxed by the local government pursuant to the pertinent general and/or local law and ordinance.
12. **When tax Due and Payable; Effect of Transacting Business When Tax Delinquent.**
- A. Each such occupation tax shall be for the calendar year 1995 and succeeding calendar years thereafter unless otherwise specifically provided. Said registration and occupation tax shall be payable as provided in Section 32-106 for renewals and shall, if not provided by due date be subject to penalties for delinquency as prescribed in this section. On any new profession, trade, or calling begun in the Town in 1995 or succeeding years thereafter, the registration and tax shall be delinquent if not obtained immediately upon beginning business and a twelve percent (12%) penalty imposed. The tax registration herein provided for shall be issued by the Town Clerk's Office and if any person, firm, or corporation whose duty it is to obtain a registration shall, after said registration or occupation tax becomes delinquent, transact or offer to transact, in Braselton, any of the kind of profession, trade, or calling subject to this section without having first obtained said registration, such offender shall, upon conviction by the

- Municipal Court Judge, be punished by a fine not to exceed one hundred dollars (\$100.00), or imprisonment not to exceed thirty (30) days, either or both at the discretion of the presiding judge.
- B.** In addition to the above remedies, the Town may proceed to collect in the same manner as provided by law for tax executions.
- 13. Exemption on Grounds That Business is Operated for Charitable Purposes.** No business on which a business registration or occupation tax is levied by this section shall be exempt from said registration or tax on the ground that such business is operated for a charitable purpose, unless fifty-one percent (51%) or more of the entire proceeds from said business are devoted to such purpose.
- 14. Evidence of State Registration Required If Applicable; State Registration to Be Displayed.**
- A.** Each person who is licensed by the Secretary of State pursuant to Title 43 of the O.C.G.A. shall provide evidence of proper and correct state license before the Town registration may be issued.
- B.** Each person who is licensed by the state shall post the state license in a conspicuous place in the licensee's place of business and shall keep the license there at all times while the license remains valid.
- 15. Evidence of Qualification Required If Applicable.** Any business required to obtain health permits, bonds, certificates of qualification, certificates of competency, or any other regulatory matter shall first, before the issuance of a Town business registration, show evidence that such requirements have been met.
- 16. Liability of Officers and Agents; Registration Required; Failure to Obtain.** All persons subject to the occupation tax levy pursuant to this section 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 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, any of the kinds of business, trade, profession, or occupation without first having so obtained said registration, shall be subject to penalties provided thereof.
- 17. When Registration and Tax Due and Payable; Effect of Transacting Business When Tax Delinquent.**
- A.** 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. Every person commencing business in the Town 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 any business, trade, profession, or occupation without first having obtained said registration shall be subject to the penalties provided in section 4-115.18. Said penalties shall be in addition to all other penalties, civil and criminal herein provided; and may be collected by the remedies herein provided for collection of the occupation tax, and shall have the same lien and priority as the occupation tax to which the penalty is applied.
- B.** The registration herein provided for shall be issued by the Town Clerk's Office, and if any person, firm, or corporation whose duty it is to obtain a registration shall, after said occupation tax becomes delinquent, transact or offer to transact, in the Town, any of the kind of business, trade, profession, or occupation without having first obtained said registration, such offender shall be subject to the penalties provided thereof.
- 18. Penalty.** Any person violating any provisions of this ordinance shall, upon conviction before the Town judge, be fined in an amount not exceeding one hundred dollars (\$100.00) or imprisonment not exceeding thirty (30) days, either or both, in the discretion of the Municipal Court Judge.
- 19. Subject to regulatory fees.** The following businesses or practitioners of professions or occupations may be subject to regulatory fees of local governments, but are expressly not limited to, the following:
- A.** Building and construction contractors, subcontractors, and workers;
- B.** Carnivals;
- C.** Taxicab and limousine operators;
- D.** Tattoo artists;
- E.** Stables;
- F.** Shooting galleries and firearm ranges;
- G.** Scrap metal processors;
- H.** Pawnbrokers;
- I.** Food service establishments;
- J.** Dealers in precious metals;

- K. Firearms dealers;
  - L. Peddlers;
  - M. Parking Lots
  - N. Nursing and personal care for homes;
  - O. Newspaper vending boxes;
  - P. Modeling agencies;
  - Q. Massage parlors;
  - R. Landfills;
  - S. Auto and motorcycle racing;
  - T. Boarding houses;
  - U. Businesses which provide appearance bonds;
  - V. Boxing and wrestling promoters;
  - W. Hotels and Motels;
  - X. Hypnotists;
  - Y. Handwriting analysts;
  - Z. Health clubs, gyms, and spas;
  - AA. Fortunetellers;
  - BB. Garbage collectors;
  - CC. Escort services;
  - DD. Burglar and fire alarm installers; and
  - EE. Locksmiths.
- 20. Not Subject to Regulatory Fees.** Businesses and practitioners of professions and occupations which local governments are not authorized to subject to regulatory fees include, but are expressly not limited to, the following:
- A. Lawyers;
  - B. Physicians licensed under Chapter 34 of Title 43;
  - C. Osteopaths licensed under Chapter 34 of Title 43;
  - D. Chiropractors;
  - E. Podiatrists;
  - F. Dentists;
  - G. Optometrists;
  - H. Psychologists;
  - I. Veterinarians;
  - J. Landscape architects;
  - K. Land surveyors;
  - L. Practitioners of physiotherapy;
  - M. Public accountants;
  - N. Embalmers;
  - O. Funeral directors;
  - P. Civil, mechanical, hydraulic, or electrical engineers;
  - Q. Architects;
  - R. Marriage and family therapists, social workers, and professional counselors;
  - S. Dealers of motor vehicles, as defined in paragraph (1) of O.C.G.A. §10-1-622; and
  - T. Any other business, profession, or occupation for which state licensure or registration is required by state law, unless the state law regulating such business, profession, or occupation specifically allows for regulation by local governments.
- 21. Subpoena and Arrest Powers.** The Police Chief or Code Enforcement Officer, as authorized by the Municipal Court Judge, and his duly designated officers and inspectors or their successors shall be classified as Deputy Marshall-business inspectors with full subpoena and arrest powers in conjunction with any violation pertaining to this section for 1995 and succeeding years.
- 22. Business Not Covered.** The following businesses are not covered by the provisions of this Section but may be assessed an occupation tax or other type of tax pursuant to the provisions of other general laws of the State of Georgia or by local law:
- A. Those businesses regulated by the Georgia Public Service Commission.
  - B. Those electrical service businesses organized under Chapter 3 of Title 46 of the O.C.G.A.

- C. Any farm operation for the production from or on the land of agriculture products, but not including agribusiness.
  - D. Cooperative marketing associations governed by O.C.G.A. § 2-10-105.
  - E. Insurance companies governed by O.C.G.A. § 33-8-8, et seq.
  - F. Motor common carriers governed by O.C.G.A. § 46-7-15.
  - G. Those businesses governed by O.C.G.A. § 48-5-355.
  - H. Agricultural products and livestock raised in the state of Georgia governed by O.C.G.A. §48-5-356.
  - I. Depository financial institutions governed by O.C.G.A. § 48-6-93.
  - J. Facilities operated by a charitable trust governed by O.C.G.A. § 48-013-55.
- 23. Occupation Tax Inapplicable Where Prohibited by Law or Provided for Pursuant to Other Existing Law.** An occupation tax shall not apply to a business where such a levy is prohibited or exempted by the laws of Georgia or of the United States. This section shall not be construed to limit the City's ability to levy an occupation tax, registration fee, or regulatory fee for any business or practitioner of professions or occupations as authorized by other State Laws or local ordinances and not covered by O.C.G.A. 48-13-5 to 48-13-26.
- 24. When Occupation Tax Due and Payable.** The amount of occupation tax for renewals shall be payable to the said Town, at the Town Clerk's Office as provide in Section 32-106.
- 25. Payment of Occupation Tax by Newly Established Businesses.** In the case of a business subject to occupation tax for a calendar year, which was not conducted for any period of time in the corporate limits of the Town in the preceding year, the owner, proprietor, manager, or executive officer of the business liable for occupation tax shall estimate the number of employees from commencing date to the end of the calendar year and such tax shall be paid. Said tax due the Town shall be prorated based on a quarterly basis for any portion of the year yet remaining.
- 26. More than One Place or Line of Business.** Where a business is operated at more than one place or where the business includes more than one line, said business shall be required to obtain the necessary registration for each location and line and pay on occupation tax in accordance with the prevailing taxing method and tax rate for each location and line.
- 27. Transfers of Occupational Tax Certificate, Personnel.** No tax certificate may be transferred from one person to another. Additions to or deletions from the ownership of a business, which do not affect the liability of the principal ownership of a business for which the certificate is issued, may be made without canceling the old occupational tax certificate and applying for a new certificate.
- 28. Inspections of Books and Records.** In any case, the Town, through its officers, agents, employees, or representatives, may inspect the books of the business for which the returns are made to determine the accuracy of the return as herein provided. The Town shall have the right to inspect the books or records for the business of which the return was made in the Town, and upon the demand of the Town, such books or records shall be submitted for inspection by a representative of the Town within thirty (30) days. Failure of submission of such books or records within thirty (30) days shall be grounds or revocation of the tax registration currently existing to do business in the Town. Adequate records shall be kept in the Town for examination by the Town at its officer's discretion.
- 29. Effect of Failure to Comply with Section Provisions; Continuing in Business after Tax Registration Revocation.** Any persons, their managers, agents, or employees, who do business in said Town after the registration for said business has been revoked as above, hereby required to make occupation tax returns, and who fail to make said returns within the time and in the manner herein provided, who refuse to amend such returns so as to set forth the truth, or who shall make false returns; and any person, their managers, agents, or employees who refuse to permit an inspection or books in their charge when the officer, agents, employees, or representatives of the Town request such inspection, during business hours, for the purpose of determining the accuracy or the returns herein provided for, shall be subject to penalties provided herein. In the case of those practitioners where the local government cannot suspend the right of the practitioner to conduct business, the imposition of civil penalties shall be permitted and pursued by the local government as in the case of delinquent occupation tax. These penalties shall consist of a fine of one hundred dollars (\$100.00).
- 30. Lien Taken for Delinquent Occupation Tax.** In addition to the other remedies herein provided for the collection of the occupation tax herein levied, the Town, upon any tax or installment of said tax becoming delinquent and remaining unpaid, shall issue execution for the correct amount of said tax against the persons, partnership, or corporation liable for said tax, which said execution shall bear interest at the rate of twelve percent (12%) per annum from the date when such tax or installment becomes delinquent, 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 said Town and the laws of Georgia. The lien of said occupation tax shall become fixed on and dater from the date

when such tax or any installment thereof becomes delinquent. The execution shall be levied by the Police Chief or other appropriate officer of said Town, as authorized by the Municipal Court Judge, upon the property of defendant located in said jurisdiction, and sufficient property shall be advertised and sold to pay the amount of said execution, with interest and costs. All other proceedings in relation thereto shall be had as is provided by ordinances and charter of said Town and the laws of Georgia, and the defendant in said execution shall have rights of defense, by affidavit of illegality and otherwise, which are provide by the applicable laws in regard to tax executions. When a nulla bona entry has been entered by proper authority upon an execution issued by the Town Clerk's Office against any person defaulting on the occupation tax, the person against whom the entry was made shall not be allowed or entitled to have or collect any feed or charges whatsoever for services rendered after the entry of the nulla bona. If, at any time after the entry of nulla bona has been made, the person against whom the execution issues pays the tax in full together with all interest and cost accrued on the tax, the person may collect any fees and charges due him or her as though he or she had never defaulted in the payment of taxes.

31. **Amendment, Repeal Provision.** This section shall be subject to amendment or repeal, in whole or in part, at any time, and no such amendment or repeal shall be construed to deny the right or the Mayor and Council to access and collect any of the taxes or other charges prescribed. Said amendment may increase or lower the amount of tax rates of any occupation and may change the classification thereof. The payment of any occupation tax provided for shall not be construed as prohibiting the levy or collection by the jurisdiction of additional occupation taxes upon the same person, property, or business.
32. **Applications of Provisions to Prior Section.** This section does not repeal or affect the force of any part of any ordinance heretofore passed where taxes levied under such prior ordinance have not been paid in full. So much and such parts of ordinances heretofore and hereinafter passed as provided for the issuing and enforcing of execution for any tax or assessment required by such ordinances, or that imposed fines or penalties for the nonpayment of such tax, or for failure to pay regulatory fees provided for in said ordinances, or failure to comply with any other provisions hereof, shall continue and remain in force until such tax, regulatory fee, or assessment shall be fully paid.
33. **Provisions for Non-Payment.** A person engaged in any business, trade, profession, or occupation in the Town whether with a location in the Town 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, will not be allowed to pay an occupational tax for a new calendar year until all outstanding or delinquent balances of ad valorem taxes, regulatory fees or any other form of taxes are paid. The non-payment of this occupational tax will prohibit a business to continue its operation until all such outstanding balances are paid.
34. **Enforcement Of Provisions.** It is hereby made the duty of the Code Enforcement Officer to see that the provisions of the section relating to occupation taxes are observed; and to summon all violators of the same to appear before the court. It is hereby made the further duty of the Town Clerk's Office, Chief of Police, members of the police department, and their assistants to inspect all registrations issued by the Town as often as in their judgment it may seem necessary to determine whether the registration held is the proper one for the business sought to be transacted thereunder.
35. **Provisions to Remain in Full Force and Effect Until Changed by the Mayor and Council.** This section shall remain in full force and effect until changed by amendment adopted by the Mayor and Council. All provisions hereto relating to any form of tax herein levied shall remain in full force and effect until such taxes have been paid in full.
36. **Requirement of Public Hearing before Tax Increase.** After January 1, 1996, The Mayor and Council shall conduct at least one public hearing before adopting any ordinance or resolution which will increase the rate of occupation tax as set forth in this section.
37. **Option to Establish Exemption or Reduction in Occupation Tax.** The Mayor and Council may, by subsequent ordinance or resolution, provide for an exemption or reduction in occupation tax 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 selected types of businesses or practitioners of selected occupations or professions. Such exemption or reductions in occupation tax shall not be arbitrary or capricious.
38. **Conflicts between Specific and General Provisions.** Where there is an apparent conflict in this section between specific and general provisions, it is the intention hereof that the specific shall control.
39. **Duty to Post State Licenses.** Each person subject to any special or occupation tax who is also 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.

*(Adopted June 1996, Amended September 13, 2004)*

**Article II. RESERVED**

**Article III. BUDGET**

**Section 4-301 Fiscal Year**

The Town shall operate on a fiscal year which shall begin on the first day of July and end on the last day of June.

**Section 4-302 Requirement of Annual Balanced Budget**

The municipality shall operate under an annual balanced budget adopted by ordinance or resolution and administered in accordance with Chapter 81, Title 36 of the *O.C.G.A.* A budget ordinance or resolution is balanced when the sum of estimated net revenues and appropriated fund balances is equal to appropriations.

**Section 4-303 Adoption of Budget Ordinances or Resolutions**

The municipality shall adopt and utilize a budget ordinance or resolution.

**Section 4-304 Budget Officer**

The Town Manager shall be the budget officer to serve at the will of the Mayor and Town Council.

**Section 4-305 Procedures for Adoption of Budget by the Town, its Agencies, and Authorities**

1. By the date established by the Mayor and Council, in such manner and form as may be necessary to effect this article, and consistent with the town's accounting system, the budget officer shall prepare a proposed budget for the Town for the ensuing fiscal year.
2. The proposed budget shall be an estimate of the financial requirements of each department or agency, by fund, for the budget year and shall be in such form and detail, with such supporting information and justifications, as may be prescribed by the budget officer or the Mayor and Town Council. The budget document, at a minimum, shall provide a statement of the amount budgeted for anticipated revenues by category and the amount budgeted for expenditures by category for the current year, including budget amendments, and the anticipated revenues and proposed expenditures for the proposed budget year.
3. No later than June 1, the proposed budget shall be submitted to the Mayor and Town Council for review prior to enactment of the budget ordinance or resolution.
4. On the day that the budget is submitted to the Mayor and Town Council, a copy of the budget shall be placed in a public location which is convenient to the residents of the Town. The Mayor and Town Council shall make every effort to provide convenient access to the residents during reasonable business hours so as to accord every opportunity to the public to review the budget prior to adoption. A copy of the budget shall also be made available, upon request, to the news media.
5. Availability of Budget.
  - A. At the time of submission of the budget to the Mayor and Town Council, a statement advising the residents of the Town of the availability of the budget shall be published in a newspaper of general circulation in the Town. The notice shall be published during the week in which the proposed budget is submitted to the Mayor and Council. The statement shall also advise residents the public hearing will be held at which time any persons wishing to be heard on the budget may appear. The statement shall be a prominently displayed advertisement or news article and shall not be placed in that section of the newspaper where legal notices appear.
  - B. If the statement required by paragraph A of this subsection does not give notice of the time and place of the budget hearing, then the statement shall advise the residents of the town that the budget hearing shall be held at a future date and notice shall be given prior to the budget hearing. This notice shall be published at least seven (7) days before the budget hearing is held and shall comply with the publication requirements of paragraph A of this subsection.
6. At least one (1) week prior to adoption of the budget ordinance or resolution, the Mayor and Town Council shall conduct a public hearing, at which time any persons wishing to be heard on the budget may appear.

7. Nothing in this section shall be deemed to preclude the conduct of further budget hearings if the Mayor and Town Council deem such hearings necessary and complies with the requirements of subsection (5).

**Section 4-306 Form and Content of Budget**

The municipal budget shall contain a clear general summary of its contents and shall show in detail all estimated income, indicating the proposed property tax levy, and all proposed expenditures for the ensuing fiscal year. It shall be so arranged as to show comparative figures for actual and estimated income expenditures of the preceding fiscal year. Separate items shall be included for at least the following:

1. Administration, operation, and maintenance expenses of each department or office of the Town, including a breakdown for salaries and wages for each such unit;
2. Interest and debt redemption charges;
3. Cash deficits of the preceding year;
4. Contingent expenses in an amount not more than three percent (3%) of the total amount of administration, operation, and maintenance expenses; and
5. Such reserves as may be deemed advisable by the Town Council.

The total of proposed expenditures shall not exceed the total of anticipated revenue.

**Section 4-307 Adoption**

After the conclusion of the hearing and no later than June 30 of the fiscal year the Mayor and Town Council shall adopt a budget ordinance or resolution making appropriations for the fiscal year in such sums as the Mayor and Town Council may deem sufficient, whether greater or less than the sums presented in the proposed budget. The budget ordinance or resolution shall be adopted at a public meeting which shall be advertised in accordance with the procedures set forth in Section 4-305(5) at least one (1) week prior to the meeting.

The budget may be prepared in any form that the Mayor and Town Council deems most efficient in enabling it to make the fiscal policy decisions embodied in the budget, but such budget shall show anticipated revenues and appropriations by fund.

**Section 4-308 Reserved**

**Section 4-309 Reserved**

**Section 4-310 Amendments**

The Town Council may amend the budget after its adoption.

**Section 4-311 Audits Required**

1. **Annual Audit.** The Mayor and Town Council shall provide for and cause to be made an annual audit of the financial affairs and transactions of all funds and activities of the local government for each fiscal year of the local government.
2. **Audits Performed Before Years End.** At the option of the Mayor and Town Council, an audit may be made at a lesser interval than one (1) year.

**Section 4-312 Conduct of Audits**

The audits of the Town shall be conducted in accordance with generally accepted auditing standards. Each audit shall also contain a statement of any agreement or arrangement under which the Town has assumed any actual or potential liability for the obligations of any governmental or private agency, authority, or instrumentality. Such statement shall include the purpose of the agreement or arrangement, shall identify the agency, authority, or instrumentality upon whose obligations the Town is or may become liable, and shall state the amount of actual liability and the maximum amount of potential liability of the Town under the agreement or arrangement. To the extent that the state auditor is able to provide comparable auditing services, the governing body may contract with the state auditor.

**Section 4-313      Contents of Audit Reports**

Whenever an audit of the financial affairs of a county or municipal corporation or of an officer, board, department, unit, or other political subdivision of a county or municipal corporation is made pursuant to a requirement or to an authorization otherwise provided by law, the audit report shall include the auditor's unqualified opinion upon the presentation of the financial position and the result of the operations of the governmental unit or office which is audited. If the auditor is unable to express an unqualified opinion, he or she shall so state and shall further detail the reasons for qualification or disclaimer of opinion. All such audits shall be conducted in conformity with generally accepted government auditing standards.

**Section 4-314      Forwarding Audits to State Auditor**

Each annual audit report of a local unit of government shall be completed and a copy of the report forwarded to the state auditor within one hundred eighty (180) days after the close of the unit's fiscal year. In addition to the audit report, the local unit of government shall forward to the state auditor, within thirty (30) days after the audit report due date, written comments on the findings and recommendations in the report, including a plan for corrective action taken or planned and comments on the status of corrective action taken on prior findings. If corrective action is not necessary, the written comments should include a statement describing the reason it is not. In the case of units provided for in Section 4-311.2, the audit reports for both fiscal periods shall be submitted within one hundred eighty (180) days after the close of each second fiscal year and the written comments shall be submitted within thirty (30) days after the audit report due date.

**Section 4-315      Public Inspection of Audits**

A copy of the report and of any comments made by the state auditor shall be maintained as a public record for public inspection during the regular working hours at Town hall. Those cities not having a principal office shall provide a notification to the public as to the location of and times during which the public may inspect the report.

**Section 4-316      Annual Report, Submitted to the Department of Community Affairs**

The Town shall submit an annual report of local government finances to the Department of Community Affairs. The report shall include the revenues, expenditures, assets, and debts of all funds and agencies of the Town, and other such information as may be reasonably requested by the department. Each local independent authority shall submit an annual report of indebtedness to the Department of Community Affairs. Such report shall include the revenues, expenditures, assets, and debts of all funds of the local independent authority and shall describe any actions taken by such local independent authority to incur indebtedness. The local government finance report and the local independent authority indebtedness report shall be filed on forms promulgated by the department and shall be submitted within the requested time periods established by the department.

**Section 4-317      Capital Program**

A five (5) year capital program may be submitted to the Town Council at the same time that the budget and budget message are introduced for approval. Such capital program shall include:

1. A clear general summary of its contents;
2. A list of all capital improvements which are proposed to be undertaken for the five (5) fiscal years next ensuing, with appropriate supporting information as to the necessity for such improvements;
3. Cost estimates, method of financing, and recommended time schedules for each such improvements; and
4. The estimated annual cost of operation and maintaining the facilities to be constructed or acquired.

The above information may be revised and extended each year with regard to capital improvements still pending or in the process of construction or acquisition.

**Section 4-318      Transfer of Appropriations**

The Town Manager may, at any time during the fiscal year, transfer part or all of any unencumbered appropriation balance among programs within a department or office, and the Mayor may, by ordinance, transfer part or all of any unencumbered appropriation balance from one department or office to another, except that no appropriation for debt service

or capital improvements may be reduced or transferred during any fiscal year, and under no circumstances may the expenditures exceed the total of the budget.

**Section 4-319      Emergency Appropriations**

Notwithstanding any other provision of this article, the Town Council may make emergency appropriations after the adoption of a budget, for a purpose which was not foreseen at the time of the adoption thereof, or for which adequate provision was not made therein. Such an appropriation shall be made only to meet a public emergency affecting life, health, safety, property, or the public peace, and shall be made only out of actual unappropriated revenues or surplus. If there is no surplus, then temporary borrowing in notes may be made, provided that any such borrowed amounts are included as an appropriation in the next succeeding year's budget.

**Section 4-320      Lapse of Appropriations**

Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the next succeeding year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned; the purpose of any such appropriation shall be deemed abandoned if three (3) years pass without any disbursement from or encumbrance of the appropriation.

**Article IV.      WATER AND SEWER REVENUE**

**Section 4-401      Water and Sewer Revenue Account**

To provide for the payment of the reasonable and necessary cost of operation, maintenance, debt, and repair of the water and sewage system of the Town of Braselton, the revenue collected by the Town from water and sewer operations shall be deposited in the Water and Sewer Revenue Account and used to pay the reasonable and necessary costs of retiring debt, and operating, maintaining and repairing the water and sewerage system.

**Article V.      TOWN STORAGE OF MOTOR VEHICLES**

**Section 4-501      Fees for Town Storage of Motor Vehicles**

The Mayor and Town Council shall from time to time establish storage fees to govern the cost of storage by the Town of Braselton Police Department. Said rates shall reflect administrative costs incurred by the Town and shall be consistent with prevailing prices within the area. The Police Department shall be authorized to retain possession of such vehicles until such towing and accumulated storage fees are remitted.

## CHAPTER 5: MUNICIPAL COURT

### Section

5-101	Scope of Jurisdiction
5-102	Appointment and Qualifications of Judge
5-103	Required Training for Judges of Municipal Courts
5-104	Bailiff
5-105	Record of Cases
5-106	Limitations
5-107	Service of Summons
5-108	Subpoenas
5-109	Failure to Obey Summons or Subpoena
5-110	Arrest and Bond
5-111	Forfeiture of Bond
5-112	Court Cost
5-113	Malicious Prosecution
5-114	Collection of Fines
5-115	Appeal



### **Section 5-101      Scope of Jurisdiction**

The Municipal Court of this municipality shall try violations of municipal ordinances and traffic ordinances adopted by the Town, and shall have the power and authority to impose fines upon persons convicted of said offenses, with the alternative of other punishment allowed by law if such fines are not paid. Town courts shall function according to guidelines found in *O.C.G.A. § 36-32-1 et seq.*

### **Section 5-102      Appointment and Qualifications of Judge**

The Mayor and City Council is authorized to appoint a judge of the municipal court. Municipal court judges shall be licensed to practice law in the State of Georgia and an active member in good standing of the State Bar of Georgia; provided that any judge serving on June 30, 2011 who is not an active member of the State Bar of Georgia may serve provided he/she is in compliance with *O.C.G.A. § 36-32-27*. Compensation for judges shall be fixed by the Town Manager and judges shall serve at the pleasure of the Mayor and Council.

### **Section 5-103      Required Training for Judges of Municipal Courts**

1. Any person who becomes a municipal judge on or after January 1, 1991, shall satisfactorily complete 20 hours of training in the performance of his duties, prior to December 31, 1991, and shall attend the first scheduled training session held after the date of his election or appointment in order to become certified under this article. Any person serving as a municipal judge prior to January 1, 1991, shall be exempt from completing these 20 hours of training.
2. In order to maintain the status of a certified municipal judge, each person certified as such shall complete 12 hours of additional training per annum during each calendar year after the year of his initial certification in which he serves as municipal judge.

### **Section 5-104      Bailiff**

The Bailiff of the Municipal Court shall be appointed by the Town Manager. The duties of the Bailiff shall consist generally of seeing that the courtroom is in proper condition for sessions of court, of assisting in keeping order while court is in session,

and of doing such other acts of assistance as may be required of him by the Judge of the Municipal Court and the Court Clerk or Town Manager.

**Section 5-105 Record of Cases**

A record of all cases heard in the Municipal Court for violation of this code or other municipal ordinances shall be kept in a suitable bound volume by the Court Clerk. Such record shall contain the name of the defendant, the nature of the offense charged, the final disposition of the case, and the date of final disposition.

**Section 5-106 Limitations**

All prosecutions for violations of Town ordinances shall be commenced within two (2) years after the commission of the crime.

**Section 5-107 Service of Summons**

Any person charged with violating any Town ordinance shall receive notice by service of a summons as herein provided. Such summons may be issued by the Town Clerk, Court Clerk, Code Enforcement Officer, Building Inspector, or any police officer of the Town. The summons shall be directed to the accused and shall distinctly state the offense charged, the time and place, as far as practicable, of the offense charged, and the day, hour, and place of trial, requiring the accused to appear before the Judge of the Municipal Court to answer accusations made. Service of the summons shall be made by a police officer of the Town either by serving the accused personally or by leaving a copy at his/her most notorious place of abode or certified mail, except that in the case of a summons issued for violation of laws or ordinances relating to the parking of motor vehicles, such summons may be directed to an unknown person as owner of an automobile designated in the summons and may be served upon such person by leaving a copy in or attached to such automobile.

**Section 5-108 Subpoenas**

The Town Manager or his/her designee shall issue subpoenas for the appearance of all witnesses necessary for the prosecution or for the defense in any case pending before the Municipal Court. All subpoenas shall be served in the same manner as a summons. *(Amended April 10, 2006)*

**Section 5-109 Failure to Obey Summons or Subpoena**

Any person who fails to appear at the time and place set out in any summons or subpoena served upon him shall be guilty of contempt of court and upon conviction thereof shall be punished for same.

**Section 5-110 Arrest and Bond**

When a police officer has arrested any person for violation of any provision of this code or any municipal ordinance and trial cannot be had immediately, the officer may take cash bond not exceeding the maximum fine for the offense, or a bond with a good security, for the appearance of such person before the Judge of the Municipal Court. If such person fails or refuses to give a bond, the officer may confine him or her in the county jail until a trial can be held, provided that the Police Chief, in his/her discretion, may release such person on his/her own recognizance without security. No person shall be incarcerated in the county jail for more than seventy-two (72) hours without being tried by the Municipal Judge.

**Section 5-111 Forfeiture of Bond**

Upon the failure of a person to appear in the Municipal Court at the time and place fixed by the summons, unless legal excuse is offered in his/her behalf, the Judge of said court shall enter a judgment of forfeiture on any cash bond, or, in the case of a security bond, shall pass a rule requiring the principal and surety on such bond to show cause on the date named therein, which date shall not be less than ten (10) days from the passage of such ruling, why they should not be required to pay the amount of said bond. If no sufficient cause is shown, the Judge shall enter judgment against the principal and surety for the amount of the forfeited bond and shall direct the Court Clerk to issue execution thereon.

**Section 5-112 Court Cost**

The costs which shall be charged against a defendant in the Municipal Court in the event of his/her conviction shall not exceed an amount as determined by Municipal Court Judge, which sum shall be paid into the Town treasury.

**Section 5-113 Malicious Prosecution**

Whenever the Judge of the Municipal Court, after a fair and full trial, is satisfied that any case was frivolously or maliciously prosecuted, he shall assess the prosecution with the court costs and such punitive damages as he deems appropriate.

**Section 5-114 Collection of Fines**

When directed by the Judge of the Municipal Court, the Court Clerk shall issue executions for fines imposed by said court, including the costs, which executions may be levied upon any goods or chattels, lands, or tenements of the person so fined. A surcharge shall be imposed and collected on each citation, as provided for by Georgia Law, in which the disposition of the charge(s) results in a fine (e.g. guilty, nolo contendere, bond forfeiture).

**Section 5-115 Appeal**

Appeals from decisions of the Municipal Court shall be taken to the appropriate County Superior Court or State Court in the manner provided for appeals under state law.

## CHAPTER 6: URBAN REDEVELOPMENT AGENCY

### Section

6-101	Project Area, Generally
6-102	Exercise of Powers
6-103	Terms of Office of Commissioners and Initial Appointments
6-104	Preparation of Urban Redevelopment Plan
6-105	Financing
6-106	Urban Redevelopment Plan
6-107	Project Area



### **Section 6-101 Project Area, Generally**

After due consideration, the Mayor and Council have determined that ( 1 ) the area or areas described Section 6-107, (the "Project Area"), is a distressed, inappropriately developed and dilapidated urban area or areas constituting a blighted area and slum within the meaning of the Urban Redevelopment Law, and that the rehabilitation, conservation or redevelopment, or combination thereof, of such area or areas is necessary in the interest of the public health, safety, morals, or welfare of the residents of the Town, (2) said area or areas are appropriate for an urban redevelopment project within the meaning of the Urban Redevelopment Law, and (3) it is appropriate to exercise urban redevelopment powers with respect to such area or areas and such project.

### **Section 6-102 Exercise of Powers**

Such action having been found, and being hereby declared, in the public interest, the Mayor and Council elect for the purposes of the Urban Redevelopment Law to have the Town's urban redevelopment project powers within the Project Area exercised by the Urban Redevelopment Agency of the Town of Braselton.

To the extent permitted by the Urban Redevelopment Law, the Mayor and Council hereby delegate to the Urban Redevelopment Agency of the Town of Braselton, subject to amendment, modification or repeal by the Mayor and Council, the exercise of the urban redevelopment project powers under the Urban Redevelopment Law in the Project Area, and the related rights, powers, functions, duties, privileges, immunities and exemptions; provided, however, that there shall not be delegated and there shall be retained by the Mayor and Council alone the following powers under the Urban Redevelopment Law:

1. the power to determine an area to be a slum area and to designate such area as appropriate for an urban redevelopment project; and
2. the power to approve and amend urban redevelopment plans; and
3. the power to establish a general plan for the Town as a whole; and
4. the power to formulate a "workable program" under O.C.G.A. § 36-61-6; and
5. the power to adopt ordinances to require the repair, closing or demolition of dwellings or other structures intended for human habitation; and
6. the power to make the determinations and finding provided for in O.C.G.A. §§ 36-61-4, 36-61-5 and 36-61-7(d); and
7. the power to issue general obligation bonds; and
8. the power to appropriate funds, to levy taxes and assessments, to exercise other powers provided for in O.C.G.A. § 36-61-8(a).

### **Section 6-103 Terms of Office of Commissioners and Initial Appointments**

The Mayor, with the advice and consent of the Council, determines that the Urban Redevelopment Agency of the Town of Braselton (the "Agency") shall have three (3) Commissioners having terms of office of approximately one year, expiring the

December 31st following the date of their appointment or when their successors are appointed, if later. Persons appointed as Commissioners shall hold the following offices: Chairman, Vice-Chairman, and Secretary.

**Section 6-104      Preparation of Urban Redevelopment Plan**

The preparation of a proposed urban redevelopment plan for the Project Area, to include the location of a new library and the location of a new public safety complex, Streetscapes, Town Green, Amphitheater, and the advertising and conduct of the required public hearing with respect to such plan by or on behalf of the Town and/or the Agency, is hereby approved and ratified. The officers and officials of the Town and of the Agency are authorized and directed to take all action necessary or appropriate to give full effect to this Resolution.

**Section 6-105      Financing**

To the extent the Town pays costs of the Projects, such costs may be reimbursed from later financing not to exceed \$5,500,000, and this Resolution shall constitute a "declaration of official intent" for the purposes of Treasury Regulations Section 1.150-2. Georgia Municipal Association is authorized to solicit financing proposals on behalf of the Town and Smith, Gambrell & Russell, LLP, as bond counsel, is directed to make preparations for such financing.

**Section 6-106      Urban Redevelopment Plan**

The Urban Redevelopment Plan for the Town of Braselton, adopted April 11, 2005 and as may be amended, is incorporated by reference as if fully set out herein.

**Section 6-107      Project Area**

All that tract or parcel of land lying and being in the 1765th G.M.D. Town of Braselton, Jackson County, Georgia and being 1.1397 acres as shown and designated as Tracts 1 and 2 according to plat of survey prepared for the Town of Braselton by Lloyd C. McNally, Georgia Registered Land Surveyor No. 2040 of McNally and Patrick, dated March 19, 2004, more particularly described as follows:

Begin at an iron pin set at the intersection of the southern right of way of Lake Shore Drive, having an apparent 50 foot right of way, and the eastern right of way of Georgia Highway No. 53 (being also known as Washington Street) , having an apparent 60 foot right of way. Said point being the POINT OF BEGINNING, thence run along the right of way of Lake Shore Drive North 80 degrees 5 minutes 25 seconds East a distance of 202.72 feet to an iron pin set; thence leaving said right of way run South 15 degrees 6 minutes 25 seconds East a distance of 134.80 feet to an iron pin set; thence run South 15 degrees 6 minutes 25 seconds East a distance of 112.44 feet to a 1 inch open pipe found; thence run South 83 degrees 15 minutes 9 seconds West a distance of 210.29 feet to a 1 inch bar found on the right of way of Georgia Highway No. 53; thence run along the arc of a curve along the easterly right of way of Georgia Highway No. 53, a distance of 235.12 feet to an iron pin set, said arc being subtended by a chord bearing North 13 degrees 36 minutes 15 seconds West a distance of 235.12 feet, having a radius of 7609.44 feet. Said iron pin set also being the POINT OF BEGINNING.

And:

All that tract or parcel of land lying and being in G.M.D. 1765 of Jackson County, Georgia and being more particularly described as follows:

To find the TRUE POINT OF BEGINNING, begin at a point at the intersection of the northeasterly right of way of Liberty Church Road (A.K.A. Whitehall Street) (said road having an 80 foot right of way) with the northwesterly right of way of Georgia Hwy. No. 124 (A.K.A. Broadway Ave. ) (said road having a 60 foot right of way); thence North 67 degrees 49 minutes 21 seconds East along the northwesterly right of Georgia Hwy. 124 for a distance of 67.74 feet to an iron pin and the TRUE POINT OF BEGINNING.

Thence leaving said right of way of Georgia Hwy. No. 124 on a bearing of North 21 degrees 00 minutes 00 seconds West for a distance of 270 . 02 feet to an iron pin; thence North 64 degrees 51 minutes 21 seconds East for a distance of 150.15 feet to an iron pin on the Southwesterly right of way of College Ave. , an unopened street having a 40 foot right of way; thence South

20 degrees 57 minutes 35 seconds East along the southwesterly right of way of College Ave. for a distance of 270.11 feet to an iron pin on the northwesterly right of way of Georgia Hwy. No. 124; thence South 64 degrees 53 minutes 00 seconds West along the northwesterly right of way of Georgia Hwy. No. 124 for a distance of 149.95 feet to an iron bin and the TRUE POINT OF BEGINNING.

Said tract contains 0.9279 acre (40,417.9 Sq. Ft. ) and is shown on plat of survey for: Town of Braselton; Dated: March 17, 2004; By: McNally & Patrick, Inc. and bearing the seal of Lloyd C. McNally, Jr. , RLS No. 2040 .

*(Adopted April 11, 2005)*

# CHAPTER 7: IDENTITY THEFT PROTECTION PROGRAM

## ARTICLE I. IDENTIFY THEFT PREVENTION PROGRAM

### Section

7-101	Short Title
7-102	Purpose
7-103	Definitions
7-104	Findings
7-105	Process of Establishing a Covered Account
7-106	Access to Covered Account Information
7-107	Credit Card Payments
7-108	Sources and Types of Red Flags
7-109	Prevention and Mitigation of Identity Theft
7-110	Updating the Program
7-111	Program Administration
7-112	Outside Service Providers

## ARTICLE II. TREATMENT OF ADDRESS DISCREPANCIES

7-201	Purpose
7-202	Definitions
7-203	Policy
7-204	Furnishing Consumer's Address to Consumer Reporting Agency
7-205	Methods of Confirming Consumer Addresses
7-206	Effective Date



### Article I. Identify Theft Prevention Program

#### Section 7-101 Short Title.

This Chapter shall be known as the Identity Theft Prevention Program.

#### Section 7-102 Purpose.

The purpose of this Chapter is to comply with 16 CFR § 681.2 in order to detect, prevent and mitigate identity theft by identifying and detecting identity theft red flags and by responding to such red flags in a manner that will prevent identity theft.

#### Section 7-103 Definitions.

For purposes of this Chapter, the following definitions apply:

1. Covered account means:

- A. An account that a financial institution or creditor offers or maintains, primarily for personal, family, or household purposes, that involves or is designed to permit multiple payments or transactions, such as a credit card account, mortgage loan, automobile loan, margin account, cell phone account, utility account, checking account, or savings account; and
- B. Any other account that the financial institution or creditor offers or maintains for which there is a reasonably foreseeable risk to customers or to the safety and soundness of the financial institution or creditor from identity theft, including financial, operational, compliance, reputation, or litigation risks.

2. Credit means the right granted by a creditor to a debtor to defer payment of debt or to incur debts and defer its payment or to purchase property or services and defer payment therefore.
3. Creditor means any person who regularly extends, renews, or continues credit; any person who regularly arranges for the extension, renewal, or continuation of credit; or any assignee of an original creditor who participates in the decision to extend, renew, or continue credit and includes utility companies and telecommunications companies.
4. Customer means a person that has a covered account with a creditor.
5. Identity theft means a fraud committed or attempted using identifying information of another person without authority.
6. Person means a natural person, a corporation, government or governmental subdivision or agency, trust, estate, partnership, cooperative, or association.
7. Personal Identifying Information means a person's credit card account information, debit card information bank account information and drivers' license information and for a natural person includes their social security number, mother's birth name, and date of birth.
8. Red flag means a pattern, practice, or specific activity that indicates the possible existence of identity theft.
9. Service provider means a person that provides a service directly to the Town.
10. Town means the Town of Braselton.

**Section 7-104 Findings.**

1. The Town is a creditor pursuant to 16 CFR § 681.2 due to its provision or maintenance of covered accounts for which payment is made in arrears.
2. Covered accounts offered to customers for the provision of Town services include water and sanitary sewer, and taxes.
3. The processes of opening a new covered account, restoring an existing covered account, making payments on such accounts, and have been identified as potential processes in which identity theft could occur.
4. The Town limits access to personal identifying information to those employees responsible for or otherwise involved in opening or restoring covered accounts or accepting payment for use of covered accounts. Information provided to such employees is entered directly into the Town's computer system and is not otherwise recorded.
5. The Town determines that there is a low risk of identity theft occurring in the following ways:
  - A. Use by an applicant of another person's personal identifying information to establish a new covered account;
  - B. Use of a previous customer's personal identifying information by another person in an effort to have service restored in the previous customer's name;
  - C. Use of another person's credit card, bank account, or other method of payment by a customer to pay such customer's covered account or accounts; and
  - D. Use by a customer desiring to restore such customer's covered account of another person's credit card, bank account, or other method of payment.

**Section 7-105 Process of Establishing a Covered Account.**

1. As a precondition to opening a covered account in the Town, each applicant shall provide the Town with personal identifying information of the customer including a valid government issued identification card containing a photograph of the customer or, for customers who are not natural persons, a photograph of the customer's agent opening the account, or such other identifying information that the Town Manager deems sufficient to establish identity. Such information shall be entered directly into the Town's computer system and shall not otherwise be recorded.
2. Each account shall be assigned an account number. The Town may utilize computer software to encrypt account numbers and/or other identifying information.

**Section 7-106 Access to Covered Account Information.**

1. Access to the system containing customer accounts shall be password protected and shall be limited to authorized Town personnel.
2. Such password(s) shall be changed periodically. Any unauthorized access to or other breach of customer accounts is to be reported immediately to the Town Manager and the password changed immediately.

3. Personal identifying information included in customer accounts is considered confidential and any request or demand for such information shall be immediately forwarded to the Town Manager and the Town Attorney.

**Section 7-107 Credit Card Payments.**

1. In the event that credit card payments that are made over the Internet are processed through a third party service provider, such third party service provider shall certify that it has an adequate identity theft prevention program in place that is applicable to such payments.
2. All credit card payments made over the telephone or the Town's website (when applicable) shall be entered directly into the customer's account information in the computer data base.

**Section 7-108 Sources and Types of Red Flags.**

All employees responsible for or involved in the process of opening a covered account, restoring a covered account or accepting payment for a covered account shall check for red flags as indicators of possible identity theft and such red flags may include:

1. Alerts from consumer reporting agencies, fraud detection agencies or service providers. Examples of alerts include but are not limited to:
  - A. A fraud or active duty alert that is included with a consumer report;
  - B. A notice of credit freeze in response to a request for a consumer report;
  - C. A notice of address discrepancy provided by a consumer reporting agency;
  - D. Indications of a pattern of activity in a consumer report that is inconsistent with the history and usual pattern of activity of an applicant or customer, such as:
    - (1) A recent and significant increase in the volume of inquiries;
    - (2) An unusual number of recently established credit relationships;
    - (3) A material change in the use of credit, especially with respect to recently established credit relationships; or
    - (4) An account that was closed for cause or identified for abuse of account privileges by a financial institution or creditor.
2. Suspicious documents. Examples of suspicious documents include:
  - A. Documents provided for identification that appear to be altered or forged;
  - B. Identification on which the photograph or physical description is inconsistent with the appearance of the applicant or customer;
  - C. Identification on which the information is inconsistent with information provided by the applicant or customer;
  - D. Identification on which the information is inconsistent with readily accessible information that is on file with the financial institution or creditor, such as a signature card or a recent check; or
  - E. An application that appears to have been altered or forged, or appears to have been destroyed and reassembled.
3. Suspicious personal identification, such as suspicious address change. Examples suspicious identifying information include:
  - A. Personal identifying information that is inconsistent with external information sources used by the financial institution or creditor. For example:
    - (1) The address does not match any address in the consumer report; or
    - (2) The Social Security Number (SSN) has not been issued, or is listed on the Social Security Administration's Death Master File.
  - B. Personal identifying information provided by the customer is not consistent with other personal identifying information provided by the customer, such as a lack of correlation between the SSN range and date of birth.
  - C. Personal identifying information or a phone number or address is associated with known fraudulent applications or activities as indicated by internal or third-party sources used by the financial institution or creditor.
  - D. Other information provided, such as fictitious mailing address, mail drop addresses, jail addresses, invalid phone numbers, pager numbers or answering services, is associated with fraudulent activity.
  - E. The SSN provided is the same as that submitted by other applicants or customers.

- F. The address or telephone number provided is the same as or similar to the account number or telephone number submitted by an unusually large number of applicants or customers.
  - G. The applicant or customer fails to provide all required personal identifying information on an application or in response to notification that the application is incomplete.
  - H. Personal identifying information is not consistent with personal identifying information that is on file with the financial institution or creditor.
  - I. The applicant or customer cannot provide authenticating information beyond that which generally would be available from a wallet or consumer report.
4. Unusual use of or suspicious activity relating to a covered account. Examples of suspicious activity include:
- A. Shortly following the notice of a change of address for an account, Town receives a request for the addition of authorized users on the account.
  - B. A new revolving credit account is used in a manner commonly associated with known patterns of fraud patterns. For example:
    - (1) The customer fails to make the first payment or makes an initial payment but no subsequent payments.
  - C. An account is used in a manner that is not consistent with established patterns of activity on the account. There is, for example:
    - (1) Nonpayment when there is no history of late or missed payments;
    - (2) A material change in purchasing or spending patterns;
  - D. An account that has been inactive for a long period of time is used.
  - E. Mail sent to the customer is returned repeatedly as undeliverable although transactions continue to be conducted in connection with the customer's account.
  - F. The Town is notified that the customer is not receiving paper account statements.
  - G. The Town is notified of unauthorized charges or transactions in connection with a customer's account.
  - H. The Town is notified by a customer, law enforcement or another person that it has opened a fraudulent account for a person engaged in identity theft.
5. Notice from customers, law enforcement, victims or other reliable sources regarding possible identity theft or phishing relating to covered accounts

**Section 7-109 Prevention and Mitigation of Identity Theft.**

1. In the event that any Town employee responsible for or involved in restoring an existing covered account or accepting payment for a covered account becomes aware of red flags indicating possible identity theft with respect to existing covered accounts. such employee shall use his or her discretion to determine whether such red flag or combination of red flags suggests a threat of identity theft if, in his or her discretion, such employee determines that identity theft or attempted identity theft is likely or probable, such employee shall immediately report such red flags to the Town Manager or his/her designee. If the Town Manager or his/her designee in his or her discretion determines that further action is necessary, a Town employee shall perform one or more of the following responses:
- A. Contact the customer;
  - B. Make the following changes to the account if, after contacting the customer, it is apparent that someone other than the customer has accessed the customer's covered account:
    - (1) change any account numbers, passwords, security codes, or other security devices that permit access to an account; or
    - (2) close the account;
  - C. Cease attempts to collect additional charges from the customer and decline to sell the customer's account to a debt collector in the event that the customer's account has been accessed without authorization and such access has caused additional charges to accrue;
  - D. Notify a debt collector within a timely manner of the discovery of likely or probable identity theft relating to a customer account that has been sold to such debt collector in the event that a customer's account has been sold to a debt collector prior to the discovery of the likelihood or probability of identity theft relating to such account;
  - E. Notify law enforcement in the event that someone other than the customer has accessed the customer's account causing additional charges to accrue or accessing personal identifying information; or
  - F. Take other appropriate action to prevent or mitigate identity theft.

2. In the event that any Town employee responsible for or involved in opening a new covered account becomes aware of red flags indicating possible identity theft with respect an application for a new account, such employee shall use his or her discretion to determine whether such red flag or combination of red flags suggests a threat of identity theft. If, in his or her discretion, such employee determines that identity theft or attempted identity theft is likely or probable, such employee shall immediately report such red flags to the Town Manager or his/her designee. If the Town Manager or his/her designee in his or her discretion determines that further action is necessary, a Town employee shall perform one or more of the following responses:
  - A. Request additional identifying information from the applicant;
  - B. Deny the application for the new account;
  - C. Notify law enforcement of possible identity theft; or
  - D. Take other appropriate action to prevent or mitigate identity theft.

**Section 7-110 Updating the Program.**

The Town Council shall periodically review and, as deemed necessary, update the Identity Theft Prevention Program along with any relevant red flags in order to reflect changes in risks to customers or to the safety and soundness of the Town and its covered accounts from identity theft. In so doing, the Town council shall consider the following factors and exercise its discretion in amending the program:

1. The Town's experiences with identity theft;
2. Updates in methods of identity theft;
3. Updates in customary methods used to detect, prevent, and mitigate identity theft;
4. Updates in the types of accounts that the Town offers or maintains; and
5. Updates in service provider arrangements.

**Section 7-111 Program Administration.**

The Town Manager is responsible for oversight of the program and for program implementation. The Town Manager is responsible for reviewing reports prepared by staff regarding compliance with red flag requirements and with recommending material changes to the program, as necessary in the opinion of the Town Manager, to address changing identity theft risks and to identify new or discontinued types of covered accounts. Any recommended material changes to the program shall be submitted to the Town Council for consideration by the Council.

1. Designated staff will report to the Town Manager on an as-needed basis, on compliance with the red flag requirements. The report will address material matters related to the program and evaluate issues such as:
  - A. The effectiveness of the policies and procedures of Town in addressing the risk of identity theft in connection with the opening of covered accounts and with respect to existing covered accounts;
  - B. Service provider arrangements;
  - C. Significant incidents involving identity theft and management's response; and
  - D. Recommendations for material changes to the Program.
2. Training to all employees responsible for or involved in opening a new covered account, restoring an existing covered account or accepting payment for a covered account with respect to the implementation and requirements of the Identity Theft Prevention Program. The staff shall exercise his or her discretion in determining the amount and substance of training necessary.

**Section 7-112 Outside Service Providers.**

In the event that the Town engages a service provider to perform an activity in connection with one or more covered accounts the Town Manager or designee shall exercise his or her discretion in reviewing such arrangements in order to ensure, to the best of his or her ability, that the service provider's activities are conducted in accordance with policies and procedures, agreed upon by contract, that are designed to detect any red flags that may arise in the performance of the service provider's activities and take appropriate steps to prevent or mitigate identity theft.

**Article II. Treatment of Address Discrepancies.**

**Section 7-201 Purpose.**

Pursuant to 16 CFR § 681.1, the purpose of this Article is to establish a process by which the Town will be able to form a reasonable belief that a consumer report relates to the consumer about whom it has requested a consumer credit report when the Town has received a notice of address discrepancy.

**Section 7-202 Definitions.**

For purposes of this Chapter, the following definitions apply:

1. Notice of address discrepancy means a notice sent to a user by a consumer reporting agency pursuant to 15 U.S.C. § 1681(e)(h)(1), that informs the user of a substantial difference between the address for the consumer that the user provided to request the consumer report and the address(es) in the agency's file for the consumer
2. Town means Town of Braselton.

**Section 7-203 Policy.**

In the event that the Town receives a notice of address discrepancy, the Town employee responsible for verifying consumer addresses for the purpose of providing the municipal service or account sought by the consumer shall perform one or more of the following activities, as determined to be appropriate by such employee:

1. Compare the information in the consumer report with:
  - A. Information the Town obtains and uses to verify a consumer's identity in accordance with the requirements of the Customer Information Program rules implementing 31 U.S.C. § 5318(1);
  - B. Information the Town maintains in its own records, such as applications for service, change of address notices, other customer account records or tax records; or
  - C. Information the Town obtains from third-party sources that are deemed reliable by the relevant Town employee; or
  - D. Verify the information in the consumer report with the consumer.

**Section 7-204 Furnishing Consumer's Address to Consumer Reporting Agency.**

1. In the event that the Town reasonably confirms that an address provided by a consumer to the Town is accurate, the Town is required to provide such address to the consumer reporting agency from which the Town received a notice of address discrepancy with respect to such consumer. This information is required to be provided to the consumer reporting agency when:
  - A. The Town is able to form a reasonable belief that the consumer report relates to the consumer about whom the Town requested the report;
  - B. The Town establishes a continuing relation with the consumer; and
  - C. The Town regularly and in the ordinary course of business provides information to the consumer reporting agency from which it received the notice of address discrepancy.
2. Such information shall be provided to the consumer reporting agency as part of the information regularly provided by the Town to such agency for the reporting period in which the Town establishes a relationship with the customer.

**Section 7-205 Methods of Confirming Consumer Addresses.**

The Town employee charged with confirming consumer addresses may, in his or her discretion, confirm the accuracy of an address through one or more of the following methods:

1. Verifying the address with the consumer;
2. Reviewing the Town's records to verify the consumer's address;
3. Verifying the address through third party sources; or
4. Using other reasonable processes.

*(Adopted 10/13/2008; effective 10/13/2008)*

## CHAPTER 8: REVOLVING LOAN FUND

### Section

8-101	Goals
8-102	Objective
8-103	Scope
8-104	Eligible Activities
8-105	Ineligible Borrowers
8-106	Ineligible Activities
8-107	Definitions
8-108	Eligibility
8-109	Applicant Requirements
8-110	Terms and Conditions
8-111	Recaptured Funds



### **Section 8-101 Goals**

The goal of the local Revolving Loan Fund (RLF:) Program is to expand economic opportunities for persons of low and moderate income within the Town of Braselton by providing flexible and expedient funding at the local level.

### **Section 8-102 Objective**

The objective of the Town's RLF is to provide loan funds to local small businesses from public resources, as well as create public-private partnerships with local commercial banks and other private sector lenders and investors. To be considered for RLF funds, potential projects must meet one of two national objectives: 1) Benefit low and moderate income persons; and 2) Prevent or eliminate slum and blight.

### **Section 8-103 Scope**

This Program is designed to assist small service, commercial, and industrial businesses in the Town of Braselton by providing "gap" financing. Provision of assistance to private, for-profit entities must be contingent upon firm commitments of financial participation from other sources such as private financial institutions, or the private entities themselves. This financial assistance must meet the overall program objectives and must result in the creation or retention of permanent jobs of which 51% must be for low and moderate income persons.

### **Section 8-104 Eligible Activities**

Pursuant to The Housing and Community Development Act of 1974, Section 105 (a) (17), activities that may be assisted are:

1. Provision of assistance to private, for-profit entities, when the assistance is appropriate to carry out an economic development project (that shall minimize, to the extent practicable, displacement of existing businesses and jobs in neighborhoods) that
  - A. Creates or retains jobs for low and moderate income persons;
  - B. Prevents or eliminates slum and blight;
  - C. Meets urgent needs;
  - D. Creates or retains businesses owned by community residents;
  - E. Assists businesses that provide goods or services needed by, and affordable to, low and moderate income residents; or
  - F. Provides technical assistance to promote any of the activities under subparagraphs A-E.

**Section 8-105 Ineligible Borrowers**

Ineligible borrowers include:

1. Passive income companies;
2. Lending and investment institutions;
3. Unregulated media such as newspapers and magazines;
4. Speculative ventures;
5. Charitable organizations; or
6. Employees of the local government. See Section 8-112, Conflict of Interest

**Section 8-106 Ineligible Activities**

Ineligible activities include, but are not limited to:

1. Creation of a job that would cost more than \$50,000 in RLF funds per job;
2. Reimbursement of project costs prior to submission of RLF application;
3. Refinancing of permanent debt (a business' use of interim financing is allowed);
4. Payment of delinquent taxes or debt;
5. Product development costs;
6. General government expenses; or
7. Political activities

**Section 8-107 Definitions**

1. Fixed Asset - Permanent business properties such as land, buildings, machinery, and equipment.
2. Gap Financing - The portion of funds supplied by the Town of Braselton through the RLF that allows a business to remain in operation, expand operations, or "startup" that would not take place without this financial assistance.
3. Job—
  - A. Permanent, full-time employment for a period of not less than 365 days.
  - B. Part-time jobs must be converted to full-time equivalents, i.e. two part-time jobs equal one full-time job.
4. Job Retained - A job that would be lost if the financial assistance from the Town was not provided. The business applying for the funds must prove to the satisfaction of the Project Review Committee of the RLF that these funds are necessary.
5. New Job Created - A job that was not in existence and represents a new budgeted position that will be filled within six months. The job must be tangible and the applicant must commit that this job will be filled after the loan from the Town.
6. Project Review Committee (PRC) - Public and private citizens, who are professionals in the area of finance appointed by the Town Council to review all applications for RLF funds. There should be at least five persons on the committee, and they may consist of Town Finance Officers, Bank Loan Officers, Accountants, Realtors, Lawyers, etc. The Committee should encourage female and/or minority representation, and in general, represent the demographic make-up of the Town.
7. Low and Moderate Income - Income levels as published by HUD for the State CDBG and CHIP Programs. The levels are usually calculated at 80% of a County's median income adjusted for family size. The most recent data for such determinations may be obtained from DCA at [www.dca.state.ga.us/communities/CDBG/programs/CDBGforms.asp](http://www.dca.state.ga.us/communities/CDBG/programs/CDBGforms.asp). (Applicants should note that jobs paying minimum wage do not necessarily qualify as low and moderate income jobs.) Individual family income levels at the time of application for employment determine qualification.
8. Market Analysis - Objective process whereby the need, market potential, and expected return on investment are determined for a particular product and/or service.
9. Pro Forma - Estimation of anticipated expenditures, revenues, and cash flow for a given period of time.
10. Start-Up - A start-up venture is the creation of a new business that was not previously in existence.
11. Working Capital - Funds available and necessary for normal business operations.
12. Slum or Blight on a "spot basis"- Acquisition, clearance, relocation, historic preservation and building rehabilitation activities which eliminate specific conditions of blight or physical decay on a spot basis that may not be located in a slum or blighted area. The blight or physical decay must be documented by the unit of local

government to meet local or state definitions of blight and physical decay (a sample resolution declaring slum or blight can be obtained from DCA). Under this standard, the activity is limited to the extent necessary to eliminate specific conditions detrimental to the public health and safety.

**13. Slums or Blight on an "area basis" -**

- A.** The area, delineated by a unit of local government, meets a definition of blighted, deteriorated or slum area under state or local law;
- B.** Throughout the area there is a substantial number of deteriorating buildings or the public improvements are in a general state of deterioration;
- C.** The assisted activities address one or more of the conditions which contributed to the deterioration of the area; and
- D.** The local government keeps records sufficient to document its finding that a project meets the National Objective of elimination or prevention of slums and blight.

**Section 8-108 Eligibility**

The Economic Development Revolving Loan Fund for the Town of Braselton, Georgia is limited to businesses located within the corporate limits of Town of Braselton within the County of Jackson as a result of this Program. Highest consideration will be given to those businesses which demonstrate that they will create and/or retain the highest number of jobs for low and moderate income persons for the least amount of public expenditure.

In order to qualify for this Program, a business must generally have a net worth of less than six million dollars and a net profit after taxes of less than two million dollars annually. No loans will be considered if the proposed jobs retained or created are less than the ratio of one job per \$50,000.00 of loan funds. At least 51% of the jobs created or retained must be for low and moderate income persons.

**Section 8-109 Applicant Requirements**

- 1.** Applications will be provided by the Town of Braselton to all small businesses interested in this Program.
- 2.** A Profit and Loss statement is required for the past three years. A personal financial statement is also required
- 3.** A cash flow pro forma of at least three years will be required to indicate future needs of the business.
- 4.** A market analysis/business plan should be made for each small business making an application to the RLF. The market analysis should include the following:
  - A.** Business or product definition such as the mix of goods, merchandise, and/or services to be produced or sold.
  - B.** Market description including primary and secondary trade areas, potential customer categories, major competitors, and marketing strategies.
  - C.** A 'Needs Assessment' based on statistical data and evaluation of such factors as market trends, unmet customer demands, customer surveys, etc., development of data supporting this need and an evaluation of success potential.
  - D.** Projection of return on investment based on the information gathered and analyzed for the particular product and/or service.
- 5.** Applicant must fully address the purpose of the loan and the time schedule for implementation if funded.
- 6.** The goal of this Program is the creation/retention of jobs for low and moderate income persons. Therefore, each applicant must commit to the number of low and moderate income jobs that will be created/retained through this financial assistance.
- 7.** Description and documentation of ownership of collateral and its certified market value to be used for the loan. In some cases the Town may require an appraisal to be conducted.
- 8.** List of credit references, and how they can be contacted.
- 9.** Funds awarded under this Program must begin to be utilized within sixty days of award.
- 10.** These Underwriting Policies will be provided by the Town to all businesses requesting a copy. A list of all persons receiving a copy will be maintained in the Town RLF file in order of date of receipt. This process results in a "first come, first served" method of service. When a minimum of \$50,000.00 in cash is on hand, the prospective applicant at the top of the list of Underwriting Policy Recipients will be notified by the RLF Committee by Certified Mail, Return Receipt Requested, that they have two weeks from the date of receipt of the Certified Mail in which to submit an application to the RLF Committee. The applicant will have thirty calendar days from the date of any written request to the application by the Town to submit additional information needed to complete the

application process. Applicants failing to respond to the notice or request for additional information may, at the discretion of the RLF Committee, be removed from or placed at the bottom of the list.

Depending on the type of activity to be undertaken with the loan funds, various federal state and local laws may apply. Applicants will be made aware of these during the application process.

The Town of Braselton and the Project Review Committee reserve the right to request and require further information that they deem necessary in order to make a decision as to whether or not to approve an application under this Program.

It should be noted that if new construction is a part of the overall project, special conditions may apply. Site improvements may also necessitate special considerations.

**Section 8-110 Terms and Conditions**

All applicants for the Economic Development Revolving Loan Fund from the Town of Braselton are required to obtain 50% of the funds for the project from a private lending institution. (A lending institution is any person, firm or corporation that will lend the necessary funds for private investment required for this program.)

As part of the application process, each applicant is required to provide a letter of commitment from the lending institution acknowledging their agreement to finance 50% of the asset or working capital. This letter must include the following terms: interest rate, term of loan, collateral, and any other requirements stated as part of the loan. The letter must be signed by the lending institution or a person authorized to make such a commitment for that lending institution. All applicants must prove to the satisfaction of the Project Review Committee that they have the ability to cover all debt service.

Fixed Asset Loans will be made at an interest rate of one-half (1/2) of the Wall Street Journal prime rate less one, and not lower than 5 and not higher than 10% or to be determined by the Town. The life of the loan is not to exceed the life of the asset. Applicants for fixed asset loans are also eligible for one year deferral on the principal, followed by a five to ten year payback of the loan. The length of the loan will be determined by the Project Review Committee.

Working Capital Loans will be made at an interest rate of one (1/2) of Wall Street Journal prime rate less one, and not lower than 5% and not higher than 10% or to be determined by the Town. Eligible applicants for a working capital loan may also be eligible for a one year deferral on the principal followed by a five year payback on the principal and interest. A five year payback is the maximum for a working capital loan.

Applicants that cannot meet the 50% financing requirements from the private sector may participate in the RLF Program provided they inject equity equivalent to 25% of the funds requested from this Program. The remaining 75% may be loaned from the RLF at 10% interest with a payback not exceeding the life of the asset held as collateral, for a maximum of seven years. An applicant eligible for an equity injection loan may also be eligible for a one year deferral on repayment of the principal.

All loans will be screened and approved after review of each of the following in order of approval:

1. Project Review Committee (also referred to as the Loan Review Committee) of the RLF.
2. Mayor and Council of the Town of Braselton, which have the final authorization to approve a project for funding.

The Town of Braselton and the Project Review Committee for the Economic Development Revolving Loan Fund reserve the right to request and require further information. Upon receipt of a complete application, every effort will be made to respond to the applicant within thirty days of the date of receipt of the application. If the application is denied, the RLF Committee will respond, in writing, with the reason (s) for denying the application.

The Town of Braselton will not discriminate due to race, creed, color, age, sex, or national origin in approving loan applications under this Program.

**Section 8-111      Recaptured Funds**

All funds "recaptured" by the Town of Braselton from this Program shall be held in a separate account and used only for future economic development projects. The accounting and administrative system used to account for the RLF shall at a minimum conform to the guidelines contained in the DCA publication Guidelines for Administration of Local Revolving Loan Funds and any Revolving Loan Fund Regulations promulgated by the Department of Community Affairs. An accounting of the RLF shall also be included in the Town's Annual Audit.

**Section 8-112      Conflict of Interest**

In general, no person who is an elected or appointed official, employee, agent, consultant, officer or any person serving in a similar capacity with any participating public agency, who exercise or have exercised any functions or responsibilities with respect to any RLF activities, can benefit from local RLF activities.

In addition, those persons who are in a position to participate in a decision-making process or gain inside information regarding RLF proposed activities or related activities, obtain financial interest or benefit from the project, or have any interest in any contract, sub-contract or agreement with respect to any RLF project are also prohibited from benefitting from a RLF project.

The prohibitions against benefitting from a RLF project would apply to the covered individuals or those with whom they have family or business ties, for one (1) year following their tenure in the covered position. If questions arise concerning the conflict of interest prohibitions, contact the Georgia Department of Community Affairs in order to discuss the situation before proceeding with a questionable project."

*(Adopted February 13, 2012)*

# CHAPTER 9: NATIONAL INCIDENT MANAGEMENT SYSTEM

Section

9-101 Standardized Unified Incident Command System



The Town of Braselton hereby adopts the National Incident Management System (NIMS) as established under HSPD 5 and the Unified Command System as established under O.C.G.A. 38-3-57, and as may be amended, as its system of preparing for and responding to disaster incidents and directs all incident managers and response organizations in the Town of Braselton train and exercise and use these systems in their response operations.

## **Section 9-101 Standardized Unified Incident Command System**

1. Front Line Employees:
  - A. First Responder/Rescue Personnel
  - B. EMS Personnel/Paramedics & Emergency Medical Technicians
  - C. Firefighters
  - D. Hospital Staff
  - E. Police Officers/Deputy Sheriffs
  - F. Public Health Employees
  - G. Public Works & Utilities/Road Dept.; Town/City Utility Workers
  - H. 911-Communications Personnel
  - I. Tax Assessor's Employees
  - J. Building Inspections and Code Enforcement Employees
  - K. Animal Control Officers
2. Front Line Supervisors:
  - A. Assistant Rescue Chiefs & Team Leaders
  - B. EMS Senior Paramedics
  - C. Fire Lieutenants, Inspectors, etc.
  - D. Police & Sheriff Corporals and Sergeants
  - E. Public Works & Utilities Supervisors
  - F. 911-Communications Supervisors
  - G. Tax Assessor's Supervisors
  - H. Building Inspections and Code Enforcement Supervisors
3. Middle Management:
  - A. Rescue Chiefs
  - B. EMS Supervisors
  - C. Fire Captains and Battalion Chiefs
  - D. Police & Sheriff Lieutenants, Captains. etc.
  - E. 911 Assistant Director
  - F. EMA Assistant Director
4. Command Staff
  - A. Emergency Management Director
  - B. County Manager
  - C. Sheriff and Major
  - D. Police Chiefs and Assistant Police Chiefs
  - E. Planning Director
  - F. Public Works Director
  - G. Town/City Utility Directors
  - H. Town/City Managers or Mayors with Town/City managers
  - I. Public Health Director
  - J. Hospital CEO

*Braselton Code of Ordinances*

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- K.** County Finance Director
- L.** County Purchasing Director
- M.** Chief Tax Assessor

*(Adopted February 13, 2006)*

## **PART II: PUBLIC HEALTH AND SAFETY**

## CHAPTER 10: FIRE PREVENTION AND PROTECTION

Section

10-101 State Minimum Fire Safety Standards



### **Section 10-101 State Minimum Fire Safety Standards**

The State Minimum Fire Safety Standards shall have state-wide effect and shall not require adoption by the Town of Braselton. The Town of Braselton is authorized to enforce these standards on all buildings and structures except one-family and two-family dwellings and those structures listed in *O.C.G.A. § 25-2-13*. Notwithstanding any other provision of law or any local ordinance to the contrary, in the event of a conflict between any code or standard of the National Fire Protection Association (National Fire Code and National Electric Code) and of the Standard Building Code Congress (Southern Standard Building Code), the code or standard of the National Fire Protection Association (National Fire Code and National Electric Code) shall prevail. The order of precedence established by this subsection shall apply to all buildings and structures whether or not such buildings and structures are covered under this Code section.

# CHAPTER 11: TRAFFIC CONTROL

## Section

11-101	Uniform Rules of the Road
11-102	Speed Limit on Public Streets
11-103	Traffic Ordinance
11-104	Speed Limits, On-system and Off-system
11-105	Golf Cart Ordinance



### Section 11-101 Uniform Rules of the Road

- 1. Adoption By Reference.** Pursuant to Chapter 6, Title 40 of *O.C.G.A.* § 40-6-372 through 40-6-376, §§ 40-6-1 to 40-6-395 (except for §§ 40-6-393 and 40-6-394), and Chapter 2, Title 40 of *O.C.G.A.* § 40-2-20 and Chapter 5, Title 40 of *O.C.G.A.* § 40-5-20, known as the Uniform Rules of the Road and the definitions contained in *O.C.G.A.* § 40-1-1 are hereby adopted as and for the traffic regulations of this municipality with like effect as if recited herein.
- 2. Penalties.** Any person convicted of a violation of any provision of this ordinance and code section shall be punished as provided by Georgia Law for violations of the Uniform Rules of the Road.
- 3.** Pursuant to *O.C.G.A.* § 4-5-121, the municipal court of the Town of Braselton shall be authorized to impose punishment in accordance with Georgia Law for convictions of driving while a license is suspended or revoked.

### Section 11-102 Speed Limit on Public Streets

Necessary signs will be erected by the Georgia Department of Transportation or authorized Town personnel. Traffic on all public streets within the Town shall not exceed 35 mph or as posted.

*(Adopted March 12, 2001)*

### Section 11-103 Traffic Ordinance

- 1. Definitions.**
  - A.** Combination of vehicles means a semitrailer pulled by a truck tractor or a semitrailer and trailer pulled by a truck tractor operating in a truck tractor-semitrailer-trailer combination.
  - B.** Semitrailer shall be defined as a detachable load-carrying unit designed to be attached to a coupling at the rear of a truck tractor by which it is partly supported.
  - C.** Trailer shall be defined as a detachable load-carrying unit designed to be attached to a coupling at the rear of a semitrailer and capable of support in operation without the truck tractor.
  - D.** Truck tractor shall be defined as the noncargo-carrying power unit that operates in combination with a semitrailer or trailer, except that a truck tractor and semitrailer engaged in the transportation of automobiles may transport motor vehicles on part of the power unit.
- 2. Truck tractor, trailer, semitrailer and combination of vehicles prohibited on certain streets.**
  - A.** It shall be unlawful for any truck tractor, trailer, semitrailer or combination of vehicles to traverse any streets within the Town of Braselton, except Georgia Highway 211, Georgia Highway 124, Georgia Highway 53, Interstate 85, State Route 347, Braselton Parkway, and Braselton Industrial Boulevard. However, nothing herein shall prevent any truck tractor, trailer, semitrailer or combination of vehicles from traversing any street within the Town of Braselton solely for the purpose of making delivery or for the purpose of picking up or receiving goods, wares or merchandise for transportation on such road.
  - B.** It shall be unlawful for any truck tractor, trailer, semitrailer or combination of vehicles to enter, park or stand on any street, except Georgia Highway 211, Georgia Highway 124, Georgia Highway 53, Interstate

85, State Route 347, Braselton Parkway, and Braselton Industrial Boulevard for any purpose, except as may be authorized under Georgia Law or the Georgia Department of Transportation.

3. **Penalty.** Any person who shall violate any of the provisions of this Section shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine of not more than five hundred dollars (\$500.00) or imprisonment of not more than ninety (90) days, or both. Each day's violation shall be deemed a separate violation.
4. **Radar.** All speed zones and limits as established by the Georgia Department of Transportation and this Section, may be enforced by use of radar detection devices on any state route, county road or Town street with the limits of the Town of Braselton. Radar detection devices, as authorized under Georgia law, may be used by police for the Town of Braselton, or by any Sheriff's office or county law enforcement agency within their respective jurisdiction."

*(Adopted March 12, 2001)*

**Section 11-104 Speed Limits, On-system and Off-system**

LIST OF ROADWAYS for  
TOWN OF BRASELTON

BARROW COUNTY

**ON-SYSTEM**

STATE ROUTE	WITHIN THE TOWN LIMIT OF	FROM	MILE POINT	TO	MILE POINT	LENGTH IN MILES	SPEED LIMIT
SR 124	Braselton	West Town Limits of Braselton (635' east of Old Victron School Road)	01.80	Jackson County Line	03.42	01.62	55
SR 211	Braselton	South Town Limits of Braselton (581' south of State Route 124)	22.46	1478 south of Liberty Ch. Rd.	23.68	01.22	45
SR 211	Braselton	South Town Limits of Braselton (581' south of State Route 124)	23.68	Gwinnett County Line	24.50	00.82	55
SR 403/ I-85	Braselton	Gwinnett County Line	125.32	Jackson County Line	127.70	02.38	70

GWINNETT COUNTY

**ON-SYSTEM**

STATE ROUTE	WITHIN THE TOWN LIMIT OF	FROM	MILE POINT	TO	MILE POINT	LENGTH IN MILES	SPEED LIMIT
SR 211	Braselton	Barrow County Line	00.00	Hall County Line	00.50	00.50	55

**OFF-SYSTEM**

STATE ROUTE	WITHIN THE TOWN LIMIT OF	FROM	TO	LENGTH IN MILES	SPEED LIMIT
Bald Cypress Dr.	Braselton	Grand Hickory Dr.	Hall County Line	00.16	25
Beech Trail	Braselton	White Walnut Way	White Walnut Way	00.12	25
Grand Hickory Drive	Braselton	Old Winder Highway	Dead End	00.28	25
Loowit Falls Way	Braselton	Barrow County Line	Cul-De-Sac	00.17	25
Sahale Falls Drive	Braselton	Loowit Falls Way	Cul-De-Sac	00.32	25
White Walnut Way	Braselton	Bald Cypress Drive	White Walnut Way	00.25	25

HALL COUNTY

**ON-SYSTEM**

STATE ROUTE	WITHIN THE TOWN LIMIT OF	FROM	MILE POINT	TO	MILE POINT	LENGTH IN MILES	SPEED LIMIT
SR 347	Braselton	00.22 mile east of Dunbar Road	08.50	Spout Springs Road	09.20	00.70	45

**OFF-SYSTEM**

STATE ROUTE	WITHIN THE TOWN LIMIT OF	FROM	TO	LENGTH IN MILES	SPEED LIMIT
Spout Springs Road	Braselton	00.50 mile west of State Route 347	00.50 mile east of State Route 347	01.00	50

JACKSON COUNTY

**ON-SYSTEM**

STATE ROUTE	WITHIN THE TOWN LIMIT OF	FROM	MILE POINT	TO	MILE POINT	LENGTH IN MILES	SPEED LIMIT
SR 53	Braselton	1426' east of Johnson Drive (West Town Limits)	02.75	1162' east of Zion Church Road	03.43	00.68	45
SR 53	Braselton	1162' east of Zion Church Road	03.43	138' east of Henry Street (East Town Limits)	03.94	00.51	35
SR 124	Braselton	Barrow County Line	00.00	1162' south of Piedmont Street	01.23	01.23	55
SR 124	Braselton	1162' south of Piedmont Street	01.23	422' north of Piedmont Street	01.53	00.30	45
SR 124	Braselton	422' north of Piedmont Street	01.53	106' south of Pinecrest Lane	02.03	00.50	35
SR 124	Braselton	106' south of Pinecrest Lane	02.03	1954' north of Pinecrest Lane (North Town Limits)	02.42	00.39	45
SR 403/ I-85	Braselton	Barrow County Line	127.70	00.91 mile north of State Route 53	131.00	03.30	70

**OFF-SYSTEM**

STATE ROUTE	WITHIN THE TOWN LIMIT OF	FROM	TO	LENGTH IN MILES	SPEED LIMIT
Braselton Industrial Boulevard	Braselton	Henry Street/Piedmont Avenue	Josh Pirkle Road	01.12	35
Chardonay Trace	Braselton	State Route 53	Reisling Drive	00.57	25
Henry Street/Piedmont Avenue	Braselton	State Route 53	State Route 124	00.55	25
Jesse Cronic Road	Braselton	West Town Limits	East of I-85 Overpass	01.40	45
Jesse Cronic Road	Braselton	East of I-85 Overpass	State Route 124	00.40	35
Pinecrest Lane	Braselton	State Route 124	Zion Church Road	00.40	25
Zion Church Road	Braselton	State Route 53	East Town Limits	00.50	25

(Adopted January 7, 2010)

## Section 11-105 Golf Cart Ordinance

### 1. Findings; definition.

- A. The Town finds that the operation of motorized carts, electric bicycles, and low speed motor vehicles (LSMV) serve as appropriate, alternative means of transportation when utilized consistent with the regulations and general notions of safety set forth below.
- B. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section:
- (1) All-terrain vehicle means any motorized vehicle designed for off-road use which is equipped with three or more low pressure tires and with a seat to be straddled by the operator and with handlebars for steering control.
  - (2) Automobile means a passenger vehicle primarily designed to legally travel on the highways of this state that usually has an engine capable of propelling the vehicle over 35 miles per hour.
  - (3) Bicycle means every device propelled by human power upon which any person may ride, having only two wheels which are in tandem and either of which is more than 13 inches in diameter.
  - (4) Dealer means a person engaged in the business of buying, selling, or exchanging vehicles who has an established place of business in this state.
  - (5) Electric bicycle means a device with two or three wheels which has a saddle and fully operative pedals for human propulsion and also has an electric motor. For such a device to be considered an electric assisted bicycle, it shall meet the requirements of the Federal Motor Vehicle Safety Standards, as set forth in 49 C.F.R. Section 571, et seq., and shall operate in such a manner that the electric motor disengages or ceases to function when the brakes are applied. The electric motor in an electric assisted bicycle shall:
    - (a) Have a power output of not more than 1,000 watts;
    - (b) Be incapable of propelling the device at a speed of more than 20 miles per hour on level ground; and
    - (c) Be incapable of further increasing the speed of the device when human power alone is used to propel the device at or more than 20 miles per hour.
  - (6) Electric personal assistive mobility device or EPAMD means a self-balancing, two non-tandem wheeled device designed to transport only one person and having an electric propulsion system with average power of 750 watts (one horsepower) and a maximum speed of less than 20 miles per hour on a paved level surface when powered solely by such propulsion system and ridden by an operator who weighs less than 170 pounds.
  - (7) Gross weight means the weight of a vehicle without load plus the weight of any load thereon.
  - (8) Low-speed motor vehicle or LSMV means any four-wheeled electric vehicle whose top speed attainable in one mile is greater than 20 miles per hour but not greater than 25 miles per hour on a paved level surface and which is manufactured in compliance with those federal motor vehicle safety standards for low-speed vehicles set forth in 49 C.F.R. Section 571.500 and in effect on January 1, 2001.
  - (9) Moped means a motor driven cycle equipped with two or three wheels, with or without foot pedals to permit muscular propulsion, and an independent power source providing a maximum of two brake horsepower. If a combustion engine is used, the maximum piston or rotor displacement shall be 3.05 cubic inches (50 cubic centimeters) regardless of the number of chambers in such power source. The power source shall be capable of propelling the vehicle, unassisted, at a speed not to exceed 30 miles per hour (48.28 kilometers per hour) on level road surface and shall be equipped with a power drive system that functions directly or automatically only, not requiring clutching or shifting by the operator after the drive system is engaged.
  - (10) Motorcycle means every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a tractor, all-terrain vehicle, dirt bike, and moped.

- (11) Motor driven cycle means every motorcycle, including every motor scooter, with a motor which produces not to exceed five brake horsepower, every bicycle with a motor attached, and every moped.
- (12) Motorized cart means every motor vehicle having no less than three wheels and an unladen weight of 1,300 pounds or less and which cannot operate at more than 20 miles per hour.
- (13) Motorized play vehicle means a coaster, scooter, pocket bike, any other alternatively fueled device, or other motorized vehicle that is self-propelled by a motor engine, gas or electric, and is not otherwise defined in this code as a "motorized cart", "low speed motor vehicle (LSMV)" "motor vehicle", "motorcycle", "electric bicycle", motorized skateboard", "electric personal assistive mobility device" or "motorized wheelchair".
- (14) Motorized skateboard or motorized scooter means a self propelled device that has a motor, gas or electric, a deck upon which a person may ride, not equipped with a seat, and at least two tandem wheels in contact with the ground and which is not otherwise defined in this Code as a "motor vehicle," "motorcycle," "motorized play vehicle," "electric personal assistive mobility device" or "motorized wheelchair."
- (15) Motorized wheelchair means a self-propelled wheelchair that is used by a physically disabled person for mobility.
- (16) Pocket motorcycle or pocket bike means a two-wheeled vehicle other than a motor vehicle, bicycle with helper motor or a motorized scooter and which is propelled by an internal combustion engine, electric motor or other mechanical means, is capable of carrying a rider and/or passenger at a speed in excess of 20 miles per hour, and is designed to replicate the general appearance of a motorcycle, regardless of the scale of the replication.
- (17) Recreation path means a paved area of generally six feet or more in width that is designed or intended for multi-use such as pedestrians, bicyclists, motorized carts, or any other approved use.
- (18) Sidewalk means a paved area of generally five feet in width or less that is designed or intended for the use of pedestrian traffic only.

**2. Registration/transfer requirements.**

- A. Reserved.
- B. Gasoline carts.
  - (1) Every gasoline powered motorized cart shall at all times be equipped with an exhaust system in good working order and in constant operation, meeting the following specifications:
    - (a) The exhaust system shall include the piping leading from the flange of the exhaust manifold to and including the muffler and exhaust pipes or include any and all parts specified by the manufacturer.
    - (b) The exhaust system and its elements shall be securely fastened, including the consideration of missing or broken brackets or hangers.
    - (c) The engine and powered mechanism of every cart shall be so equipped, adjusted and tuned as to prevent the escape of excessive smoke or fumes.
  - (2) It shall be unlawful for the owner/operator of any gasoline powered motorized cart to operate or permit the operation of such cart on which any device controlling or abating atmospheric emissions, which is placed on a cart by the manufacturer, to render the device unserviceable by removal, alteration or which interferes with its operation.
- C. Rental carts. Cart dealers and distributors, as well as other commercial establishments, may rent carts to the public for use on the recreation paths and streets and those areas accessible by the public of the town. Each such establishment renting carts shall be required to maintain a written record of each person who rents each cart. Renters shall be required to furnish positive identification, shall be provided a copy of this article to read, and must be at least 16 years of age.
- D. Electric personal assistive mobility device (EPAMD). EPAMDs shall be subject to the same registration requirements outlined above in subsections (a) and (c).
- E. Reserved.
- F. LSMV. No LSMV shall be operated on the paved recreational paths or streets located within the territorial boundaries of the town unless it is legally registered and insured according to laws of the state.

**3. Operation regulations.**

- A. Those persons who are 16 years of age and older may drive a motorized cart on the recreation paths and/or streets and those areas accessible by the public of the Town unless such person has had his or her license to operate a motor vehicle suspended or revoked by the state which issued said license in which case such person shall not be permitted to operate a motorized cart on the recreation paths and/or streets and those areas accessible by the public of the town during the time of suspension or revocation.
- B. Those persons who are 15 years of age but not yet 16 years of age may drive a motorized cart on the recreation paths and/or streets and those areas accessible by the public of the town:
  - (1) If he or she does not have in his or her possession a valid instructional permit issued by the state pursuant to O.C.G.A. § 40-5-24, as may be amended, and has not had his or her instructional permit suspended or revoked, then he or she shall be accompanied in the front seat by a person at least 18 years of age who holds a valid motor vehicle driver's license or he or she shall be accompanied in the front seat by a parent, grandparent or legal guardian; or
  - (2) If he or she has in his or her possession a valid instructional permit issued by the state pursuant to O.C.G.A. § 40-5-24, as may be amended, and is unaccompanied by a licensed driver as provided in subsection (b)(1), or is unaccompanied by a parent, grandparent or legal guardian as provided in subsection (b)(1), then he or she may be accompanied in the vehicle by up to one other person who must be at least 15 years of age, or he or she may be accompanied by up to three immediate family members.
- C. Those persons who are 12 years of age but not yet 15 years of age may drive a motorized cart on the recreation paths and/or streets and those areas accessible by the public of the town if they are accompanied in the front seat by a parent, grandparent or legal guardian.
- D. No person under the age of 12 shall be permitted to drive a motorized cart on the recreation paths and/or streets and those areas accessible by the public of the town under any circumstances.
- E. All operators shall abide by all traffic regulations applicable to vehicular traffic when using the recreation paths, streets and those areas accessible by the public in the town. Where cart paths exist, they must be used in preference to parallel town streets.
- F. Motorized carts and LSMVs shall not be operated on sidewalks at any time.
- G. Motorized carts may be operated over those authorized streets, recreational paths and those areas accessible by the public only during daylight hours unless such motorized carts are equipped with functional headlights and taillights.
- H. No motorized cart shall be permitted to operate over, along, or across Highway 211 or Highway 347, within the boundaries of the town except where authorized crossings are provided.
- I. It shall be unlawful for the owner of any motorized cart or LSMV or any other person operating, employing, permitting the use of or otherwise directing the use of such motorized cart or LSMV to operate or permit the operator of any motorized cart or LSMV to drive over the recreational paths, streets or those areas accessible by the public in the town in violation of this section.
- J. LSMV. Only persons possessing a valid license issued by the state, other state of the United States of America, or international agency which permits such person to operate a motor vehicle on the highways of the state may operate a LSMV on the paved recreational paths or streets located within the territorial boundaries of the town.
- K. No LSMV shall be permitted to operate on any street of which the posted speed limit exceeds 35 miles per hour. Except as prohibited above, LSMVs shall be permitted to cross over streets of which the posted speed limit exceeds 35 miles per hour.
- L. EPAMD. Only persons possessing a valid driver's license, or in lieu of a driver's license, persons who are at least 18 years of age and older, may operate an EPAMD on the paved recreational paths or streets located within the territorial boundaries of the town.
- M. No EPAMD shall be permitted to operate on, over, along, or across Highway 211 or Highway 347, within the boundaries of the town except where authorized pedestrian crossings are provided. No EPAMD shall be permitted to operate on any street of which the posted speed limit exceeds 35 miles per hour. Except as prohibited above, EPAMD's shall be permitted to cross over streets of which the posted speed limit exceeds 35 miles per hour.
- N. EPAMDs shall be equipped with the following: front, rear, and side reflectors which shall be visible from a distance of 300 feet when directly in front of lawful upper beams of headlights on a motor vehicle; a system that when employed will enable the operator to bring the device to a controlled

stop; and, if the device is operated between one-half hour after sunset and one-half hour before sunrise, a lamp emitting a white light which, while the device is in motion, illuminates the area in front of the operator for a distance of 300 feet.

O. No person shall operate an EPAMD at a speed greater than seven miles per hour when traveling on any path or sidewalk or 15 miles per hour or any other town right-of-way. (This again is limited by state law, see O.C.G.A. § 40-6-322).

P. No person shall operate an EPAMD with more than a single user at any time.

**4. Recreation path users—Authorized.**

Authorized users of recreation paths are as follows:

A. Pedestrians;

B. Nonmotorized vehicles;

C. Roller skates, roller blades and skateboarders (daylight only);

D. Electric-powered golf carts;

E. Gasoline-powered golf carts;

F. Emergency and authorized maintenance vehicles;

G. Bicycles, traditional and electric (as defined in section 11-105.1.B);

H. Electric and conventional wheelchairs; and

I. Electric vehicles designed to carry one person at a speed not to exceed 20 miles per hour except as prohibited in Section 11-105.5.

J. LSMV provided that the vehicle is operated only in a mode or other restriction which does not allow the vehicle to exceed 20 miles per hour.

**5. Same—Prohibited uses.**

Prohibited uses of recreation paths are as follows:

A. Automobiles and trucks (except authorized maintenance vehicles);

B. Motorcycles;

C. Street and trail motorized bikes or vehicles (not to include electric bicycles);

D. Minibikes and mopeds;

E. Horses;

F. Go-carts;

G. Reserved;

H. Reserved;

I. Motorized skateboards or motorized scooters; and

J. Except as permitted in Section 11-105.4, any vehicle designed by the manufacturer to be able to travel at speeds in excess of 20 miles per hour under its own power on a flat surface.

**6. Hazardous activities and special rules.**

A. Paths are for transportation and public recreation by the various groups of permitted users. No individual or group shall engage in hazardous activities on the paths and streets and those areas accessible by the public. Such hazardous activities, and the special rules pertaining to them, include but are not limited to the following:

(1) Racing of any form, except for special events approved by the town; and

(2) Blocking of public access, except for special events approved by the town.

B. None of the prohibited users in Section 11-15.5 shall use the path system or the bridges and/or their underpasses for any purpose whatsoever.

C. Pedestrians, skaters and permitted vehicles shall not loiter or park on recreation path bridges or in underpasses.

D. Normal rules of the road shall apply to the recreation paths. For instance, when approaching oncoming path users, each user shall move to his right side of the path. Passing shall be on the left side of the path.

E. Pedestrians should be given due consideration and reasonable right-of-way by other users of the recreation paths to ensure them safe passage.

F. A warning or announcement shall be given by operators of golf carts and other users of the recreation paths, such as bicyclists and skaters, when approaching pedestrians from the rear. This warning or announcement may be verbal, but it is recommended that bicyclists and golf cart operators equip their vehicles with a warning device such as a horn or bell. Each user of the recreation paths shall be considerate of the safety and welfare of other users, and dangerous conduct will not be tolerated.

- G. All laws and ordinances relative to alcohol and its use, including open container laws, which apply to traffic on the streets of the town also apply to the recreation paths.
  - H. All litter shall be deposited in the receptacles provided along the recreation paths or retained by the path user for proper disposal later. Littering on the recreation paths shall be subject to twice the fines and penalties as littering on the streets.
  - I. All users of electric bicycles shall wear a properly fitted and fastened bicycle helmet which meets the standards of the American National Standards Institute or the Snell Memorial Foundation's Standards for Protective Headgear for Use in Bicycling or a motorcycle helmet while operating an electric bicycle on the recreational paths.
  - J. No one under the age of 15 shall operate an electric bicycle on the recreational paths.
  - K. Seat belts on LSMVs shall be worn by all occupants at all times the vehicle is moving.
  - L. All operators and passengers must remain seated at all times during the operation of the golf cart. No person may sit on the operator's lap during the operation of the golf cart.
7. Motorized play vehicle; authorizations; prohibitions; disclosure requirements.
- A. No motorized play vehicle may be operated on any public street, public roadway, public sidewalk, public park, public or private parking lot, public trail, public shared multi-use path, public bicycle path, and all other public property.
  - B. Motorized play vehicles are permitted on private residential property with the permission of the property owner. In the case of residential property commonly owned by a homeowner association, the homeowner association may regulate such usage.
  - C. No motorized play vehicle may be operated on any private commercial/industrial property unless the location where the vehicles are to be operated is inaccessible to normal pedestrian or vehicular traffic (such as an enclosed warehouse or fenced parking lot with a locked gate). Motorized play vehicles may be operated on private commercial/industrial property meeting these restrictions with the written permission of the owner, the person entitled to immediate possession of the property, or the authorized agent of either.
  - D. No person shall operate a motorized play vehicle on any private property in a manner causing excessive, unnecessary, or offensive noise which disturbs the peace and quiet of any neighborhood or which causes discomfort or annoyance to a reasonable person of normal sensitivity.
  - E. The parent, guardian, or legal custodian of any minor shall not authorize or knowingly permit such minor to violate any of the provisions of this section.
  - F. It is unlawful for any vendor or merchant to sell motorized play vehicles without making disclosures required by this section. Any merchant or vendor who sells motorized play vehicles within the town shall:
    - (1) Post in a prominent place at each location where motorized play vehicles are on display, a notice, on a sign not less than 96 square inches and visible to the public, stating that operation of motorized play vehicles:
      - (a) Are prohibited on any public street, public roadway, public sidewalk, public park, public parking lot, public trail, public shared multi-use path, public highway or any part of a highway, public bicycle path and all other public property in the town.
      - (b) Are allowed to be used on private residential property with owner's written permission.
      - (c) Are allowed to be used on private commercial/industrial property only in areas inaccessible to normal pedestrian or vehicular traffic and only with the written permission of the owner/agent.
    - (2) Provide a copy of such notice to each purchaser of a motorized play vehicle, either before or in connection with the purchase of a motorized play vehicle. If the purchaser is a minor, the minor's parent or legal guardian must sign a receipt of said notice.
    - (3) Any motorized play vehicle owned by a governmental entity and which is operated in the performance of authorized duties or activities, is exempt from the provisions of this section.
    - (4) Temporary suspension of all or part of this section may be granted by the town manager for special events.
8. Liability.
- Each person using the recreation paths is liable for his own actions. Liability insurance coverage varies, and each person utilizing the recreational paths and public streets and those areas accessible by the public should verify their coverage.

- 9.** Penalties.
- A.** Any person who violates the terms of this section, except subsection 11-105.3.a, b, or d, shall be punished as provided in Section 1-109; except that any fine for a littering offense shall be doubled.
  - B.** Any violation of subsections 11-105.3.b, c, or d, shall be charged against the operator of the motorized cart, and all fines and penalties shall be levied against the operator of the motorized cart as follows:
    - (1) For the first offense, a fine of not less than \$250.00.
    - (2) For the second offense, a fine of not less than \$500.00.
    - (3) For a third offense committed within one year of conviction for a second offense for a motorized cart, a fine of \$1,000.00, and the owner or family member cannot thereafter use a motorized cart in the town for a period of two years following the third conviction.
  - C.** Any violation by an operator of a LSMV shall be charged against the operator according to the provisions of Title 40 of the Official Code of Georgia and this Code. Any violation by an owner of a LSMV shall be charged against the owner according to the provisions of Title 40 of the Official Code of Georgia and this Code.

*(Adopted July 11, 2011)*

## CHAPTER 12: SOLID WASTE MANAGEMENT

### Section

12-101	Definitions
12-102	General
12-103	Exemptions
12-104	Prohibited Acts
12-105	Authorization to Provide Service
12-106	Requirements for Service Providers
12-107	Residential Services
12-108	Elderly and Disabled
12-109	General Conditions of Residential Collection
12-110	Commercial Services
12-111	General Conditions of Commercial Collection
12-112	Termination of Authorization to Provide Services
12-113	Penalties
12-114	Enforcement
12-115	Exceptions
12-116	Reserved
12-117	Effective Date



### Section 12-101 Definitions

- 1. Commercial establishment.** Any hotel, motel apartment dwelling, rooming house, business, industrial, public or semipublic establishment of any nature or kind whatsoever other than a one or two-family dwelling unit or condominium.
- 2. Commercial solid waste.** All types of solid waste generated by stores, offices, restaurants, warehouse, and other nonmanufacturing activities, excluding residential and industrial wastes.
- 3. Construction/demolition waste.** Waste building materials and rubble resulting from construction, remodeling, repair, and demolition operations of pavements, houses, commercial buildings and other structures. Such wastes include, but are not limited to asbestos, asbestos containing waste, wood, brick, metal, concrete, wall board, paper cardboard, inert waste, landfill material, and other nonputrescible wastes which have a low potential for groundwater contamination.
- 4. Dispose.** To get rid of, deal conclusively with or transfer to the control of another.
- 5. Industrial waste.** Solid waste generated by manufacturing or industrial processes or operations that is not a hazardous waste regulated under the Georgia Hazardous Waste Management Act. Such waste includes, but is not limited to, waste resulting from the following manufacturing processes; electric power generations; fertilizer and agriculture chemicals; food related products and byproducts; inorganic chemicals; iron and steel products; leather and leather products; nonferrous metal and foundry products; organic chemicals, plastics and resins, pulp, and paper; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textiles; transportation equipment, and water treatment. This term does not include mining waste or oil and gas waste.
- 6. Open dump.** A disposal facility of which solid waste from one or more sources is consolidated and left to decompose, burn, or to otherwise create a threat to human health or the environment.
- 7. Owner.** Any person, firm or corporation owning, leasing, renting, occupying, or managing and premises in the jurisdiction of the Mayor and Council of the Town of Braselton.
- 8. Person.** The State of Georgia or any other state agency or institution thereof, and any municipality, county, political subdivision, public or private corporation, solid waste authority, special district empowered to engage in solid waste management activities, individual, partnership, association or other entity in Georgia or any other state. This term also includes any officer or governing or managing body of any municipality, political subdivision,

solid waste authority, special district empowered to engage in solid waste activities, or public or private corporation in Georgia or any other state. This term also includes employees, departments, and agencies of the government.

9. **Refuse.** Garbage, rubbish or commercial solid waste.
10. **Residential unit.** A one-family dwelling unit that is not attached to any other dwelling unit by any means or a one-family dwelling unit attached to two or more one-family dwelling units by common vertical walls, each unit providing complete, independent living facilities, including permanent provisions for living, sleeping, eating, cooking, and sanitation.
11. **Service provider.** A person, persons or entity granted an authorization to provide service by the Town of Braselton Mayor and Council who, under written agreements for compensation by those receiving services, does the work of collecting and transporting solid waste from industries, offices, retail outlets, business, institutions, and similar locations or from residential dwellings or construction and demolition waste from construction and demolition sites; provided however, that this definition shall not include an individual collecting and transporting waste from his own single-family dwelling unit or persons who, as an incidental part of providing construction or demolition services, and using vehicles which they own or lease, remove construction or demolition debris from the sites at which they are performing such services.
12. **Solid waste.** Any garbage or refuse, sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility; and other discarded material including solid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations and community activities, but does not include recovered materials; solid or dissolved materials in domestic sewage; solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permit under 33 U.S.C. Section 1342; or source, special nuclear, or byproduct material as defined by the federal Atomic Energy Act of 1954, as amended, (68 Stat.923).
13. **Violation.** A violation shall constitute any failure to comply with the requirements of this chapter or any other applicable laws and regulations. Failure to provide the Town Manager or his/her designee with proof that there was no violation or that the alleged violation was resolved within 48 business hours of the alleged violation shall also constitute a violation.

**Section 12-102      General.**

1. Provisions of this ordinance apply to all persons presently engaged in solid waste handling as well as all persons proposing to engage in solid waste handling.
2. No person shall engage in solid waste handling in a manner which will be conducive to insect and rodent infestation or the harboring and feeding of wild dogs or other animals; impair environment; or likely create other hazards to the public health, safety, or well-being as may be determined by the chief of police or his/her designee.
3. All residential solid waste must be disposed of in a receptacle covered with a lid. A commercial establishment must dispose of commercial solid waste must be disposed of in either a receptacle covered with a lid or a dumpster.
4. No solid waste may be disposed of by any person in an open dump, nor may any person cause, suffer, allow or permit open dumping on his property as defined by the Rules of the Georgia Department of Natural Resources, EPD, chapter 391-3-4-04.
5. The owner, occupant, manager or other person in charge of any premises, office, business establishment, institution, industry, or similar facility, including construction or demolition sites, shall be responsible for the collection and transportation of all solid waste accumulated at the premises, office, business establishment, institution, or similar facility to a solid waste handling facility operating in compliance with the Georgia Environmental Protection Division Rules and Regulations unless arrangements have been made for such services with a collector operating in compliance with this ordinance.
6. No owner, occupant, manager or other person in charge of any premises, place, or facility shall allow the accumulation on premises under his or her control, or on or about his or her residential unit or commercial establishment of solid waste where such solid waste creates or may create a health hazard to neighbors or other citizens, or is unsightly, or emits foul or obnoxious odors which constitute either a public or private nuisance. Such conduct shall constitute a violation of this ordinance. Each day the solid waste remains on the premises may constitute a separate violation of this ordinance.
7. No person shall deposit or cause to be deposited, nor sort, scatter, throw, drop or leave any solid waste, hazardous waste, motor oil, banned materials, construction or demolition debris, leaf and limb materials or

recyclable material, as herein defined, upon or into any street, right-of-way, alley, or other public or private property within Braselton.

8. A person shall be presumed to have violated this provision if, upon written notification by the Police Chief, Police Officer or Code Enforcement Officer that litter or solid waste has been dumped on that person's property, nor otherwise subject to the provisions of O.C.G.A. & 16-7-51 through 16-7-54, fails to provide the Chief of the Town of Braselton Police Department or his/her designee within 15 days of notification with written assurance that the accumulation of litter or solid waste will be properly disposed of within 30 days from the original date of notification.
9. No person who first informs the Chief of the Town of Braselton Police Department or his/her designee in writing that illegal dumping has occurred on a particular parcel of that person's property shall be deemed to have violated this provision, if such person provides written assurance that all accumulated litter or solid waste will be properly disposed of within 45 days of the date of such written notifications and subsequently provides proof of such disposal.
10. The owner, occupant, manager or other person on charge of any premises, office, business establishment, institution, industry, or similar facility, including construction or demolition sites, shall be responsible for the collection and transportation of all solid waste accumulated at the premises, office, business establishment, institution, or similar facility to a solid waste handling facility operating in compliance with the Georgia Environmental Protection Division Rules and Regulations unless arrangements have been made for such services with a collector operating in compliance with this ordinance.

**Section 12-103 Requirements for service providers.**

All service providers must meet the following minimum requirements:

1. Permit. Prior to engaging in solid waste handling in the Town of Braselton, service provider must have obtained a solid waste handling permit from the Director of the Environmental Protection Division of the Georgia Department of Natural Resources of any successor agent authorized to issue permits pursuant to O.C.G.A. Section 12-8-24.

**Section 12-104 Penalties.**

1. Any person, firm or corporation or any employee or agent of any firm or entity violating any provision of this chapter may be fined up to \$500.00 per violation. Each full day a violation continues may constitute a separate violation.
2. Any service provided who is found to have violated any of the provisions of this chapter by a court of law following the appeal procedures outlines in section 12-112 shall be subject to the same penalty and may also be restrained from operating as a service provider and a civil action may be filed by the Mayor and Council.

**Section 12-105 Enforcement.**

Violations of any provisions of this chapter shall be reported initially to the Town Manager or his/her designee, which office is charge with administration of all sections herein.

The provisions of this chapter regarding collection and removal of solid waste shall be enforced by the Town of Braselton Police Department or Code Enforcement Officer.

The provisions of this chapter regarding the disposal or burial onsite of solid waste shall be enforced by the Georgia Department of Natural Resources Environmental Protection Division.

*(Adopted May 8, 2000)*

## CHAPTER 13: AIR QUALITY CONTROL

### Section

13-101	Open Burning
13-102	Exhibit A: Open Burn Ban Rules



### Section 13-101 Open Burning

1. The Rules for Air Quality Control, Chapter 391-3-1, Open Burning Ban, as promulgated by the Environmental Protection Division of the State of Georgia as noted in Section 13-102. Said rules shall have the force and effect of a local ordinance of the Town of Braselton and shall be effective in those months as set forth per Environmental Protection Division rule.
2. Jurisdiction for any violation of this chapter as enforced by the Town of Braselton shall lie in the Municipal Court of the Town of Braselton. Violations shall be punishable by a fine not to exceed \$ 1,000.00 or six (6) months in jail, or both.
3. Nothing herein shall prevent enforcement by another official duly authorized to enforce such rules such as the State of Georgia Environmental Protection Division or Fire Department.

### Section 13-102 Exhibit A: Open Burn Ban Rules

1. No person shall cause, suffer, allow, or permit open burning in any area of the Town except as follows:
  - A. Reduction of leaves on the premises on which they fall by the person in control of the premises, unless prohibited by local ordinance and/or regulation.
  - B. Carrying out recognized agricultural procedures necessary for production or harvesting of crops.
  - C. The "prescribed burning" of any forest land by the owners or the owner's designee.
  - D. The "slash burning" of any forest land by the owners or the owner's designee.
  - E. For recreational purposes or cooking food for immediate human consumption.
  - F. Fires set for purposes of training fire-fighting personnel when authorized by the appropriate governmental entity.
  - G. Acquired structure burns provided that an Authorization to Burn certificate has been issued by the division.
  - H. Disposal of vegetative debris from storm damage.
  - I. For weed abatement, disease, and pest prevention.
  - J. Operation of devices using open flames such as tar kettles, blow torches, welding torches, portable heaters and other flame-making equipment.
  - K. Open burning for the purpose of land clearing or construction or right of way maintenance provided the following conditions are met:
    - (1) Prevailing winds at the time of the burning are away from the major portion of the area's population;
    - (2) The location of the burning is at least 1,000 feet from any occupied structure, or lesser distance if approved by the Division;
    - (3) The amount of dirt on or in the material being burned is minimized;
    - (4) Heavy oils, asphaltic materials, items containing natural or synthetic rubber, or any materials other than plant growth are not being burned; and
    - (5) No more than one pile 60 feet by 60 feet, or equivalent, is being burned within a 9-acre area at one time.
  - L. Disposal of all packaging materials previously containing explosives, in accordance with U.S. Department of Labor Safety Regulations.

- M.** Open burning of vegetative material for the purpose of land clearing using an air curtain destructor provided the following conditions are met:

  - (1) Authorization for such open burning is received from the fire department, if required, having local jurisdiction over the open burning location prior to initiation of any open burning at such location;
  - (2) The location of the air curtain destructor is at least 300 feet from any occupied structure or public road. Air curtain destructors used solely for utility line clearing or road clearing may be located at a lesser distance upon approval by the Division;
  - (3) No more than one air curtain destructor is operated within a ten (10) acre area at one time or there must be at least 1,000 feet between any two air curtain destructors;
  - (4) Only wood waste consisting of trees, logs, large brush and stumps which are relatively free of soil are burned in the air curtain destructor;
  - (5) Tires or other rubber products, plastics, heavy oils or asphaltic based or impregnated materials are not used to start or maintain the operation of the air curtain destructor;
  - (6) The air curtain destructor is constructed, installed and operated in a manner consistent with good air pollution control practice for minimizing emissions of fly ash and smoke;
  - (7) The cleaning out of the air curtain destructor pit is performed in a manner to prevent fugitive dust; and
  - (8) The air curtain destructor cannot be fired before 10:00 a.m. and the fire must be completely extinguished, using water or by covering with dirt, at least one hour before sunset.
- 2.** Except for a reasonable period to get a fire started, no smoke the opacity of which is equal to or greater than 40 percent shall be emitted from any source of open burning listed in subsections 13-102.1, except as follows. Prescribed burning, slash burning, agricultural burning and acquired structure burning are not subject to the 40 percent opacity standard in this paragraph.
- 3.** The Director of the Georgia Environmental Protection Division may allow open burning prohibited under section 13-102.1, upon a determination that such open burning is necessary to protect the public health, safety or welfare of the people of the State of Georgia, or there are no reasonable alternatives to the open burning.
- 4.** Definitions.

  - A.** Prescribed burning is a fire set under controlled conditions to burn forest underbrush and used as a forest management practice to establish favorable seedbeds, remove competing underbrush, accelerate nutrient cycling, control tree pest, enhance wildlife habitat, and contribute to ecological benefits.
  - B.** Slash burning is a fire used as a forest management practice and set to remove trunks, stumps, branches, residue, and other wastes left on land after the removal of timber.
  - C.** Acquired structure burn is the burning of a house, building or structure for the exclusive purpose of providing training to fire fighting personnel or arson investigators.

*(Adopted February 9, 2004)*

# CHAPTER 14: NOISE REGULATION

## Section

14-101	Purpose
14-102	Definitions
14-103	Powers and Duties
14-104	Duties and Responsibilities of Other Departments
14-105	Sound Measurement Procedures
14-106	Sound Level Limitations
14-107	Exemptions
14-108	Specific Prohibited Acts
14-109	Temporary Relief
14-110	Penalties



### Section 14-101 Purpose.

1. The Town of Braselton finds that excessive sound is a serious hazard to the public health, welfare, safety, and the quality of life; and, a substantial body of science and technology exists by which excessive sound may be substantially abated; and, the people have a right to, and should be ensured an environment free from excessive sound, it is the policy of the Town of Braselton to prevent excessive sound that may jeopardize the health, welfare, or safety of the citizens or degrade the quality of life.
2. This article shall apply to the control of sound originating within the limits of the Town of Braselton. Governmental entities are exempt and/or preempted from the requirements of this Article.

### Section 14-102 Definitions.

The following words and terms, when used in this article, shall have the following meanings unless the context clearly indicates otherwise.

1. Ambient sound level is the total sound pressure level in the area of interest including the noise source of interest.
2. A-Weighting is the electronic filtering in sound level meters that models human hearing frequency sensitivity.
3. Background sound level is the total sound pressure level in the area of interest excluding the noise source of interest.
4. Commercial area is a group of commercial facilities and the abutting public right-of-way and public spaces.
5. Commercial facility is any premises, property, or facility involving traffic in goods or furnishing of services for sale or profit.
6. Construction is any site preparation, assembly, erection, repair, alteration or similar action, or demolition of buildings or structures.
7. C-weighting is the electronic filtering in sound level meters that models a flat response (output equals input) over the range of maximum human hearing frequency sensitivity.
8. dBA is the A-weighted unit of sound pressure level.
9. dBC is the C-weighted unit of sound pressure level.
10. Decibel (dB) is the unit of measurement for sound pressure level at a specified location.
11. Emergency work is any work or action necessary to deliver essential services including, but not limited to, repairing water, gas, electric, telephone, sewer facilities, or public transportation facilities, removing fallen trees on public rights-of-way, or abating life-threatening conditions.
12. Impulsive sound is a sound having a duration of less than one second with an abrupt onset and rapid decay.
13. Industrial facility is any activity and its related premises, property, facilities, or equipment involving the fabrication, manufacture, warehousing, distribution or production of durable or nondurable goods.
14. Legal holiday is a Town of Braselton legal holiday as established by the Town each year.

15. Measuring instrument is an instrument such as a sound level meter, integrating sound level meter or dosimeter used to measure sound pressure levels conforming to Type 1 or Type 2 standards as specified in the latest version of ANSI Standard S 1.4-1983.
16. Motor vehicle is any vehicle that is propelled or drawn on land by an engine or motor.
17. Muffler is a sound-dissipative device or system for attenuating the sound of escaping gases of an internal combustion engine.
18. Multi-unit building is any building wherein there are two or more dwelling units.
19. The municipality is the Town of Braselton.
20. Noise is any sound of such level and duration as to be or tend to be injurious to human health or welfare, or which would unreasonably interfere with the enjoyment of life or property throughout Braselton or in any portions thereof, but excludes all aspects of the employer-employee relationship concerning health and safety hazards within the confines of a place of employment.
21. Noise investigator is a Town of Braselton Police Officer, Inspections Division Staff Member, or Codes Enforcement officer assigned to investigate and enforce the provisions of this article.
22. Noise disturbance is any sound that (a) endangers the safety or health of any person, (b) disturbs a reasonable person of normal sensitivities, or (c) endangers personal or real property.
23. Person is any individual, corporation, company, association, society, firm, partnership, joint stock company, or any political subdivision, agency or instrumentality of.
24. Public right-of-way is any street, avenue, boulevard, road, highway, sidewalk, or alley that is leased, owned, or controlled by a governmental entity.
25. Public space is any real property or structures thereon that is owned, leased, or controlled by a governmental entity.
26. Real property line is either (a) the imaginary line, including its vertical extension, that separates one parcel of real property from another, or (b) the vertical and horizontal boundaries of a dwelling unit that is one in a multi-unit building.
27. Residential area is a group of residential properties and the abutting public rights-of-way and public spaces.
28. Residential property is property legally used for human habitation, except for hotels and motels which are commercial establishments.
29. Sound level is the instantaneous sound pressure level measured in decibels with a sound level meter set for A-weighting on slow integration speed, unless otherwise noted.
30. Sound pressure level (SPL) is 20 multiplied by the logarithm, to the base 1, of the measured sound pressure divided by the sound pressure associated with the threshold of human hearing, in units of decibels.
31. Weekday is any day, Monday through Friday, that is not a legal holiday.

**Section 14-103 Powers and duties.**

The provisions of this chapter shall be enforced by the Town of Braselton Police Department and/or Town of Braselton Code Enforcement as appropriate.

**Section 14-104 Duties and responsibilities of other departments.**

All departments and agencies of the Town of Braselton shall carry out their programs according to law.

**Section 14-105 Sound measurement procedures.**

1. Insofar as practicable, sound will be measured while the source under investigation is operating at normal, routine conditions.
2. All tests shall be conducted in accordance with the following procedures:
  - A. The noise investigator shall, to the extent practicable, identify all sources contributing sound to the point of measurement.
  - B. Measurements shall be taken at or within the property line of the affected person, except when the affected party is in a multi-unit residential building. In such a case the sound level is measured from any point inside the affected unit.
  - C. The measuring instrument must be calibrated using a calibrator recommended by the measuring instrument manufacturer before and after each series of readings.

- D. No outdoor measurements shall be taken:
  - (1) When wind speeds (including gusts) exceed 15 mph;
  - (2) Without a windscreen, recommended by the measuring instrument manufacturer, properly attached to the measuring instrument;
  - (3) Under any condition that allows the measuring instrument to become wet (e.g., rain, snow, or condensation); or
  - (4) When the ambient temperature is out of the range of the tolerance of the measuring instrument.
- 3. The noise investigator shall explore the vicinity of the source in question to identify any other sound sources that could affect measurements, to establish the approximate location and character of the principal sound source, and to select suitable locations from which to measure the sound from the source in question.
- 4. When measuring continuous sound, or sound that is sustained for more than one second at a time, the measuring instrument shall be set for A-weighting, slow response, and the range (if the measuring instrument is designed to read levels over different ranges) shall be set to that range in which the meter reads closest to the middle of the scale. The minimum and maximum readings shall be recorded to indicate the range of monitored values along with the central tendency average most often displayed.
- 5. The measuring instrument shall be placed at a minimum height of three feet above the ground or from any reflective surface. When handheld, the microphone shall be held at arm's length and pointed at the source at the angle recommended by the measuring instruments manufacturer.
- 6. If extraneous sound sources, such as aircraft flyovers or barking dogs, that are unrelated to the measurements increase the monitored sound levels, the measurements should be postponed until these extraneous sounds have become of such a level as not to increase the monitored sound levels of interest.
- 7. The monitoring session should last for a period of time sufficient to ensure that the sound levels measured are typical of the source in question.

**Section 14-106 Sound level limitations.**

- 1. Except as authorized elsewhere in this chapter, no person shall cause, allow, or permit the operation of any sound source on a particular category of property or any public space or right-of-way in such a manner as to create a sound level that exceeds the sound level limits set forth below unless otherwise noted. Such a sound constitutes a noise disturbance.

TABLE 1: SOUND LEVEL LIMITS BY RECEIVING PROPERTY

Receiving Property	Time	Sound Level Limit
Residential, public space, institutional, or noise sensitive facility	7:00 a.m. to 10:00 p.m. 10:00 p.m. to 7:00 a.m	60 dBA 55 dBA
Commercial or business	7:00 a.m. to 10:00 p.m. 10:00 p.m. to 7:00 a.m	66 dBA 60 dBA
Industrial or manufacturing	At all time	75 dBA

- A. If the noise is an impulsive sound, the fast response setting shall be used and the daytime (7:00 a.m. to 10:00 p.m.) limits of Table 1 shall be increased by ten dBA.
- B. In residential multi-unit buildings, the limit between 7:00 a.m. and 10:00 p.m. is 55 dBA and between 10:00 p.m. and 7:00 a.m. is 45 dBA, for sounds originating in another dwelling within the same building.

**Section 14-107 Exemptions.**

- 1. The following are exempt from the sound level limits of Section 14-106:
  - A. Noise from public safety vehicles and emergency signaling devices;
  - B. Noise from celebrations and events with amplified or unamplified sound that are operating within the parameters set forth for approved and permitted special events at Town parks between the hours of 7:00 a.m. and 10:15 p.m., or as otherwise allowed by the Braselton Town Council or other Town agency or authority;

- C. Noise from any practice or performance sponsored by or associated with the educational process administered by a recognized institution of learning, including, but not limited to band, choir, and orchestral performances;
- D. Noise that results from the activities of a sports league between the hours of 7:00 a.m. and 11:59 p.m.;
- E. Noise from a vehicle alarm or exterior burglar alarm of any building provided such alarm shall terminate its operation within five minutes of its activation;
- F. Noise from domestic power tools, lawn mowers, and agricultural equipment when operated between 7:00 a.m. and 10:00 p.m., provided such use generates less than 85 dBA at or within any real property line of a residential property;
- G. Sound from bells and chimes while being used in conjunction with a governmental facility, religious observance or service;
- H. Noise from construction activity, including the operation of tools or equipment used in construction, drilling, earthmoving, excavating, or demolition work between the hours of 7:00 a.m. and 8:00 p.m. on a weekday or when the following day is a weekday, and between 8 :00 a.m. and 8:00 p.m. on a weekend day or legal holiday or when the following day is a weekend day or legal holiday, except for emergency work, by a waiver issued pursuant to Section 14-109, or when the sound level does not exceed any applicable limit specified in Section 14-106;
- I. Noise from snow blowers, snow throwers, and snow plows when operated with a muffler for the purpose of snow removal;
- J. Noise from emergency work;
- K. Noise from surface carriers engaged in commerce by railroad;
- L. Noise from garbage cans, refuse, or similar collection, or the compacting of refuse by persons engaged in garbage collection, whether private or municipal, between the hours of 7:00 a.m. and 8:00 p.m. on a weekday or when the following day is a weekday, and between 8:00 a.m. and 8:00 p.m. on a weekend day or legal holiday or when the following day is a weekend day or legal holiday, or when the sound level does not exceed any applicable limit specified in Section 14-106;
- M. Noise from a commercial vehicle in motion on a public roadway. Nothing in this code section nor any regulation based thereon shall conflict with the Georgia Traffic Code, Georgia Public Service Commission, or Georgia Board of Public Safety regulations applying to the securing of loads and the regulating of equipment on motor vehicles.

**Section 14-108 Specific prohibited acts.**

1. No person shall cause, allow, or permit to be made verbally or mechanically any noise disturbance, as defined in Section 14-102.
2. Notwithstanding the provisions of Section 14-106, no person shall cause, suffer, allow, or permit the following acts:
  - A. Operating, playing, or permitting the operation or playing of any radio, television, phonograph, or similar device that reproduces or amplifies sound in such a manner as to create a noise disturbance (as defined in Section 14-102) for any person other than the operator of the device;
  - B. Owning, possessing, or harboring any animal or bird that, frequently or for continued duration, generates sounds that create a noise disturbance (as defined in Section 14-102) across a residential property line;
  - C. Loading, unloading, opening, closing, or other handling of boxes, crates, containers, building materials, liquids, or similar objects, or the pneumatic or pumped loading or unloading of bulk materials in liquid, gaseous, powder, or pellet form, between 9:00 p.m. and 7:00 a.m. on a weekday or when the following day is a weekday, and between 9:00 p.m. and 9:00 a.m. on a weekend day or legal holiday or when the following day is a weekend day or legal holiday, when the sound therefrom creates a noise disturbance (as defined in Section 14-102) across a residential property line;
  - D. Operating or permitting the operation of any motor vehicle whose manufacturer's gross weight rating is in excess of 10,000 pounds, or any auxiliary equipment attached to such a vehicle, for a period of longer than five minutes in any hour while the vehicle is stationary, for reasons other than traffic congestion or emergency work, on a public right-of-way or public space within 150 feet of a residential area between 7:00 p.m. and 7:00 a.m.

**Section 14-109 Temporary relief.**

1. Any person may apply to the Town for a temporary relief from one or more of the provisions of this article. Temporary waivers not exceeding 30 consecutive days may be administratively approved the Town Manager, or designee. Extended waivers, those exceeding 30 consecutive days, but in no case longer than 12 consecutive months, shall be reviewed and considered by the Braselton Town Council. The Town shall establish rules and procedures for reviewing any waiver. Applications for a permit of variance shall supply information including, but not limited to:
  - A. The nature, time and location of the noise source for which such application is made;
  - B. The reason for which the permit of variance is requested, including the hardship that will result to the applicant or the public if the permit of variance is not granted;
  - C. The level of noise that will occur during the period of the variance.
  - D. Waivers may be revoked if there is a violation of conditions of the waiver, misrepresentation of fact by the applicant, or material change in any of the circumstances surrounding the application.

**Section 14-110 Penalties.**

Each violation under this article shall constitute a separate and distinct offense. Such offense shall be punishable by a fine not to exceed \$1,000.00, imprisonment in the Town or county jail not exceeding six months, or both a fine and sentence of imprisonment; and all sentences may be in the alternative and fines may be imposed with the alternative of sentence to imprisonment if the fines are not paid.

*(Adopted September 14, 2009)*

## **PART III: PUBLIC WORKS AND PROPERTY**

## CHAPTER 15: RESERVED

## CHAPTER 16: RESERVED

## CHAPTER 17: RESERVED

## CHAPTER 18: RESERVED

## CHAPTER 19: RESERVED

## CHAPTER 20: WATER and SEWER

### ARTICLE I. WATER AND SEWER RATES, APPLICATION, METER READING, COMPLAINTS, WASTEWATER ALLOCATION, ETC.

#### Section

20-101	Rate Schedule
20-102	Extraordinary Rates
20-103	Application For Water and Sewer Service
20-104	Connection Fees
20-105	Minimum Charges
20-106	Town's Responsibility and Liability
20-107	Consumer's Responsibility and Liability
20-108	Rules for Outdoor Water Use
20-109	Procedure for Violations
20-110	Access to Premises and Extensions of System
20-111	Change of Occupancy
20-112	Meter Reading – Billing — Collecting
20-113	Suspension of Service
20-114	Complaints – Adjustments
20-115	Wastewater Allocation & Capacity Certification Procedures
20-116	Penalties for Violations

### ARTICLE II. SEWER USE ORDINANCE

20-201	Purpose and Policy
20-202	Abbreviations
20-203	Sewage and Waste Disposal; Impoundment of Surface Waters
20-204	Connection to Public Water and Wastewater Systems Required; Septic Tanks and Individual Sewage Management Systems; Certificate of Occupancy
20-205	Duty of Owner and Occupant to Properly Operate and Maintain Septic Tanks and Other Permitted Individual Sewage Management Systems
20-206	Connection to Public Sewer Required Upon Failure of Septic Tank or Individual Sewage Management System
20-207	Separate Building Sewers Required
20-209	Reserved
20-210	Reserved
20-211	Prohibited Discharges
20-212	Federal and State Requirements
20-213	Wastewater Pretreatment Permit Application
20-214	Sampling and Testing Procedures
20-215	Significant Industrial Users
20-216	Discharge Permits
20-217	Reporting Requirements
20-218	Maintenance of Records
20-219	Regulation of Waste Received from Other Jurisdictions
20-220	Industrial Pretreatment Facilities
20-221	Sand and Oil/Grease Interceptors
20-222	Accidental Discharges
20-223	Hauled Wastewater
20-224	Affirmative Defenses to Discharge Violations
20-225	Town's Right of Revision
20-226	Dilution
20-227	High Strength Wastewater Surcharge

*Braselton Code of Ordinances*

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20-228 through 20-240	Reserved
20-242	Notice of Violation
20-243	Consent Orders
20-244	Injunctive Relief
20-245	Termination of Discharge
20-246	Emergency Suspensions
20-247	Civil Liability
20-248	Criminal Prosecution
20-249	Remedies Non-exclusive
20-250	Publication of Users In Significant Noncompliance
20-251	Notification and Delivery of Enforcement Actions
20-252 - 20-271	Reserved
20-272	General Definitions
20-273	Reserved
20-274	Effective Date and Conflicting Ordinances

**ARTICLE III. GREASE MANAGEMENT PROGRAM**

20-301	Grease Management Program: Sand and Oil/Grease Interceptors
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**Article I. Water and Sewer Rates, Application, Meter Reading, Complaints, Wastewater Allocation, etc.**

**Section 20-101 Rate Schedule**

The schedule of charges for water and sewer rates, fees, deposits and charges effective in the Town shall be fixed from time to time by the Mayor and Council. A current schedule of all water and sewer rates, fees, deposits and charges will be kept on file at the Clerk's office and at the utility billing office. In particular, the rates, fees, deposits, and charges recommended in that document entitled "Town of Braselton Water/Sewer Rate and Fees Study, 2006" as adopted by the Town Council are in full force and effect. *(Amended June 9, 2008)*

**Section 20-102 Extraordinary Rates**

The rate schedule set forth above contemplates a single user, such as a one-family dwelling, a one-farm dwelling with appurtenances, or a one-commercial operation. Any extraordinary circumstances shall be governed by special contract agreements made between the Town Manager and the user. Multi family dwellings, such as apartments, shall be required to provide separate meters and pay those associated fees for each dwelling unit.

Special contract agreement shall address extraordinary rates, consumer responsibility, including pollutant limitations, surcharges, and, such other matters as are necessary to protect the Town's sewer system and to recover the Town's expenses related to the acceptance of industrial wastes into the Town's sewer system.

**Section 20-103 Application for Water and Sewer Service**

The customer shall make application for water and sewer service at the Public Utility office of the Town of Braselton, Georgia and at the time said application is made shall make arrangements for payment of a security deposit as set forth in Section 20-101.

*(Amended June 9, 2008)*

**Section 20-104 Connection Fees**

Water and sewer tap and/or connection fees shall be fixed from time to time by the Mayor and Council as provided in Section 20-101.

*(Amended June 9, 2008)*

**Section 20-105 Minimum Charges**

The minimum charge, as provided in the rate schedule, shall be made for such connection subscribed. Water furnished for a given lot shall be used on that lot only and the Town of Braselton shall not under any circumstances furnish water free of charge to any person, firm or corporation.

**Section 20-106 Town's Responsibility and Liability**

The Town of Braselton shall run a service line from its distribution main to the property line where the line exists or is to be constructed, and runs immediately adjacent and parallel to the property to be served.

1. The Town may, at its discretion, make connections to service other properties not adjacent to its mains upon payment of reasonable costs for the extensions of its water and/or sewer mains as may be required to render such service.
2. The Town may install its meter at or near the property line or at the Town's option, on the consumer's property within three (3) feet of the property line.
3. The Town reserves the right to refuse service unless the consumers lines or piping are installed in such a manner as to prevent cross-connections or back-flow.
4. Under normal conditions the consumer will be notified of any anticipated interruptions of service by the Town of Braselton.

**Section 20-107 Consumer's Responsibility and Liability**

Water furnished by the Town of Braselton shall be used for the consumption by the consumer, members of his household and employees only. The consumer shall not sell water to any person or permit any other person to use said water. Water shall not be for irrigation, fire protection, nor other purposes, except when water is in available quantity without interfering with the regular domestic consumption in the area served. Disregard for this rule shall be sufficient cause for refusal and/or discontinuance of service.

1. Where the meter or meter box is placed on the premises of consumers, a suitable place shall be provided by the consumer, unobstructed and accessible at all times to the meter reader.
2. Damages to the Town's infrastructure shall be billed to the consumer at a set rate as determined by the Public Works Director.
3. No Building Permit shall be issued by the Town of Braselton until such time as the property has applied for all applicable utilities from the Town of Braselton or other authorized provider.
4. The consumer shall furnish and maintain a private cut-off valve on the consumer's side of the meter.
5. The consumer's piping and apparatus shall be installed and maintained by the consumer at the consumer's expense, in a safe and efficient manner, and in accordance with the sanitary regulations of the State Health Department.
6. Any and all on site and off site infrastructure necessary to connect to the Town's system is the Consumer's responsibility.
7. Any consumer with an automatic irrigation system shall be required to install a rain sensor shut off switch.
8. In order to be entitled to receive water from the Town's water system, all applicants must offer proof that any private wells located on their property are not physically connected to the lines of the Town's water system and all applicants by becoming consumers of the Town attest they will not permit the connection of any private wells on their property to the Town's water system. The consumer shall additionally not discharge any wastewater to the sewer system not generated by the potable water furnished by the Town of Braselton's water system or another public water system approved by the Town of Braselton.
9. No private wastewater system shall be allowed in the Town of Braselton except by special agreement with the Mayor and Council.

10. New construction located inside the Town Limits and within 200 feet of a Town of Braselton gravity sewer line shall be prohibited from permitting and constructing a septic tank unless expressly approved by the Town Manger under extenuating and special circumstances.
11. Unless otherwise provided by special contract with the Town, the consumer agrees to limit its discharge into the sewer system of that strength of sewage defined as "domestic sewage." Domestic sewage is limited to water and water carried wastes normally discharged into the sanitary sewers from dwellings, including single family homes, multi-family homes and hotels, from office buildings, and factories, and institutions but not including storm water drainage or surface water drainage and not including industrial wastes. Industrial wastes include all water, water carried solids, liquid and gas wastes resulting from any industrial, manufacturing, or food processing operation or process or from the development of any natural resource or any mixture of these fluids and domestic sewage or any mixture of these fluids with any other water or with any other liquid. The discharge of industrial wastes may be authorized under the special contract agreements provided under Section 20- 1 02. Dilution of any waste discharged into the sanitary sewer system is prohibited whether accomplished by combining two or more waste streams or adding other liquids for the purpose of diluting the discharge.

**Section 20-108 Rules for Outdoor Water Use**

The "Rules for Outdoor Water Use" as set forth at Chapter 391-3-30 of the Georgia Department of Natural Resources Environmental Protection Division, as amended from time to time, are hereby adopted and incorporated by reference as a local ordinance of the Town of Braselton. Any amendment of said rules or declaration of drought and respective response level is hereby automatically adopted by the Town without the necessity of any further action.

**Section 20-109 Procedure for Violations**

1. Users of the Town of Braselton wastewater system are subject to regular sampling of their wastewater discharge at the discretion of the Public Works Director for the Town of Braselton. The purpose of said sampling shall be to determine if the user is in compliance with the terms of this Article. In the case of any pretreatment permit issued to a user by the State of Georgia or the Town of Braselton, duly authorized officials of the Town shall have all rights of inspection and monitoring as may be provided for State officials under the terms of any such pretreatment permit or as otherwise provided by State law. If there are any changes in the operation or operational procedures of any industrial user at any time during the year causing any significant changes in flow rate, BOD, COD, or suspended solids or any other characteristic of the industrial wastes, the user shall report all such changes to the Town within ten (10) days of the change. It is the users responsibility to perform such tests from time to time as are necessary to comply with the terms of this section.
2. Upon any violation of any provision regarding BOD, COD, suspended solids, oil, grease, or any provision of Section 20-107, the Town may take any or all of the following actions:
  - A. Discontinue sewer service and water service to the offending premises;
  - B. Apply for appropriate court action;
  - C. Require pre-treatment facilities or other action to end the violation forthwith;
  - D. Require the user to pay a surcharge equal to the costs to the Town of dealing with the offending matter; or
  - E. Levy a penalty for the violation of this article.
3. Upon evidence that any applicant for water and sewer service is not likely to be able to meet or comply with the provisions and limitations of this chapter, such applicant shall be denied tap-on to the sewer system.

**Section 20-110 Access to Premises and Extensions of System**

1. Duly authorized agents of the Town of Braselton shall have access at all hours to the premises of the consumer for the purpose of installing or removing Town property, inspecting piping, reading and testing meters, or for any other purpose in connection with the water service and its facilities, and the sewer service and its facilities.
2. Extensions to the system shall be made only when the consumer shall grant or convey, or shall cause to be granted or conveyed, to the Town of Braselton a permanent easement of right-of-way across any property traversed by the water or sewer reuse lines and the Town of Braselton has accepted such easement.

**Section 20-111 Change of Occupancy**

Not less than three (3) days notice must be given, in person or in writing, at the Public Utility offices of the Town of Braselton to discontinue water and sewer service, or to change occupancy. The outgoing party shall be responsible for all water consumed and sewer discharged up to the time of departure or the time specified for departure, whichever period is longer. The new occupant shall apply for utility service within forty eight (48) hours after occupying the premises and failure to do so will make him liable for paying for the water consumed and sewer discharged since the last meter reading.

**Section 20-112 Meter Reading — Billing — Collecting**

Bills to customers for water and sewer service shall be mailed out on such day or days each month as may be determined as desirable by the Town. The failure of water and/or sewer users to pay charges duly imposed shall result in the automatic imposition of the following penalties:

1. Nonpayment on the due date will be subject to a penalty of ten percent (10%) of the delinquent account.
2. Nonpayment within thirty (30) days from the date due will result in the water being shut off from the consumer's property. The consumer's current (as well as the past due) water and/or sewer bill becomes due and payable on that date, and thus ALL water/sewer bills, including any charges, must be paid in full before the consumer's water meter will be reconnected.

The Town may, at its sole discretion, require additional deposit amounts order to protect its interests and insure proper payment of water and sewer charges.

Failure to make payment of all charges within thirty (30) days of shut off will allow the Town, in addition to all other rights and remedies, to terminate service, and in such event, the water user shall not be entitled to receive, nor the Town obligated to supply, any water under this agreement.

3. Vacant or unoccupied property owners may continue to be entitled to receive water and sewer service. However, minimum bills and charges for gallons used must continue to be paid. Once service is terminated, any vacant or unoccupied properties shall be treated as new users and shall apply for service and pay fees and deposits as above outlined.

As provided for in Section 20-112.2, water and sewer shall not be reconnected until the customer's delinquent bill, including penalty and disconnection charges, has been paid in full or arrangements are made with the Town Manager or his/her designee. Should such customer thereafter desire to be reconnected to the water and sewer system, a reconnection charge of \$50 must be paid before service will be restored.

Bills shall be paid at the Town's specified place of collection, and failure to receive bills or notices shall not prevent such bills from becoming delinquent nor relieve the consumer from payment of same. Disputed bills shall be paid in full, and a request for adjustment shall be filed with the Utility Billing Office as provided for in section 20-114.

**Section 20-113 Suspension of Service**

When water and sewer service is discontinued and all bills paid, the security deposit shall be refunded to the consumer by the Town.

1. Upon discontinuance of service for non-payment of bills, the security deposit will be applied by the Town of Braselton toward the settlement of the account. Any balance will be refunded to the consumer; however if the security deposit is insufficient to cover the bill, the Town may proceed to collect the balance in the usual way provided by law for collection of debts.
2. Services disconnected for nonpayment of bills will be restored only after bills are paid in full, such security deposits as may be required by the Public Works Director, and a service charge as quoted in Section 20-112 for each meter reconnected. Any customer who enters the meter box and turns on their own service shall be guilty of a violation of this Chapter and subject to the penalties located in Section 20-116.
3. The Town reserves the right to discontinue its service without notice for the following additional reasons:
  - A. To prevent fraud or abuse.
  - B. Consumer's willful disregard of the Town's rules.
  - C. Emergency repairs.
  - D. Insufficiency of water supply due to circumstances beyond the Town's control.

- E. Legal processes.
- F. Direction of public authorities.
- G. Strike, riot, fire, flood, unavoidable accident.

**Section 20-114      Complaints — Adjustments**

If the consumer believes his bill to be in error, he shall present his claim, in person, at the utility billing offices of the Town of Braselton before the bill becomes delinquent. Such claim, if made after the bill has become delinquent, shall not be effective in preventing discontinuance of service as heretofore provided. The consumer may pay such bill under protest and said payment shall not prejudice his claim.

- 1. The Town will make a special water meter reading at the request of a consumer for a fee of twenty five dollars (\$25.00) provided, however, that if such special reading discloses that the meter was over-read, no charge will be made.
- 2. Water meters will be tested at the request of the consumer upon payment to the Town of a fee of fifty dollars (\$50.00), provided, however, that if the meter is found to over-register beyond three percent (3%) of the correct volume, no charge will be made.
- 3. If the seal of a meter is broken by other than the Town's representative or if the meter fails to register correctly or is stopped for any cause, the consumer shall pay an amount estimated from the record of his previous bills and/or from other proper data.
- 4. Disputed bills shall be paid in full, and a request for adjustment shall be filed with the Utility Billing Office. The Town Manager shall make decisions regarding the granting of adjustments on utility bills. Appeals of the Town Manager's decisions may be made to the Town Attorney.

**Section 20-115      Wastewater Allocation & Capacity Certification Procedures**

The Town has established the following factors and procedures to apply for allocation of available sewage treatment capacity:

- 1. **The Application.**  
Any person who desires to become a new sewer customer, whether on behalf of such person or as a developer, shall make application for sewer service in accordance with Section 20-103 of this Ordinance. This provision shall also apply to any existing customer who desires to increase his/her sewage rate of flow by more than ten (10) percent or substantially increase or alter the pollutant characteristics of its sewage. Provided however, a single family dwelling shall be exempt from such application per the approval of the Town Manager.

Such persons shall specify the amount of sewer service capacity requested upon application, in addition to such other information as may requested by the Town Manager to further evaluate the criteria set forth in Section 20-115.2; however, an applicant shall only be allowed to secure a position on the sewer service waiting list if all of the following requirements are met:

- A. The property to be developed is located within the Town service area.
  - B. The property to be developed is properly zoned for the anticipated use.
  - C. The applicant has an ownership interest in the property to be developed.
  - D. The property to be developed is now, or will be in the future, a Town water customer unless otherwise provided by Town Council or altered by Court Order.
  - E. The applicant agrees to pay one-half of the projected sewer tap fee upon allocation of capacity.
- 2. **The Allocation Process.**  
Requests for capacity greater than 35,000 gpd must be approved by the Mayor and Town Council. Applicants requiring more than 35,000 gpd, or those who require pretreatment shall be required to:
    - A. Enter into a binding agreement with the Town for the provision of sewer services and/or the receipt of re-use quality water; and
    - B. Pay one-half of the projected sewer capacity fee.

Applicants requesting 35,000 gpd or less shall be required to pay the full capacity fee at time of application.

Any applicant unable to complete either of the above requirements within thirty (30) days of the allocation, or within such later date established by the Town's Attorney provided that good faith negotiations are proceeding in a diligent manner, shall forfeit the allocation offered to them and shall forfeit their position on the waiting list.

*(Adopted 2/27/2001; amended 5/30/2001, 4/14/2003, 6/13/2011)*

**Section 20-116 Penalties for Violations**

Any person who shall violate any of the provisions of this Article shall be deemed guilty of a crime against the Mayor and Council of the Town of Braselton, and upon conviction thereof in the municipal court of said Town, shall be fined up to five hundred dollars (\$500.00) or sentenced up to six (6) months imprisonment or both. Each day's violation shall be deemed a separate violation.

*(Adopted November 27, 2006)*

**Article II. Sewer Use Ordinance**

**Section 20-201 Purpose and Policy.**

**1. Compliance With State and Federal Water Pollution Control Laws.**

This article sets forth uniform requirements for persons who cause wastewater to be discharged into the wastewater collection and treatment system of the Town and enables the Town to comply with all applicable state and federal laws required by the Clean Water Act, as amended, the Georgia Water Pollution Control Act and the General Pretreatment Regulations (40 CFR Part 403).

The objectives of this article are:

- A.** To prevent the introduction of pollutants into the Town Wastewater System which will interfere with the operation of the system or contaminate the resulting sludge;
- B.** To prevent the introduction of pollutants into the Town Wastewater System which will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system;
- C.** To improve the opportunity to recycle and reclaim wastewaters and sludges from the system; and
- D.** To provide for equitable distribution of the cost of the Town Wastewater System.

This article provides for the regulation of persons who cause wastewater to be discharged into the Town Wastewater System through the issuance of permits to certain non-domestic users and through enforcement activities, requires user reporting, assumes that existing customers' capacity will not be preempted, and provides for the setting of fees for the equitable distribution of costs resulting from the operation and maintenance of the water and wastewater systems.

**2. Applicability.**

This article shall apply to the residents of the Town and to all users of the Town Water and Wastewater Systems including persons outside the Town who are, by contract or agreement with the Town, users of the Town Water and Wastewater Systems. Except as otherwise provided herein, the Town Manager shall administer, implement and enforce the provisions of the ordinance.

**Section 20-202 Abbreviations.**

The following abbreviations shall have the designated meanings:

- BOD - Biochemical oxygen demand
- CFR - Code of Federal Regulations
- COD - Chemical oxygen demand
- CWA - Clean Water Act
- EPA - Environmental Protection Agency
- 1 Liter mg - Milligrams
- mg/1 - Milligrams per liter

NPDES- National Pollutant Discharge Elimination System O&M - Operation and Maintenance  
WW TF- Publicly owned treatment works or wastewater treatment facility  
psi - Pounds per Square Inch  
SIC - Standard Industrial Classification  
TSS - Total suspended solids  
USC - United States Code

**Section 20-203 Sewage and Waste Disposal; Impoundment of Surface Waters**

It shall be unlawful to use any waters of the state for the disposal of sewage, industrial wastes, or other wastes or to withdraw, divert, or impound any surface waters of the state, except in such a manner as to conform to and comply with Article 2 of Chapter 5 of Title 12 of the Official Code of Georgia Annotated.

**Section 20-204 Connection to Public Water and Wastewater Systems Required; Septic Tanks and Individual Sewage Management Systems; Certificate of Occupancy.**

In the interest of the public health, sanitation and general welfare, all buildings and structures located within the Town, of every nature, use and design, intended for human occupancy, shall have a proper source of potable drinking water and sewage disposal. Buildings and structures accessible to a public water system and/or a public sanitary sewer system shall be properly connected on or into such system(s) prior to issuance of a Certificate of Occupancy. No permit for the construction of any residence, building or other facility which cannot be served by public sanitary sewer shall be issued, and no certificate for the use and occupancy for any existing residence, building or other facility which cannot be served by public sanitary sewer shall be issued, unless a septic tank or individual sewage management system permit has been issued by the Board of Health or Health Department of the applicable county in conformity with any state-wide minimum standards for sewage management systems and the regulations of the Board of Health or Health Department then in force and effect. It shall be unlawful for any person to construct, maintain, or permit to exist upon their property any privy, privy vault, cesspool, or other facility intended for use or disposal of human excrement, and the existence thereof is hereby declared a public nuisance, abatable in accordance with this article and the provisions of Board of Health or Health Department.

**Section 20-205 Duty of owner and occupant to properly operate and maintain septic tanks and other permitted individual sewage management systems.**

It shall be the duty of the property owner, and any person occupying private property under lease or by permission of the owner, on which is located a building or structure intended for human occupancy whose sole means of sewage disposal is a septic tank or individual sewage management system, to properly operate and maintain such system in good working condition, free of odor, at all times. In addition to the enforcement provisions of this article, continued violation of this section shall constitute grounds for discontinuance or revocation of any permit issued for such system and for revocation or suspension of any certificate of occupancy for the building or structure served.

**Section 20-206 Connection to public sewer required upon failure of septic tank or individual sewage management system.**

At such time as any public sanitary sewer becomes accessible in those areas where existing buildings or structures intended for human occupancy are currently served by septic tanks or individual sewage management systems, upon the failure of such septic tank or individual sewage management system or end of useful life of such system or where the Town determines that use of such system presents a risk to human health or the environment, use of such system shall be discontinued and no permit shall be issued for maintenance or bringing the system into compliance, and the property owner shall cause the building or structure to be connected to the public sanitary sewer system. Abandoned septic tanks and individual systems shall either be removed by the owner or filled with suitable material so as not to constitute a hazard or nuisance.

**Section 20-207 Separate building sewers required**

A separate building sewer shall be provided for every building and structure intended for human occupancy and accessible to the public sanitary sewer system, unless for good cause shown the Town issues a written permit to allow more than one building or structure to be connected on a common building sewer.

Section 20-208 Reserved

Section 20-209 Reserved

Section 20-210 Reserved

Section 20-211 Prohibited Discharges.

1. **General Prohibitions.** No user shall introduce or cause to be introduced into the WWTF any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the WWTF whether or not they are subject to categorical pretreatment standards, this ordinance, or any other National, State, or local pretreatment standards or requirements.
2. **Specific Prohibitions.** No user shall introduce or cause to be introduced into the WWTF the following pollutants, substances, or wastewater:
  - A. Pollutants which create a fire or explosive hazard in the sewer system or WWTF, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21;
  - B. Wastewater having a pH less than 5.5 or more than 9.5, or otherwise causing corrosive structural damage to the WWTF or equipment;
  - C. Solid or viscous substances in amounts which will cause obstruction of the flow in the sewer system or WWTF resulting in interference;
  - D. Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the WWTF;
  - E. Wastewater having a temperature greater than 150°F (65°C), or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104°F (40°C);
  - F. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, unless specifically authorized by the Director in a wastewater discharge or pretreatment permit.
  - G. Pollutants which result in the presence of toxic gases, vapors, or fumes within the WWTF in a quantity that may-cause acute worker health and safety problems;
  - H. Trucked or hauled pollutants, except as explicitly authorized in writing by the Town and at discharge points designated by the Town, and in accordance with all provisions of Town ordinances;
  - I. Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;
  - J. Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the Town's NPDES permit;
  - K. Wastewater containing any radioactive wastes or isotopes except in compliance with applicable State or Federal regulations;
  - L. Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by the Director;
  - M. Sludges, screenings, or other residues from the pretreatment of industrial wastes;
  - N. Medical wastes, except as specifically authorized by the Director in a wastewater discharge permit;
  - O. Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;
  - P. Detergents, surface-active agents, or other substances which may cause excessive foaming in the WWTF;
  - Q. Fats, oils, or greases of animal or vegetable origin in concentrations greater 150 mg/l;
  - R. Wastewater causing two readings on an explosion hazard meter at the point of discharge into the WWTF, or at any point in the WWTF, of more than five percent (5%) or any single reading over ten percent (10%) of the Lower Explosive Limit of the meter.
  - S. The following pollutant limits are established to protect against process interference, stream standards violation, or sludge contamination. Discharges by users of the collection and treatment system are limited

such that the concentrations of specific pollutants measured at the point of discharge into the collection system do not exceed concentrations specified below.

No user shall discharge wastewater which exceeds the following shown limits (all numbers shown in milligrams per liter, mg/1) :

- Nickel equal or less than 5 mg/1
- Zinc equal or less than 10 mg/1
- Chromium (+3) equal or less than 10 mg/1
- Chromium (+6) equal or less than 0.05 mg/1
- Chlorine residual equal or less than 0.5 mg/1
- Cyanides - none allowed
- Cyanates - none allowed
- Isocyanates - none allowed

All others - none allowed without an independent justifying study and tests accepted by the Town.

Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the WWTF.

- T. All prohibitions on wastes or discharges found in other provisions of the Town's ordinances are incorporated into this provision.

### **Section 20-212 Federal and State Requirements**

1. Any laws or regulations promulgated by the State of Georgia relative to the construction or use of wastewater facilities which are more strict than the regulations provided in the Town Code are incorporated herein by reference, and such regulations shall be enforced by the Town.
2. Federal Pretreatment Standards.
  - A. The Federal government has adopted regulations governing wastewater discharges from industries into wastewater treatment facilities. These Federal regulations are generally referred to as the Federal Pretreatment Standards, as set forth in 40 CFR Part 403, or the Federal Categorical Pretreatment Standards, as set forth in 40 CFR Parts 405 - 471 . Any portion of these Federal Pretreatment Standards which are more strict than the regulations provided in the Town Code are incorporated herein by reference, and such regulations will be enforced by the Town.
  - B. It is the affirmative obligation of all industrial users regulated by the Federal Pretreatment Standards, inclusive of the Federal Categorical Pretreatment Standards, to comply with the Federal Pretreatment Standards whether or not the industry has received notification from the Town or any other jurisdiction of the existence and nature of the Federal Standards.
  - C. The categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N. Parts 405-471 are hereby incorporated.
  - D. Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Director may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).
  - E. When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the Director shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e).
  - F. A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.
  - G. A user may obtain a net gross adjustment to a categorical standard, where appropriate following a determination by the Town, in accordance with 40 CFR 403.15.
3. Modifications to Federal Pretreatment Standards.
  - A. From time to time the Federal Government may alter existing Federal Pretreatment Standards or promulgate new Standards. None of the provisions contained in the Town Code shall prevent the timely implementation of new or altered Federal Standards by the industries to whom the new or altered

Standards apply. Where new or altered Federal Standards are more strict than the Standards presently being imposed by the Town, the Town may, without prejudice, immediately revise any Industrial Wastewater Discharge Permits to reflect the new or altered Standards. If the industrial user is unable to immediately conform to the new or altered Standards, a reasonable schedule for compliance shall be provided by the Director.

- B.** Where the Town's Wastewater Treatment System achieves consistent removal of pollutants limited by Federal Pretreatment Standards, the Town may apply to the approval authority for modification of specific limits in the Federal Pretreatment Standards. "Consistent removal" shall mean reduction in the amount of a pollutant or alteration of the nature of the pollutant by the wastewater treatment system to a less toxic or harmless state in the effluent which is achieved by the system in ninety-five (95) percent of the samples taken when measured according to the procedures set forth in section 403.7 (c) (2) of 40 CFR Part 403 promulgated pursuant to the Clean Water Act, as amended. The Town may then modify pollutant discharge limits in the Federal Pretreatment Standards if the requirements contained in 40 CFR Part 403, Section 403.7 are fulfilled and prior approval from the Georgia Environmental Protection Division is obtained.

**Section 20-213 Wastewater Pretreatment Permit Application.**

All nondomestic users shall, upon the request of the Town, complete and submit to the Town a wastewater pretreatment permit application. The wastewater pretreatment permit application may be on a form provided by the Town or on industry letterhead and shall be used for the purpose of determining whether the industry is a "significant industrial user," issuing a permit and for other purposes. The wastewater pretreatment permit application shall include the following information, at a minimum:

1. Name, address and location, if different from the address.
2. SIC number according to the Standard Industrial Classification Manual, U.S. Office of Management and Budget, 1987, as amended.
3. Wastewater constituents and characteristics, including but not limited to those shown in Section 20-211 of this Chapter, including analysis of priority pollutants as defined by U.S. EPA regulations at 40 CFR Part 122.
4. Time and duration of contribution.
5. Average daily and peak wastewater flow rates, including daily, monthly and seasonal variations if any.
6. Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections and appurtenances by size, location and elevation, and any other potential locations for the discharge or release of wastewater.
7. Description of activities, facilities and plant processes on the premises, including all materials which are or could be discharged, and the location of such discharges.
8. Each product produced by type, amount, process or processes and rate of production.
9. Type and amount of raw materials processed (average and maximum per day).
10. Number and type of employees and hours of operation of plant and proposed or actual hours of operation of pretreatment system.
11. Any other information as may be deemed by the Town to be necessary to evaluate the permit application.
12. All wastewater discharge permit applications and user reports must be signed by the user or an authorized representative of the user and contain the following certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The Town will evaluate the data furnished by the user and may require additional information.

**Section 20-214 Sampling and Testing Procedures.**

1. **Sampling Procedures.**
  - A. Except as indicated in Paragraph B, below, the user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the Town may authorize the use of time proportional sampling or a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.
  - B. Samples for oil and grease, temperature, pH, cyanide, phenols, hexavalent chromium, sulfides, and volatile organic compounds must be obtained using grab collection techniques.
2. **Testing Procedures.**
  - A. All wastewater monitoring samples required by the Town shall be tested by an independent Certified Laboratory for the parameters required, with the results submitted to the Town on the original laboratory report sheets. The requirement for utilization of an independent laboratory may be waived by the Town when the required tests are performed by the Town or other approved agency or when duplicate ("split") samples are provided to the Town and the Town's testing results of such duplicate samples show a reasonably good correlation with the user's in-house testing results.
  - B. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this article shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, or in accordance with any applicable EPA testing procedure of general acceptance in the chemical testing industry, provided, however, that all such analyses shall be determined in accordance with the requirements of 40 CFR 136, which requirements shall prevail in the event of conflict.
  - C. The cost(s) incurred for testing shall be the responsibility of the Customer.
  - D. All pretreatment plants shall be operated by an individual with a minimum Wastewater Industrial Operator Certification issued by the State of Georgia.

**Section 20-215 Significant Industrial Users.**

1. **General.** All significant Industrial Users (see definition of significant Industrial User in Section 20-272) that discharge wastewater effluent into the Town Wastewater System shall comply with the following:
2. **Sampling Manhole.** In order to provide for accurate sampling and measurement of industrial wastes, each significant industrial user shall provide and maintain, on each of its industrial waste outlet sewers, a large manhole or sampling chamber to be located outside the plant. If inside the plant fence, there shall be a gate near the sampling manhole with a key furnished to the Town. There shall be ample room provided in each sampling manhole to enable, convenient inspection and sampling by the Town, or its agent. In certain sampling manholes where noxious fumes may accumulate, the Town may require a fume exhaust system to protect the life and health of the Town employees who are required to enter the sampling manhole. The fume exhaust system should extract the fumes from the bottom of the manhole and provide not less than one air change per minute.
3. **Discharge Permit Required.** It shall be unlawful for any significant industrial user, as determined under this Ordinance, to discharge wastewater into the Town Wastewater System without a Town issued Discharge Permit.

**Section 20-216 Discharge Permits**

1. **General.**
  - A. All significant industrial users proposing to connect to or to contribute to the Town Wastewater System shall obtain a wastewater Discharge Permit or Pretreatment Permit before connecting to or contributing to the Town System.
2. **Application.**
  - A. Before the time of issuance of a building permit, or when requested to do so by the Town, all significant industrial users shall complete and file with the Town an application for a permit accompanied by a non-refundable fee as set by resolution of the Town Council, from time to time. Existing users shall apply for a discharge permit within sixty (60) days of notification by the Town that a discharge permit is required. Proposed new users shall make application not less than ninety (90) days prior to connecting to or contributing to the Town Wastewater System. The completed wastewater pretreatment permit

application described in Section 20-213 will serve as application for a Discharge Permit or Pretreatment Permit.

- B. The Town's Pretreatment Coordinator will evaluate the data furnished by the user and may require additional information. Within sixty (60) days of receipt of a complete wastewater discharge permit application, the Town will determine whether or not to issue a wastewater Discharge Permit or Pretreatment Permit. The Town may notify the user that additional time is necessary to evaluate the application, request additional information, approve and issue an appropriate permit, or deny any application for a wastewater Discharge Permit or Pretreatment Permit, in writing, stating the reasons for denial.
  - C. Any aggrieved user, whose permit application has been denied, may petition the Town to reconsider the terms of a wastewater Discharge Permit within thirty (30) days of notice of its denial.
    - (1) Failure to submit a timely petition for review shall be deemed to be a waiver of any administrative appeal. The petition shall set forth all grounds of alleged error upon which the permit denial was based.
    - (2) If the Town fails to act within thirty (30) days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater Discharge Permit or Pretreatment Permit denial shall be considered final administrative actions for purposes of judicial review.
    - (3) Aggrieved users seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a Petition for Writ of Certiorari in the Jackson County Superior Court.
3. The Town may modify a wastewater Discharge Permit or Pretreatment Permit for good cause, including, but not limited to, the following reasons:
- A. To incorporate any new or revised Federal, State, or local pretreatment standards or requirements;
  - B. To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;
  - C. A change in the WWTF that requires either a temporary or permanent reduction or elimination of the authorized discharge;
  - D. Information indicating that the permitted discharge poses a threat to the Town's WWTF, Town personnel, or the receiving waters;
  - E. Violation of any terms or conditions of the wastewater discharge permit;
  - F. Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
  - G. Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;
  - H. To correct typographical or other errors in the wastewater discharge permit; or
  - I. To reflect a transfer of the facility ownership or operation to a new owner or operator.
  - J. Any such other good and sufficient reason in accordance with this Ordinance.
4. **Conditions.** Wastewater Discharge Permits or Pretreatment Permit shall be expressly subject to all provisions of this Ordinance and all other applicable regulations, user charges and fees established by the Town. Permits must contain, at a minimum, the following:
- A. A statement that indicates permit duration, which in no event shall exceed five (5) years;
  - B. A statement that the permit is nontransferable without prior notification to the Town in accordance with section 20-216.5, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
  - C. Effluent limits based upon, of a minimum, applicable pretreatment standards;
  - D. Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law; and
  - E. A statement of applicable sanctions for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law.
  - F. Permits may also contain, but need not be limited to, the following conditions:
    - (1) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
    - (2) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;

- (3) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges;
  - (4) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the WWTF;
  - (5) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the WWTF;
  - (6) Requirements for installation and maintenance of inspection and sampling facilities and equipment;
  - (7) A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those which become effective during the term of the wastewater discharge permit; and
  - (8) Other conditions as deemed appropriate by the Town to ensure compliance with this ordinance, and State and Federal laws, rules, and regulations.
5. **Duration.** Permits shall be issued for a period as determined by the Town, not to exceed five (5) years, and shall bear a stated expiration date. It shall be the responsibility of the permittee to apply for permit renewal a minimum of sixty (60) days prior to the expiration of the existing permit. The terms and conditions of the permit may be subject to modification by the Town during the term of the permit as limitations or requirements as identified in subsection 3, above, are modified, conditions change, or other just cause exists. The permittee shall be informed of any proposed changes in such permit at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance. No permit shall continue in force beyond five (5) years except where renewal application has been timely made and with written approval from the Town.
6. **Transfer.** Wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least sixty (60) days advance notice to the Town and the Town approves the wastewater discharge permit transfer. The notice to the Town must include a written certification by the new owner or operator which:
- A. States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;
  - B. Identifies the specific date on which the transfer is to occur; and
  - C. Acknowledges full responsibility for complying with the existing wastewater discharge permit.

Failure to provide advance notice of a transfer renders the wastewater discharge permit void as of the date of facility transfer. The Town reserves the right to deny any proposed transfer. No transfer is effective until notification is provided in writing by the Town.

7. **Suspension, Revocation or Denial.**
- A. **Procedure.** When Town has reason to believe that any one of the conditions enumerated in subsection B below exists, he shall .give written notice thereof to the permittee. Said notice shall notify the permittee of the opportunity to request a hearing regarding the suspension, revocation, of notice shall be sent to the permittee by certified mail, of a permit, or denial of a permit transfer or reissuance to the permittee at the address shown on the permit or at permittee's last known address. At the hearing, the permittee shall have an opportunity to refute the allegations set forth in the proposed permit revocation notice.
- If after the hearing, the Town finds that any one of the conditions hereinafter enumerated in subsection B, below, exists, the Town shall suspend or revoke the permit, or deny the transfer or renewal of the permit.
- B. Any of the following is reason for permit suspension, revocation or denial.
- (1) Failure to notify the Town's WWTF Superintendent of significant changes to the wastewater prior to the changed discharge;
  - (2) Failure to provide prior notification to the WWTF Superintendent of changed conditions pursuant to Section 20-217 of this ordinance;
  - (3) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
  - (4) Falsifying self-monitoring reports;
  - (5) Tampering with monitoring equipment;
  - (6) Refusing to allow the Superintendent, or other authorized Town personnel, timely access to the facility premises and records;

- (7) Failure to meet effluent limitations;
- (8) Failure to pay fines;
- (9) Failure to pay sewer charges;
- (10) Failure to meet compliance schedules;
- (11) Failure to complete a wastewater survey or the wastewater discharge permit application;
- (12) Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
- (13) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this ordinance.

Wastewater Discharge Permits or Pretreatment Permits shall be voidable upon cessation of operations or transfer of business ownership. All wastewater Discharge Permits or Pretreatment Permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user.

## Section 20-217 Reporting Requirements

### 1. Baseline Monitoring Reports.

- A. Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the WWTF shall submit to the Town a report which contains the information listed in paragraph B, below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the Town a report which contains the information listed in paragraph B, below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.
- B. Users described above shall submit the information set forth below.
  - (1) Identifying Information. The name and address of the facility, including the name of the certified operator in responsible charge, and owner.
  - (2) Environmental Permits. A list of any environmental control permits held by or for the facility.
  - (3) Description of Operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.
  - (4) Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the WWTF from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).
  - (5) Measurement of Pollutants.
    - (a) The categorical pretreatment standards applicable to each regulated process.
    - (b) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the Town, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 20-214 of this article.
    - (c) Sampling must be performed in accordance with procedures set out in Section 20-214 of this ordinance.
  - (6) Certification. A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.
  - (7) Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this article must meet the requirements set out in Section 20-217.2.

2. **Signature and Certification.** All baseline monitoring reports must be signed and certified in accordance with Section 20-213 of this article.
  - A. Compliance Schedule Progress Reports. The following conditions shall apply to the compliance schedule required by Section 20-217.1.B.7 of this article:
    - (1) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
    - (2) No increment referred to above shall exceed nine (9) months;
    - (3) The user shall submit a progress report to the Director no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and
    - (4) In no event shall more than nine (9) months elapse between such progress reports to the Town.
3. **Periodic Compliance Reports.**
  - A. All significant industrial users shall, at a frequency determined by the Town but in no case less than twice per year (in June and December), on or before the 10th day of the month due, submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with Section 20-213.
  - B. All other users who have been issued Discharge Permits or Pretreatment Permits are required to submit compliance reports at the intervals set forth in each user's individual permit. The compliance reports shall address the discharge parameters and all other information indicated as being necessary to report as shown in the user's permit.
  - C. All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in 'good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.
  - D. If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the Town, using the procedures prescribed in Section 20-214, the results of this monitoring shall be included in the report.
4. **Reports on Compliance with Categorical Pretreatment Standard Deadline.** Within ninety (90) days following the date for final compliance with applicable Categorical Pretreatment Standards, or in the case of a new source following commencement of the introduction of wastewater into the WWTF, any user subject to such pretreatment standards and requirements shall submit to the Town a report containing the information described in Section 20-217.1.B.4 - 7 of this article. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section 20-213.
5. **Reports of Changed Conditions.** Each user must notify the Town of any planned significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least sixty (60) days before the change.
  - A. The Town may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under Section 20-216.
  - B. The Town may issue a wastewater Discharge Permit or Pretreatment Permit under Section 20-216, or modify an existing wastewater Discharge Permit or Pretreatment Permit under Section 20-216 in response to changed conditions or anticipated changed conditions.
  - C. For purposes of this requirement, significant changes include, but are not limited to, flow increases of twenty percent (20%) or greater, the discharge of any previously unreported pollutants, or any other change which is identified by the Town and provided to the permittee in writing.

- 6. Reports of Potential Problem, including Slug Loading.**
- A.** In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load, that may cause potential problems for the WWTF, the user shall immediately telephone and notify the Industrial Pretreatment Coordinator or WWTF Superintendent of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.
  - B.** Within five (5) days following such discharge, the user shall, unless waived by the Town, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the WWTF, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this ordinance.
  - C.** A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in paragraph A, above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.
- 7. Reports from Un-permitted Users.** All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the Town as the Town may require, in writing.
- 8. Notice of Violation/Repeat Sampling and Reporting.** If sampling performed by a user indicates a violation, the user must notify the Town within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Town as soon as the results are known or at such other time period specified by the Town. At the Town's discretion, the user may not be required to resample if the Town monitors at the user's facility at least once a month, or if the Town samples between the user's initial sampling and when the user receives the results of this sampling.
- 9. Notification of the Discharge of Hazardous Waste.**
- A.** Any user shall notify the WWTF, the EPA Regional Waste Management Division Director, and State hazardous waste authorities, in writing, of any discharge into the WWTF of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the WWTF the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under Section 20-217.5 of this article. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of Sections 2-217.1, 3, and 5 of this article.
  - B.** Dischargers are exempt from the requirements of paragraph (A), above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.
  - C.** In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the Director, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.
  - D.** In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

- E. This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this ordinance, a permit issued thereunder, or any applicable Federal or State law.
- 10. All sampling and testing performed under this subsection for reporting requirements shall be conducted in accordance with Section 20-214.
- 11. Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

**Section 20-218 Maintenance of Records.**

- 1. **Sampling and Testing Records.** Any permitted user subject to the reporting requirements established in Section 20-217 shall maintain records of all information resulting from any monitoring activities required by Section 20-216. Such records shall include for all samples:
  - A. The date, exact place, method, and time of sampling and names of the person or persons taking the samples;
  - B. The dates analyses were performed;
  - C. The name of the person(s) who performed the analysis;
  - D. The analytical techniques/methods used; and
  - E. The results of such analyses.
- 2. **Monitoring Activities and Records of Results.** Any permitted user subject to the reporting requirements established in Section 20-217 shall be required to retain for a minimum of five (5) years any records of monitoring activities and results (whether or not such monitoring activities are required by this article) and shall make such records available for inspection and copying by the Town, State, or EPA. This period of retention shall be extended during the course of any unresolved litigation regarding the permitted user, or when requested by the Town, State, or EPA.

**Section 20-219 Regulation of Waste Received from Other Jurisdictions.**

- 1. If another municipality, or user located within another municipality, requests permission to contribute wastewater to the WWTF, the Town may in its discretion enter into an intergovernmental contract with the contributing municipality for such wastewater contribution.
- 2. Prior to entering into an agreement required by paragraph 1, above, the Town may request the following information from the contributing municipality:
  - A. A description of the quality and volume of wastewater to be discharged to the WWTF by the contributing municipality;
  - B. An inventory of all users located within the contributing municipality that are discharging to the WWTF; and
  - C. Such other information as the Director may deem necessary.
- 3. An intergovernmental contract, as required by paragraph 1, above, shall contain one or more of the following conditions:
  - A. A requirement for the contributing municipality to adopt a Sewer Use Ordinance which is at least as stringent as this ordinance and local limits which are at least as stringent as those set out in Section 20-211 of this ordinance. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the Town's ordinance or local limits;
  - B. A requirement for the contributing municipality to submit a revised user inventory on at least an annual basis;
  - C. A requirement for new significant industrial users discharging into sewers of a contributing municipality to obtain a wastewater discharge permit from the Town.
  - D. In the event the contributing municipality has in place an industrial pretreatment program approved by EPD, a provision specifying which pretreatment implementation activities, including wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the Town; and which of these activities will be conducted jointly by the contributing municipality and the Town;
  - E. A requirement for the contributing municipality to provide the Town with access to all information that the contributing municipality obtains as part of its pretreatment activities;

- F. Limits on the nature, quality, and volume of the contributing municipality's wastewater at the point where it discharges to the WWTF;
- G. Requirements for monitoring the contributing municipality's discharge;
- H. A provision ensuring the Town access to the facilities of users located within the contributing municipality's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the Town; and
- I. A provision specifying remedies available for breach of the terms of the intergovernmental contract.

#### Section 20-220 Industrial Pretreatment Facilities.

1. **Requirement for.** All users shall provide necessary wastewater pretreatment as required to comply with the limitations and provisions contained in this Ordinance and to achieve compliance with all Federal Categorical Pretreatment Standards within the time limitations as specified by the Federal Pretreatment Regulations. Any facilities required to pretreat wastewater to a level acceptable to the Town shall be provided, operated and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the Town for review and shall be acceptable to the Town prior to commencement of construction of the facility. The review of such plans and operating procedures will in no way relieve the user of the responsibility for modifying the facility as necessary to produce an effluent acceptable to the Town under the provisions of this Chapter. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the Town prior to the user's initiation of the changes.
2. **Compliance Schedules.** The timing of construction and operation of pretreatment facilities as required hereby shall be in accordance with the compliance schedules provided by the Town as described in Section 20-217.2; however, the Town shall also have the authority to issue compliance schedules independent of the permitting process and such compliance schedules may be enforced by the Town as provided in the Enforcement and Penalties Section of this Chapter.
3. **Maintenance of Pretreatment Facilities.** All wastewater pretreatment facilities shall be properly and adequately maintained by the user so as to achieve the intended purpose of the facilities.
4. Whenever deemed necessary, the Town may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage waste streams from industrial waste streams, and such other conditions as may be necessary to protect the WWTF and determine the user's compliance with the requirements of this ordinance.
5. The Town may require any person discharging into the WWTF to install and maintain, on their property and at their expense, a suitable storage and flowcontrol facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.
6. Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

#### Section 20-221 Sand and Oil/Grease Interceptors.

1. **Requirement for.**
  - A. All users involved in the preparation of food for commercial purposes shall provide oil/grease interceptors or traps. Grease traps shall be designed as appropriate for the size of the facility as specified in subsection B, below. Additionally, any user who generates a wastewater which contains greater than the quantity of oil and grease regulated under Section 20-211 , and provided that the excess oil and grease is floatable and can be effectively removed in an oil/grease interceptor or trap, then said user will be required to install a grease/oil interceptor.
  - B. All users whose wastewater stream is associated with unusually large quantities of grit, sand or gravel shall be required to install a sand trap. All car/truck wash systems shall be required to install a sand trap. The design and installation of the sand trap shall be approved by the Town.
  - C. The requirements of this section shall not apply to private living quarters or dwelling units.
2. **Design Criteria.**
  - A. For restaurants and other eating establishments. All sand and oil/grease interceptors used in conjunction with restaurants or other eating establishments shall have a capacity determined by grease trap design calculations, except that no grease trap shall be smaller than 1500 gallons nor larger than 3500 gallons.
  - B. For facilities other than eating establishments. All sand and oil/grease interceptors used in conjunction with facilities other than eating establishments shall have a capacity that will provide not less than ten (10)

minutes nor more than thirty (30) minutes retention time at the peak eight (8) hour flow rate. Flow-through velocities shall not exceed one foot per second at the peak eight (8) hour flow rate.

- C. All sand and oil/grease interceptors shall be sized, located and constructed in accordance with the provisions of the duly adopted Town Plumbing Code where such parameters have not been otherwise set forth herein.

**3. Maintenance.**

- A. All grease, oil and sand interceptors or traps shall be maintained by the user at their expense, in continuously efficient operation at all times.
- B. In the maintaining of these interceptors, the owner shall be responsible for the proper removal and disposal by appropriate means of the captured material, and shall maintain records of the dates, and means of disposal which are subject to review by the Town. All manifests or other records of removal shall be provided to the Town on a quarterly basis, and shall be provided to the pretreatment coordinator. The frequency of removal shall be such as to ensure that no overflows of oil, grease or sand into the wastewater system ever results.
- C. Proper Disposal of Collected Materials. Any removal and hauling of the collected materials not performed by the owner's employees must be performed by currently licensed waste disposal firms. Under no circumstances shall the collected materials ever be returned to the wastewater system.

**Section 20-222 Accidental Discharges.**

- 1. **Protection Against.** Each significant industrial user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this Ordinance. Additionally, any person or industry which handles hazardous wastes, any priority pollutant as shown on the EPA list, or any prohibited materials shall, upon the request of the Town, provide proof of protection from accidental discharge of hazardous wastes, priority pollutants, or prohibited materials. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner's or user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the Town for review, and shall be approved by the Town before construction of the facilities. All existing users shall complete such a plan within ninety (90) days after the effective date of this Article. Construction shall be completed within one hundred eighty (180) days of approval of plans by the Town. No significant industrial user who commences contribution to the Town Wastewater System after the effective date of this Ordinance shall be permitted to introduce pollutants into the system until accidental discharge procedures and facilities (if required) have been approved by the Town. Review and approval of such plans and operating procedures shall not relieve the user from the responsibility to modify the user's facility as necessary to meet the requirements of this Ordinance.
- 2. **Notification Required.** Notification of accidental discharge shall be in accordance with Section 20-217.6 of this ordinance.
- 3. **Accidental Discharge/Slug Control Plans.** At least once every two (2) years, the Town shall evaluate whether each significant industrial user needs an accidental discharge/slug control plan. The Town may require any user to develop, submit for approval, and implement such a plan. Alternatively, the Town may develop such a plan for any user. An accidental discharge/slug control plan shall address, at a minimum, the following:
  - A. Description of discharge practices, including non-routine batch discharges;
  - B. Description of stored chemicals;
  - C. Procedures for immediately notifying the Town of any accidental or slug discharge, as required by Section 20-217 of this article; and
  - D. Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing organic pollutants, including solvents, and/or measures and equipment for emergency response.

**Section 20-223 Hauled Wastewater.**

Septic tank waste may be introduced into the WWTF only with the express written approval of the Town and at locations designated by the Town, and at such times as are established by the Town. Such waste shall not violate any section of this ordinance or any other requirements established by the Town. The Town may require septic tank waste haulers to obtain wastewater discharge permits and to obtain a license for wastewater hauling and discharge.

**Section 20-224 Affirmative Defenses to Discharge Violations**

1. **Bypass.** For the purposes of this section,
  - A. "Bypass" means the intentional diversion of wastestreams from any portion of a user's treatment facility.
  - B. " Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
2. A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs 3 and 4 of this section.
3. If a user knows in advance of the need for a bypass, it shall submit prior notice to the Town, at least ten ( 10) days before the date of the bypass, if possible.

A user shall submit oral notice to the Pretreatment Coordinator or WWTF Superintendent of an unanticipated bypass that exceeds applicable pretreatment standards immediately upon the user becoming aware of the bypass. A written submission shall also be provided within five (5) days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the bypass. The Town may waive the written report on a case-by-case basis if the oral report has been received in accordance with this section.

4. Bypass is prohibited, and the Town may take an enforcement action against a user for a bypass, unless:
  - A. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
  - B. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
  - C. The user submitted notices as required under paragraph 3 of this section.
5. The Town may approve an anticipated bypass, after considering its adverse effects, if the Town determines that it will meet the three conditions listed in paragraph 3 of this section.

**Section 20-225 Town's Right of Revision.**

The Town reserves the right to establish, by future amendment to this ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the WWTF.

**Section 20-226 Dilution.**

No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The Town may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

**Section 20-227 High Strength Wastewater Surcharge.**

1. **Establishment of.** Users discharging "high strength" wastewater into the Town Wastewater System may be assessed a monetary surcharge, in addition to the normally required sewer use charges, in an amount to be calculated as shown below. A "high strength" wastewater is defined as wastewater which contains the below shown parameters in excess of the below shown monthly average concentrations:
  - A. Five day, 20°C biochemical oxygen demand (BOD5) of 250 milligrams per liter (mg/l).
  - B. Chemical oxygen demand (COD) of 500 milligrams per liter (mg/l ).
  - C. Total ammonia nitrogen (NH<sub>3</sub>+N<sub>114</sub>) of 30 mg/l, not to exceed a maximum of 45 mg/l.

- D. Total inorganic phosphates of 5 mg/1, not to exceed a maximum of 10 mg/l.
- E. Fats, oil and grease of 100 mg/1, not to exceed a maximum of 150 mg/l.

The above parameters shall be determined by the utilization of the sampling and testing procedures as provided in Section 20-214.

The amount of the surcharge, which may be charged and assessed against all users discharging high strength wastewater into the Town Wastewater System, shall reflect the cost incurred by the Town in handling the excess oxygen demand, ammonia, total inorganic phosphates, and floatable oil and grease. This surcharge shall include a proportionate share of charges for maintenance and operation of the wastewater treatment facilities including depreciation and other incidental expenses.

- 2. **Formula.** When the concentrations of the surcharged parameters shown above exceed the values of the constituents as set forth in subsection 1, above, the excess concentrations may be subject to a surcharge in the amount derived in accordance with the following formula:

$$\text{Surcharge } \$/\text{month} = P \times G \times 8.34 \times C$$

Where:

"P" is the excess monthly average concentration in mg/1 of the parameter (BOD5, etc.) being evaluated; i.e. the actual concentration less the allowable concentration listed in paragraph 1 would be the excess. The maximum concentration shown in paragraph 1 above shall not be exceeded.

"G" is equal to the user's monthly wastewater flow in millions of gallons.

"8.34 " is a conversion factor. (gallons to pounds)

"C" is equal to the unit cost in dollars per pound (\$/lb) for the treatment of the surcharged parameters. This value shall be established by the Town based on actual wastewater treatment costs which shall be revised from time to time as necessary.

- 3. **Quantitative Measurement of Surchargeable Parameters.** The measurement of the surcharge parameters (BOD5, COD, ammonia, total inorganic phosphates, or fats, oil and grease) shall be conducted as follows:
  - A. Monitoring to determine surcharge shall be conducted by the Industrial User as specified in the; user's permit except that frequency of testing for surchargeable parameters shall be a minimum of two tests per month. If the permit requires more frequent testing, then the average of all test results will be used to calculate the surcharge. If the permit requires less frequent testing for compliance purposes, then testing frequency will be increased to twice per month.
  - B. The Town may sample the user as often as desired at the Town's expense. The Town will split the sample with the Industrial User at the user's request.
- 4. **Billing Procedure.** Wastewater surcharges as provided for in this Section will be included on the user's regular water and sewer bill or on a separate wastewater surcharge bill.

At the Town's discretion, surcharges may be increased pursuant to the following formula:

Parameter	Surcharge Multiplier
250 -500 mg/l	2 x surcharge set forth in (a)
500 – 750 mg/l	3 x surcharge set forth in (a)
750 – 1000 mg/l	4 x surcharge set forth in (a)
1000 mg/l>	5 x surcharge

Section 20-228	Reserved
Section 20-229	Reserved
Section 20-230	Reserved
Section 20-231	Reserved
Section 20-232	Reserved
Section 20-233	Reserved
Section 20-234	Reserved
Section 20-235	Reserved
Section 20-236	Reserved
Section 20-237	Reserved
Section 20-238	Reserved
Section 20-239	Reserved
Section 20-240	Reserved
Section 20-241	Enforcement.

1. **General.** The failure of any person to comply with any provision contained in this Ordinance shall be a violation which shall be enforced in accordance with the penalties and provisions as hereinafter set forth.
2. **Inspections.** The Town shall have the right to direct and conduct such investigations as it may reasonably deem necessary to carry out its duties as described in this Ordinance. For this purpose, the Town and its authorized employees and representatives, upon presentation of proper credentials, shall have the right to enter at reasonable times on any property, public or private, for the purpose of investigating and inspecting the conditions relating to pollution and to inspect the operating records of any sewage system, waste treatment work, or other sewage disposal method. Upon refusal of the right of entry, the Town may apply to the Municipal Court for an administrative search warrant, upon showing probable cause that a violation exists.
3. **Reports and Information.** Whenever required to carry out the objectives of this ordinance, including but not limited to (1) developing or assisting in the development of any limitation, condition, prohibition, or standard for discharges, pretreatment, performance, or other standard, (2) determining whether any person is in violation of any such effluent or permit limitation, condition, or prohibition, or other limitation, condition, or prohibition established by this ordinance, the Town may require any person to establish and maintain such records, make such reports, install, use, and maintain such monitoring equipment or methods, (including where appropriate, biological monitoring methods), sample water or wastewater (at such locations, at such intervals, and in such manner as the Town may prescribe) and provide such other information as may reasonably be required or be necessary.
4. **Significant Noncompliance.** The term "significant noncompliance" shall mean:
  - A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of wastewater measurements taken during a six (6) month period exceed the daily maximum limit or average limit for the same pollutant parameter by any amount;
  - B. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

- C. Any other discharge violation that the Town believes has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of WWTF personnel or the general public;
- D. Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the Town's exercise of its emergency authority to halt or prevent such a discharge;
- E. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- F. Failure to provide within thirty (30) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self monitoring reports, and reports on compliance with compliance schedules;
- G. Failure to accurately report noncompliance; or
- H. Any other violation(s) which the Town determines will adversely affect the operation or implementation of the Town's pretreatment program.

**Section 20-242 Notice of Violation.**

When the Town finds that a user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or consent order issued hereunder, or any other pretreatment standard or requirement, the Town shall serve upon that user a written Notice of Violation. Within ten (10) days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the Town. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this section shall limit the authority of the Town to take any action, including emergency actions or any other enforcement action, without a Notice of Violation first being issued.

**Section 20-243 Consent Orders.**

The Town may enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents shall include specific action to be taken by the user to correct the noncompliance within a time period specified in the document. Such documents shall have the same force and effect as binding contracts under Georgia law and shall be judicially enforceable by petition for specific performance.

**Section 20-244 Injunctive Relief.**

When the Town finds that a user has violated or continues to violate, any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the Town may petition the Jackson County Superior Court, through the Town Attorney, for the issuance of a temporary or permanent injunction, as appropriate, which restrains the further violation and/or compels the specific performance of the wastewater discharge permit, consent order, or other requirement imposed by this ordinance on activities of the user. The Town may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

**Section 20-245 Termination of Discharge.**

Any user who violates the following conditions is subject to discharge termination:

1. Violation of wastewater discharge permit conditions;
2. Failure to accurately report the wastewater constituents and characteristics of its discharge;
3. Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
4. Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling; or
5. Violation of the pretreatment standards in Article V of this ordinance.
6. Discharge of wastewater which exceeds or violates any condition of the Town's wastewater permit or any applicable water quality standard.

Such user shall be notified, in writing, of the proposed termination of its discharge and be offered a reasonable opportunity to show cause before the Town why the proposed action should not be taken. The decision of the Town, after notice and opportunity for hearing, shall be deemed a final action by the Town of Braselton. Exercise of this option by the Town shall not be a bar to, or a prerequisite for, taking any other action against the user. Aggrieved users may seek judicial review by petitioning the Superior Court of Jackson County for Writ of Certiorari.

**Section 20-246      Emergency Suspensions.**

The Town may immediately suspend a user's discharge, after oral notice to the user, whenever, in the Town's sole discretion, such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The Town may also immediately suspend a user's discharge that threatens to interfere with the operation of the WWTF, or which presents, or may present, an endangerment to the environment.

1. Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Town may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the WWTF, its receiving stream, or endangerment to any individuals. The Town may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the Town that the period of endangerment has passed, unless the termination proceedings in Section 20-245 of this ordinance are initiated against the user.
2. A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the Town prior to the date of a termination hearing under Sections 20-245 of this ordinance.

Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

**Section 20-247      Civil Liability.**

1. A user who has violated, or continues to violate, any provision of this ordinance, any wastewater discharge permit or consent order issued hereunder, or any other pretreatment standard or requirement, or refuses or fails to provide access for inspection or provide reports or information or conduct sampling within the time period prescribed by the Town, shall be liable to the Town for a maximum penalty of \$5,000 per violation, per day per violation. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation. The Town, through the police department or Code Enforcement Officer, shall cause a Citation to be issued to the violator to appear before the Municipal Court of the Town of Braselton to show cause why such penalty should not be imposed.
2. In addition to any monetary fine imposed, the Town may seek restitution of reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the Town.
3. In determining the amount of penalty to be imposed, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions voluntarily undertaken by the user, the compliance history of the user, and any other factor as justice requires.
4. In lieu of the provisions of paragraphs 1 through 3 of this Section, the Town may, in its sole discretion, elect to file a complaint for civil liability in the Superior Court of Jackson County in accordance with O.C.G.A. Section 12-5-51. In those cases where the violator has been cited to Municipal Court and refuses to waive the right to trial by jury, the Municipal Court may bind the case over to the Superior Court under this section.
5. Conviction in the Municipal Court under this section shall not be a bar against, or a prerequisite for, taking any other action against a user.

**Section 20-248      Criminal Prosecution.**

1. A user who willfully or knowingly violates any provision of this ordinance, a wastewater discharge permit, or consent order issued hereunder, or any Order of the Municipal Court issued under this Ordinance, shall, upon

conviction, be guilty of a misdemeanor. The Town may apply for a State warrant for violation of O.C.G.A. Sec. 12-5-53(a), returnable to the Superior Court of Jackson County.

2. The Town may seek the issuance of State warrants for any person violating any of the provisions set forth in O.C.G.A. Sec. 12-5-53 (b) through (d), returnable to the appropriate state courts of criminal jurisdiction.

**Section 20-249 Remedies Non-exclusive.**

The remedies provided for in this ordinance are not exclusive. The Town may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the Town's enforcement response plan. However, the Town may take other action against any user when the circumstances warrant. Further, the Town is empowered to take more than one enforcement action against any noncompliant user.

**Section 20-250 Publication of Users in Significant Noncompliance.**

The Town may publish annually, in the largest daily newspaper published in the municipality where the WWTF is located, a list of the users which, during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements as defined in this Ordinance. Any such user may be required by the Town to pay any costs of such publication.

**Section 20-251 Notification and Delivery of Enforcement Actions.**

Written notice personally delivered or placed in the U. S. Mail by Certified Mail to the person's last known address, as shown in Town utility billing records, shall be deemed sufficient notice for all enforcement actions in this Ordinance. Such notice(s) may be personally served on the user or any authorized representative of the user. With respect to Ordinance violations regarding nonpayment of amounts due under this Ordinance, only notice mailed to the person's last known address, by regular U.S. Mail, of the amount owed and the date upon which payment is due shall be required.

**Section 20-252 Reserved**

**Section 20-253 Reserved**

**Section 20-254 Reserved**

**Section 20-255 Reserved**

**Section 20-256 Reserved**

**Section 20-257 Reserved**

**Section 20-258 Reserved**

**Section 20-259 Reserved**

**Section 20-260 Reserved**

**Section 20-261 Reserved**

**Section 20-262 Reserved**

**Section 20-263 Reserved**

**Section 20-264 Reserved**

**Section 20-265 Reserved**

**Section 20-266 Reserved**

Section 20-267	Reserved
Section 20-268	Reserved
Section 20-269	Reserved
Section 20-270	Reserved
Section 20-271	Reserved
Section 20-272	General Definitions

Unless the specifically defined otherwise, the following terms and phrases, as used in this Chapter 20, Water and Sewer Ordinance, shall have the meanings hereinafter designated:

1. **Act or the Act:** The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.
2. **Approval Authority:** The Director of the Georgia Environmental Protection Division.
3. **Authorized Representative of the User:**
  - A. If the user is a corporation:
    - (1) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
    - (2) The manager of one or more manufacturing, production, or operation facilities, if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
    - (3) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.
    - (4) If the user is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
    - (5) The individuals described in paragraphs (1) through (3), above, may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the Town.
4. **Biochemical Oxygen Demand (BOD):** The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees Celsius, expressed in milligrams per liter.
5. **Building Drain:** That part of the piping of a building which collects wastewater inside the walls of the building and conveys it to outside the building wall.
6. **Building Sewer:** The extension from the building drain to the public sewer or other point of acceptance, also called "house connection." Proper maintenance of this service line is the owner's responsibility from the building drain to the point of acceptance. At this point the service line or "lateral " becomes the Town's responsibility as it continues from this point to the sanitary sewer trunk line.
7. **Certified Laboratory:** A laboratory certified to conduct applicable water and wastewater analysis by the Georgia Environmental Protection Division.
8. **Cooling Water:** The water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.
9. **County:** County means any or all of the following: Gwinnett County, Jackson County, Barrow County, and Hall County.
10. **Customer:** Every person, firm, association, corporation, government agency, or similar organization who is responsible for contracting (expressly or implicitly) with the Town in obtaining, having or using water or wastewater connections with, or sewer taps to the Town Wastewater System and in obtaining, having or using water or other related services furnished by the Town for the purpose of disposing of wastewater through said system. The term customer shall also include illicit users of the water or wastewater systems.

11. **Composite.** The make-up of a number of individual samples, so taken as to represent the nature of sewage or industrial wastes.
12. **Director of Water and Wastewater:** The person designated by the Mayor as manager of the Town Water and Wastewater Departments. Whenever Director is referred to in this ordinance, it shall mean the Director or his/her designee.
13. **Direct Discharge:** The discharge of treated or untreated wastewater directly to the waters of the State of Georgia.
14. **Domestic Wastewater:** That wastewater discharged into the wastewater system from domestic sources such as toilets, washing machines, dishwashers, sinks, showers and bathtubs from normal household usage.
15. **Easement:** An acquired legal right for the specific use of land owned by others.
16. **Effluent:** The discharge flow of a treatment facility.
17. **Environmental Protection Agency or EPA:** The U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the administrator or other duly authorized official of said agency.
18. **Existing Source:** Any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.
19. **Federal Categorical Pretreatment Standard or Federal Pretreatment Standard:** Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act (33 U.S.C.§1317) which applies to a specific category of industrial users. Categorical standards appear in 40 CFR, Chapter 1 , Subchapter N, Parts 405-471 . Federal Pretreatment Standards are further defined in Section 20-272.59.
20. **Floatable Oil and Grease:** Oil, fat or grease in a physical state such that it will separate by flotation from wastewater by treatment in an approved pretreatment facility or sand and oil/grease interceptor.
21. **Flush Toilet:** The common sanitary flush commode in general use for the disposal of human excrement.
22. **Garbage:** The animal and vegetable waste resulting from the handling, preparation, cooking and serving of foods.
23. **Georgia Water Quality Control Act (GWQCA) :** O.C.G.A. 12-5-20 et seq.
24. **Governing Body:** The Town Council of the Town of Braselton, Georgia.
25. **Grab Sample:** A sample which is taken from a waste stream without regard to the flow in the waste stream and over a period of time not to exceed fifteen (15) minutes.
26. **Grit:** Matter consisting of sand, gravel, cinders, or other heavy solid materials that has settling velocities or specific gravities greater than those of organic putrescible solids normally encountered in domestic wastewater.
27. **Health Department:** The Board of Health or Health Department for the applicable County.
28. **High Strength Wastewater:** Wastewater which contains quantities of specified constituents which exceed the quantities normally encountered in domestic wastewater.
29. **Holding Tank Waste:** Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.
30. **House Connection:** Same as the "building sewer".
31. **Indirect Discharge or Discharge.** The introduction of pollutants into the WWTF from any non-domestic source regulated under Section 307(b), (c), or (d) of the Act.
32. **Industrial Customers.** Persons who, on account of their particular type of business activity, discharge into the Town sanitary sewerage system an unusual amount or unusual type of sewage which present special problems in sewage disposal and sewage treatment.
33. **Industrial User or Contributor.** An industry which discharges waste waters having the characteristics of industrial wastes, as distinct from commercial wastes or domestic wastes.
34. **Industrial Wastewater Pretreatment System Operators.** Operators of industrial wastewater pretreatment systems must comply with State of Georgia licensing requirements.
35. **Industrial Wastewater Discharge Permit:** A permit issued pursuant to this Ordinance.
36. **Infiltration/Inflow:** Groundwater and surface water which leaks into the wastewater system through cracked pipes, joints, manholes or other openings.
37. **Inflow:** Water that flows into the wastewater system from the surface, streams, roof drains, down spouts or other such source.
38. **Instantaneous Maximum Allowable Discharge Limit.** The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composite sample collected, independent of the industrial flow rate and the duration of the sampling event.
39. **Interference:** A discharge, which alone or in conjunction with a discharge or discharges from other sources, inhibits, or disrupts the WWTF, its treatment processes or operations or its sludge processes, use or disposal; and therefore, is a cause of a violation of the Town's permit or of the prevention of sewage sludge use or disposal in

compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent State or local regulations: Section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

40. **Main:** The pipe, conduit or facility which conveys utility service to individual services or to other mains.
41. **Medical Waste.** Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.
42. **Meter:** Any device used to measure service rendered to a customer by the Town.
43. **National Pollution Discharge Elimination System or NPDES Permit or Town's Permit:** A permit issued pursuant to section 402 of the Act (33 U.S.C. 1342), and/or a permit issued in accordance with the provisions of the Georgia Water Quality Control Act. This term includes any applicable land application system permit.
44. **Natural Outlet:** Any outlet, including storm sewers, watercourses, ponds, ditches, lakes or other bodies of surface water or groundwater.
45. **New Source:**
  - A. Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
    - (1) The building, structure, facility, or installation is constructed at a site at which no other source is located: or
    - (2) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
    - (3) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
  - B. Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of Section A.2 or A.3 above but otherwise alters, replaces, or adds to existing process or production equipment.
  - C. Construction of a new source as defined under this paragraph has commenced if the owner or operator has:
    - (1) Begun, or caused to begin, as part of a continuous onsite construction program
      - (a) any placement, assembly, or installation of facilities or equipment; or
      - (b) significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
    - (2) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.
46. **Noncontact Cooling Water.** Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.
47. **Nondomestic User:** Any user of the Town Wastewater System who discharges wastewater into the wastewater system from a structure other than a residential user. **Nondomestic Wastewater:** The wastewater generated from nondomestic users as distinct from domestic or sanitary wastes.
48. **Ordinance:** This Sewer Use Ordinance, as amended, including any future codification thereof by the Town of Braselton.
49. **Pass Through:** A discharge which exits the WWTF into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the Town's NPDES permit, including an increase in the magnitude or duration of a violation.

50. **Person:** Any individual, partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all Federal, State, and local governmental entities.
51. **pH:** The logarithm (base 10) of the reciprocal of the molar concentration of hydrogen ions in solution.
52. **Pit Privy:** Shored, vertical pit in the earth used for the disposal of human or animal wastes.
53. **Point of Acceptance:** For sewer systems, the point of acceptance is the point at which the Town's piping connects with the customer's piping.
54. **Pollutant:** Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).
55. **Pollution:** The man-made or man-induced detrimental alteration of the chemical, physical, biological and radiological integrity of water or soil, or the products which create or cause such alteration.
56. **Pretreatment Coordinator.** The person designated by the Town to supervise the operation of the Industrial Pretreatment Program.
57. **Pretreatment Permit or Discharge Permit:** A permit issued to an Industrial User pursuant to this Ordinance.
58. **Pretreatment Requirements:** Any substantive or procedural requirement related to pretreatment.
59. **Pretreatment Standards or Standards.** Pretreatment standards shall mean Federal Pretreatment Standards, prohibited discharge standards, categorical pretreatment standards, and local limits.
60. **Pretreatment or Treatment:** The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the wastewater treatment system. The reduction or alteration can be obtained by physical, chemical or biological processes, or by process changes or other means, except as prohibited by 40 CFR section 403.6(d).
61. **Prohibited Discharge Standards or Prohibited Discharges.** Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Section 20-211 of this article.
62. **Properly Shredded Garbage:** The wastes from the preparation, cooking and dispensing of food that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.
63. **Publicly Owned Treatment Works or Wastewater Treatment Facility (WWTF) :** Any device or system used in the treatment (including recycling, reclamation and/or land application) of municipal sewage or industrial wastes of a liquid nature which is owned and/or operated by the Town. This definition includes sewers, pipes, or other conveyances only if they convey wastewater to a wastewater treatment facility providing treatment. This definition includes any treatment works as defined by section 212 of the Act (33 U.S.C. 1292) which is owned or operated by the Town. This definition includes any sewers that convey wastewater to the WWTF treatment plant, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. For the purposes of this ordinance, WWTF shall also include any sewers that convey wastewaters to the WWTF from persons outside the Town who are by contract or agreement with the Town, users of the Town's WWTF.
64. **Public Sewer:** A common sewer controlled by a governmental agency or public utility, in this case, the Town of Braselton.
65. **Sanitary Sewer or Sewer:** A sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions.
66. **Septic Tank:** A subsurface impervious tank designed to temporarily retain sewage or similar waterborne wastes together with:
  - A. A sewer line constructed with solid pipe, with the joints sealed, connecting the impervious tank with a plumbing stub out; and
  - B. A subsurface system of trenches, piping and other materials constructed to drain the clarified discharge from the tank and distribute it underground to be absorbed or filtered.
67. **Service Connection:** The point of connection of the customer's piping with the meter or service pipe owned by the Town.
68. **Service Lateral:** The pipe between the utility's mains and the point of delivery and shall include all of the pipe, fittings and valves necessary to make the connection excluding the meter.
69. **Sewage:** A combination of the water-carried wastes from residences, businesses, institutions and industrial establishments, together with such ground, surface and storm waters as may be present.
70. **Sewer:** A pipe or conduit that carries wastewater.
71. **Significant Industrial User:**

- A. A user subject to categorical pretreatment standards; or
- B. A user that:
- (1) Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the WWTF (excluding sanitary, noncontact cooling, and boiler blowdown wastewater);
  - (2) Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the WWTF treatment plant; or
  - (3) Is designated as such by the Town on the basis that it has a reasonable potential for adversely affecting the WWTF's operation or for violating any pretreatment standard or requirement.
- C. Upon a finding that a user meeting the criteria in Subsection B, above, has no reasonable potential for adversely affecting the WWTF's operation or for violating any pretreatment standard or requirement, the Town may at any time, on its own initiative or in response to a petition received from a user, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such user should not be considered a significant industrial user.
- 72. Slug Load or Slug:** Any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in this ordinance.
- 73. State:** State of Georgia.
- 74. Standard Industrial Classification (SIC):** A classification pursuant to the Standard Industrial Classification Manual issued by the Executive office of the President, Office of Management and Budget, 1987, as amended.
- 75. Standard Methods:** Those procedures or methods established by the latest edition of the "Standard Methods for the Examination of Water and Wastewater" as prepared, approved and published jointly by the American Public Health Association, the American Water Works Association, and the Water Environment Federation, a copy of which is on file in the office of the Superintendent.
- 76. Superintendent:** The Superintendent of the Town of Braselton Water or Wastewater Department.
- 77. Storm Drain:** Sometimes termed storm sewer, it shall mean drain or sewer for conveying surface water, groundwater, subsurface water, or unpolluted water from any source.
- 78. Storm Water:** Any flow occurring during or following any form of natural precipitation and resulting therefrom.
- 79. Suspended Solids or Total Suspended Solids (TSS):** Total suspended matter that either floats on-the surface of, or, is in suspension in, water, wastewater, or other liquids, and that is removable by laboratory filtering as prescribed in "Standard Methods for the Examination of Water and Wastewater" and referred to as nonfilterable residue.
- 80. Town:** The Town of Braselton, Georgia.
- 81. Town Clerk:** Individual designated by the Mayor; Town Clerk is responsible for general supervision of all Town Departments, including the Town Water and Wastewater Departments.
- 82. Toxic:** Constituents of wastes which adversely affects the organisms involved in wastewater treatment.
- 83. Unpolluted Water:** Water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefitted by discharge to the sanitary sewers and wastewater treatment facilities.
- 84. User:** Any person who contributes, causes or permits the discharge of wastewater into the Town Wastewater System.
- 85. Wastewater:** Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or, untreated, which are contributed to the WWTF.
- 86. Wastewater System, Wastewater Treatment System, or Town Wastewater System:** The total wastewater collection and disposal facilities, including sewers, owned and operated by the Town or leading to such facilities owned or operated by the Town, and the Town's Wastewater Treatment Facility (WWTF). Also the administrative framework which operates the facilities.
- 87. Wastewater Treatment Facility:** See definition of Public Owned Treatment Works above.
- 88. Water Meter.** Those devices, approved by the Town for the purpose of establishing the quantity of water consumed by a premise or person.
- 89. Water System or Town Water System:** The total water distribution facilities owned and operated by the Town. Also, the administrative framework which operates the facilities.
- 90. Watercourse:** Shall mean a natural or artificial channel for the passage of water either continuously or intermittently.
- 91. Waters of the State:** Any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface or subsurface water, natural or artificial, lying within or forming a part

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

92. **WWTF Treatment Plant:** That portion of the WWTF designed to provide treatment to wastewater.

**Section 20-273 Reserved**

**Section 20-274 Effective Date and Conflicting Ordinances**

This Ordinance shall take effect from and after the date of their passage and ratification by the Mayor and Town Council of the Town of Braselton, Georgia. All ordinances and parts of ordinances in conflict herewith are hereby repealed.

*(Adopted June 9, 2008)*

**Article III. Grease Management Program**

**Section 20-301 Grease Management Program: Sand and Oil/Grease Interceptors.**

**1. Requirement for:**

- A. Except where more complete pretreatment may be required, all users involved in the preparation of food for commercial purposes, including but not limited to restaurants, commercial kitchens, schools where meals are prepared, hospitals and nursing homes shall provide oil/grease and/or sand interceptors or traps. Grease traps shall be designed as appropriate for the size of the facility as specified in subsection B, below.
- B. Additionally, any user who generates a wastewater which contains greater than 100 mg/l of fats, oils and grease, and provided that the excess fats, oil and grease is floatable and can be effectively removed in an oil/grease interceptor or trap, then said user will be required to install a grease/oil interceptor or trap. All interceptors or traps shall be designed as specified in subsection 2.
- C. Other users including but not limited to service stations, car washes, laundries, and any facility where oily or flammable waste are produced, and all other users covered by the Town's duly adopted Plumbing Code, and/ shall install oil separators and other such devices as provided in said Plumbing Code or the Town's Standard Specifications for the Construction of Water and Sewer. All installed devices shall be designed as specified with subsection 2.
- D. All users whose wastewater stream is associated with unusually large quantities or grit, sand or gravel shall be required to install a sand trap. All car/truck wash systems shall be required to install a sand trap and design and installation shall be approved by the Town.
- E. The requirements of this article section shall not apply to private living quarters or dwelling units.

**2. Design Criteria:**

- A. For restaurants and other eating establishments. All oil/grease interceptors used in conjunction with restaurants, commercial kitchens, schools, hospitals, nursing homes and the like shall comply with detail S24 and S25 of the Town's Standard Specifications and Details for the Construction of Water and Sewer Mains.
- B. For facilities other than eating establishments: All sand and oil/grease interceptors and oil separators shall be sized, located and constructed in accordance with the provisions of the duly adopted Town Plumbing Code where such parameters have not been otherwise set forth herein or in the Standard Specifications for Construction of Water and Sewer Mains.

**3. Maintenance.**

- A. All grease, oil and sand interceptors or traps shall be maintained by the user at his/her expense, in continuously efficient operation at all times.
- B. In the maintaining of these interceptors, the owner shall be responsible for the proper removal and disposal by appropriate means of the captured material, and shall maintain records of the dates, and means of disposal which are subject to review by the Town. All manifests or other records of removal shall be provided to the Town on a monthly basis, and shall be provided to the Public Works Director. The frequency of removal shall be such as to ensure that no overflows of oil, grease or sand into the wastewater system ever results. The frequency for maintaining these interceptors shall at the minimum be as follows based on the classifications listed, or as often as needed to maintain a detention capacity of the unit of at least seventy-five percent (75%).

Class	Description of User	Grease Trap Pumping Frequency*
I	Food establishments with an under-the-counter grease trap.	Monthly
II	Food establishments with an in-ground grease trap of at least one thousand five hundred (1,500) gallons and serving less than one hundred (100) customers in a twenty-four-hour day.	Four (4) times/year
III	Food establishments with an in-ground grease trap of at least one thousand five hundred (1,500) gallons and serving one hundred (100) customers to two hundred fifty (250) customers in a twenty-four-hour day.	Four (4) times/year
IV	Food establishments with an in-ground grease trap of at least one thousand five hundred (1,500) gallons and serving more than two hundred fifty (250) customers in a twenty-four-hour day.	Monthly
* The utilities director may in writing or verbally increase or decrease a user's grease trap pumping frequency on a case-by case basis based on actual observation of material buildup in the grease trap.		

4. **Proper Disposal of Collected Materials.** Any removal and hauling of the collected materials not performed by the owner's employees must be performed by currently licensed waste disposal firms. Under no circumstances shall the collected materials ever be returned to the wastewater system. Pumping requires the complete removal of the entire contents of the trap with no reintroduction of any portion of the waste into the trap. The Town may seek additional enforcement action under O.C.G.A. § 12-8-2.
5. **Program Manual.** The Utilities Department is authorized to develop polices, forms, applications, procedures, fees not to exceed those necessary to recover program costs, best management practices, and any other documents necessary for the implementation, administration and enforcement of the grease management program. All documents shall be included in that certain document entitled "Town of Braselton Grease Control Program Manual" dated February, 2007, and is hereby incorporated by reference as if fully set forth herein. Said program and its requirements shall be considered a part of this article and shall govern applicable businesses and establishments within the corporate limits of the Town. A violator may be issued a citation to appear in the Municipal Court of the Town of Braselton although such citation shall not be the exclusive remedy of the Town and the Town may seek enforcement through other means. Any existing article in conflict herewith is hereby repealed.

*(Adopted February 12, 2006)*

# CHAPTER 21: STORMWATER

## ARTICLE I: ILLICIT DISCHARGE AND ILLEGAL CONNECTION

### Section

21-101	Introduction
21-102	General Provisions
21-103	Definitions
21-104	Prohibiting
21-105	Industrial or Construction Activity Discharges
21-106	Access and Inspection of Properties and Facilities
21-107	Notification of Accidental Discharges and Spills
21-108	Violations, Enforcement and Penalties

## ARTICLE II: POST-DEVELOPMENT STORMWATER MANAGEMENT FOR NEW DEVELOPMENT AND REDEVELOPMENT

21-201	Introduction
21-202	General Provisions
21-203	Definitions
21-204	Permit Procedures and Requirements
21-205	Post-Development Stormwater Management Performance Criteria
21-206	Construction Inspections of Post-Development Stormwater
21-207	Ongoing Inspection and Maintenance of Stormwater Facilities and Practices
21-208	Violations, Enforcement and Penalties



### Article I. Illicit Discharge and Illegal Connection

#### Section 21-101 Introduction

The Town of Braselton adopts this article to prohibit non-stormwater discharges to the separate storm sewer system. It is determined that the regulation of spills, improper dumping and discharges to the separate storm sewer system is in the public interest and will prevent threats to public health and safety, and the environment.

#### Section 21-102 General Provisions

- 1. Purpose and Intent.** The purpose of this chapter is to protect the public health, safety, environment and general welfare through the regulation of non-stormwater discharges to the separate storm sewer system to the maximum extent practicable as required by Federal law. This article establishes methods for controlling the introduction of pollutants into the separate storm sewer system in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this chapter are to:
  - A.** Regulate the contribution of pollutants to the separate storm sewer system by any person;
  - B.** Prohibit illicit discharges and illegal connections to the separate storm sewer system;
  - C.** Prevent non-stormwater discharges, generated as a result of spills, inappropriate dumping or disposal, to the separate storm sewer system; and,
  - D.** To establish legal authority to carry out all inspection, surveillance, monitoring and enforcement procedures necessary to ensure compliance with this article.
- 2. Applicability.** The provisions of this chapter shall apply throughout the incorporated Town limits of the Town of Braselton.
- 3. Compatibility with Other Regulations.** This chapter is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this chapter are in addition to the requirements of any

other ordinance, rule, regulation, or other provision of law, and where any provision of this chapter imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

4. **Reserved.**
5. **Responsibility for Administration.** The Town of Braselton shall administer, implement, and enforce the provisions of this article.

**Section 21-103 Definitions**

1. "Accidental Discharge" means a discharge prohibited by this article which occurs by chance and without planning or thought prior to occurrence.
2. "Clean Water Act" means the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.
3. "Construction Activity" means activities subject to the Georgia Erosion and Sedimentation Control Act or NPDES General Construction Permits. These include construction projects resulting in land disturbance. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.
4. "Illicit Discharge" means any direct or indirect non-stormwater discharge to the separate storm sewer system, except as exempted in Section 21-104 of this chapter.
5. "Illegal Connection" means either of the following:
  - A. Any pipe, open channel, drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the storm drain system including but not limited to any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system, regardless of whether such pipe, open channel, drain or conveyance has been previously allowed, permitted, or approved by an authorized enforcement agency; or
  - B. Any pipe, open channel, drain or conveyance connected to the separate storm sewer system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.
6. "Industrial Activity" means activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26(b)(14).
7. "National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit" means a permit issued by the Georgia EPD under authority delegated pursuant to 33 USC § 1342(b) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general areawide basis.
8. "Separate Storm Sewer System" means any facility designed or used for collecting and/or conveying stormwater, including but not limited to any roads with drainage systems, highways, streets, curbs, gutters, inlets, catch basins, piped storm drains, pumping facilities, structural stormwater controls, ditches, swales, natural and man-made or altered drainage channels, reservoirs, and other drainage structures, and which is:
  - A. Owned or maintained by the Town of Braselton;
  - B. Not a combined sewer; and
  - C. Not part of a publicly owned treatment works.
9. "Non-Stormwater Discharge" means any discharge to the storm drain system that is not composed entirely of stormwater.
10. "Person" means, except to the extent exempted from this article, any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, Town, county or other political subdivision of the State, any interstate body or any other legal entity.
11. "Pollutant" means anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; petroleum hydrocarbons; automotive fluids; cooking grease; detergents (biodegradable or otherwise); degreasers; cleaning chemicals; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; liquid and solid wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; concrete and cement; and noxious or offensive matter of any kind.

12. "Pollution" means the contamination or other alteration of any water's physical, chemical or biological properties by the addition of any constituent and includes but is not limited to, a change in temperature, taste, color, turbidity, or odor of such waters, or the discharge of any liquid, gaseous, solid, radioactive, or other substance into any such waters as will or is likely to create a nuisance or render such waters harmful, detrimental or injurious to the public health, safety, welfare, or environment, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life.
13. "Premises" mean any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.
14. "State Waters" means any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface and subsurface water, natural or artificial, lying within or forming a part of the boundaries of the State of Georgia which are not entirely confined and retained completely upon the property of a single person.
15. "Stormwater Runoff" or "Stormwater" means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.
16. "Structural Stormwater Control" means a structural stormwater management facility or device that controls stormwater runoff and changes the characteristics of that runoff including, but not limited to, the quantity and quality, the period of release or the velocity of flow.

**Section 21-104 Prohibitions**

1. **Prohibition of Illicit Discharges.** No person shall throw, drain, or otherwise discharge, cause, or allow others under its control to throw, drain, or otherwise discharge into the separate storm sewer system any pollutants or waters containing any pollutants, other than stormwater. The following discharges are exempt from the prohibition provision above:
  - A. Water line flushing performed by a government agency, other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, natural riparian habitat or wetland flows, and any other water source not containing pollutants;
  - B. Discharges or flows from fire fighting, and other discharges specified in writing by the Town of Braselton as being necessary to protect public health and safety;
  - C. The prohibition provision above shall not apply to any non-stormwater discharge permitted under an NPDES permit or order issued to the discharger and administered under the authority of the State and the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the separate storm sewer system.
2. **Prohibition of Illegal Connections.** The construction, connection, use, maintenance or continued existence of any illegal connection to the separate storm sewer system is prohibited.
  - A. This prohibition expressly includes, without limitation, illegal connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
  - B. A person violates this chapter if the person connects a line conveying sewage to the separate storm sewer system, or allows such a connection to continue.
  - C. Improper connections in violation of this chapter must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or the sanitary sewer system upon approval of the Town of Braselton Public Works Director.
  - D. Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the storm sewer system, shall be located by the owner or occupant of that property upon receipt of written notice of violation from the Town of Braselton requiring that such locating be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be completed, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the outfall location or point of connection to the storm sewer system, sanitary sewer system or other discharge point be identified. Results of these investigations are to be documented and provided to the Town of Braselton Public Works Director.

**Section 21-105 Industrial or Construction Activity Discharges**

Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Town of Braselton prior to allowing discharges to the separate storm sewer system.

**Section 21-106 Access and Inspection of Properties and Facilities**

The Town of Braselton shall be permitted to enter and inspect properties and facilities at reasonable times as often as may be necessary to determine compliance with this article.

1. If a property or facility has security measures in force which require proper identification and clearance before entry into its premises, the owner or operator shall make the necessary arrangements to allow access to representatives of the Town of Braselton.
2. The owner or operator shall allow the Town of Braselton ready access to all parts of the premises for the purposes of inspection, sampling, photography, recording, examination and copying of any records that are required under the conditions of an NPDES permit to discharge stormwater.
3. The Town of Braselton shall have the right to set up on any property or facility such devices as are necessary in the opinion of the Town of Braselton to conduct monitoring and/or sampling of flow discharges.
4. The Town of Braselton may require the owner or operator to install monitoring equipment and perform monitoring as necessary, and make the monitoring data available to the Town of Braselton. This sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the owner or operator at his/her own expense. All devices used to measure flow and quality shall be calibrated to ensure their accuracy.
5. Any temporary or permanent obstruction to safe and easy access to the property or facility to be inspected and/or sampled shall be promptly removed by the owner or operator at the written or oral request of the Town of Braselton and shall not be replaced. The costs of clearing such access shall be borne by the owner or operator.
6. Unreasonable delays in allowing the Town of Braselton access to a facility is a violation of this chapter.
7. If the Town of Braselton has been refused access to any part of the premises from which stormwater is discharged, and the Town of Braselton is able to demonstrate probable cause to believe that there may be a violation of this article, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this article or any order issued hereunder, or to protect the overall public health, safety, environment and welfare of the community, then the Town of Braselton may seek issuance of a search warrant from any court of competent jurisdiction.

**Section 21-107 Notification of Accidental Discharges and Spills**

Notwithstanding other requirements of law, as soon as any person responsible for a facility, activity or operation, or responsible for emergency response for a facility, activity or operation has information of any known or suspected release of pollutants or non-stormwater discharges from that facility or operation which are resulting or may result in illicit discharges or pollutants discharging into stormwater, the separate storm sewer system, State Waters, or Waters of the U. S., said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release so as to minimize the effects of the discharge.

Said person shall notify the authorized enforcement agency in person, by phone or facsimile no later than 24 hours of the nature, quantity and time of occurrence of the discharge. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Town of Braselton Public Works Director within three business days of the phone or in person notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years. Said person shall also take immediate steps to ensure no recurrence of the discharge or spill.

In the event of such a release of hazardous materials, emergency response agencies and/or other appropriate agencies shall be immediately notified.

Failure to provide notification of a release as provided above is a violation of this chapter.

## Section 21-108 Violations, Enforcement and Penalties

1. **Violations.** It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter. Any person who has violated or continues to violate the provisions of this chapter, may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise abated in a manner provided by law.

In the event the violation constitutes an immediate danger to public health or public safety, the Town of Braselton is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property. The Town of Braselton is authorized to seek costs of the abatement as outlined in Section 21-108.5.

2. **Notice of Violation.** Whenever the Town of Braselton finds that a violation of this chapter has occurred, the Town of Braselton may order compliance by written notice of violation.
  - A. The notice of violation shall contain:
    - (1) The name and address of the alleged violator;
    - (2) The address when available or a description of the building, structure or land upon which the violation is occurring, or has occurred;
    - (3) A statement specifying the nature of the violation;
    - (4) A description of the remedial measures necessary to restore compliance with this article and a time schedule for the completion of such remedial action;
    - (5) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed; and,
    - (6) A statement that the determination of violation may be appealed to the Braselton Municipal Court by filing a written notice of appeal within thirty (30) days of service of notice of violation.
  - B. Such notice may require without limitation:
    - (1) The performance of monitoring, analyses, and reporting;
    - (2) The elimination of illicit discharges and illegal connections;
    - (3) That violating discharges, practices, or operations shall cease and desist;
    - (4) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
    - (5) Payment of costs to cover administrative and abatement costs; and,
    - (6) The implementation of pollution prevention practices.
3. **Appeal of Notice of Violation.** Any person receiving a Notice of Violation may appeal the determination of the Town of Braselton Public Works Director or Code Enforcement Officer. The notice of appeal must be received within thirty (30) days from the date of the Notice of Violation. Hearing on the appeal before Town Manager or his/her designee shall take place within 30 days from the date of receipt of the notice of appeal. The decision of the appropriate authority or their designee shall be final.
4. **Enforcement Measures After Appeal.** If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within 30 days of the decision of the appropriate authority upholding the decision of the Town of Braselton, then representatives of the Town of Braselton may enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.
5. **Costs of Abatement of the Violation.** Within 30 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the assessment or to the amount of the assessment within 30 days of such notice. If the amount due is not paid within thirty (30) days after receipt of the notice, or if an appeal is taken, within thirty (30) days after a decision on said appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

Any person violating any of the provisions of this article shall become liable to the Braselton Municipal Court by reason of such violation.

6. **Civil Penalties.** In the event the alleged violator fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within ten (10) days, or such greater period

as the Town of Braselton Municipal Court shall deem appropriate, after the Town of Braselton has taken one or more of the actions described above, the Town of Braselton Municipal Court may impose a penalty not to exceed \$1,000 (depending on the severity of the violation) for each day the violation remains unremedied after receipt of the notice of violation.

7. **Criminal Penalties.** For intentional and flagrant violations of this article, the Town may issue a citation to the alleged violator requiring such person to appear in Town of Braselton Municipal Court to answer charges for such violation. Upon conviction, such person shall be punished by a fine not to exceed \$1,000 or imprisonment for 60 days or both. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.
8. **Violations Deemed a Public Nuisance.** In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this article is a threat to public health, safety, welfare, and environment and is declared and deemed a nuisance, and may be abated by injunctive or other equitable relief as provided by law.
9. **Remedies Not Exclusive.** The remedies listed in this article are not exclusive of any other remedies available under any applicable Federal, State or local law and the Town of Braselton may seek cumulative remedies.

The Town of Braselton may recover attorney's fees, court costs, and other expenses associated with enforcement of this article, including sampling and monitoring expenses.

## **Article II. POST-DEVELOPMENT STORMWATER MANAGEMENT FOR NEW DEVELOPMENT AND REDEVELOPMENT**

The Town of Braselton has established this set of stormwater management policies to provide reasonable guidance for the regulation of post-development stormwater runoff for the purpose of protecting local water resources from degradation. It has determined that it is in the public interest to regulate post-development stormwater runoff discharges in order to control and minimize increases in stormwater runoff rates and volumes, post-construction soil erosion and sedimentation, stream channel erosion, and nonpoint source pollution associated with post-development stormwater runoff.

### **Section 21-201 General Provisions**

1. **Purpose and Intent.** The purpose of this article is to protect, maintain and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased post-development stormwater runoff and nonpoint source pollution associated with new development and redevelopment. It has been determined that proper management of post-development stormwater runoff will minimize damage to public and private property and infrastructure, safeguard the public health, safety, environment and general welfare of the public, and protect water and aquatic resources. This article seeks to meet that purpose through the following objectives:
  - A. Establish decision-making processes surrounding land development activities that protect the integrity of the watershed and preserve the health of water resources;
  - B. Require that new development and redevelopment maintain the pre-development hydrologic response in their post-development state as nearly as practicable in order to reduce flooding, streambank erosion, nonpoint source pollution and increases in stream temperature, and maintain the integrity of stream channels and aquatic habitats;
  - C. Establish minimum post-development stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality;
  - D. Establish design and application criteria for the construction and use of structural stormwater control facilities that can be used to meet the minimum post-development stormwater management standards;
  - E. Encourage the use of nonstructural stormwater management and stormwater better site design practices, such as the preservation of greenspace and other conservation areas, to the maximum extent practicable. Coordinate site design plans, which include greenspace, with the county's greenspace protection plan;
  - F. Establish provisions for the long-term responsibility for and maintenance of structural stormwater control facilities and nonstructural stormwater management practices to ensure that they continue to function as designed, are maintained, and pose no threat to public safety; and, establish administrative procedures for the submission, review, approval and disapproval of stormwater management plans, and for the inspection of approved active projects, and long-term follow up.

2. **Applicability.** This Article shall be applicable to all land development, including, but not limited to, site plan applications, subdivision applications, and grading applications, unless exempt pursuant to Section 21-202.2.A-D below. These standards apply to any new development or redevelopment site that meets one or more of the following criteria:
  - A. New development that involves the creation of 5,000 square feet or more of impervious cover, or that involves other land development activities of 1 acre or more;
  - B. Redevelopment that includes the creation, addition or replacement of 5,000 square feet or more of impervious cover, or that involves other land development activity of one ( 1 ) acre or more;
  - C. Any new development or redevelopment, regardless of size, that is defined by the Town Manager or designee to be a hotspot land use; or,
  - D. Land development activities that are smaller than the minimum applicability criteria set forth in items A and B above if such activities are part of a larger common plan of development, even though multiple, separate and distinct land development activities may take place at different times on different schedules.
3. The following activities are exempt from this article:
  - A. Individual single-family or duplex residential lots that are not part of a subdivision or phased development project;
  - B. Additions or modifications to existing single-family or duplex residential structures;
  - C. Agricultural or silvicultural land management activities within areas zoned for these activities; and,
  - D. Repairs to any stormwater management facility or practice deemed necessary by the Town Manager or designee.
4. **Designation of Administrator.** The Town Manager or designee is hereby appointed to administer and implement the provisions of this Article.
5. **Compatibility with Other Regulations.** This chapter is not intended to modify or repeal any other ordinance, rule, regulation or other provision of law. The requirements of this Article are in addition to the requirements of any other ordinance, rule, regulation or other provision of law. Where any provision of this Article imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.
6. **Reserved.**
7. **Stormwater Design Manual.** The Town of Braselton will utilize the policy, criteria and information including technical specifications and standards in the Georgia Stormwater Management Manual, latest edition and any relevant local addenda, for the proper implementation of the requirements of this Article. The manual may be updated and expanded periodically, based on improvements in science, engineering, monitoring and local maintenance experience.

**Section 21-202 Definitions**

1. Applicant means a person submitting a post-development stormwater management application and plan for approval.
2. Channel means a natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.
3. Conservation Easement means an agreement between a land owner and the Town of Braselton or other government agency or land trust that permanently protects open space or greenspace on the owner's land by limiting the amount and type of development that can take place, but continues to leave the remainder of the fee interest in private ownership.
4. Detention means the temporary storage of stormwater runoff in a stormwater management facility for the purpose of controlling the peak discharge.
5. Detention Facility means a detention basin or structure designed for the detention of stormwater runoff and gradual release of stored water at controlled rates.
6. Developer means a person who undertakes land development activities.
7. Development means a land development or land development project.
8. Drainage Easement means an easement appurtenant or attached to a tract or parcel of land allowing the owner of adjacent tracts or other persons to discharge stormwater runoff onto the tract or parcel of land subject to the drainage easement.

9. Erosion and Sedimentation Control Plan means a plan that is designed to minimize the accelerated erosion and sediment runoff at a site during land disturbance activities.
10. Extended Detention means the detention of stormwater runoff for an extended period, typically 24 hours or greater.
11. Extreme Flood Protection means measures taken to prevent adverse impacts from large low-frequency storm events with a return frequency of 100 years or more.
12. Flooding means a volume of surface water that is too great to be confined within the banks or walls of a conveyance or stream channel and that overflows onto adjacent lands.
13. Greenspace or Open Space means permanently protected areas of the site that are preserved in a natural state.
14. Hotspot means an area where the use of the land has the potential to generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater.
15. Hydrologic Soil Group (HSG) means a Natural Resource Conservation Service classification system in which soils are categorized into four runoff potential groups. The groups range from group A soils, with high permeability and little runoff produced, to group D soils, which have low permeability rates and produce much more runoff.
16. Impervious Cover means a surface composed of any material that significantly impedes or prevents the natural infiltration of water into soil. Impervious surfaces include, but are not limited to, rooftops, buildings, streets and roads, and any concrete or asphalt surface.
17. Industrial Stormwater Permit means a National Pollutant Discharge Elimination System (NPDES) permit issued to an industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.
18. Infiltration means the process of percolating stormwater runoff into the subsoil.
19. Jurisdictional Wetland means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.
20. Land Development means any land change, including, but not limited to, clearing, digging, grubbing, stripping, removal of vegetation, dredging, grading, excavating, transporting and filling of land, construction, paving, and any other installation of impervious cover.
21. Land Development Activities means those actions or activities which comprise, facilitate or result in land development.
22. Land Development Project means a discrete land development undertaking.
23. Inspection and Maintenance Agreement means a written agreement providing for the long-term inspection and maintenance of stormwater management facilities and practices on a site or with respect to a land development project, which when properly recorded in the deed records constitutes a restriction on the title to a site or other land involved in a land development project.
24. New Development means a land development activity on a previously undeveloped site.
25. Nonpoint Source Pollution means a form of water pollution that does not originate from a discrete point such as a sewage treatment plant or industrial discharge, but involves the transport of pollutants such as sediment, fertilizers, pesticides, heavy metals, oil, grease, bacteria, organic materials and other contaminants from land to surface water and groundwater via mechanisms such as precipitation, stormwater runoff, and leaching. Nonpoint source pollution is a by-product of land use practices such as agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.
26. Nonstructural Stormwater Management Practice or Nonstructural Practice means any natural or planted vegetation or other nonstructural component of the stormwater management plan that provides for or enhances stormwater quantity and/or quality control or other stormwater management benefits, and includes, but is not limited to, riparian buffers, open and greenspace areas, overland flow filtration areas, natural depressions, and vegetated channels.
27. Off-Site Facility means a stormwater management facility located outside the boundaries of the site.
28. On-Site Facility means a stormwater management facility located within the boundaries of the site.
29. Overbank Flood Protection means measures taken to prevent an increase in the frequency and magnitude of out-of-bank flooding (i.e. flow events that exceed the capacity of the channel and enter the floodplain), and that are intended to protect downstream properties from flooding for the 2-year through 25-year frequency storm events.
30. Owner means the legal or beneficial owner of a site, including but not limited to, a mortgagee or vendee in possession, receiver, executor, trustee, lessee or other person, firm or corporation in control of the site.

31. Permit means the permit issued by the Town of Braselton to the applicant which is required for undertaking any land development activity.
32. Person means, except to the extent exempted from this Article, any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, Town, county or other political subdivision of the State, any interstate body or any other legal entity.
33. Post-development refers to the time period, or the conditions that may reasonably be expected or anticipated to exist, after completion of the land development activity on a site as the context may require.
34. Pre-development refers to the time period, or the conditions that exist, on a site prior to the commencement of a land development project and at the time that plans for the land development of a site are approved by the plan approving authority. Where phased development or plan approval occurs (preliminary grading, roads and utilities, etc.), the existing conditions at the time prior to the first item being approved or permitted shall establish pre-development conditions.
35. Project means a land development project.
36. Redevelopment means a land development project on a previously developed site, but excludes ordinary maintenance activities, remodeling of existing buildings, resurfacing of paved areas, and exterior changes or improvements which do not materially increase or concentrate stormwater runoff, or cause additional nonpoint source pollution.
37. Regional Stormwater Management Facility or Regional Facility means stormwater management facilities designed to control stormwater runoff from multiple properties, where the owners or developers of the individual properties may assist in the financing of the facility, and the requirement for on-site controls is either eliminated or reduced.
38. Runoff means stormwater runoff.
39. Site means the parcel of land being developed, or the portion thereof on which the land development project is located.
40. Stormwater Better Site Design means nonstructural site design approaches and techniques that can reduce a site's impact on the watershed and can provide for nonstructural stormwater management. Stormwater better site design includes conserving and protecting natural areas and greenspace, reducing impervious cover and using natural features for stormwater management.
41. Stormwater Management means the collection, conveyance, storage, treatment and disposal of stormwater runoff in a manner intended to prevent increased flood damage, streambank channel erosion, habitat degradation and water quality degradation, and to enhance and promote the public health, safety and general welfare.
42. Stormwater Management Facility means any infrastructure that controls or conveys stormwater runoff.
43. Stormwater Management Measure means any stormwater management facility or nonstructural stormwater practice.
44. Stormwater Management Plan means a document describing how existing runoff characteristics will be affected by a land development project and containing measures for complying with the provisions of this Article.
45. Stormwater Management System means the entire set of structural and nonstructural stormwater management facilities and practices that are used to capture, convey and control the quantity and quality of the stormwater runoff from a site.
46. Stormwater Retrofit means a stormwater management practice designed for a currently developed site that previously had either no stormwater management practice in place or a practice inadequate to meet the stormwater management requirements of the site.
47. Stormwater Runoff means the flow of surface water resulting from precipitation.
48. Structural Stormwater Control means a structural stormwater management facility or device that controls stormwater runoff and changes the characteristics of that runoff including, but not limited to, the quantity and quality, the period of release or the velocity of flow of such runoff.
49. Subdivision means the division of a tract or parcel of land resulting in one or more new lots or building sites for the purpose, whether immediately or in the future, of sale, other transfer of ownership or land development, and includes divisions of land resulting from or made in connection with the layout or development of a new street or roadway or a change in an existing street or roadway.

**Section 21-203 Permit Procedures and Requirements**

1. **Permit Application Requirements.** No owner or developer shall perform any land development activities without first meeting the requirements of this Article prior to commencing the proposed activity. Unless specifically exempted by this Article, any owner or developer proposing a land development activity shall submit to the Town of Braselton a permit application on a form provided by the Town of Braselton for that purpose.

Unless otherwise exempted by this Article, a permit application shall be accompanied by the following items in order to be considered:

- A. Stormwater concept plan and consultation meeting certification in accordance with Section 21-204.2;
  - B. Stormwater management plan in accordance with Section 21-204.3 ;
  - C. Inspection and maintenance agreement in accordance with Section 21-204.4 if applicable;
  - D. Performance bond in accordance with Section 21-204.5, if applicable; and,
  - E. Permit application and plan review fees in accordance with Section 21-204.6.
2. **Stormwater Concept Plan and Consultation Meeting.** Before any stormwater management permit application is submitted, it is recommended that the land owner or developer meet with the Town of Braselton for a consultation meeting on a concept plan for the post-development stormwater management system to be utilized in the proposed land development project. This consultation meeting should take place at the time of the preliminary plan of subdivision or other early step in the development process. The purpose of this meeting is to discuss the post-development stormwater management measures necessary for the proposed project, as well as to discuss and assess constraints, opportunities and potential ideas for stormwater management designs before the formal site design engineering is commenced.

To accomplish this goal the following information shall be included in the concept plan which shall be submitted in advance of the meeting:

- A. Existing Conditions/Proposed Site Plans. Existing conditions and proposed site layout sketch plans, which illustrate at a minimum: existing and proposed topography; perennial and intermittent streams; mapping of predominant soils from soil surveys (when available); boundaries of existing predominant vegetation and proposed limits of clearing and grading; and location of existing and proposed roads, buildings, parking areas and other impervious surfaces.
- B. Natural Resources Inventory. A written or graphic inventory of the natural resources at the site and surrounding area as it exists prior to the commencement of the project. This description should include a discussion of soil conditions, forest cover, topography, wetlands, and other native vegetative areas on the site, as well as the location and boundaries of other natural feature protection and conservation areas such as wetlands, lakes, ponds, floodplains, stream buffers and other setbacks (e.g., drinking water well setbacks, septic setbacks, etc.). Particular attention should be paid to environmentally sensitive features that provide particular opportunities or constraints for development.
- C. Stormwater Management System Concept Plan. A written or graphic concept plan of the proposed post-development stormwater management system including: preliminary selection and location of proposed structural stormwater controls; location of existing and proposed conveyance systems such as grass channels, swales, and storm drains; flow paths; location of floodplain/floodway limits; relationship of site to upstream and downstream properties and drainages; and preliminary location of proposed stream channel modifications, such as bridge or culvert crossings.

Local watershed plans, the Town greenspace protection plan, and any relevant resource protection plans will be consulted in the discussion of the concept plan.

3. **Stormwater Management Plan Requirements.** The stormwater management plan shall detail how post-development stormwater runoff will be controlled or managed and how the proposed project will meet the requirements of this Article, including the performance criteria set forth in Section 21–204.4 below.

This plan shall be in accordance with the criteria established in this section and must be submitted with the stamp and signature of a Professional Engineer (PE) licensed in the state of Georgia, who must verify that the design of all stormwater management facilities and practices meet the submittal requirements outlined in the submittal checklist(s) found in the stormwater design manual.

The stormwater management plan must ensure that the requirements and criteria in this Article are being complied with and that opportunities are being taken to minimize adverse post-development stormwater runoff impacts from the development. The plan shall consist of maps, narrative, and supporting design calculations (hydrologic and hydraulic) for the proposed stormwater management system. The plan shall include all of the information required in the Stormwater Management Site Plan checklist found in the stormwater design manual.

This includes:

- A. Common address and legal description of site
- B. Vicinity Map
- C. Existing Conditions Hydrologic Analysis. The existing condition hydrologic analysis for stormwater runoff rates, volumes, and velocities, which shall include: a topographic map of existing site conditions with the drainage basin boundaries indicated; acreage, soil types and land cover of areas for each sub-basin affected by the project; all perennial and intermittent streams and other surface water features; all existing stormwater conveyances and structural control facilities; direction of flow and exits from the site; analysis of runoff provided by off-site areas upstream of the project site; and methodologies, assumptions, site parameters and supporting design calculations used in analyzing the existing conditions site hydrology. For redevelopment sites, pre-development conditions shall be modeled using the established guidelines for the portion of the site undergoing land development activities.
- D. Post-Development Hydrologic Analysis. The post-development hydrologic analysis for stormwater runoff rates, volumes, and velocities, which shall include: a topographic map of developed site conditions with the post-development drainage basin boundaries indicated; total area of post-development impervious surfaces and other land cover areas for each sub-basin affected by the project; calculations for determining the runoff volumes that need to be addressed for each sub-basin for the development project to meet the post-development stormwater management performance criteria in Section 21-204.4; location and boundaries of proposed natural feature protection and conservation areas; documentation and calculations for any applicable site design credits that are being utilized; methodologies, assumptions, site parameters and supporting design calculations used in analyzing the existing conditions site hydrology. If the land development activity on a redevelopment site constitutes more than 50 percent of the site area for the entire site, then the performance criteria in Section 21-204.4 must be met for the stormwater runoff from the entire site.
- E. Stormwater Management System. The description, scaled drawings and design calculations for the proposed post-development stormwater management system, which shall include: A map and/or drawing or sketch of the stormwater management facilities, including the location of nonstructural site design features and the placement of existing and proposed structural stormwater controls, including design water surface elevations, storage volumes available from zero to maximum head, location of inlet and outlets, location of bypass and discharge systems, and all orifice/restrictor sizes; a narrative describing how the selected structural stormwater controls will be appropriate and effective; cross-section and profile drawings and design details for each of the structural stormwater controls in the system, including supporting calculations to show that the facility is designed according to the applicable design criteria; a hydrologic and hydraulic analysis of the stormwater management system for all applicable design storms (including stage-storage or outlet rating curves, and inflow and outflow hydrographs); documentation and supporting calculations to show that the stormwater management system adequately meets the post-development stormwater management performance criteria in Section 21-204.4; drawings, design calculations, elevations and hydraulic grade lines for all existing and proposed stormwater conveyance elements including stormwater drains, pipes, culverts, catch basins, channels, swales and areas of overland flow; and where applicable, a narrative describing how the stormwater management system corresponds with any watershed protection plans and/or local greenspace protection plan.
- F. Post-Development Downstream Analysis. A downstream peak flow analysis which includes the assumptions, results and supporting calculations to show safe passage of post-development design flows downstream. The analysis of downstream conditions in the report shall address each and every point or area along the project site's boundaries at which runoff will exit the property. The analysis shall focus on the portion of the drainage channel or watercourse immediately downstream from the project. This area shall extend downstream from the project to a point in the drainage basin where the project area is 10 percent of the total basin area. In calculating runoff volumes and discharge rates, consideration may need to be given to any planned future upstream land use changes. The analysis shall be in accordance with the stormwater design manual.

- G. Construction-Phase Erosion and Sedimentation Control Plan. An erosion and sedimentation control plan in accordance with the Georgia Erosion and Sedimentation Control Act and the local Erosion and Sedimentation Control Ordinance or NPDES Permit for Construction Activities. The plan shall also include information on the sequence/phasing of construction and temporary stabilization measures and temporary structures that will be converted into permanent stormwater controls.
  - H. Landscaping and Open Space Plan. A detailed landscaping and vegetation plan describing the woody and herbaceous vegetation that will be used within and adjacent to stormwater management facilities and practices. The landscaping plan must also include: the arrangement of planted areas, natural and greenspace areas and other landscaped features on the site plan; information necessary to construct the landscaping elements shown on the plan drawings; descriptions and standards for the methods, materials and vegetation that are to be used in the construction; density of plantings; descriptions of the stabilization and management techniques used to establish vegetation; and a description of who will be responsible for ongoing maintenance of vegetation for the stormwater management facility and what practices will be employed to ensure that adequate vegetative cover is preserved.
  - I. Operations and Maintenance Plan. Detailed description of ongoing operations and maintenance procedures for stormwater management facilities and practices to ensure their continued function as designed and constructed or preserved. These plans will identify the parts or components of a stormwater management facility or practice that need to be regularly or periodically inspected and maintained, and the equipment and skills or training necessary. The plan shall include an inspection and maintenance schedule, maintenance tasks, responsible parties for maintenance, funding, access and safety issues. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan.
  - J. Maintenance Access Easements. The applicant must ensure access from public right-of-way to stormwater management facilities and practices requiring regular maintenance at the site for the purpose of inspection and repair by securing all the maintenance access easements needed on a permanent basis. Such access shall be sufficient for all necessary equipment for maintenance activities. Upon final inspection and approval, a plat or document indicating that such easements exist shall be recorded and shall remain in effect even with the transfer of title of the property.
  - K. Inspection and Maintenance Agreements. Unless an on-site stormwater management facility or practice is dedicated to and accepted by the Town of Braselton as provided in Section 21-204.4 below, the applicant must execute an easement and an inspection and maintenance agreement binding on all subsequent owners of land served by an on-site stormwater management facility or practice in accordance Section 21-204.4.
  - L. Evidence of Acquisition of Applicable Local and Non-local Permits. The applicant shall certify and provide documentation to the Town of Braselton that all other applicable environmental permits have been acquired for the site prior to approval of the storm water management plan.
4. **Stormwater Management Inspection and Maintenance Agreements.** Prior to the issuance of any permit for a land development activity requiring a stormwater management facility or practice hereunder and for which the Town of Braselton requires ongoing maintenance, the applicant or owner of the site must, unless an on-site stormwater management facility or practice is dedicated to and accepted by the Town of Braselton, execute an inspection and maintenance agreement, and/or a conservation easement, if applicable, that shall be binding on all subsequent owners of the site.

The inspection and maintenance agreement, if applicable, must be approved by the Town of Braselton prior to plan approval, and recorded in the deed records upon final plat approval.

The inspection and maintenance agreement shall identify by name and official title the person(s) responsible for carrying out the inspection and maintenance. Responsibility for the operation and maintenance of the stormwater management facility or practice, unless assumed by a governmental agency, shall remain with the property owner and shall pass to any successor owner. If portions of the land are sold or otherwise transferred, legally binding arrangements shall be made to pass the inspection and maintenance responsibility to the appropriate successors in title. These arrangements shall designate for each portion of the site, the person to be permanently responsible for its inspection and maintenance.

As part of the inspection and maintenance agreement, a schedule shall be developed for when and how often routine inspection and maintenance will occur to ensure proper function of the stormwater management facility or practice. The agreement shall also include plans for annual inspections to ensure proper performance of the facility between scheduled maintenance and shall also include remedies for the default thereof.

In addition to enforcing the terms of the inspection and maintenance agreement, the Town of Braselton may also enforce all of the provisions for ongoing inspection and maintenance in Section 21-207.

The Town of Braselton, in lieu of an inspection and maintenance agreement, may accept dedication of any existing or future stormwater management facility for maintenance, provided such facility meets all the requirements of this Article and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

5. **Performance and Maintenance Bonds.** The Town of Braselton requires a Maintenance Bond to be issued at the completion of the project on the stormwater system for a minimum of 18 months.
6. **Application Procedure.**
  - A. Applications for land development permits shall be filed with the Town of Braselton.
  - B. Permit applications shall include the items set forth in Section 21-204.3 (two copies of the stormwater management plan and the inspection maintenance agreement, if applicable, shall be included).
  - C. The Town of Braselton shall inform the applicant whether the application, stormwater management plan and inspection and maintenance agreement are approved or disapproved.
  - D. If either the permit application, stormwater management plan or inspection and maintenance agreement are disapproved, the Town of Braselton shall notify the applicant of such fact in writing. The applicant may then revise any item not meeting the requirements hereof and resubmit the same, in which event subparagraph C above and this subparagraph shall apply to such re-submittal.
  - E. Upon a finding by the Town of Braselton that the permit application, stormwater management plan and inspection and maintenance agreement, if applicable, meet the requirements of this Article, the Town of Braselton may issue a permit for the land development project, provided all other legal requirements for the issuance of such permit have been met.
  - F. Notwithstanding the issuance of the permit, in conducting the land development project, the applicant or other responsible person shall be subject to the following requirements:
    - (1) The applicant shall comply with all applicable requirements of the approved plan and this Article and shall certify that all land clearing, construction, land development and drainage will be done according to the approved plan;
    - (2) The land development project shall be conducted only within the area specified in the approved plan;
    - (3) The Town of Braselton shall be allowed to conduct periodic inspections of the project;
    - (4) No changes may be made to an approved plan without review and written approval by the Town of Braselton; and,
    - (5) Upon completion of the project, the applicant or other responsible person shall submit the engineer's report and certificate and as-built plans required by Section 21-206.2.
7. **Application Review Fees.** The fee for review of any stormwater management application shall be based on the fee structure established by the Town of Braselton and shall be made prior to the review or issuance of any development permit for the proposed development project.
8. **Modifications for Off-Site Facilities.** The stormwater management plan for each land development project shall provide for stormwater management measures located on the site of the project, unless provisions are made to manage stormwater by an off-site or regional facility. The off-site or regional facility must be located on property legally dedicated for the purpose, must be designed and adequately sized to provide a level of stormwater quantity and quality control that is equal to or greater than that which would be afforded by on-site practices and there must be a legally-obligated entity responsible for long-term operation and maintenance of the off-site or regional stormwater facility. In addition, on-site measures shall be implemented, where necessary, to protect upstream and downstream properties and drainage channels from the site to the off-site facility.

A stormwater management plan must be submitted to the Town of Braselton, which shows the adequacy of the off-site or regional facility.

To be eligible for a modification, the applicant must demonstrate to the satisfaction of the Town of Braselton that the use of an off-site or regional facility will not result in the following impacts to upstream or downstream areas:

- A. Increased threat of flood damage to public health, life, and property;
- B. Deterioration of existing culverts, bridges, dams, and other structures;
- C. Accelerated streambank or streambed erosion or siltation;
- D. Degradation of in-stream biological functions or habitat; or
- E. Water quality impairment in violation of State water quality standards, and/or violation of any state or federal regulations.

#### **Section 21-204 Post-Development Stormwater Management Performance Criteria**

The following performance criteria shall be applicable to all stormwater management plans, unless otherwise provided for in this Article:

1. **Water Quality.** All stormwater runoff generated from a site shall be adequately treated before discharge. It will be presumed that a stormwater management system complies with this requirement if:
  - A. It is sized to treat the prescribed water quality treatment volume from the site, as defined in the Georgia Stormwater Management Manual;
  - B. Appropriate structural stormwater controls or nonstructural practices are selected, designed, constructed or preserved, and maintained according to the specific criteria in the Georgia Stormwater Management Manual; and,
  - C. Runoff from hotspot land uses and activities identified by the Town of Braselton are adequately treated and addressed through the use of appropriate structural stormwater controls, nonstructural practices and pollution prevention practices.
2. **Stream Channel Protection.** Protection of stream channels from bank and bed erosion and degradation shall be provided by using all of the following three approaches:
  - A. Preservation, restoration and/or reforestation (with native vegetation) of the applicable stream buffer;
  - B. 24-hour extended detention storage of the 1-year, 24-hour return frequency storm event;
  - C. Erosion prevention measures such as energy dissipation and velocity control.
3. **Overbank Flooding Protection.** Downstream overbank flood and property protection shall be provided by controlling (attenuating) the post-development peak discharge rate to the pre-development rate for the 25-year, 24-hour return frequency storm event. If control of the 1-year, 24-hour storm under Section 21-205.2 is exempted, then peak discharge rate attenuation of the 2-year through the 25-year return frequency storm event must be provided.
4. **Extreme Flooding Protection.** Extreme flood and public safety protection shall be provided by controlling and safely conveying the 100-year, 24 hour return frequency storm event such that flooding is not exacerbated.
5. **Structural Stormwater Controls.** All structural stormwater management facilities shall be selected and designed using the appropriate criteria from the Georgia Stormwater Management Manual. All structural stormwater controls must be designed appropriately to meet their intended function. For other structural stormwater controls not included in the Georgia Stormwater Management Manual, or for which pollutant removal rates have not been provided, the effectiveness and pollutant removal of the structural control must be documented through prior studies, literature reviews, or other means and receive approval from Town of Braselton before being included in the design of a stormwater management system. In addition, if hydrologic or topographic conditions, or land use activities warrant greater control than that provided by the minimum control requirements, the Town of Braselton may impose additional requirements deemed necessary to protect upstream and downstream properties and aquatic resources from damage due to increased volume, frequency, and rate of stormwater runoff or increased nonpoint source pollution loads created on the site in question.

Applicants shall consult the Georgia Stormwater Management Manual for guidance on the factors that determine site design feasibility when selecting and locating a structural stormwater control.

6. **Stormwater Credits for Nonstructural Measures.** The use of one or more site design measures by the applicant may allow for a reduction in the water quality treatment volume required under Section 21-205.1. The applicant may, if approved by the Town of Braselton, take credit for the use of stormwater better site design practices and reduce the water quality volume requirement. For each potential credit, there is a minimum set of criteria and requirements which identify the conditions or circumstances under which the credit may be applied. The site

design practices that qualify for this credit and the criteria and procedures for applying and calculating the credits are included in the Georgia Stormwater Management Manual.

7. **Drainage System Guidelines.** Stormwater conveyance facilities, which may include but are not limited to culverts, stormwater drainage pipes, catch basins, drop inlets, junction boxes, headwalls, gutter, swales, channels, ditches, and energy dissipaters shall be provided when necessary for the protection of public right-of-way and private properties adjoining project sites and/or public right-of-ways. Stormwater conveyance facilities that are designed to carry runoff from more than one parcel, existing or proposed, shall meet the following requirements:
  - A. Methods to calculate stormwater flows shall be in accordance with the stormwater design manual;
  - B. All culverts, pipe systems and open channel flow systems shall be sized in accordance with the stormwater management plan using the methods included in the stormwater design manual; and,
  - C. Design and construction of stormwater conveyance facilities shall be in accordance with the criteria and specifications found in the stormwater design manual.
8. **Dam Design Guidelines.** Any land disturbing activity that involves a site which proposes a dam shall comply with the Georgia Safe Dams Act and Rules for Dam Safety as applicable.

#### Section 21-205 Construction Inspections of Post-Development Stormwater

1. **Inspections to Ensure Plan Compliance During Construction.** Periodic inspections of the stormwater management system construction shall be conducted by the staff of the Town of Braselton or conducted and certified by a professional engineer who has been approved by the Town of Braselton. Construction inspections shall utilize the approved stormwater management plan for establishing compliance.

All inspections shall be documented with written reports that contain the following information:

- A. The date and location of the inspection;
- B. Whether construction is in compliance with the approved stormwater management plan;
- C. Variations from the approved construction specifications; and,
- D. Any other variations or violations of the conditions of the approved stormwater management plan.

If any violations are found, the applicant shall be notified in writing of the nature of the violation and the required corrective actions.

2. **Final Inspection and As Built Plans.** Upon completion of a project, and before a certificate of occupancy shall be granted, the applicant is responsible for certifying that the completed project is in accordance with the approved stormwater management plan. All applicants are required to submit actual "as built" plans for any stormwater management facilities or practices after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and practices and must be certified by a Professional Engineer. A final inspection by the Town of Braselton is required before the release of any performance securities can occur.

#### Section 21-206 Ongoing Inspection and Maintenance of Stormwater Facilities and Practices

1. **Long-Term Maintenance Inspection of Stormwater Facilities and Practices.** Stormwater management facilities and practices included in a stormwater management plan which are subject to an inspection and maintenance agreement must undergo ongoing inspections to document maintenance and repair needs and ensure compliance with the requirements of the agreement, the plan and this Article.

A stormwater management facility or practice shall be inspected on a periodic basis by the responsible person in accordance with the approved inspection and maintenance agreement. In the event that the stormwater management facility has not been maintained and/or becomes a danger to public safety or public health, the Town of Braselton shall notify the person responsible for carrying out the maintenance plan by registered or certified mail to the person specified in the inspection and maintenance agreement. The notice shall specify the measures needed to comply with the agreement and the plan and shall specify the time within which such measures shall be completed. If the responsible person fails or refuses to meet the requirements of the inspection and maintenance agreement, the Town of Braselton may correct the violation as provided in section 21-207.4 hereof.

Inspection programs by the Town of Braselton may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in stormwater management facilities; and evaluating the condition of stormwater management facilities and practices.

2. **Right-of-Entry for Inspection.** The terms of the inspection and maintenance agreement shall provide for the Town of Braselton to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. This includes the right to enter a property when it has a reasonable basis to believe that a violation of this Article is occurring or has occurred and to enter when necessary for abatement of a public nuisance or correction of a violation of this Article.
3. **Records of Maintenance Activities.** Parties responsible for the operation and maintenance of a stormwater management facility shall provide records of all maintenance and repairs to the Town of Braselton.
4. **Failure to Maintain.** If a responsible person fails or refuses to meet the requirements of the inspection and maintenance agreement, the Town of Braselton, after thirty (30) days written notice (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours notice shall be sufficient), may correct a violation of the design standards or maintenance requirements by performing the necessary work to place the facility or practice in proper working condition. The Town of Braselton may assess the owner(s) of the facility for the cost of repair work, which shall be a lien on the property, and may be placed on the ad valorem tax bill for such property and collected in the ordinary manner for such taxes.

#### **Section 21-207      Violations, Enforcement and Penalties**

Any action or inaction which violates the provisions of this Article or the requirements of an approved stormwater management plan or permit, may be subject to the enforcement actions outlined in this Section. Any such action or inaction, which is continuous with respect to time, is deemed to be a public nuisance and may be abated by injunctive or other equitable relief. The imposition of any of the penalties described below shall not prevent such equitable relief.

1. **Notice of Violation.** If the Town of Braselton determines that an applicant or other responsible person has failed to comply with the terms and conditions of a permit, an approved stormwater management plan or the provisions of this Article, it shall issue a written notice of violation to such applicant or other responsible person. Where a person is engaged in activity covered by this Article without having first secured a permit therefor, the notice of violation shall be served on the owner or the responsible person in charge of the activity being conducted on the site.

The notice of violation shall contain:

- A. The name and address of the owner or the applicant or the responsible person;
  - B. The address or other description of the site upon which the violation is occurring;
  - C. A statement specifying the nature of the violation;
  - D. A description of the remedial measures necessary to bring the action or inaction into compliance with the permit, the stormwater management plan or this Article and the date for the completion of such remedial action;
  - E. A statement of the penalty or penalties that may be assessed against the person to whom the notice of violation is directed; and,
  - F. A statement that the determination of violation may be appealed to the Jackson County Superior Court by filing a written notice of appeal within thirty (30) days after the notice of violation (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours notice shall be sufficient).
2. **Penalties.** In the event the remedial measures described in the notice of violation have not been completed by the date set forth for such completion in the notice of violation, any one or more of the following actions or penalties may be taken or assessed against the person to whom the notice of violation was directed. Before taking any of the following actions or imposing any of the following penalties, the Town of Braselton shall first notify the applicant or other responsible person in writing of its intended action, and shall provide a reasonable opportunity, of not less than ten days (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours notice shall be sufficient) to cure such violation. In the event the applicant or other responsible person fails to cure such violation after such notice and cure period, the Town of

Braselton may take any one or more of the following actions or impose any one or more of the following penalties.

- A. Stop Work Order -The Town of Braselton may issue a stop work order which shall be served on the applicant or other responsible person. The stop work order shall remain in effect until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein, provided the stop work order may be withdrawn or modified to enable the applicant or other responsible person to take the necessary remedial measures to cure such violation or violations.
- B. Withhold Certificate of Occupancy. The Town of Braselton may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.
- C. Suspension, Revocation or Modification of Permit. The Town of Braselton may suspend, revoke or modify the permit authorizing the land development project. A suspended, revoked or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated [upon such conditions as the Town of Braselton may deem necessary] to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.
- D. Civil Penalties. In the event the applicant or other responsible person fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within ten days, or such greater period as the Town of Braselton shall deem appropriate (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours notice shall be sufficient) after the Town of Braselton has taken one or more of the actions described above, the Town of Braselton may impose a penalty not to exceed \$ 1,000 (depending on the severity of the violation) for each day the violation remains unremedied after receipt of the notice of violation.
- E. Criminal Penalties. For intentional and flagrant violations of this Article, the town of Braselton may issue a citation to the applicant or other responsible person, requiring such person to appear in the Town of Braselton Municipal Court to answer charges for such violation. Upon conviction, such person shall be punished by a fine not to exceed \$ 1,000 or imprisonment for 60 days or both. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.

*(Adopted November 27, 2006)*

## CHAPTER 22: STREETS, CURBS, AND SIDEWALKS

### Section

22-101	General Regulations
22-102	Speed Humps



### Section 22-101 General Regulations

1. **Generally.** The powers of a municipality with respect to its municipal street system shall be subject but not limited to Chapter 4, Title 32, Chapter 34, Title 36 and Chapter 39, Title 36 of the Official Code of Georgia Annotated.
2. **Maintenance and Repair of Public Streets.** All maintenance and repair of public streets, alleys, curbs, sidewalks, and other public ways shall be under the supervision of the Mayor and Town Council, which body shall have the responsibility of enforcing all provisions of state law, this code, and all ordinances of the Town relating to such public ways.
3. **Defacing Sidewalks, Streets and Curbs.** It shall be unlawful for any person to deface any public sidewalk, street, or curb in the Town by painting any signs thereon whether for commercial advertising purposes or not, or to walk on or drive any vehicle upon or deface in any way a street, sidewalk, or curbing pavement while the same is guarded by a warning sign or barricade or is soft or newly laid.
4. **Obstructions.** It shall be unlawful for any person to cause, create, or maintain any obstruction on any street, alley, sidewalk, or other public way, except as may be provided in this chapter or in the ordinances and laws of the Town without express legislative authority. The Town of Braselton may not grant to any person the right to erect or maintain a structure or obstruction in a public street. Any person who, without prior written permission from the Town, shall maintain, place, cause or permit to be placed upon, in, across, under, or over the public right-of-way (as used herein "public right-of-way" shall mean the paved roadway, curb, gutter, park strip, sidewalk, and any other portion of the publicly owned real property up to the private property line) of the Town any obstruction and who, after being notified by the Town to remove the same, shall permit any such obstruction to remain upon, across, under or over the public right-of-way for twenty-four (24) hours after such notice, shall be deemed guilty of an infraction punishable by a fine pursuant to Section 1-109.
5. **Deposits and Discharges onto Streets and Sidewalks.**
  - A. It shall be unlawful for any person to deposit on any street or sidewalk any material which may be harmful to the pavement thereof, or any waste material or any glass or other article which may do injury to any person, animal, or property.
  - B. It shall be unlawful for any person to discharge or allow to be discharged onto any public street or sidewalk any water or other fluid material containing objectionable material such as sewerage, waste milk, or other organic material.
6. **Report of Defects, Obstructions, Deposits, and Discharges.** It shall be the duty of every Town officer and employee who becomes aware of any defect or obstruction, or of any unlawful deposit or discharge, in or on any public street, alley, curb, sidewalk, or other public way of the Town, to report the same to the Director of Public Works or Town Manager, as soon as possible.
7. **Private Use.** It shall be unlawful for any person, firm or corporation to use any street, sidewalk, or other public place as space for the display of goods or merchandise for sale or to write or make any sign or advertisement on any such pavement except as provided by law for the installation and operation of vending machines at welcome centers, tourist centers and safety rest areas.
8. **Encroachments.** It shall be unlawful for any person to erect or maintain any building or structure which encroaches upon any public street or property, or to erect any poles or wires or maintain any poles or wires over any public place, street, alley, sidewalk, or other public way, without having first obtained a permit from the Town Manager in the manner specified in this chapter.

9. **Openings.** It shall be unlawful for any person to construct or maintain any opening or stairway in any public street, sidewalk, or alley without first obtaining a permit from the Town Manager in the manner specified in this chapter.

All such lawfully maintained openings shall be guarded with a suitable strong cover or railing approved by the Director of Public Works.

10. **Trees and Shrubs.**

- A. **Planting and Removal.** It shall be unlawful for any person to plant, remove, injure, or cut any tree, bush, or shrub in or from any public street, parkway, or other public place without first obtaining a permit therefore from the Town Manager in the manner specified in this chapter.
- B. **Advertisements.** It shall be unlawful for any person to attach any sign, advertisement, or notice to any tree in any public place.
- C. **Dangerous Trees.** Any tree or shrub which overhangs any sidewalk, street, or other public place in the Town in such a way as to impede or interfere with traffic or travel shall be trimmed by the owner of the premises on which such tree or shrub grows so that the obstruction shall cease.

Any tree or limb of a tree which is likely to fall on or across any public way or place shall be removed by the owner of the premises on which such tree grows or stands.

The Director of Public Works may cause to be trimmed or removed any and all such trees or shrubs so that the obstruction or danger to traffic or passage shall be removed.

- D. **Poles and Wires.** Any person or company which maintains poles and wires in the streets, alleys, or other public places of the Town shall keep such wires and poles free and away from any nearby trees or shrubs in such places, and keep all such trees and shrubs properly trimmed, subject to the supervision of the Director of Public Works, so that no injury shall befall either the poles and wires or the shrubs and trees by their contact.

11. **Burning of Leaves and Rubbish.** It shall be unlawful for any person, firm, or corporation to burn any leaves, paper, rubbish, or other substances upon any of the public streets, sidewalks, or alleys of the Town.

**Section 22-102 Speed Humps**

1. **Street Eligibility.** Only streets that are residential in nature and classified as local streets are eligible for installation of speed humps.
2. **Authority and Discretion of Town Council.** Notwithstanding the petition program set forth herein, the Town Council shall have unfettered discretion to approve or disapprove any speed hump installation and same shall be approved by a majority vote of the Town Council pursuant to the Town's Charter.
3. **Speed Criteria.** A traffic study by a firm or individual competent and qualified to perform such study shall first be required and such findings must show that a speeding problem exists based on the standard of an 85th percentile speed of at least 11 mph over the posted speed limit of 25 mph.
4. **Speed Criteria Waiver.** Notwithstanding the requirements set forth in Section 22-102.3 supra, the Town Council may elect to approve such speed humps under such circumstances that it deems acceptable and appropriate.
5. **Speed Hump Proposal.** Department personnel will plan the placement of speed humps on streets meeting program criteria using the following guidelines:
- A. Grade - Speed humps should not be installed on street sections with grades greater than 8%.
- B. Number of Humps in a Series - Speed humps are not to be used to slow traffic at a given "point," but rather to reinforce a safe speed along a street or street section. For this reason, a single hump is not recommended. Usually, a series of humps should not exceed three-quarters of a mile. If the street or street section to be treated exceeds a mile, speed humps can be used in conjunction with other traffic calming devices, such as traffic circles, thus reducing the number of speed humps necessary to achieve targeted speed reduction.
- C. Spacing - Research indicates that spacing humps between 350 and 500 feet apart is most effective at lowering the 85th percentile speed to the targeted speed range.
- D. Location - The first hump in a series should normally be located in a position where it cannot be approached at high speed from either direction. To achieve this objective, the first hump in a series is typically installed within 100 and 200 feet of a small-radius curve or stop sign. Care should be taken so that humps are not planned which conflict with utility access, manhole covers, and driveway cuts.

6. **Petition for Speed Humps.** The Town will forward the speed hump proposal along with petition forms to the homeowners' representative. A properly executed petition is a generally accepted method to effect a public action. The following rules and requirements, which will be included with the petition forms, help ensure the fairness and integrity of the petition process. See Exhibit "A" below.
7. **Keeping the Road Open to Traffic.** The work shall be performed in such a manner as to maintain at least one lane of traffic at all times. Contractor shall phase his construction such that traffic across the completed work shall be minimal until such time that the asphalt has sufficiently cooled and paint sufficiently dried to prevent damage to the work. When directed by the Engineer, contractor will limit his hours of operation to avoid peak hour traffic.
8. **Traffic Control.** The contractor shall furnish, install, maintain and remove all necessary traffic signs, barricades, lights, signals, cones and other traffic control devices; and all flagging and other means of traffic protection and guidance as required by the Standard Specifications of the Georgia Department of Transportation, and the Manual on Uniform Traffic Control Devices. Such work shall be considered incidental to the overall contract, and no additional compensation will be made.
9. **Signs and Markings.**
  - A. Contractor Responsibility - The contractor shall be responsible for the installation of pavement markings and traffic control signs for each speed hump and speed zone district.
  - B. Pavement Markings - All pavement markings shall be eight (8) inches wide. All pavement markings shall be white PLASTI-BAR and will be supplied by the contractor. All markings are to contain glass spheres for reflectivity. The dry markings will have a thickness of 15 mils.
  - C. District Signs - The contractor shall place two (2) "District Speed" signs at the ends of each established district at the location pre-marked by the Town.
  - D. Speed Hump Sign & Advisory Plates - The contractor shall install two (2) "Road Hump" and "20 MPH" signs at each speed hump. One set shall be on either side of the hump in the location pre-marked by the Town.
  - E. Material Supply - The Town will supply all signs, post and hardware for installation in Parts C and D.
10. **Type of Hump Installed.** The Town shall only install that certain type of speed hump which is capable of being easily removed and does not disqualify the Town from receiving local assistance funds or other such funds in terms of resurfacing such roads.
11. **Revenue Neutral.** Implementation of such program shall be revenue neutral to the Town in that each respective property owner(s) shall be responsible for the pro-rata share of cost of said installation and upkeep and the Town shall not incur any charge. Such costs shall include but are not limited to:
  - A. The initial traffic study by engineering firm;
  - B. Purchase of speed hump product/material and corresponding labor;
  - C. Signage and markings; and
  - D. Any maintenance.

The Town Manager is authorized to compute such amount and reflect such pro-rata charge on the respective land owner's utility bill.

#### Exhibit "A"

The objective of the Town of Braselton Speed Hump Program is to provide property owners a process to install asphaltic speed humps on Town maintained neighborhood roads, where engineering studies indicate that their use would meet the desired results of reducing neighborhood speeds and their installation is favored by a majority of the property owners in the area.

To have speed humps installed in Town of Braselton, a petition must be submitted to this office. All of the property owners in the subdivision or defined service area should be contacted and given an opportunity to sign this petition, indicating their "yes" or "no" concerning the installation of speed humps. Unless property is undergoing change of ownership, a wife's signature will not be acceptable if she is not the legal owner. If both husband and wife are joint legal owners, both signatures are required. A "Mr. And Mrs." signature is not acceptable. All owners must sign individually. This includes owners of undeveloped lots; renting tenants are not an acceptable substitute for the legal homeowner. No signature will be withdrawn from the petition after it is filed with the Town. The purpose of the witness' signature is to verify the signatures of the property owners, if in question. The percentages will be calculated, based on individual lots where owners sign affirmatively, divided by the total number of lots in the plotted subdivision, units, or "defined service area." Each lot counts as only one vote, regardless

of the number of owner signing. At least 70% of the homeowners must be in favor of the speed humps, before petitions can be presented to the Town Council.

The completed petition must be signed, notarized and then returned to the Town Manager's office, where it will be checked against tax records and land lot maps to insure that it meets all requirements. It will be returned to the sender if it does not meet the requirements. Petitions that do meet the requirements will be presented to the Council at their regular meeting. A public hearing will be announced at that time for each petition. After the Public Hearing, the petition will be acted upon by the Town Council at their next voting meeting.

The installation of the speed humps by the contractor will not be considered final until Town personnel inspects the humps for compliance with design specifications.

The time span from receiving the petition to installation will be approximately four months or less.

Annualized charges for initial installation, maintenance and repair of speed humps are added to the utility bill. Each platted lot, whether developed or not, will be subject to the assessed charges.

Removal of speed humps can proceed if the Town is presented a petition requesting that speed humps be removed. At least 70% of the property owners must vote in favor of removing the speed humps. Petition must be signed by property owners only. In case of multiple owners, each owner must sign. Rental tenants are not an acceptable substitute for the legal homeowner. The percentages will be calculated based on individual lots where owners sign in favor of removal of the speed humps, divided by the total number of lots in the platted subdivision, units or "defined service area." Each lot counts as only one vote, regardless of the number of owners signing. Such a petition for removal will only be considered after speed humps have been in place for a period of at least one year after installation.

For subdivisions not completely built out, a minimum of 30% of the total units must be occupied before a petition for installation of speed humps will be considered, and a minimum of 60% of the total units must be occupied before a petition for the removal of speed humps will be considered.

*(Adopted September 8, 2003)*

PETITION FOR SPEED HUMPS

WE THE UNDERSIGNED, ALL BEING PROPERTY OWNERS OF THE SUBDIVISION LEGALLY TITLED "\_\_\_\_\_", UNIT(S)\_\_\_\_\_, DO HEREBY PETITION THROUGH OUR SUBDIVISION OR UNIT(S) FOR INSTALLATION OF SPEED HUMPS.

EACH OF US DOES HEREBY PLEDGE AND CONSENT TO THE \_\_\_\_\_ OF A LIEN BY TOWN OF BRASELTON AGAINST PROPERTY WE OWN FOR THE PURPOSE OF PAYMENT OF THE COST OF INSTALLATION AND MAINTAINING THE SPEED HUMPS. THERE ARE \_\_\_\_\_ NUMBER OF LOTS CURRENTLY EXISTING IN "\_\_\_\_\_" AND EACH OWNER AS SHOWN ON THE RECORDS HAS AFFIRMATIVELY SIGNED THIS PETITION OR THEIR INDICATION FOR DISAPPROVAL, IS NOTED HEREIN.

THIS PETITION REPRESENTS \_\_\_\_\_% OF THE PROPERTY OWNERS OF THIS SUBDIVISION TO BE AFFECTED \_\_\_\_ IN THIS REQUEST.

\*SPECIAL NOTE\*

YOUR SIGNATURE ON THIS PETITION INDICATES THAT YOU HAVE READ AND FULLY UNDERSTAND ALL INFORMATION CONCERNING THE SPEED HUMP PROGRAM.

Personally appeared before me, Notary Public, the undersigned affiant, who says an oath that \_\_\_\_\_ is one of the subscribing witness to the within instrument; that each of said witnesses saw the execution and delivery of the same be each grantor therein for the purpose set forth; and that each of signatures signed the same as purported.

Sworn to and Subscribed before me, This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Sworn to and Subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

TOWN OF BRASELTON SPEED HUMP PROGRAM

SUBDIVISION NAME: \_\_\_\_\_

Page \_\_\_\_\_ of \_\_\_\_\_

(Signature as appears on Tax Bill)

	YES	NO	
1. _____ Print Name	_____	_____	_____
_____			Witness
Signature			Lot #: _____
2. _____ Print Name	_____	_____	_____
_____			Witness
Signature			Lot #: _____
3. _____ Print Name	_____	_____	_____
_____			Witness
Signature			Lot #: _____
4. _____ Print Name	_____	_____	_____
_____			Witness
Signature			Lot #: _____
5. _____ Print Name	_____	_____	_____
_____			Witness
Signature			Lot #: _____
6. _____ Print Name	_____	_____	_____
_____			Witness
Signature			Lot #: _____

## CHAPTER 23: PARKS AND RECREATION

### ARTICLE I: PARKS AND RECREATION FACILITY RULES

#### Section

23-101	Definitions
23-102	Enforcement of Chapter
23-103	Penalties for Violation of Chapter
23-104	Town of Braselton; Powers and Duties

### ARTICLE II. USE OF RECREATION FACILITIES

23-201	Littering Prohibited
23-202	Weapons Prohibited
23-203	Throwing Objects Prohibited
23-204	Annoying Noises Prohibited
23-205	Person Conduct
23-206	Fires Restricted
23-207	Damaging or Removal of Any Park Property or Vegetation Prohibited
23-208	Possession, Use or Consumption of Alcoholic Beverages
23-209	Vehicles Restricted
23-210	Parking Restricted
23-211	Parking Limited to Recreation Facility Users
23-212	Commercial Activity Restricted
23-213	Hours Open to Public Restricted
23-214	Streams and Rivers Regulated
23-215	Violation of Facility Regulations
23-216	Animals Restricted
23-217	Pyrotechnics Restricted
23-218	Launching Hot Air Balloons and Hobby Rockets Restricted

### ARTICLE III: PERMITS

23-301	Permits
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### ARTICLE IV: AUTHORITY TO PROVIDE FOR THE REGULATION AND POSTING OF RULES

23-401	Persons Authorized
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#### Article I. Parks and Recreation Facility Rules

##### Section 23-101 Definitions

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

1. Alcoholic Beverage means intoxicating beverage, malt beverage, wine or any other beverage containing any alcohol whatsoever.
2. Building means any structure attached to the ground which has a roof and which is designed for the shelter, housing or enclosure of persons, animals or property of any kind.
3. Litter means garbage, refuse, paper, rubbish, debris, trash and all other waste material whether natural or artificial.

4. **Recreation Facilities** means all recreation areas in parks, including land, buildings, lakes, swimming pools, and all other property and buildings owned, leased or managed by the Town of Braselton.
5. **Vehicle** means any motor-driven equipment, automobile, truck, motorcycle, bicycle or motor-driven ski boards.
6. **Weapon** means firearm, rifle, pistol, revolver, or any weapon designed or intended to propel a shot, bullet, or other missile of any kind, or any device capable of discharging, a projectile by air, spirit, gas or explosive, or any explosive substance or harmful solid, liquid and gaseous substance, or any spear, arrow, bow and arrow, slingshot, crossbow, spear or spear gun, or any dirk, Bowie, straight-edged razor, spring stick, metal knuckles, blackjack, any bat, or club or other bludgeon-type weapon, or any flailing instrument or any disk which is designed to be thrown or propelled and which may be known as a throwing star or oriental dart, or any weapon of like kind, and any stun gun, taser or similar device.

**Section 23-102 Enforcement of Chapter.**

This chapter shall be enforced by any authorized law enforcement officer of Town of Braselton, Barrow County, Jackson County, Gwinnett County, or Hall County. Where there has been a violation of any provisions of this chapter, the law enforcement officer, in his discretion, may issue a citation, warning and/or order the person to leave the park or recreation area.

**Section 23-103 Penalties for Violation of Chapter.**

Any person violating any provision of this chapter may be fined a sum not to exceed \$ 1,000.00 or may be confined in the county jail for a term not exceeding 60 days, or both.

**Section 23-104 Town of Braselton; powers and duties.**

The Town of Braselton or employees under the direction of the Town Manager shall:

1. Establish, conduct, and maintain a recreation system for the Town in such a way as to employ the leisure of the people in a wholesome and constructive manner.
2. Provide for, conduct, and supervise public recreation areas owned or controlled by the Town.
3. Recommend the setting aside, leasing or acquisition of lands or buildings within the Town limits for use as parks, playgrounds, recreation centers or for other recreational purposes, and to provide for the maintenance and improvement of these areas.
4. Establish the detailed goals, procedures and programs to meet the Town of Braselton recreational needs.
5. Otherwise assist in the operation and enforcement of this chapter.

**Article II. Use of Recreation Facilities**

**Section 23-201 Littering prohibited.**

It shall be unlawful for any person to throw or deposit litter on the grounds, streets, sidewalks, fountain, pond, lake, rivers, stream, swimming pool, or other body of water in any recreation facility. All litter shall be deposited within public receptacles. Where public receptacles are not provided, individuals shall be responsible for removing and properly disposing of their litter. It shall be unlawful to take into, carry to, or put into any recreation facility, any litter generated outside the recreation facility.

**Section 23-202 Weapons prohibited.**

It shall be unlawful for any person, except law enforcement, to take any weapon on a recreation facility, or to shoot, use, carry or employ any weapon or similar device in a recreation facility.

**Section 23-203 Throwing objects prohibited.**

It is unlawful for any person to throw or propel any object capable of causing personal injury or damage to property, or to throw or propel such object at or toward any person, vehicle or building in a recreation facility.

**Section 23-204 Annoying noises prohibited.**

It shall be unlawful for any person to whistle, hiss or holler at another person in a boisterous, unbecoming or erring manner or make any loud, unnecessary or unusual noise or display, play or operate any sound amplification device including radios, television sets, public address systems, musical instruments, CD players and the like in such a way which either annoys, disturbs, injures or endangers the comfort, repose, peace or safety of other persons in a recreation facility.

**Section 23-205 Person conduct.**

It shall be unlawful for any person to engage in any violent, abusive, loud, boisterous, vulgar, wanton, obscene or otherwise disorderly conduct, disturb or annoy others, or engage in any activity that could cause injury to other persons, while on or in connection with a recreation facility. No person shall, by act or speech, willfully or unreasonably hinder, interrupt or interfere with any duly permitted activity or unreasonably or willfully intrude on any areas or into any structures reserved for the exclusive use of an individual or organization by written permit of the Town of Braselton.

**Section 23-206 Fires restricted.**

It shall be unlawful for any person to build or maintain a fire in a recreation facility except in designated areas which are clearly marked by signs or defined with fire rings or grills placed by the Town of Braselton.

**Section 23-207 Damaging or removal of any park property or vegetation prohibited.**

It shall be unlawful for any person to deface, harm or damage any park buildings, wildlife, property, equipment or signs; or dig up, cut, damage or remove any trees, tree limbs, shrubbery, flowers, rocks, mulch, water, historical artifacts or other vegetation in a recreation facility.

**Section 23-208 Possession, use or consumption of alcoholic beverages.**

It shall be unlawful for any person to possess, use, or consume any alcoholic beverage in a recreation facility, other than when approved by permit.

**Section 23-209 Vehicles restricted.**

It shall be unlawful for any person to drive any motorized or electric vehicle in a recreation facility except upon roadways designated and maintained for vehicular traffic, and except upon walkways when permitted and approved by the Town of Braselton. Law Enforcement and Town employees whose duties require them to drive maintenance vehicles and equipment shall be exempt from the limitations set forth in this section.

**Section 23-210 Parking restricted.**

It shall be unlawful to park a vehicle in a recreation facility except in those areas designated by the appropriate signs as vehicle parking areas or in marked parking spaces. It shall be unlawful to leave a vehicle standing or parked in a recreation facility during hours when recreation facility is closed. In such instances, the vehicle may be towed from the recreation facility at the owner's expense.

**Section 23-211 Parking limited to recreation facility users.**

It shall be unlawful for any person to park in a recreation area if the owner of the vehicle is not utilizing the recreation facility unless authorized by the Town of Braselton. It shall be unlawful for persons to congregate within a parking area of a recreation facility so as to disrupt traffic or other persons, or so as to create a safety hazard.

**Section 23-212 Commercial activity restricted.**

It shall be unlawful for any person to sell or offer for sale any merchandise or operate or attempt to operate a concession or engage in any commercial or charitable activity in a recreation facility unless approved by permit by the Town Manager or in conjunction with an event operated by the town, its agencies or authorities.

**Section 23-213 Hours open to public restricted.**

It shall be unlawful for any person or vehicle to enter or be within a recreation facility outside of the posted hours of operation unless approved by permit, by the Town of Braselton or unless such person is participating in authorized and scheduled programs, classes, or special events or meetings. Park hours of operation are posted as authorized by the Town of Braselton.

**Section 23-214 Streams and Rivers regulated.**

It shall be unlawful for any person to launch or travel in a watercraft, swim, bathe or wade in any body of water in a recreation facility unless designed for such use and then only in accordance with the rules, regulations and restrictions promulgated and posted at the recreation area.

**Section 23-215 Violation of facility regulations.**

It shall be unlawful for any person to violate any rules or regulations relating to the use of the recreation facility as established by the Town of Braselton.

**Section 23-216 Animals Restricted.**

It shall be the duty of every animal owner or custodian whose animal is in a recreation facility to have physical control of the animal by leash or lead line at all times unless approved otherwise, by permit, by the Town Manager. It shall be unlawful for any person with an animal, other than Seeing Eye dogs as necessary, to access areas of a recreation facility which are restricted to animals. It shall be the duty of every animal owner or custodian of any animal whose animal is in a recreation facility to immediately and properly dispose of waste deposited by the animal.

It shall be the duty of every animal owner or custodian of any animal whose animal is in a recreation facility to have in their possession proof of a current rabies vaccination for their animal. It shall be the duty of every horse owner or custodian whose horse is in a recreation facility to have in their possession proof of a current Coggins test for their horse.

**Section 23-217 Pyrotechnics restricted.**

It shall be unlawful for any person to possess, display, use, set off or attempt to ignite any firecracker, fireworks, smoke bombs, rockets, black power guns or other pyrotechnics, unless approved by written permit by the Town of Braselton.

**Section 23-218 Launching Hot Air Balloons and Hobby Rockets Restricted.**

It shall be unlawful for any person to launch hot air balloons or hobby rockets from a recreation facility unless approved by written permit by the Town Manager.

**Article III. Permits**

**Section 23-301 Permits.**

Permits for special events in a recreation facility shall be obtained by application to the Town Manager. Guidelines for the issuance of permits by the Town include:

1. That the proposed activity or use of the recreation facility will not unreasonably interfere with or detract from the enjoyment of the recreation facility.
2. That the proposed activity or use of the recreation facility will not unreasonably interfere or detract from the promotion of public health, welfare, safety and recreation of a recreation facility;
3. That the proposed activity or use of the recreation facility is not reasonably anticipated to incite violence, crime, or disorderly conduct;
4. That the proposed activity or use of the recreation facility will not entail unusual, extraordinary, or burdensome expenses or policy operation by the Town;

5. That the proposed activity or use of the recreation facility will not conflict with existing parks and recreation services;
6. That the proposed activity or use of the recreation facility desired has not been reserved for other use;
7. That the permitting person or persons will abide by all other state, county and parks recreations laws, ordinances, rules and regulations and shall be liable for any loss, damage, or injury sustained by any person whatsoever by reason of negligence of the person or persons to whom such permit shall have been issued;
8. The Town of Braselton shall have the authority to revoke any permit upon finding of a violation of any laws, ordinances, rules or regulations or upon good cause shown; and
9. Persons may apply for a permit for a proposed activity or use of the recreation facility under the following categories:
  - A. Picnicking
  - B. Fund-raising
  - C. Special event
  - D. Food Service for approved activities
  - E. Recreation facility rentals.

*(Adopted September 8, 2003)*

**Article IV. Authority to Provide for the Regulation and Posting of Rules**

**Section 23-401 Persons Authorized**

1. The Town Manager is hereby authorized to promulgate rules, policies, and regulations in furtherance of the management and maintenance of town parks/recreation areas and to disseminate same including the posting of such rules, policies, and regulations.
2. Nothing herein shall be construed to waive any Town or state ordinance or law governing conduct in such areas.

*(Adopted July 14, 2003)*

## CHAPTER 24: RESERVED

## CHAPTER 25: RESERVED

## CHAPTER 26: RESERVED

## CHAPTER 27: RESERVED

## CHAPTER 28: RESERVED

## CHAPTER 29: RESERVED

## **PART IV: GENERAL GOVERNMENTAL REGULATIONS**

## CHAPTER 30: ANIMALS

### Section

30-101	Animal Control Regulations
30-102	Enforcement



### **Section 30-101      Animal Control Regulations**

The animal control ordinances of Barrow, Gwinnett, Hall, and Jackson counties are adopted by reference as if fully set out herein. The full text of each county's ordinance is available as follows:

1. Barrow County – <http://library.municode.com/index.aspx?clientId=14226&statelId=10&stateName=Georgia>
2. Gwinnett County – <http://library.municode.com/index.aspx?clientId=10878&statelId=10&stateName=Georgia>
3. Hall County – <http://library.municode.com/index.aspx?clientId=12961&statelId=10&stateName=Georgia>
4. Jackson County – <http://library.municode.com/index.aspx?clientId=14670&statelId=10&stateName=Georgia>

### **Section 30-102      Enforcement**

Through a Memorandum of Agreement and/or Service Delivery Strategy, Barrow, Gwinnett, Hall, and Jackson counties enforce their respective animal control ordinance in the portion of Braselton that lies in said county.

## CHAPTER 31: GENERAL OFFENSES

### Section

31-101	Disorderly Conduct
31-102	Discharging Firearms, Air Guns, Etc.
31-103	Report of Treatment of Wounds
31-104	Throwing of Missiles
31-105	Ball Playing
31-106	Bonfires
31-107	Reserved
31-108	Accumulation of Junk
31-109	Abandonment of Motor Vehicles
31-110	Loitering
31-112	Illegal Gambling Devices
31-113	Litter Control
31-114	Junked Automobiles
31-113	Alarm Ordinance
31-116	Reserved
31-117	Reserved
31-118	Reserved
31-119	Reserved
31-120	Reserved
31-121	Other Offenses



### Section 31-101 Disorderly Conduct

It shall be unlawful for any person to create any disturbance that is contrary to the peace and tranquility enjoyed by the people of the Town, interfere with the lawful movement of vehicular or pedestrian traffic in the Town, ignore, interfere or disobey a lawful command from a law enforcement officer in the lawful performance of his/her duties, or engage in any of the following acts:

1. Any person who shall act in a violent or argumentative and threatening manner to another person so such person is placed in fear of bodily harm, or the property of another is placed in danger of being damaged or destroyed.
2. Any person who initiates, engages or provokes any fight or affray so as to cause injury to another's person or property.
3. Any person who acts in a violent or disruptive manner through use of obscene language or words considered profane, fighting words, vulgar and/or indecent, in any place, public or private, where such language is violative of any person, and where the use of such language may be a breach of peace and potentially dangerous to the safety of persons and property.
4. Any person or patron of a business who has in their possession, and gives the appearance of consuming, any type of intoxicating alcoholic beverage on the premises of such business that may be licensed to sell alcoholic beverages but not for the consumption of such beverages. This prohibition extends to shopping center parking lots and/or fast food establishments and any other such places of business.
5. Any person who engages in any noisy, boisterous or unruly conduct that disturbs or infringes upon the peace of another, particularly at an hour or time which is not common for such activity.
6. Any person who assembles or congregates for any purpose other than a lawful or reasonable one, that hinders vehicular or pedestrian movements, who may roughly crowd, push or shove any person in any public place or who refuses the request by a law enforcement officer to disperse.
7. Any person who willfully and maliciously disobeys the request or command of a duly authorized law enforcement officer to summon help or assistance via telephone or police radio or whatever means of communication may

be readily available, and where such refusal could result in injury to those law enforcement officers, persons or property or the safety of the public in general.

8. Any person who knowingly or with intent to obstruct, misinform, mislead or interfere with an investigation or the performance of the duties of a duly authorized law enforcement officer.

Any singular or combined presence of the acts listed in this section may constitute a violation of this section. *(Amended April 12, 2004)*

**Section 31-102 Discharging Firearms, Air Guns, Etc.**

1. It shall be unlawful for any person in the Town to discharge any gun, pistol, or other firearm within three hundred (300) yards of any street, alley or building, or at any point upon the land of another person without the express consent of the owner or occupant thereof; or to discharge any air gun, BB gun, or other toy gun which projects lead or any other missile.

This section shall not be construed to prohibit any officer of the law from discharging a firearm in the performance of his duty, nor to prohibit any citizen from discharging a firearm when lawfully defending personal property.

2. It shall be unlawful for any person to discharge a firearm while:
  - A. Under the influence of alcohol or any drug or any combination of alcohol and any drug to the extent that it is unsafe for the person to discharge such firearm except in the defense of life, health and property.
  - B. The person's alcohol concentration is 0.08 grams or more at any time while discharging such firearm or within three (3) hours after such discharge of such firearm; or
  - C. Subject to the provisions of subsection 3 of this section, there is any amount of marijuana or a controlled substance, as defined in O.C.G.A. 16-13-21, present in the person's blood or urine, or both, including the metabolites and derivatives of each or both without regard to whether or not and alcohol is present in the person's breath or blood.
3. The fact that any person charged with violating this section is or has been legally entitled to use a drug shall not constitute a defense against any charge of violating this section; provided, however, that such person shall not be in violation of this section unless such person is rendered incapable of possessing or discharging a firearm safely as a result of using a drug other than alcohol which such person is legally entitled to use.
4. Any person convicted of violating subsection 2 of this section shall be guilty of a misdemeanor of a high and aggravated nature.

**Section 31-103 Report and Treatment of Wounds**

All physicians and urgent care facilities in the Town are hereby required to report to the Police Department of the Town all patients treated by physicians or diagnosed or known to be suffering from wounds inflicted by a dangerous or deadly weapon of any kind. Such report may be made in writing or by telephone, giving the name of the reporting person and the patient and any other pertinent data requested by the Police Department. All reports shall be made within twenty-four (24) hours after treatment by a physician or after admission to the hospital. (See O.C.G.A. 31-7-9, reports by physicians and other personnel of nonaccidental injuries to patients).

**Section 31-104 Throwing of Missiles**

It shall be unlawful for any person in the Town to throw any stone, rock, or other missile upon or at any vehicle, building, tree, or other public or private property, or upon or at any person in any public or private way or place.

**Section 31-105 Ball Playing**

It shall be unlawful for any person to play ball by throwing, catching, pitching, or batting a ball on any public street, alley, or sidewalk of the town in such a way that impedes the flow of traffic. *(Amended March 10, 2003)*

**Section 31-106 Bonfires**

It shall be unlawful for any person or group, during a holiday or at any other time, to build a bonfire of any description within the Town limits, except at places approved and designated by the Fire Chief.

**Section 31-107 Reserved**

**Section 31-108 Accumulation of Junk**

It shall be unlawful for any owner or resident of any property in the Town other than a person who is a licensed junk dealer to permit to accumulate on such property any "junk", as such term is defined in Section 32-208 of this code, including any discarded, dismantled, wrecked, scrapped, ruined, or junked motor vehicles, or parts thereof.

1. **Notice to Remove.** It shall be the duty of the Police Chief or Code Enforcement Officer to notify, in writing, the owner or occupant of any premises upon which junk is permitted to accumulate in violation of the provisions of this section that such material must be removed within (10) days from the date of such notice.

Notice shall be by registered mail, addressed to said owner or occupant, at his last known address.

2. **Action Upon Non-Compliance.** Upon the failure, neglect, or refusal of any owner or occupant so notified to remove such junk within the designated time period, the Town Manager is authorized and empowered to arrange for the removal of such material by the Town or by a private individual or firm through contract with the Town.

**Section 31-109 Abandonment of Motor Vehicles**

It shall be unlawful for any person to abandon or to leave unattended for a period in excess of five (5) days any motor vehicle on any street, road, alley, or other public way in the municipality.

**Section 31-110 Loitering**

It shall be unlawful to loiter in public places between the hours of midnight and 6:00 a.m.

**Section 31-111 Reserved**

**Section 31-112 Illegal Gambling Devices**

1. **Definitions.** As used in this Section, the term:
  - A. Gambling device means any contrivance which for consideration affords the player an opportunity to obtain money or other things of value, the award of which is determined by chance even though accompanied by some skill, whether or not the prize is automatically paid by the contrivance; and
  - B. Gambling place means any real estate, building, room, tent, vehicle, or other property whatsoever, one of the principal uses of which is the making or settling of bets; the receiving, holding, recording, or forwarding of bets or offers to bet; or the conducting of a lottery or the playing of gambling devices.
2. **Knowingly Permits Premises to be Used as A Gambling Place.**
  - A. A person who knowingly permits any real estate, building, room, tent, vehicle, or other property whatsoever owned by him or under his control to be used as a gambling place or who rents or lets any such property with a view or expectation that it be so used commits the offense of keeping a gambling place.
  - B. A person who commits the offense of keeping a gambling place shall be guilty of a misdemeanor of a high and aggravated nature and, upon conviction thereof, shall be punished by imprisonment for up to one year or by a fine not to exceed \$5,000.00, or both.
3. **Reserved**

4. **Repealer.** All Ordinances, or parts of Ordinances in conflict with the terms of this Section are hereby repealed; but it is hereby provided that any Ordinance or law, which may be applicable hereto and aid in carrying out the intent, purpose and provisions hereof, shall be liberally construed to be in favor of the Town of Braselton and is hereby adopted as a part hereof.

(Adopted September 11, 2000)

**Section 31-113 Litter Control**

**1. General Provisions**

- A. **Purpose and Intent.** The purpose of this section is to protect the public health, safety, environment, and general welfare through the regulation and prevention of litter. The objectives of this section are:
  - (1) Provide for uniform prohibition throughout the Town of Braselton of any and all littering on public or private property; and,
  - (2) Prevent the desecration of the beauty and quality of life of the Town of Braselton and prevent harm to the public health, safety, environment, and general welfare, including the degradation of water and aquatic resources caused by litter.
- B. **Applicability.** This section shall apply to all public and private property within the Town of Braselton.
- C. **Compatibility with Other Regulations.** This section is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. The requirements of this section should be considered minimum requirements, and where any provision of this section imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.
- D. Reserved.

**2. Definitions**

- A. **Litter** means any organic or inorganic waste material, rubbish, refuse, garbage, trash, hulls, peelings, debris, grass, weeds, ashes, sand, gravel, slag, brickbats, metal, plastic, and glass containers, broken glass, dead animals or intentionally or unintentionally discarded materials of every kind and description which are not "waste" as such term is defined in O.C.G.A., §16-7-51, paragraph 6.
- B. **Public or private property** means the right of way of any road or highway; any body of water or watercourse or the shores or beaches thereof; any park, playground, building, refuge, or conservation or recreation area; timberlands or forests; and residential, commercial, industrial, or farm properties.

**3. Prohibition Against Littering Public or Private Property or Waters.** It shall be unlawful for any person or persons to dump, deposit, throw or leave or to cause or permit the dumping, depositing, placing, throwing or leaving of litter on any public or private property in the Town of Braselton or any waters in the Town of Braselton unless:

- A. The property is designated by the State or by any of its agencies or political subdivisions for the disposal of such litter, and such person is authorized by the proper public authority to use such property;
- B. The litter is placed into a receptacle or container installed on such property; or,
- C. The person is the owner or tenant in lawful possession of such property, or has first obtained consent of the owner or tenant in lawful possession, or unless the act is done under the personal direction of the owner or tenant, all in a manner consistent with the public welfare.

**4. Vehicle Loads Causing Litter.** No person shall operate any motor vehicle with a load on or in such vehicle unless the load on or in such vehicle is adequately secured to prevent the dropping or shifting of materials from such load onto the roadway. (Section 4 is adapted from O.C.G.A. § 40-6-254)

**5. Violations, Enforcement and Penalties**

- A. **Violations.** It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this section. Any person who has violated or continues to violate the provisions of this section, may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise sentenced in a manner provided by law.
- B. **Evidence.**
  - (1) Whenever litter is thrown, deposited, dropped or dumped from any motor vehicle, boat, airplane, or other conveyance in violation of this section, it shall be prima facie evidence that the operator of the conveyance has violated this section.

- (2) Except as provided in subsection 1, whenever any litter which is dumped, deposited, thrown or left on public or private property in violation of this section is discovered to contain any article or articles, including but not limited to letters, bills, publications or other writing which display the name of the person thereon in such a manner as to indicate that the article belongs or belonged to such person, it shall be a rebuttable presumption that such person has violated this section.
- C. Penalties. Any person who violates this section shall be guilty of a violation and, upon conviction thereof, shall be punished as follows:
- (1) By a fine of not less than \$200 and not more than \$1,200; and
  - (2) In addition to the fine set out in subsection (1) above, the violator shall reimburse the Town of Braselton for the reasonable cost of removing the litter when the litter is or is ordered removed by the Braselton Municipal Court; and
  - (3) In the sound discretion of the court, the person may be directed to pick up and remove from any public street or highway or public right of way for a distance not to exceed one mile any litter he has deposited and any and all litter deposited thereon by anyone else prior to the date of execution of sentence; or
- In the sound discretion of the court, the person may be directed to pick up and remove any and all litter from any public property, private right of way, or with prior permission of the legal owner or tenant in lawful possession of such property, any private property upon which it can be established by competent evidence that he has deposited litter. Pick up and removal shall include any and all litter deposited thereon by anyone prior to the date of execution of sentence; and,
- (4) The court may publish the names of persons convicted of violating this section.
- D. Enforcement. All law enforcement agencies, officers and officials of this state or any political subdivision thereof, or any enforcement agency, officer or any official of any commission of this state or any political subdivision thereof, are hereby authorized, empowered and directed to enforce compliance with this article.

*(Adopted November 27, 2006)*

**Section 31-114      Junked Automobiles**

Any automobile, truck, vehicle or trailer of any kind or type, meeting the conditions of section 31-114.1 or in a condition that constitutes a health hazard or unsightly nuisance, parked or located on any private property or public road, is a violation of this Section. A violation of this Section shall be deemed an offense and jurisdiction shall lie in the municipal court of the Town of Braselton.

This Section shall not be the exclusive regulation of abandoned, wrecked, dismantled, or inoperative vehicles or contrivances within the corporate limits of the Town but shall be supplemental and in addition to the other regulations and regulatory codes, ordinances, statutes, or provisions of law heretofore and hereinafter enacted by County, State, or other legal entity or agency having jurisdiction.

1. **Conditions Describing a Junked Vehicle.** An inoperative or junk condition shall include, but not limited to any automobile, vehicle, trailer of any kind or type, or contrivance or part thereof, the condition of which is one or more of the following:
  - A. Wrecked.
  - B. Dismantled.
  - C. Partially Dismantled.
  - D. Inoperative.
  - E. Abandoned.
  - F. Discarded.
  - G. One which does not have a valid license plate attached hereto.

2. Each day may constitute a continuing violation provided however, that the Town shall first attempt to notify the owner or occupant of the premises and/or vehicle and provide a date certain by which said automobile shall be removed.

*(Adopted July 10, 2006)*

**Section 31-115 Alarm Ordinance**

**1. Definitions**

- A. Alarm system shall mean any device designed or used for the detection of intrusion into a structure, building or facility; or for alerting authorities of an attempt or commission of a crime or any emergency situation involving potential personal injury; or for alerting medical personnel of a medical emergency; or for alerting fire and emergency first responders of a fire detector, smoke detector, poisonous gas detector, or sprinkler system activation; and which is connected to an audible alarm or which is transmitted to an alarm monitoring agency used to evoke a response of emergency personnel.
- B. Alarm shall have the same meaning as alarm system . Alarms shall include: burglary and intrusion alarms; panic alarms; robbery and hold up alarms; medical and med-alert alarms; fire detector and smoke detector alarms; poisonous gas and carbon monoxide alarm; and alarm trouble condition activations.
- C. Emergency personnel shall mean any person or persons engaged in providing police protection, fire protection, or emergency medical care within the Town of Braselton.
- D. False alarm shall mean the activation of an alarm system which evokes the response of emergency personnel due to other than the said purpose for which the alarm system is designed.
- E. Nuisance alarm shall mean the response of emergency personnel to more than four (4) false alarms with in a consecutive twelve (12) month period encompassing January 1 — December 31 of any calendar year.
- F. Trouble condition shall mean an activation of an alarm, which detects a problem with the alarm system, usually indicating maintenance or service is required.

**2. Purpose and Intent.** The Braselton Town Council finds and declares that:

- A. Reserved.
- B. Reserved.
- C. In order to provide for the safety and welfare of the citizens of Braselton, and to provide for the safety and welfare of emergency response personnel, the Town Council establishes penalties for nuisance alarms.

**3. Reserved.**

**4. Reserved.**

**5. Reserved.**

**6. False Alarms Constituting Nuisance.** Any time emergency personnel respond to more than four (4) false alarms per location, within any consecutive twelve (12) month period from January 1 — December 31, the alarm registrant shall be subject to penalties as provided in Section 31-115.7. Each subsequent false alarm exceeding the first four (4) shall be deemed a nuisance alarm and shall constitute a separate violation of this section.

**7. Penalties and Fines.**

- A. Reserved.
- B. Any person found to allow, cause or create a nuisance alarm, as defined in Sections 31-115.1.E and 31-315.6, shall pay the Town of Braselton a fine of Fifty (\$50.00) Dollars for the first violation; One Hundred (\$100.00) Dollars for the Second violation; Two Hundred (\$200.00) Dollars for the Third violation; and Four Hundred (\$400.00) Dollars for the Fourth and any subsequent violation within any calendar year. Provided, however, that no one location shall pay any more than Four Hundred (\$400.00) Dollars for violation occurring within any 24 hour period.

**8. Confidentiality.** The information furnished and secured pursuant to the registration of alarms shall be confidential in character and shall not be subject to public inspection, and shall be so kept in order that the contents thereof shall not be known except to persons charged with the administration of this Ordinance.

**9. Repealer.** All ordinances or parts of ordinances or resolutions conflicting or inconsistent with the provisions of this ordinance are hereby repealed.

**10. Effective Date.** This ordinance shall take effect upon adoption.

*(Adopted January 10, 2005)*

Section 31-116	Reserved
Section 31-117	Reserved
Section 31-118	Reserved
Section 31-119	Reserved
Section 31-120	Reserved
Section 31-121	Other Offenses

1. The following state criminal statutes are hereby adopted and incorporated by reference as if fully set forth herein as local Town ordinances and shall be given like effect in the Town, to wit:
  - A. 16-6-8 Public Indecency
  - B. 16-7-24 Tampering with government property
  - C. 16-7-25 Tampering with utilities, government property
  - D. 16-11-36 Loitering or prowling
  - E. 16-11-39 Disorderly Conduct
  - F. 16-11-41 Public Drunkenness
  - G. 36-32-6 Possession of less than 1 ounce of marijuana
  - H. 36-32-7 Operating a motor vehicle w/out effective insurance
  - I. 36-32-8 Operating a motor vehicle w/out a certificate of emission
  - J. 36-32-9 Shoplifting valued \$300 or less
  - K. 36-32-10 Sale and possession of alcoholic beverages involving minors
  - L. 36-32-10.1 Criminal trespass (only in Counties with no state court)
  - M. 40-5-121 Driving on suspended or revoked license
  - N. 40-5-125 et. seq. Traffic offenses, generally (uniform rules of the road)
  - O. 40-6-13 Proof of insurance
  - P. 40-6-208 Parking violations in mass transit lots
  - Q. 40-6-226 Handicapped parking
  - R. 40-6-252 Private parking lot restrictions
  - S. 40-6-391 DUI
  - T. 40-6-395 Fleeing or attempting to elude
  - U. 40-7-27 et. seq. Motor Carrier Safety Rules
  - V. 46-7-36 et. seq. Federal Motor Carrier Rules and Interstate Carriers

A future amendment or repeal of a provision of these code sections shall so amend or repeal the pertinent provision, if any, of this section adopted by the Mayor and Town Council, without any action of the Town being required.

2. Nothing herein shall prevent or diminish the Town of Braselton's right to procure warrants or charge other state offenses not listed above to be tried in other courts of our State.

*(Adopted April 12, 2004)*

# CHAPTER 32: LICENSING AND BUSINESS REGULATION

## ARTICLE I. GENERAL REGULATIONS

### Section

32-101	Application Fees and Deadlines
32-102	Procedures for Issuance
32-103	Grounds for Non-acceptance of Application and for Revocation, Suspension and Renewals
32-104	Time Limit for Payment of License Fees After Approval of Application
32-105	Time Limit for Commencement of Business
32-106	Renewals and Terminations
32-107	Restrictions Upon Transfers
32-108	Compliance with State Regulated Business
32-109	Confidentiality of Information
32-110	Display of License
32-111	Inspections
32-112	Duplicate Licenses
32-113	Branch Offices
32-114	Joint License
32-115	Penalties

## ARTICLE II: BUSINESSES REGULATED

32-201	Sales and Use of Alcoholic Beverages
32-202	Construction Contractors
32-203	Reserved
32-204	Insurance Businesses
32-205	Solid Waste Collectors
32-206	Peddlers and Itinerant Merchants
32-207	Charitable Solicitors
32-208	Junk Dealers and Junkyards
32-209	Pawnshops
32-210	Parades
32-211	Tattoo Establishments
32-212	Massage Businesses



## Article I. GENERAL REGULATIONS

### Section 32-101 Application Fees and Deadlines

1. All persons wanting to obtain a business license must complete an application furnished by the Town Clerk or designee. The applicant or its agent must sign the application. The applicant must provide the following statements and information:
  - A. Applicant's name, age, address, and length of residency in the Town;
  - B. The business name and description where the proposed business is to be located;
  - C. The nature and character of the business;
  - D. If a partnership, the names of the partners;
  - E. If a corporation, the names of the directors and senior officers;

- F. The name of any person who will have a twenty percent or more ownership interest in the business or by such percentage share directly or indirectly in the profit from the business (an "Interested Party") for which the applicant is seeking a license;
  - G. Whether the applicant or an Interested Party has submitted business license application(s) at any previous time and the disposition of such application(s);
  - H. Whether the applicant or an Interested Party has had a business license revoked and the reason thereof;
  - I. Whether the applicant or an Interested Party has ever been convicted of a crime, other than traffic violations; and
  - J. Such other information as may be required by the Town Clerk.
2. Applicants, by filing an application, agree to cooperate with the Town Clerk in investigating facts relative to the business license. Failure to cooperate within 30 days after requested to do so by the Town Clerk shall result in automatic rejection, with prejudice, of the application.
  3. No license will be issued to any applicant to operate a commercial business unless detailed plans of the building in which the business will be located and outside premises are on file with the Town or attached to the application. Each applicant will attach to his application evidence of ownership of the building or a copy of the lease if the applicant is leasing the building or affidavit of the property owner providing proof the proposed business is allowable or approved.
  4. All applications for business licenses shall be accompanied by either cash, check payable to the Town of Braselton or online payment, if available. Payment shall be in the proper amount of the license fees described in Article I of Chapter 32 of this Code, such fees to be prorated by quarters to the end of the fiscal year. If the license is refused, the same shall be returned to the applicant.
  5. When the application has been approved and the applicant has deposited with the Town Clerk the required fee, the license shall be issued.

**Section 32-102 Procedures for Issuance**

1. The Town Clerk or designee shall forward a copy of the business license application to the Town Manager and Planning and Development Director to review such application in accordance with the criteria of this Section and make a recommendation on the application and return such recommendation to the Town Clerk who will either reject or approve such license.
2. The granting of a business license under the provisions of Article I of Chapter 32 is deemed a privilege only, and nothing herein contained shall be construed as granting any person whose business is subject to municipal regulation any legal right to engage in such business.
3. There shall be a waiting period of up to three (3) days for issuance of licenses where the license fee is paid by check.

**Section 32-103 Grounds for Non-acceptance of Application and for Revocation, Suspension and Renewals.**

1. The Town Manager shall have authority to deny any application for new licenses, for transfer of location or transfer of ownership, and to revoke, suspend or refuse to renew any license for "due cause" as defined herein.
2. The Town Manager or his/her designee shall be vested with the authority to grant to or deny a business license based on the prevailing requirements and criteria of the Town and merits of such application. Nothing herein shall alter the applicant's right to seek appeal or redress of such denial nor shall diminish the Town's right to seek any penalty or remedy for failure of a business to obtain a license or comply with such rules and regulations of the Town. *(Amended May 13, 2002)*
3. As used in this Chapter, the term "due cause" for the denial of applications for new licenses, for transfer of location or transfer of ownership, refusal to renew, revocation, or suspension includes, but is not limited to, the following:
  - A. The conviction of any individual having any ownership, financial, or other interest in the applicant's business, directly or indirectly, beneficial or absolute, for any state or federal felony or misdemeanor of a high and aggravated nature. The term "conviction" includes an adjudication of guilt or a plea of guilty or the forfeiture of a bond when charged with a crime. If the violation is for a misdemeanor or forfeiture of bond the Town Manager may, after investigation, waive that disqualification;
  - B. Allowing the solicitation of patrons on the licensed premises for prostitution, any disturbance of the peace, obscenity, or any other unlawful act where the licensee or the licensee's employee or agent knew or should have known of such conduct;

- C. The failure to comply with any federal, state or municipal laws and regulation governing the business;
  - D. The failure to furnish any information and records relating to the operation of licensed business, when such has been requested by the police department, Code Enforcement Officer, or the Town Clerk;
  - E. The failure to maintain any of the general qualifications applicable to the initial issuance of a license;
  - F. Failure by the licensee to adequately supervise and monitor the conduct of the employees, patrons and others on the licensed premises or on any property owned or leased by the licensee, including but not limited to parking lots and parking areas or any parking lots or areas which may be lawfully used by patrons of a licensed establishment, in order to protect the safety and well-being of the general public and of those utilizing the premises;
  - G. The failure of the license holder or his employee to report promptly to the Town Clerk any violation of law or municipal ordinance, breach of the peace, disruption or altercation resulting in violence, occurring on the premises;
  - H. The applicant has had a license issued by the Town previously suspended or revoked; provided however, the Town Manager may waive this Subsection H if two (2) years have passed since any prior revocation of any license held by the applicant;
  - I. The applicant does not furnish evidence of adequate parking facilities available to the applicant's patrons;
  - J. The location of the business in the application is not suitable because of traffic congestion, general character of the neighborhood or by reason of the effect which such an establishment would have on the adjacent and surrounding properties or on the neighborhood;
  - K. The location of the business is within an area where the number of business licenses already granted makes it contrary to the public interest or welfare;
  - L. The location of the business would violate the Town of Braselton Development Code or other Town ordinance;
  - M. If the location of the business is a location where a business licenses has been previously revoked or suspended, or the location indicates that it is not in the interest of public health, safety welfare or morals that the business operate at such location;
  - N. The granting or such license would constitute a violation of state law or regulations;
  - O. Failure to allow Town officers or police to inspect the premises as permitted under Section 32-111;
  - P. Any conduct on the part of the application licensee or his employee contrary to the public welfare, safety, health or morals;
  - Q. The inability of the Town Clerk to verify any statement of information required to be disclosed or to be able to adequately investigate the applicant or a place of business due to foreign background, ties or interest or for any reason beyond the Town Clerk's control; and
  - R. Any material omission or untrue or misleading information contained in application for a business license.
  - S. The presence of any outstanding balance or obligation due the Town by the applicant (e.g. water, sewer, occupation tax). If the applicant is a business entity said regulation shall apply to any partner, director, shareholder, member, manager, etc. *(Amended May 10, 2004)*
  - T. Applicant fails to meet the requirements of O.C.G.A. §50-36-1, as adopted or as may be amended, for issuing a license.
4. No application for a new license, for a transfer of location or transfer of ownership shall be denied and no business license shall be revoked, suspended or refused renewal except upon a finding of due cause and after a hearing before the Town Attorney where the applicant or licensee will have the opportunity to show cause as to why the application or license should not be denied. The Town Clerk will give notice to the applicant of any recommendation regarding an application. The Town Clerk will give at least a five-day written notice to the applicant or licensee of any hearing, stating the place, date, time and purpose and setting forth the charge upon which the hearing shall be held. The applicant or licensee will have the opportunity to present evidence and cross-evidence and cross-examine opposing witnesses at the hearing.
5. Following any such hearing, the Town Attorney will make a report and recommendation to the Mayor and Council for action by such governing authority. In lieu of suspension, revocation or the failure to renew, the Municipal Court Judge may impose a fine upon any licensee, such fine not to exceed \$1,000.00 for each violation under Article I of Chapter 32 occurring on the licensed premises.
6. For due cause, if a violation under Article I of Chapter 32 occurs which results in an emergency situation in which continued operation of the premises by the licensee endangers the health, welfare or safety of the public, the Municipal Court Judge may suspend the license. Any such suspension may be made effective immediately and will remain in force until the next regular or called meeting of the Mayor and Council.

**Section 32-104 Time Limit for Payment of License Fees After Approval of Application.**

All business license fees must be paid prior to approval of the application by the Town Manager.

**Section 32-105 Time Limit for Commencement of Business.**

All holders of business licenses must, within one year after the issuance of the license, open for business the establishment referred to in the license. Failure to open the licensed establishment within the one year period shall serve as automatic forfeiture and cancellation of the unused license, and no refund of license fees shall be made to the license holder.

**Section 32-106 Renewals and Terminations.**

1. All applications for renewal of business licenses will be filed with the Town Clerk or designee prior to November 15<sup>th</sup>. All applications for a renewal of license for the ensuing year will be treated as applications for new licenses, but shall automatically be renewed except for Due Causes. Payment of license fees for a renewal of license may be made at the time of application. Payments received after December 1st shall be subject to a late charge of \$50.00 if made by December 31<sup>st</sup> and \$500.00 if after December 31st.
2. All business licenses will terminate on the last day of the calendar year when no provision to the contrary is made.
3. When there is a pending application for a renewal on a prior existing license, the authority of the prior licensee to operate the business shall be extended for a maximum period of thirty days beyond the termination date of the prior license.

**Section 32-107 Restrictions Upon Transfers.**

1. Licenses are not transferable, except as otherwise provided by this in Article I Chapter 32.
2. No license may be transferred from one person to another or from one location to another without permission and approval of the Town Manager upon written application made.
3. After receipt of such application, the Town Manager shall notify such applicant within twenty days of any objection to the transfer as set forth in the application. Said license shall remain in effect pending approval of the transfer. If the transfer application is approved, the license may be transferred upon payment of a "transfer fee" equal to one-half (½) of the original license fee.
4. Upon the death of any license holder, his personal representatives or his heirs may continue to operate under the said license for the balance of the year without the payment of any fee in the discretion of the Town Manager, if the personal representative qualifies as license holders, or the license may be transferred, if approved by the Town Manager, to a qualified transferee within thirty days after the condition of the estate of the deceased licensee is settled.
5. Any licensee desiring to discontinue business at one location and commence business at some other location must make a new application for such location.

**Section 32-108 Compliance with State Regulated Businesses.**

In accordance with O.C.G.A. § 36-60-6, the Town will not issue a business license to any person engaged in a business required to be licensed by the State under Title 43 of the O.C.G.A. without the person requesting a business license from the Town first providing the Town with evidence of licensure by the State. No business license may be issued by the Town without such proof.

**Section 32-109 Confidentiality of Information.**

All information furnished or secured under the authority of Section 32-101 shall be kept in strict confidence by the Town, shall not be subject to public inspection, and shall be utilized solely by the officers of the Town for administering the provisions of Article I of Chapter 32.

**Section 32-110 Display of License.**

Licenses will keep the business license posted in a conspicuous place on the premises used for such business at all times.

**Section 32-111 Inspections.**

Whenever inspections are reasonable to the licensing of a business or to the detection of violations of public peace, order or morality that are causes to revoke a license, the licensee or the person in charge of the premises will admit a Town Officer who is authorized to make such inspection at any reasonable time that admission is requested.

**Section 32-112 Duplicate Licenses.**

A duplicate license shall be issued by the Town Clerk to replace a previously issued license which has been lost, stolen, defaced or destroyed without any willful conduct on the part of the licensee, upon the filing of the sworn affidavit attesting to such fact and the payment of a fee to the Town equal to the administrative fee charged for license issuance.

**Section 32-113 Branch Offices.**

Each branch or location of a business where the business has employees is a separate place of business, for which a separate license is required; provided that warehouses and distributing plants used in connection with and incidental to a licensed business will not be deemed to be separate places of business or branch offices for business license purposes.

**Section 32-114 Joint License.**

A person engaged in two or more businesses at the same location shall be required to obtain separate licenses for conducting each of such businesses for which a license is required.

**Section 32-115 Penalties.**

Any person who shall conduct a business or occupation without having obtained a business license from the Town therefore as required by Article I of Chapter 32, or who shall violate any other provisions of Article I of Chapter 32, shall, upon conviction therefor, be punished by a fine not to exceed five thousand dollars (\$5,000.00) and costs, or be imprisonment not to exceed ninety (90) days, or both, any and all of such penalties to be imposed in the discretion of the Municipal Court.

*(Adopted January 8, 2001)*

**Article II. BUSINESSES REGULATED**

**Section 32-201 Sales and Use of Alcoholic Beverages.**

1. **Definitions.** The following words, terms, and phrases, when used in this Article, shall have the meanings ascribed to them in this Article, except where the context clearly indicates a different meaning:
  - A. Adequate parking means the required parking for the relevant facility as set forth in the Town of Braselton Development Code.
  - B. Alcoholic beverages means and includes but is not limited to malt beverages, wine, and distilled spirits.
  - C. Auditorium means a permanent building or hall used for concerts, speakers, plays and similar activities and that has a seating capacity in excess of 50 seats.
  - D. Beneficial interest means holding a retail liquor license, having an ownership interest, whether legal, equitable or other, in or control over a retail liquor business; holding a retail license for or having any ownership interest in a beer or wine business which is conducted in conjunction with or immediately adjacent to a retail liquor business; or holding a license for or having an ownership interest in any retail alcohol beverage and having a financially contractual or other business interest.
  - E. Business area means any street length between intersections where 50 percent or more is in use for business purposes.
  - F. Church means a permanent building where persons regularly assemble for religious worship.
  - G. Distilled spirits or spirituous liquors means all beverages containing alcohol obtained by distillation or containing more than 21 percent alcohol by volume, including fortified wines.
  - H. Election Day means that period of time beginning with the opening of the polls and ending with closing of the polls for any election.

- I. Entertainment means the live performance by any person, whether such person be a musician, dancer or otherwise, which occurs upon the premises of a licensed establishment.
- J. Family means and includes any person related to the holder of a license within the first degree of consanguinity or affinity, as determined according to civil law.
- K. Government center means a building owned or leased by and operated by the State or the County or the Town and which contains a lobby or atrium area or other room which is used for group functions. If a license is issued for premises within a government center, an employee shall be the named licensee.
- L. Hotel means a building or other structure kept, used, maintained, advertised, and held out to the public to be a place where food is actually served and consumed and sleeping accommodations are offered for adequate pay to travelers and guests, whether transient, permanent or residential, in which 50 or more rooms are used for the sleeping accommodations of these guests, and having one or more public dining rooms, with an adequate and sanitary kitchen and a seating capacity of at least 25 where meals are regularly served to those guests, the sleeping accommodations and dining rooms being conducted in the same building or in separate buildings or structures used in connection therewith that are on the same premises and are a part of the hotel operation. Motels meeting the qualifications set out in this definition for hotels shall be classified in the same category as hotels. Hotels shall have the privilege of granting franchises for the operation of a lounge, restaurant or nightclub in their premises and the holder of the franchise shall be included in the definition of hotel.
- M. License means the authorization granted by the Town to engage in the sale or consumption of alcoholic beverages on the premises.
- N. Licensee means a person holding any class of license issued under this Article.
- O. Lounge means a separate room connected with a part of and adjacent to a restaurant or located in a hotel with all booths, stools, and tables being unobstructed and open to view. A lounge that is operated on a different floor in the premises or in a separate building or that is not connected to or adjacent to a restaurant shall be considered a separate establishment and an additional license fee shall be paid therefor.
- P. Malt beverage means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any other similar product or any combination of such products in water, containing not more than six percent alcohol by volume and including ale, porter, brown, stout, lager beer, small beer and strong beer. The term does not include sake, known as Japanese rice wine.
- Q. Manufacturer means any maker, producer or bottler of an alcoholic beverage. The term also means:
  - (1) For distilled spirits, any person engaged in distilling, rectifying or blending any distilled spirits;
  - (2) For malt beverages, any brewer; and
  - (3) For wine, any vintner. Minor means a person less than twenty-one (21) years of age.
- R. Reserved.
- S. Package store means an establishment engaged in the retail sale of packaged alcoholic beverages, such as ale, beer, wine, and whiskey for consumption off the premises and at which on-premises consumption is specifically prohibited, as distinct from a bar, restaurant or similar establishment which is licensed for the retail sale of alcoholic beverages of any type by the drink and/or for consumption on the premises. The term "package store" is considered synonymous with the term "liquor store".
- T. Person means an individual or individuals, a partnership or partnerships, a corporation or corporations, an association or associations or any combination thereof.
- U. Premises means the definite closed or partitioned-in locality, whether room, shop, tasting room, or building, wherein alcoholic beverages are sold or consumed. Premises also includes any area or patio immediately adjacent to the main licensed facility and located on property owned or leased by such licensee.
- V. Private club means a corporation chartered, organized and existing under the laws of the State, actively and continuously in operation within the Town for at least one year immediately prior to the application for a license under this Article and during which time such corporation shall have had continuously not less than 50 members whose names, current addresses, and current telephone numbers shall have been kept listed on the club premises, which members shall have regularly paid quarterly, semiannual or annual dues. The corporation shall be operated exclusively for pleasure, recreation, and other nonprofitable purposes, and no part of the net earnings of the corporation shall inure to the benefit of any member, director, or officer. No member, director, officer, agent, or employee of the club shall be paid or directly or indirectly receive, in the form of salary or other compensation, any profits from the sale of distilled

spirits by or to the club or its members or guests, except such salary as may be fixed by its members at any annual meeting or by its governing board out of the general revenue of the club.

- W. Restaurant means any public place kept, used, maintained, advertised and held out to the public as a place where meals are served and where meals are actually and regularly served, without sleeping accommodations, such place being provided with adequate and sanitary kitchen and dining room equipment and having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests. At least one meal per day shall be served at least six (6) days per week, with the exception of holidays, vacations and periods of redecorating, and the serving of those meals shall be the principal business conducted, with the serving of alcoholic beverages to be consumed on the premises as only incidental thereto.
  - X. Resort means a property containing over 100 or more rooms for sleeping accommodations with additional amenities and more than one restaurant on premises.
  - Y. Resort facility means a golf course facility and restaurant operated in connection therewith, and shall include any hotel and restaurant facility operated in connection with such golf course facility.
  - Z. Sale means selling or offering for sale alcoholic beverages to any member of the public.
  - AA. School means only such state, county, Town, church or other schools as teach the subjects commonly taught in the common schools of this state and does not include private schools where only specialized subjects such as law, stenography, business, music, art, medicine, dentistry, vocational occupations and other special subjects are taught.
  - BB. Sports facility means premises operated exclusively for the purpose of providing professional sporting events, such as professional football, auto racing or similar athletic or amusement events for attendance by the public.
  - CC. Tasting room means an outlet operated by a winery for the promotion of a winery's wine by providing complimentary samples of such wine to the public and for the retail sale of such wine.
  - DD. Town means Town of Braselton.
  - EE. Town Clerk means the person appointed to such position by the Mayor and Town Council.
  - FF. Wholesaler means any person engaged in distribution or selling of alcoholic beverages to retailers for the purpose of resale.
  - GG. Wine or vinous liquors means any alcoholic beverage containing not more than 21 percent alcohol by volume made from fruits, berries or grapes either by natural fermentation or by natural fermentation with brandy added. The term includes but is not limited to all sparkling wines, champagnes, combinations of such beverages, vermouths, special natural wines, rectified wines and like products. The term does not include cooking wine mixed with salt or other ingredients so as to render it unfit for human consumption.
  - HH. Winery means a manufacturer of wine.
2. **Purposes of Article.** This Article has been enacted for the purposes of:
- A. Promoting the health and general welfare of the community;
  - B. Establishing reasonable and ascertainable standards for the regulation and control of the licensing and sales of alcohol beverages in the Town;
  - C. Protecting and preserving the community; and
  - D. Protecting against the undesirable effects of concentrating retail, manufacture, or wholesale of alcoholic beverages in one person, entity, or family.
3. **Compliance with Article required.** It shall be unlawful for any person to manufacture, or sell or offer for sale at wholesale or retail any alcohol beverages without having first complied with this Article.
4. **Jurisdiction.** This Article shall apply to the corporate limits of the Town.
5. **Compliance assumed for existing licenses.** All licensees holding a valid license for the manufacture or sale of alcoholic beverages issued by the Town at the time of the enactment of this Article shall be deemed to have complied with all requirements as to application and issuance of licenses under this Article. The licensees shall, however, meet all other requirements as to regulation and control as set forth in this Article. The Town hereby rectifies its issuance of existing licenses pursuant to this Article.
6. **Drinking in public.**
- A. It shall be unlawful for any person to drink any vinous, malt, or other alcoholic beverage while on any streets, sidewalks, alleyways, parking areas or other open areas operated and controlled by the Town, except for special events permitted by the Town pursuant to this Article or hosted by the Town or a Town agency or authority; further, nothing in this Article shall be construed to prohibit the sale and consumption of vinous, malt or any other alcoholic beverage at any auditorium, government center, sports facility, or resort facility.

- B. Except within the winery, it shall be unlawful for any person to open or to consume all or any part of any type of alcoholic beverage within 100 feet of any retail store where alcoholic beverages are sold in package form or within the boundary lines of the property on which such retail store is located, whichever constitutes the greater distance.
  - C. The Town's police department and/or Code Enforcement Officer shall be responsible for the enforcement of this Article.
  - D. Upon finding of guilty for violation of this Article by Municipal Court, the offender shall be subject to imprisonment for a term not to exceed thirty (30) days or by a fine not to exceed \$1,000.00, either of such penalties to be in the discretion of the Municipal Court. Such punishment may be probated by the Municipal Court for those offenders desiring to participate in a detoxification program.
- 7. Disorderly while under the influence.**
- A. It shall be unlawful for any person within the corporate limits of the Town to be disorderly while under the influence of alcohol and on the streets, sidewalks, or other public places. The following acts are declared to be in violation of this Article:
    - (1) Any person who acts in a reckless manner so as to create an unreasonable risk of harm to persons or property in the vicinity while under the influence of alcohol or other drugs.
    - (2) Any person who shall defecate or urinate on the streets or sidewalks or in the halls or elevators of public or commercial buildings, or on any property open to public view in the Town while under the influence of alcohol or other drugs.
    - (3) Any person who, without provocation, uses to another, in such person's presence, fighting words, or who shall panhandle while under the influence of alcohol or other drugs.
    - (4) Any person who while under the influence of alcohol or other drugs shall act in a violent or tumultuous manner toward another so as to endanger the life, limb, health or property of another.
    - (5) Any person who while under influence of alcohol or other drugs shall lie down or otherwise obstruct, block or impede pedestrian or vehicular traffic on any sidewalk, street, or entrance or exit to any other public way, house of worship, business, public hall, theater, public conveyance or other public place and who shall refuse to remove themselves when ordered to do so by a Town police officer or other lawful authority.
    - (6) Any person who, while under the influence of alcohol or other drugs, shall act in a boisterous, turbulent, or agitated manner, or who shall use profane, vulgar, loud or unbecoming language while on the streets, sidewalks, or other public places within the corporate limits of the Town.
  - B. Upon a finding of guilty for violation of this Article by Municipal Court, the offender shall be subject to imprisonment for a term not to exceed three months or by fine not to exceed \$1,000.00, either of such penalties to be in the discretion of the Municipal Court. Such punishment may be probated by the Municipal Court for those offenders desiring to participate in a detoxification program.
- 8. Furnishing to, purchasing of, or possession by or for minors.**
- A. Except as otherwise authorized by law:
    - (1) No person knowingly, directly or through another person, shall furnish, cause to be furnished, or permit any person in such person's employ to furnish any alcoholic beverage to any person under 21 years of age;
    - (2) No person under 21 years of age shall purchase or knowingly possess any alcoholic beverages;
    - (3) No person under 21 years of age shall misrepresent such person's age in any manner whatever for the purpose of obtaining illegally any alcoholic beverage;
    - (4) No person knowingly or intentionally shall act as an agent to purchase or acquire any alcoholic beverage for or on behalf of a person under 21 years of age; or
    - (5) No person under 21 years of age shall misrepresent such person's identity or use any false identification for the purpose of purchasing or obtaining any alcoholic beverage.
  - B. The prohibitions contained in sections 32-201.8.A.1 - 4 shall not apply with respect to the sale, purchase or possession of alcohol beverages for consumption:
    - (1) For medical purposes pursuant to a prescription of a physician duly authorized to practice medicine in this state; or
    - (2) At a religious ceremony.
  - C. The prohibitions contained in sections 32-201.8.A.1 - 4 shall not apply with respect to the possession of alcoholic beverages for consumption by a person under 21 years of age when the parent or guardian of the person under 21 years of age gives the alcoholic beverage to the person and when possession is in the home of the parent or guardian and such parent or guardian is present.

- D.** The prohibition contained in section 32-201.8.A.1 shall not apply with respect to sale of alcoholic beverages by a person when such person has been furnished with proper identification showing that the person to whom the alcoholic beverage is sold is 21 years of age or older. For purposes of this Subsection, the term "proper identification" means any document issued by a governmental agency containing a description of the person, such person's photograph, or both, and giving such person's date of birth and includes, without being limited to, a passport, military identification card, driver's license, or an identification card authorized under O.C.G.A. § 40-5-100. "Proper identification" shall not include a birth certificate, any traffic citation or complaint form.
- E.** If such conduct is not otherwise prohibited pursuant to O.C.G.A. § 3-3-24, nothing contained in this Article shall be construed to prohibit any person under 21 years of age from:
- (1) Dispensing, serving, selling or handling alcoholic beverages as a part of employment in any licensed establishments;
  - (2) Being employed in any establishment in which alcoholic beverages are distilled or manufactured; or
  - (3) Taking orders for and having possession of alcoholic beverages as a part of employment in a licensed establishment.
- F.** Testimony by any person under 21 years of age, when given in an administrative or judicial proceeding against another person for violation of any provision of this Article, shall not be used in any administrative or judicial proceedings brought against such testifying person under 21 years of age.
- G.** Any person convicted of violating any prohibition contained in section 32-201.8.A shall be punished by a fine not to exceed \$1,000.00 or imprisonment for not more than three months or both; except that any person convicted of violating section 32-201.8.A.(2) shall be punished by not more than 30 days' imprisonment or a fine of not more than \$1,000.00 or both. Any defendant charged shall be entitled upon request to have the case against such defendant transferred to the court having general misdemeanor jurisdiction in the county in which the alleged offense occurred. Any person charged with a second or subsequent offense under this Section shall be punished as for a misdemeanor of a high and aggravated nature in the court having general misdemeanor jurisdiction in the county in which the alleged offense occurred.
- H.** Whenever any person who has not been previously convicted of any offense under this Article or under any other law of the United States or this or any other state relating to alcoholic beverages pleads guilty to, or is found guilty of a violation of 32-201.8.A.(2) or (3), the court, without entering a judgment of guilt and with the consent of such person, may defer further proceedings and place such person on probation upon such reasonable terms and conditions as the court may require. Upon violation of a term or condition of probation, the court may enter an adjudication of guilt and proceed accordingly. Upon fulfillment of the terms and conditions of probation, the court shall discharge such person and dismiss the proceedings against such person. Discharge and dismissal under this Subsection shall be without court adjudication of guilt and shall not be deemed a conviction for purposes of this Subsection or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. Discharge and dismissal under this Subsection may occur only once with respect to any person.
- I.** Unless the officer has reasonable cause to believe such person is intoxicated, a law enforcement officer may arrest by issuance of a citation a person accused of violating only section 32-201.8.A.(2). The citation shall enumerate the specific charges against the person and either the date upon which the person is to appear and answer the charges or a notation that the person will be later notified of the date upon which the person is to appear and answer the charges. If the person charged shall fail to appear as required, the judge having jurisdiction of the offense may issue a warrant or other order directing the apprehension of such person and commanding that such person be brought before the court to answer the charges contained within the citation and the charge of such person's failure to appear as required.

Nothing in this subsection shall be construed to invalidate an otherwise valid arrest by citation of a person who is intoxicated.

- J.** A law enforcement officer arresting a person by the issuance of a citation shall require any such person having a driver's license or instruction permit to deposit such license or permit with the arresting officer. The procedures and rules connected with the acceptance of such license or permit and subsequent disposition of the case shall be the same as provided for the acceptance of a driver's license as bail on arrest for traffic offenses pursuant to O.C.G.A. § 17-6-11.

**9. Minor persons on licensed premises.**

- A. No person who holds a license to sell alcoholic beverages shall allow any minor to be in, frequent or loiter about the premises of the licensee unless accompanied by a parent or legal guardian. However, minors shall be permitted in restaurants or private clubs without being accompanied by a parent or legal guardian. This Article shall not apply to minors who are employees as authorized under this Article.

**10. Proof of age.**

- A. No retail licensee licensed to sell alcoholic beverages for on-premises consumption who requires proof of age before permitting any person to enter the licensed premises shall require proof of age other than as provided in this Article.
- B. Except as provided in section 34-201.10.C, any document issued by an agency of municipal, state or federal government for the purpose of identification that has affixed the name, date of birth and photograph of the individual to whom it was issued shall constitute acceptable proof of age, and the licensee shall require no other identification for proof of age.
- C. A person who produces proof of age from a local or state jurisdiction outside the state where no photograph is affixed as provided in 34-201.10.B may be required to produce additional proof of age at the discretion of the licensee or the licensee's designated employee; however, if such identification contains a photograph, no other identification for proof of age shall be required by the licensee.

**11. Hours of Sale.**

- A. For the sale of alcoholic beverage at retail and not for consumption on the premises: 7:00 a.m. to 11:55 p.m., Monday through Saturday, and on Sunday between the hours of 12:30 p.m. and 11:30 p.m.

*(Amended November 8, 2010)*

- B. For the sale of alcoholic beverages for consumption by the drink on the premises of an inn or restaurant where sold, 7:00 a.m. to 1:00 a.m., Monday through Friday; 7:00 a.m to 2:00 a.m., Friday to Saturday morning and Saturday to Sunday Morning; and 12:30 p.m. to 11:59 p.m. on Sunday, provided however a resort as defined below may sell such alcoholic beverages for consumption on the premises until 3:00 a.m., Monday through Saturday.

For the purposes of this Section, an "eating establishment" means an establishment which is licensed to sell distilled spirits, malt beverages, or wines and which derives at least 50 percent of its total annual gross food and beverage sales from the sale of prepared meals or food, and an "inn" means an establishment which is licensed to sell distilled spirits, malt beverages or wines and which derives at least 50 percent of its total annual gross income from the rental of rooms for overnight lodging.

For the purposes of this Section "resort" means a property containing more than 100 rooms for sleeping accommodations with additional amenities and more than one restaurant on premises.

*(Amended December 13, 2001; March 11, 2002; October 9, 2006; May 10, 2010)*

- C. The sale of alcoholic beverages at any other time is prohibited.

**12. Gambling Machines Prohibited.** No licensee under this Section shall allow on their premises any gambling machine which affords a player an opportunity to obtain money or other things of value, the award of which is determined by chance even though accompanied by some skill, whether or not the prize is automatically paid by the contrivance. The term does not include vending machines which do not incorporate recreational features, nor does the term include any coin-operated mechanical devices, kiddie rides, newspaper stands, telephones, cigarette vending machines, or juke boxes. *(Amended April 8, 2002)*

**13. Sale on election days.** Pursuant to O.C.G.A. § 3-3-20(b), the sale of alcoholic beverages on election days is authorized.

**14. Inspection of establishments.** Sworn officers of the police department shall have the authority to inspect establishments licensed under this Article during the hours in which the premises are open for business. These inspections shall be made for the purpose of verifying compliance with this Article.

**15. License Required.**

- A. No alcoholic beverages shall be manufactured, sold at wholesale or retail in the original package or by the drink, nor shall any alcoholic beverages be consumed on the premises of any place of business open to the public or any private club or tasting room except under a license granted by the Town Council and Mayor as provided in this Article unless by the Town or a Town agency or authority through a licensed provider.

- B. No tasting room shall be operated except under a license granted by the Town Council and Mayor as provided in this Article. The applicant for a tasting room license must be a winery and must meet all legal requirements contained in this Article for the sale of wine by the package and for the sale of wine by the drink. A tasting room license shall allow the license holder to sell wine by the package and to give or sell wine samples at one location. No other license shall be required for the tasting room location pursuant to this Article. Tasting room licensees are subject to all laws, rules and regulations of the State and are subject to license revocation for violation thereof.
- C. No licensee shall be authorized to operate a business until the license has been paid for and the license delivered to the licensee by the Town Clerk or designee.
- D. Number of Licenses Issued in Town.
  - (1) No license shall be issued for the retail sale in package form of distilled spirits for any business located or proposed to be located in the Town if issuance of such license shall provide for more than one (1) such licensed business for each two thousand (2000) residents of the Town, or portion thereof, based on most recent estimates of the Town's population as prepared either by the Town or the United States Bureau of the Census. Any existing license shall be exempt from the limitation set forth above.

*(Amended April 8, 2002; February 14, 2005; April 11, 2011)*

- E. No license shall be issued for the retail sale in package form of distilled spirits for any business located, or proposed to be located, within one- thousand (1000) feet of any other business licensed by the Town to allow the retail sale in package form of distilled spirits. For purposes of this subsection, distances shall be measured in a straight line from the nearest point on the building containing or proposed to contain the business seeking the license to the nearest point on the building containing the currently licensed business. *(Amended November 12, 2001)*
- F. No alcoholic beverage licenses shall be issued by the Town under this Code Section to any business regulated and licensed under Chapter 40 of the Code of Ordinances of the Town of Braselton. *(Amended November 12, 2001)*

**16. Separate licenses required for package sales and sales for on-premises consumption.**

- A. A licensee for the sale of malt beverages and wine by the drink or for the consumption of on the licensee's premises shall have the right to serve malt beverages or wine or allow the consumption of malt beverages or wine on the licensee's premises during the same hours as are permitted under this Article for the serving of distilled spirits by the drink.
- B. Licensees for the sale of distilled spirits by the drink, and for the sale of malt beverages or wine by the drink, shall not permit the sale of distilled spirits by the bottle or package. These licensees shall have the right to sell wines, champagnes or malt beverages to the public by the bottle or package for consumption on the premises.

**17. Annual renewal.** All licensees under this Article shall be required to renew their licenses annually on forms prescribed by the Town Clerk or designee on or before December 1st of the calendar year preceding that in which the licensee proposes to operate.

**18. License constitutes grant or privilege.** All licenses shall be a mere grant or privilege to carry on the business during the term of the license, subject to all the terms and conditions imposed by the Charter and Town Ordinances and related State laws.

**19. Keeping or storing without appropriate license.** It shall be unlawful for any person operating a place licensed for the sale of malt beverages, wine, or distilled spirits to store or have therein any alcoholic beverage for which the person does not have a license to sell.

**20. Application.**

- A. All persons desiring to obtain a license shall make written application to the Town Council and Mayor upon forms to be prepared and approved by the Town Clerk. The application shall be signed by the applicant or agent thereof and shall contain, but not be restricted to the following statements and information:
  - (1) The name, age, address, and length of residency of the applicant;
  - (2) The name, place and description where the proposed business is to be located;
  - (3) The nature and character of the business to be carried on;
  - (4) If a partnership, the names of the partners;
  - (5) If a corporation, the names of the directors, officers, and shareholders;

- (6) The name of any person who shall have, own, or enjoy any ownership, interest in, share in the profit from, or otherwise participate in the business of alcoholic beverages for which the applicant is seeking a license;
  - (7) A statement of whether the applicant or any person with an interest in the application has made application at any previous time for any alcoholic beverage license and the disposition of such application;
  - (8) Whether the applicant or any person within the application has ever been convicted of a crime, other than for traffic violations;
  - (9) Whether a previous license issued to the applicant or any person within the application has been revoked by any state or subdivision thereof or by the federal government and the reason therefor;
  - (10) Whether any other person is to be directly or indirectly in the profits or losses or both of the proposed business;
  - (11) Such other information as may be required by the Town Clerk;
  - B.** Applicants, by filing an application, agree to cooperate with the Town Clerk in investigating facts relative to the license. Failure to cooperate within 30 days after requested to do so by the Town Clerk shall result in automatic dismissal, with prejudice, of the application.
  - C.** No alcoholic beverage license shall be issued to any person unless detailed plans of the building in which the business will be located and outside premises are on file with the Town or attached to the application. Each applicant for an alcoholic beverage license shall attach to his application evidence of ownership of the building or a copy of the lease if the applicant is leasing the building.
  - D.** All new applications for alcoholic beverage licenses shall be accompanied by either cash, by a certified check or cashier's check, payable to the Town of Braselton, Georgia, in the proper amount of the license fee. If the license is refused, the same shall be returned to the applicant.
  - E.** All applications for renewal of alcoholic beverage licenses shall be filed with the Town Clerk prior to November 15. All applications for a renewal of license for the ensuing year shall be treated as applications for new licenses. Payment of license fees for a renewal of license shall be made at the time of application. Receipt of payment of fees after December 1<sup>st</sup> but before January 1<sup>st</sup> shall be accompanied by a \$50.00 penalty. Receipt of payment of fees after December 31<sup>st</sup> shall be accompanied by a \$500.00 penalty.
  - F.** When there is a pending application for a new license or renewal on a prior existing licensed premises, the authority of the prior licensee to operate the business shall be extended for a maximum period of thirty (30) days beyond the termination date of the prior license.
- 21. False information in applications.** The inability of the Town Clerk to verify any statement of information required to be disclosed or to be able to adequately conduct a full investigation of an applicant or a place of business due to foreign background, ties or interest or for any reason beyond the Town Clerk's control shall be, in addition to all other grounds, cause for denial of any license and if any license has been granted shall be cause for revocation of the license. Any material omission or untrue or misleading information contained in application for a license under this Article shall be cause for the denial thereof, and if any license has previously been granted, these circumstances shall constitute cause for revocation, cancellation, or refusal.
- 22. Public hearing on application.** All applications for new licenses under this Article shall be acted upon by the Town Council and Mayor.
- 23. Time limit for obtaining license after approval of application.**
- A.** All licenses required under this Article must be applied for and fees paid prior to the date of the approval of the application by the Mayor and Town Council. If the license is denied by the Mayor and Council, the fees shall be refunded.
  - B.** When a license has been approved, the license shall be issued.
- 24. Annual license fee.**
- A.** The annual license fee for each classification of license under this Article shall be:
    - (1) Wine:
      - (a) Manufacture \$250.00
      - (b) Retail package \$500.00
      - (c) Consumption \$500.00
      - (d) Wholesale \$250.00
      - (e) Importer \$200.00
      - (f) Any person who imports wine in accordance with a license issued by the State of Georgia shall be issued an annual license by the Town authorizing the importation of wine in accordance with state law upon completion of an application and payment to the Clerk of

the Town Council of Braselton, Georgia at the time of application, the sum of one hundred dollars (\$100.00) as an annual license fee for wine importation. *(Amended September 28, 2000)*

(2)	Malt Beverage:	
(a)	Manufacture	\$750.00
(b)	Retail package	\$500.00
(c)	Consumption	\$500.00
(d)	Wholesale	\$250.00
(3)	Distilled Spirits:	
(a)	Manufacture	\$1,000.00
(b)	Retail package	\$5,000.00
(c)	Consumption	\$4,000.00
(d)	Wholesale	\$1,000.00
(4)	Special Consumption:	
(a)	Distilled Spirit Sunday Sales	\$500.00
(b)	Malt Beverage Sunday Sales	\$100.00
(c)	Wine Sunday Sales	\$100.00
(5)	Other Fees:	
(a)	Movable bars	\$100.00 each
(b)	Hotel/Motel room service	\$100.00
(6)	Application/Investigation Fee	\$150.00

*(Amended April 8, 2002)*

Additional licenses shall be required for all additional facilities such as lounges, restaurants, nightclubs, patios or other areas located within the same building. All restaurant patios and outdoor or open air eating areas which are immediately adjacent to restaurants shall be exempt from the additional facility license fee.

- B. No license shall be issued for less than a calendar year, and if a license is revoked or surrendered before the expiration of a calendar year, the holder thereof shall not be entitled to receive any refund.
- 25. **Prohibited Interests.** Neither a manufacturer, producer, shipper, importer, broker, wholesaler, retail dealer, or retail consumption dealer, whether licensed in this State or not, nor any of his employees or members of such manufacturer's, producer's, shipper's, importer's, or broker's immediate family shall have, own, or enjoy any ownership interest in, or partnership arrangement or other business association prohibited by the State.
- 26. **Change in relationship.** Any change in any relationship must be filed when made with the Town Clerk of designee and failure to so file within 30 days after that change is made shall be grounds for cancellation of the license by the Town Clerk.
- 27. **Completion of proposed licensed premises.** If a building in which a retailer of alcoholic beverages intends to operate under this Article is, at the time of the application for a license, not in existence or not yet completed, a license may be issued for the location, provided the plans for the proposed building show clearly a compliance with the other Town ordinances. No sales or consumption shall be allowed in the establishment until it has been completed in accordance with the plans and is in conformity with all the other Town ordinances.
- 28. **Time limit for commencement of business in licensed establishment.** All holders of licenses must, within one year after the issuance of the license, open for business the establishment referred to in the license. Failure to open the licensed establishment within the one year period, unless an extension is granted by the Mayor and Council, shall serve as automatic forfeiture and cancellation of the unused license, and no refund of license fees shall be made to the license holder.
- 29. **Grounds for nonacceptance of Application.**
  - A. The Mayor and Town Council shall have the authority to deny any application for new licenses, for transfer of location or transfer of ownership and to revoke, suspend or refuse to renew any license issued by the Town to any licensee for "due cause" as defined herein.
  - B. As used in this Article, the term "due cause" for the denial of applications for new alcoholic beverage licenses, for transfer of location or transfer of ownership, for renewals, for revocation, or suspension includes but is not limited to the following:
    - (1) The selling to or serving of any person below the age of 21 years.
    - (2) The conviction of any individual having any ownership, financial, or other interest in the applicant's alcoholic beverage business, directly or indirectly, beneficial or absolute, or the individual's spouse for any state or federal felony or misdemeanor. The term "conviction" includes an adjudication of

guilt or a plea of guilty or the forfeiture of a bond when charged with a crime. If the violation is for a misdemeanor or forfeiture of bond the Town Council and Mayor may, after investigation, waive that disqualification.

- (3) Permitting the solicitation of patrons on the licensed premises for prostitution, any disturbance of the peace, obscenity, or any other unlawful act where the licensee or the licensee's employee or agent knew or should have known of such conduct.
  - (4) The selling or serving of any alcoholic beverage to any person that the licensee or the licensee's employee or agent knew or should have known to be in a state of intoxication.
  - (5) The failure to comply with any and all federal, state or municipal laws and regulations related to alcoholic beverages.
  - (6) The failure to furnish any and all data, information and records related to the operation of licensed establishments, when such has been requested by the police department or the Town Clerk.
  - (7) The failure to maintain any and all of the general qualifications applicable to the initial issuance of a license.
  - (8) Failure by the licensee to adequately supervise and monitor the conduct of the employees, patrons, and others on the licensed premises or on any property owned or leased by the licensee, including but not limited to parking lots and parking areas or on any parking lots or areas which may be lawfully used by patrons of a licensed establishment, in order to protect the safety and well-being of the general public and of those utilizing the premises.
  - (9) Sell or offer for sale alcoholic beverages by use of vending machines.
  - (10) Sell, offer for sale, possess, or permit the consumption on the licensed premises of any kind of alcoholic beverages, the sale, possession or consumption of which is not authorized under the license.
  - (11) Receive or cause to be delivered to the licensed premises any alcoholic beverages by any means other than by a conveyance owned and operated by a licensed wholesale dealer with a permit from the Town to make such deliveries, with the exception of wine of the wine manufacturer where the manufacturer is the retail licensee. Transportation of alcoholic beverages by any other means shall be grounds for revocation of all licenses concerned.
  - (12) The failure of the license holder or his employee to report promptly to the Town Clerk any violation of law or municipal ordinance, breach of the peace, disruption or altercation resulting in violence, occurring on the premises.
  - (13) The applicant has had a license issued by the Town previously suspended or revoked; provided, however, the Town Council and Mayor may waive this Subsection if two years have passed since any prior revocation of any license held by the applicant.
  - (14) The application does not furnish evidence of adequate parking facilities available to the applicant's patrons.
  - (15) The location that is the subject of the application is not suitable because of traffic congestion, general character of the neighborhood, or by reason of the effect which such an establishment would have on the adjacent and surrounding properties, or on the neighborhood.
  - (16) The location within an area where the number of alcoholic beverage licenses already granted makes it contrary to the public interest or welfare.
  - (17) The location at which the operation of the proposed business would violate the Town of Braselton Development Code or other Town ordinances.
  - (18) The location at which a previous alcoholic beverage license has been revoked or suspended, and where the problems which have arisen from the operation of an alcoholic beverage license at such location indicate that it is not in the interest of public health, safety welfare or morals that the sale of alcoholic beverages be permitted at such location.
  - (19) The granting of such license would constitute a violation of State law or regulations.
  - (20) Any applicant is an official of or employee of the Town.
  - (21) Any conduct on the part of the license holder or his employee contrary to the public welfare, safety, health or morals.
- C. No application for a new license, for a transfer of location or transfer of ownership shall be denied and no license issued by the Town shall be revoked, suspended or refused renewal except upon a finding of due cause and after a hearing in front of the Town Council and Mayor where the applicant or licensee shall have the opportunity to show cause as to why the application should not be denied. The Town Clerk shall give notice to the applicant, twenty days after receipt of the application, of any objection to the

application. The Town Clerk shall give a five-day written notice to the licensee, stating the place, date, time and purpose of such hearing and setting forth the charge upon which the hearing shall be held. The applicant or licensee shall have the opportunity to present evidence and cross-examine opposing witnesses at the hearing.

- D. The Town Council and Mayor shall conduct the hearings. In lieu of suspension, revocation or the failure to renew, the Town Council and Mayor may impose a fine upon any licensee, such fine not to exceed \$1,000.00 for each violation occurring on the licensed premises.
  - E. For due cause, if a violation of this Article occurs which results in an emergency situation in which continued operation of the premises by the licensee endangers the health, welfare or safety of the public, the Town Council and Mayor may suspend any license. Any such suspension may be made effective immediately and shall remain in force until the next regular or called meeting of Town Council and Mayor.
  - F. After denial, revocation or the failure to renew a license, the Town Council and Mayor may refuse to accept or consider any application for a license to operate at the location for the sale of alcoholic beverages for a period of 12 months from the time of revocation or failure to renew such license. However, any new application for licensure at such location shall ask of the new applicant whether the location has been revoked or not renewed.
- 30. Automatic revocation of Town license upon revocation of state license.** Whenever the State shall revoke any permit or license to manufacture or sell at wholesale or retail any alcoholic beverages, the Town license to manufacture or deal in these products shall thereupon be automatically revoked without any action by the Town Council and Mayor.
- 31. Removal of signs after revocation.** When any license for selling alcoholic beverages is revoked, all signs indicating that those beverages may be sold or purchased shall be removed from the place of business, both outside and inside.
- 32. Restrictions upon transfers.**
- A. Licenses under this Article shall not be transferable, except as otherwise provided in this Article.
    - (1) No license may be transferred from one person to another without permission and approval of the Town Council and Mayor upon written application made.
    - (2) Each application for transfer of a license shall have attached thereto a completed copy of the notice of change of interest of required by the State of Revenue Commissioner, State of Georgia.
    - (3) After receipt of such application, the Town Council and Mayor shall notify such applicant within twenty (20) days of any objection to the transfer as set forth in the application. Said license shall remain in effect pending approval of the transfer. If the transfer application is approved by the Town Council and Mayor, the license may be transferred upon payment of a "transfer fee" equal to one-half (½) of the original license fee.
    - (4) Upon the death of any license holder, his personal representatives or his heirs may continue to operate under the said license for the balance of the year without the payment of any fee in the discretion of the Town Council and Mayor if otherwise qualified as license holders, or the license may be transferred, if approved by the Town Council and Mayor, to a qualified transferee within thirty (30) days after the condition of the estate of the deceased licensee is settled.
    - (5) Nothing in this Article, however, shall prohibit one or more of the partners in a partnership holding a license to withdraw from the partnership in favor of one or more of the partners who were partners at the time of the issuance of the license. The withdrawal shall not, however, bring any new ownership into the partnership.
    - (6) Any licensee desiring to discontinue business at one location and commence business at some other location must make a complete new application for such location.
    - (7) Should a new location be approved, there shall be no pro rata return of any license fee.
    - (8) A licensee may take in partners or additional stockholders if it is determined that the additional capital furnished is to be used exclusively for additional inventory or expanding the facilities of the business or for building new facilities and if it appears that the licensee receives directly none of the additional capital invested. Under this Article an additional partner or new principal stockholder must be approved by the Town Council and Mayor.
- 33. Temporary permit for special events.**
- A. Upon the filing of an application and payment of a filing fee of \$25.00 and a permit fee of \$50.00 per day, up to a maximum of \$2,000.00, and after investigation by the Town Clerk, the Town Council and Mayor may issue a permit to an individual or organization for the sale of alcoholic beverages for consumption on the premises only during a special event under the following conditions:

- (1) The applicant must already hold an annual license for the sale of alcoholic beverages for on-premises consumption.
  - (2) The permit will allow sale of alcoholic beverages beyond the premises described in the annual license only in the area specifically described in the application and only during the special event named.
  - (3) Reserved.
  - (4) The application for such permit must have been filed with the Town Clerk at least 30 days prior to the date of the special event.
  - (5) The hours of any such special event must be between 9:00 a.m. and 11:00 p.m. Monday through Saturday. Alcoholic beverages may be sold on Sundays pursuant to this Article between the hours of 12:30 p.m. and 11:00 p.m. in public stadiums, coliseums and auditoriums and restaurants.
  - (6) Reserved.
- B.** A special event permit may be immediately revoked by the Town Council and Mayor for a violation of this Article which results in an emergency situation in which continued operation of the premises by the licensee endangers the health, welfare or safety of the public.
- 34. Permits for special events.** Notwithstanding sections of this Article, the Town Council and Mayor are authorized to issue permits for the drinking of alcoholic beverages in the Town for special events, in the manner set forth below:
- A.** A person seeking issuance of a special events permit shall file an application with the Town Clerk on forms provided by the Town Clerk.
  - B.** An application for a special events permit shall be filed with the Town Clerk not less than 30 days nor more than 90 days before the date on which it is proposed to conduct the special event.
  - C.** The application for a special event permit shall set forth the following information:
    - (1) The name, address and telephone number of the person seeking to conduct the special event;
    - (2) If the special event is proposed to be conducted for, on behalf of or by an organization, the name, address, and telephone number of the headquarters of the organization, and of the authorized and responsible heads of this organization;
    - (3) The name, address and telephone number of the person who will be the special event chairman of the event and who will be responsible for its conduct;
    - (4) The date when the special event is to be conducted, and whether the special event will extend over a series of days;
    - (5) The hours when the special event will start and terminate;
    - (6) The estimated number of people who will attend the event;
    - (7) If the special event is to be held by, and on behalf of or for, any person other than the applicant, the applicant for the permit shall file with the Town Clerk a written authorization from the person proposing to hold the special event, authorizing the applicant to apply for the permit on the applicant's behalf; and
    - (8) A reasonably detailed description of the event, together with all locations of which alcohol will be consumed;
    - (9) Any additional information which the Town Council and Mayor shall find reasonably necessary to a fair determination as to whether a permit should be issued.
  - D.** Filing fee shall be \$25.00 and issuance of a special event permit fee shall be \$50.00 per day for malt beverages and wine and \$50.00 per day for distilled spirits.
  - E.** The Town Council and Mayor shall issue a permit as provided for in this Article when, from a consideration of the application and from such other information as may otherwise be obtained, the Town Council and Mayor find that:
    - (1) The conduct of the special event will not substantially interrupt the safe and orderly conduct of other patrons of the public places in which it will be held.
    - (2) The special event will not divert or disrupt police protection.
    - (3) The conduct of the special event is not reasonably likely to cause injury to persons or property, to provoke disorderly conduct or create a disturbance.
    - (4) The applicants for permit have not violated the terms of any previous special event permit granted to them or any terms of this Article and have not caused undue traffic congestion and police problems under any previous special event permit.
  - F.** The Town Council and Mayor shall act upon the application for a special permit at the first meeting after the filing thereof. If the Town Council and Mayor disapprove the application, the Town Clerk shall mail to

the applicant, within 20 days after the date upon which the application was filed, a statement of the reasons for the denial of the permit.

- G. Any person aggrieved shall have the right to appeal the denial of a special events permit to the Town Council and Mayor. The appeal shall be filed within five days after notice of denial.
- H. The Town and Town agencies and authorities are deemed to have special event permits for the consumption and retail sale of alcoholic beverages.

**35. Sales; off premises for catered functions.**

- A. Licenses may be obtained for the purpose of selling or dispensing alcoholic beverages by the drink on premises at which authorized catered functions are to be held.
  - (1) Such licenses shall be annual licenses and may be obtained only by those persons, firms, or corporations with a valid local (Town) alcohol beverage license and a valid state retail beer dealer license and/or retail wine dealer license. A annual permit fee of \$200 shall be charged.
  - (2) The procedures for securing such licenses and the terms thereof shall be made in person by the applicant to the Town Manager or his/her designee signed by the applicant.
  - (3) Such licenses shall only authorize the caterer to sell those alcoholic beverages for which he/she is licensed.
- B. Before a licensed alcoholic beverage caterer may sell or dispense alcoholic beverages at any authorized catered function, such caterer shall obtain a permit from the Town Manager or his/her designee at least ten working days prior to the event.
  - (1) The application for a permit shall include the name of the alcoholic beverage caterer, the caterer's license number, and the date, address and time of the event.
  - (2) For caterers licensed by the Town, a permit fee of \$25.00 per event shall be charged for events inside the Town.
  - (3) For caterers licensed by jurisdictions other than the Town, a permit fee of \$100.00 per event shall be charged.
  - (4) If such off-premises permit is granted, it shall be good only for the specific event at the specific address and times set forth in the application.
  - (5) As a condition of permit issuance, alcoholic beverage caterers licensed by jurisdictions other than the Town shall be provided a copy of the Town's alcoholic beverages ordinances and acknowledge the applicability of such ordinances to their operations.
  - (6) The permit shall be kept in the vehicle used to transport alcoholic beverages to the event at all times during which the permit is in effect.
  - (7) Caterers licensed by the Town or any other jurisdiction shall maintain any records of alcoholic beverages transported for each event as may be required by state law.
- C. No alcoholic beverages shall be transported, distributed, or sold to other than licensed locations in the Town, except to authorized catered functions, unless otherwise authorized by this chapter or by state law.
- D. The hours and days of sale or distribution of alcoholic beverages under this section shall be the same as those for consumption of alcohol on the premises.
- E. No licensed alcoholic beverage caterer shall employ any person under 21 years of age to dispense, serve, sell or handle alcoholic beverages at authorized catered functions.
- F. No permit will be granted for any location that has been denied or revoked any alcohol license or has failed to comply with the requirements of this chapter within the past 12 months.
- G. Except as set forth above in section 32-201.36, an off-premises permit holder must comply with all other provisions set forth in Section 32-201.

*(Amended 6/11/2012)*

**36. Temporary permit for nonprofit civic organizations.**

- A. Upon filing an application and payment of a fee of \$25.00 and after review by the Town Council and Mayor, the Town Council and Mayor may issue a permit authorizing a bona fide nonprofit civic organization to sell alcoholic beverages for consumption on the premises only, for a period not to exceed one day, subject to any law regulating the time for selling such beverages.
- B. Not more than two permits may be issued pursuant to this Article to an organization in any one calendar year.
- C. Permits issued pursuant to this Article shall be valid only for the place specified in the permit.

**37. Levy.**

**A. Wine.**

- (1) It is hereby levied and imposed upon each wholesale dealer selling wine within the Town an excise tax in the amount of twenty-two cents (22) per liter and a proportionate tax at like rates on all fractional parts of a liter.
- (2) Wines produced by a wine manufacturer and sold at retail by the package or for consumption on the premises of the manufacturer shall have levied thereon an excise tax as prescribed by Section 32-201.37.A.(1).
- (3) Notwithstanding anything to the contrary which may be contained herein:
  - (a) No excise tax is levied hereunder upon bulk wine purchased by a wine manufacturer and used for blending purposes or blended, bottled, and sold other than at retail by a wine manufacturer.
  - (b) No excise tax is levied hereunder on wine produced by a wine manufacturer and sold by such manufacturer to persons outside of Town for resale or consumption outside of Town.
  - (c) The excise tax levied hereunder is imposed only on wine sold within the Town by wholesale dealers, with the exception of Section 32-201.37.A.(2).
  - (d) No excise tax is levied hereunder on wine produced by a wine manufacturer and distributed by such manufacturer as samples in its tasting room on the premises of the winery.
  - (e) There is hereby levied and imposed upon each wholesale dealer selling wine within the Town to a facility other than a winery facility, including a tasting room, or a resort facility, an excise tax in the amount of twenty-two cents (22) per liter and a proportionate tax at like rates on all fractional parts of a liter.

**B. Malt Beverages.**

- (1) There is hereby levied and imposed upon each wholesale dealer selling malt beverages within the Town, an excise tax of six dollars (\$6.00) on each container of draft beer sold containing not more than fifteen and one-half (15.5) gallons and a proportionate tax at the same rate on all fractional parts of fifteen and one-half (15.5) gallons and an excise tax of five cents (5 per twelve (12) ounces on each bottle or can of malt beverage and a proportionate tax at the same rate on all fractional parts of twelve (12) ounces.

**C. Distilled Spirits.**

- (1) It is hereby levied upon each licensee within the Town with a license to sell distilled spirits by package at wholesale or retail, an excise tax in the amount of twenty-two cents (22) per liter of distilled spirits excluding fortified wine and a proportionate tax at like rates on all fractional parts of a liter.
- (2) It is hereby levied and imposed upon each licensee within the Town with a license for distilled spirits on the premise, an excise tax in the amount of three (3) percent of the purchase price of the distilled spirit drink. Said excise taxes shall be collected as provided by this Article and the laws of the State.

**D. Per drink excise tax.**

- (1) Every purchaser of distilled spirits by the drink shall be liable for a tax thereon at the rate of three percent of the retail price or charge for such drink. Such taxes shall be collected by the licensee under this chapter and such licensee shall remit the same to the town on or before the 20th day of the succeeding month along with a summary of the licensee's gross sales derived from the sale of distilled spirits by the drink, excluding malt beverages. Gross sales shall include all credit card sales and shall be reported and taxes collected thereon shall be submitted to the town clerk or designee to the same extent as required of cash sales. Each licensee shall be allowed a deduction equal to that rate authorized for deductions from state tax under O.C.G.A. § 48-8-50, as now written or hereafter amended; provided that such tax is not delinquent at the time of payment. It shall be the duty of every such licensee required to make a report and pay any tax levied under this article, to keep and preserve suitable records of the sales taxable under this article, and such other books or accounts as may be necessary to determine the amount of tax due; and it shall be the duty of every licensee to keep and preserve such records for a period of three years.
- (2) Excise taxes received in the business license department after the 20th day of the month shall be charged a fifteen percent penalty plus interest on the unpaid tax thereof excessive delinquency or ultimate failure to remit such taxes may result in a license suspension or revocation.

- (3) If the town clerk deems it necessary to conduct an audit of the records and books of the licensee, he/she will notify the licensee of the date, time and place of the audit.  
(Adopted June 10, 2002)

- 38. Reporting excise tax.** A summary of sales showing delivery by each supplier to retailers and/or consumption on the premises licensees or showing sales of distilled liquor drinks by each distilled liquor drink shall be furnished to the Town Clerk with each monthly payment. Any misstatement or concealment of fact in reports or applications shall be grounds for revocation of the license issued and shall make the applicant or licensee liable to prosecution for perjury under the laws of the State of Georgia.
- 39. Determination if no return made.**
- A.** If any licensee fails to make a return for the tax levied under this Article, the Town Clerk shall make an estimate of the amount of the gross receipts of the licensee or as the case may be, of the amount of the total sales in this Town which are subject to the tax. The estimate shall be made for the period in respect to which the licensee failed to make the return and shall be based upon any information which is or may come into the possession of the Town Clerk. Upon the basis of this estimate, the Town Clerk shall compute and determine the amount required to be paid the Town, adding to the sum thus determined a penalty equal to 15 percent thereof one or more determinations may be made for one or for more than one period.
  - B.** In making a determination, the Town Clerk may offset overpayments for a period or penalties and against the interest on the underpayments. The interest on underpayments shall be computed in the manner set forth in subsection C below.
  - C.** The amount of the determination, exclusive of penalties, shall bear interest at the rate of one percent per month or any fraction of a month from the 20th day after the close of the monthly period for which the amount or any portion thereof should have been returned, until the date of payment.
  - D.** If the failure of any person to file a return is due to fraud or an intent to evade this subdivision or rules and regulations, a penalty of 25 percent of the amount required to be paid by the person, exclusive of penalties, shall be added thereto in addition to the 15 percent penalty.
  - E.** Promptly after making a determination, the Town Clerk shall give to the person, written notice to be served personally or by mail in the manner prescribed for service of notice of a deficiency determination.
- 40. Penalties and interest for failure to pay.** Any licensee who fails to pay the tax imposed under this Section to the Town or who fails to pay any amount of such tax required to be collected and paid to the Town within the time required shall pay a penalty of fifteen (15) percent of the tax or amount of the tax, in addition to the tax or amount of the tax, plus interest on the unpaid tax or any portion thereof.
- 41. Collection of unpaid tax.**
- A.** At any time within three years after any tax levied under this Subdivision or any amount of tax required to be collected under this Article becomes due and payable and at any time within three years after the delinquency of any tax or any amount of tax required to be collected, the Town Clerk may bring an action in the courts of this State or any other state or of the United States in the name of the Town to collect the amount delinquent together with penalties and interest, court fees, filing fees, attorney's fees and other legal fees incident thereto.
  - B.** If any licensee liable for any amount under this Article sells or terminates the business, the licensee's successors or assigns shall withhold sufficient of the purchase price to cover such amount until the former owner produces a receipt from the Town Clerk, showing that the amount has been paid or a certificate stating that no amount is due.
  - C.** If the purchaser of a business fails to withhold purchase price as required, the purchaser becomes personally liable for the payment of the amount required to be withheld by the purchaser to the extent of the purchase price, valued in money. Within 30 days after receiving a written request from the purchaser for a certificate, the Town Clerk shall either issue the certificate or mail notice to the purchaser at the purchaser's address as it appears on the records of the amount that must be paid as a condition of issuing the certificate. The time within which the obligation of a successor may be enforced shall start to run at the time the operator sells the business or at the time that the determination against the operator becomes final, whichever event shall last occur.
  - D.** Whenever the amount of any tax, penalty or interest has been paid more than once or has been erroneously collected or received by the Town under this Article, it may be offset. If the licensee believes it has overpaid or paid more than once, then it will have three years from date of payment to file claim in writing stating the specific ground upon which claim is founded. The claim shall be audited. If the claim

is approved, the excess amount paid to the Town may be credited on any amounts due and payable from the licensee by whom it was paid or such person's successors or assigns.

- 42. Sale or delivery to unlicensed premises.**
- A. It shall be unlawful for any licensee to make deliveries of any alcoholic beverage by the package beyond the boundaries of the premises covered by the license.
  - B. Except pursuant to a special event license, it shall be unlawful for any licensee to make or allow the sale or delivery of any alcoholic beverage by the drink to any area other than the premises covered by the license, private, meeting, and dining rooms located on the premises covered by the license and the designated rooms of any guest in a hotel or motel covered by the license. It shall also be unlawful for any person to remove any alcoholic beverage served by the drink to any area beyond the licensed premises.
- 43. Misrepresentation of contents alcoholic beverages.** It shall be unlawful for licensee or their agents to add to the contents of a bottle or to refill empty bottles or in any other manner to misrepresent the quantity, quality, or brand name of any alcoholic beverage.
- 44. Advertisement of sale of alcoholic beverages.** All advertising of the sale of alcoholic beverages by the package or for consumption on the premises is hereby prohibited except as provided for in the following:
- A. Package Sales Licenses.
    - (1) Notwithstanding any other provision to the contrary in the Town ordinances relating to signs, the Town shall provide a license to all retail licensees to post on the premises of their places of business. Licensees shall not post more than one sign at their place of business without the prior approval of the Town Council and Mayor. Licensee shall not display any other signs, without the prior approval of the Town Council and Mayor, advertising, directly or indirectly, the sale of alcoholic beverages other than in the principal building for which the license is issued, and such signs displayed within the principal building shall not be displayed within view of the general public from the doors and windows of such principal building. Any other sign placed on or off the licensed premises, within view of the general public, with the intent to bring attention to the fact that alcoholic beverages can be bought at that location shall be in violation of this Article unless such sign has been approved by the Town Council and Mayor.
    - (2) No retail or wholesale package licensee shall advertise the price or brand of any alcoholic beverages within the Town except wine retail package licensees shall be permitted to advertise by means of radio, television, or newspaper or as otherwise allowed by the Town ordinances.
    - (3) Notwithstanding the foregoing, no trade name, corporate name or name of a business shall be allowed to use the word "wine" in such name; however, nothing in this Article shall prohibit the use of the word "Winery" in such name or the advertisement by sign or otherwise of a winery and the sale of a winery's wine on the premises of the winery. Nothing in this Article shall restrict the number and use of signs to advertise a winery and the sale of a winery's wine on the premises of the winery.
  - B. Consumption on Premises Licenses.
    - (1) Notwithstanding any other provision to the contrary in the Town ordinances relating to signs, the Town shall provide a license to all licensees to post on the premises of their place of business. Licensee shall not display signs advertising, directly or indirectly, the sale of alcoholic beverages other than in the principal building for which the license is issued unless there is approval from the Town Council and Mayor. Such signs displayed within the principal building shall not be displayed within view of the general public from the doors or windows of such principal building. Any sign placed on or off the licensed premises, within view of the general public, and with the intent to bring attention to the fact that alcoholic beverages can be bought at that location shall be in violation of this Article, unless such signs have been approved by the Town Council and Mayor.
    - (2) Wine consumption on the premises licensees shall be permitted to advertise by means of the radio, television or newspaper.
    - (3) Notwithstanding the foregoing, no trade name, corporate name, or name of a business shall be allowed to use the word "Wine" in such name; however, nothing herein shall prohibit the use of the word "Winery" in such name or the advertisement by sign or otherwise of a winery and the sale of a winery's wine on the premises of the winery.
- 45. Purchase price of drinks credited against admission or cover charge.** No licensee for the sale of alcoholic beverages by the drink shall authorize or permit the purchase price of any alcoholic beverage sold by the licensee to a customer to be credited against any minimum, admission or cover charge imposed upon the customer by the licensee.

**46. Reporting Violations.**

- A.** Any violation of this Chapter that may warrant revocation of an alcoholic beverage license shall be reported by any person to the Town Clerk who shall have the power, in his or her discretion, to suspend the license for a period not to exceed ten (10) days pending a hearing before the Town Council and Mayor on the question of whether or not the license or permit shall be revoked for cause.
- B.** Upon a charge that there has been a violation of this Article, the Town Council and Mayor is hereby authorized in his discretion to order the place of the licensed business charged closed, pending a hearing on the charge.
- C.** The Town Council and Mayor shall have the right to suspend any alcoholic beverage license pending the hearing provided for in this Article, wherein the judgment of the Town Council and Mayor such action is necessary to protect the public health, safety, welfare, or morals.
- D.** Any suspension as provided for herein shall be in writing, with the reasons therefore stated and shall be delivered to a license or the person in charge of the place of business if the license cannot be located.

**47. Penalties.** Unless expressly stated otherwise in this Section, any violations of this Section shall be punishable by a fine not exceeding one thousand dollars (\$1,000.00) and imprisonment for a term not exceeding six months and, if applicable, shall also subject a license to suspension or revocation of its license.

*(Adopted May 10, 1999)*

**Section 32-202 Construction Contractors**

- 1. Plumbers.** No master, contracting, or journeyman plumber, as such terms are defined in Chapter 14, Title 43 of the O.C.G.A. shall be permitted to engage in any plumbing business in this municipality, unless such person shall hold a valid license issued to him by the Georgia State Division of Master Plumbers and Journeyman Plumbers. Any person desiring a license to engage in such profession shall be required to pass an examination pursuant to O.C.G.A. 43-14-8. Municipalities are not prohibited from fixing, charging, assessing, or collecting any license fee, registration fee, tax, or gross receipt tax on an such profession.
- 2. Electrical Contractors.** No electrical contractor, as such term is defined in Chapter 14, Title 43 of the O.C.G.A. shall be permitted to engage in any electrical contracting business in this municipality unless such person shall hold a valid license issued to him by the Georgia State Division of Electrical Contractors and passed an examination pursuant to O.C.G.A 43-14-8.
- 3. Conditioned Air Contractors.** No conditioned air contractor, as such term is defined in Chapter 14, Title 43 of the O.C.G.A. shall be permitted to engage in any conditioned air contracting business in this municipality unless such person shall hold a valid license issued to him by the Georgia State Division of Conditioned Air Contractors and passed an examination pursuant to O.C.G.A 43-14-8.
- 4. Low-voltage Contractor.** No low-voltage contractor, as such term is defined in Chapter 14, Title 43 of the O.C.G.A., shall be permitted to engage in any low-voltage contracting in this municipality unless such person shall hold a valid license issued to him by the Georgia State Division of Low-voltage Contractors and passed an examination pursuant to O.C.G.A. 43-14-8.
- 5. Residential and General Contractors.** No residential or general contractor, as such term is defined in Chapter 14, Title 43 of the O.C.G.A., shall be permitted to engage in any residential or general contracting in this municipality unless such person shall hold a valid license issued to him by the Georgia Residential Contract Division or General Contract Division, as appropriate, and passed an examination pursuant to O.C.G.A. §43-41-6. Further, any residential or general contractor contracts with this municipality for any public work exceeding one thousand dollars (\$1,000.00) shall be required to obtain a performance and payment bond in the amount and manner specified by state law.

**Section 32-203 Reserved**

**Section 32-204 Insurance Businesses**

- 1. License Fees.** There is hereby levied for the year 2012 and for each year thereafter an annual license fee upon each insurer doing business within the Town of Braselton, Georgia in the amount of fifty dollars (\$50.00). For each separate business location in excess of one not covered by Section 32-204.2, which is operating on behalf of such insurers within the Town of Braselton, Georgia, there is hereby levied a license fee in the amount of fifty dollars

(\$50.00). For purposes of this section, the term "insurer" means a company which is authorized to transact business in any of the classes of insurance designated in O.C.G.A. Sec. 33-3-5.

2. **License Fees for Insurers Insuring Certain Risks at Additional Business Locations.** For each separate business location, not otherwise subject to a license fee hereunder, operated and maintained by a business organization which is engaged in the business of lending money or transacting sales involving term financing and in connection with such loans or sales offers, solicits or takes application for insurance through a licensed agent of an insurer for insurance said insurer shall pay an additional license fee of seventeen and 50/100 dollars (\$17.50) per location for the year 2012 and for each year thereafter.

*(Adopted August 11, 1997; Amended November 12, 2001, and May 9, 2011 )*

**Section 32-205      Reserved**

**Section 32-206      Peddlers and Itinerant Merchants**

**1.      Generally.**

- A. Definitions. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:
  - (1) Mobile transient peddler includes solicitors and transient merchants, and means any person who engages in the business of selling any goods, wares, merchandise or services, or who solicits orders for such goods, wares, merchandise or services, by going from house to house or place to place; provided, however, that the word "peddler" shall not include persons distributing, or delivering goods or services, or soliciting orders for newspapers.
  - (2) Temporary seasonal peddler includes solicitors and/or temporary merchants engaged in the business of selling agricultural products, including fruits, vegetables, trees, pumpkins or similar products, in a stationary location for a limited seasonal time period.
  - (3) Temporary stationary peddler includes solicitors and/or temporary merchants who sell nonagricultural goods and services which may include prepared foods, flags, banners, toys, sidewalk sales, etc. in a stationary location for a temporary period of time.
- B. Exceptions. The provisions of this article shall not apply to the following:
  - (1) Sales made to dealers or permanent merchants by commercial travelers selling in the usual course of business.
  - (2) Sheriffs, constables, bona fide assignees, receivers or trustees in bankruptcy or other public officers selling goods, wares and merchandise according to law.
  - (3) Individual vendors who purchase or rent booths or areas for Town-approved festivals, parades and/or similar events for a period of time not to exceed five days.
  - (4) Solicitations, sales or distributions made by educational or religious organizations which have their principal place of activity within the Town.
- C. Refusing to leave. Any peddler who enters upon a premises owned, leased or rented by another and refuses to leave such premises after having been notified by the owner or occupant of such premises or his agent to leave the premises and not return thereto shall be deemed guilty of a misdemeanor.
- D. Entrance to premises restricted. It shall be unlawful for any peddler to enter upon any private premises when such premises is posted with a sign stating "no peddlers allowed" or "no solicitation allowed" or other words to that effect.
- E. Misrepresentation concerning goods or services. It shall be unlawful for any peddler to make false or fraudulent statements concerning the quality or nature of his goods, wares, merchandise or services for the purpose of inducing another to purchase such goods, wares, merchandise or services.
- F. Hours of business. It shall be unlawful for any peddler to engage in the business of peddling within the Town between the hours of 9:00 a.m. and 9:00 p.m., except by specific appointment with or invitation from the prospective customer or as otherwise provided in this article.
- G. Activity in roadways. It shall be unlawful for any person to peddle any goods, wares, merchandise or services, or to solicit any contribution of any kind for any charitable, educational or other purpose, while standing in or upon any public roadway.
- H. Mobile transient peddlers. Temporary permits shall be valid for a period of 90 days and obtainable once each six months. Permits are issued to each individual representing a business and/or cause, and subject to the requirements outlined in this article.

- I. Temporary stationary peddlers. Specific provision permits shall be available to an applicant and/or vendor on a particular parcel once each six months not to exceed 30 days per permit; provided, however, such business must comply with the following specific provisions:
  - (1) The sale of goods and merchandise is prohibited from, or as an accessory use to, the primary use existing on the premises;
  - (2) Such sales must occur on property that contains a principal structure;
  - (3) No display shall be erected or installed, nor shall any sale of goods and merchandise take place within 50 feet of the curb or paved edge of a public roadway;
  - (4) Such sales shall be permitted only within a commercial zoning district which would normally allow such sales;
  - (5) Such sales shall be permitted only on property where controlled vehicular ingress and egress with adequate off-street parking;
  - (6) No temporary shack, shed, tent or other structure' shall be erected, except as may be approved by the Town;
  - (7) No operator, employee or representative of the operator of such business shall solicit directly from the motoring public;
  - (8) Written permission from the property owner shall be obtained and submitted by the applicant to the Town for approval prior to the issuance of a permit;
  - (9) A single sign-not-to exceed 16-square feet shall be allowed per road frontage. Such sign shall be located outside of the right-of-way; and
  - (10) All goods and equipment must be removed at the end of each business day.
- J. Temporary seasonal peddlers. Specific provision permits shall be available to an applicant and/or vendor on a particular parcel of land for a period not to exceed 90 days and obtainable once each six months; provided, however, such business must comply with the following specific provisions:
  - (1) The sale of goods and merchandise is prohibited from, or as an accessory use to, the primary use existing on the premises;
  - (2) Sales must occur on property that contains a principal structure;
  - (3) No display shall be erected or installed, nor shall any sale of goods and merchandise take place within 50 feet of the curb or paved edge of a public roadway;
  - (4) Sales shall be permitted only within a commercial zoning district which would normally allow such sales;
  - (5) Sales shall be permitted only on property where controlled vehicular ingress and egress with adequate off-street parking;
  - (6) No temporary shack, shed, tent or other structure shall be erected, except as may be approved by the Town;
  - (7) No operator, employee or representative of the operator of such business shall solicit directly from the motoring public;
  - (8) Written permission from the property owner shall be obtained and submitted by the applicant to the Town for approval prior to the issuance of an occupation permit;
  - (9) A single sign not to exceed 16 square feet shall be allowed per road frontage. Such sign shall be located outside of the right-of-way; and
  - (10) Sales shall cease by 10:00. p.m.
- K. Permit
  - (1) Privileges taxes, bond required. Peddlers shall pay any taxes or licensing fees required by state law and shall furnish a good and sufficient bond in the amount of \$1,000.00, conditioned that if such peddlers comply with the provisions of this article, and other ordinances relating to such provisions, such obligation shall be void, otherwise such bond shall remain in full force and effect.
  - (2) Limitation on issuance. No peddler's permit shall be issued to a corporation, partnership or other impersonal legal entity, but each individual person engaging in the business of peddling within the Town shall be required to have a permit whether acting for himself or as an agent or representative of another.
  - (3) Application. Applicants for peddler permits shall file with the Town a sworn application giving the following information:
    - (a) The name and description of the applicant.
    - (b) The address, legal and local.
    - (c) A brief description of the nature of the business and the goods to be sold.

- (d) If employed, the name and address of the employer, together with credentials establishing the exact relationship.
  - (e) If a vehicle is to be used, a description of such vehicle, together with license number or other means of identification.
  - (f) If food is to be prepared and/or sold, written approval from the Health Department.
  - (g) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violation of any Town ordinance, the nature of the offense and the punishment or penalty assessed therefor.
- (4) Driver's license. The applicant, at the time of filing his application for a permit required by this division, shall present his driver's license, if he has one, to the Town.
  - (5) Giving false information on application. It shall be unlawful for any person to give any false or misleading information in connection with his application for a permit required by this division.
  - (6) Investigation of applicant. Upon receipt of an application for a permit required by this division, the original shall be referred to the Town, which shall cause such investigation of the applicant's business and moral character to be made as deemed necessary for the protection of the public good.
  - (7) Denial authorized; notice. If, as a result of the investigation authorized in section 32-206.1.K.(6), the applicant's character or business responsibility is found to be unsatisfactory, the Chief of Police and Planning and Development Director shall endorse on such application his disapproval and reasons for such disapproval, and return the application to the Town Clerk, who shall notify the applicant that the application is disapproved and that no permit will be issued.
  - (8) Approval; issuance. If, as a result of the investigation authorized by section 32-206.11.K.(6), the applicant's character or business responsibility are found to be satisfactory, the Chief of Police and Planning and Development Director shall endorse on such application his approval and reasons for such approval, and return the application to the Town Clerk, who shall, upon payment of any fees or bonds, issue a license.
  - (9) Record. The Town shall keep a permanent record of all permits issued under the provisions of this division.
  - (10) Disposition of receipts. The taxes and penalties collected under this division shall be paid to the Town in the same manner as other taxes collected by the Town.
  - (11) Display. Every peddler or merchant having a permit issued under the provisions of this division and doing business within the Town shall display his permit upon the request of any person and failure to do so shall be deemed a misdemeanor.
  - (12) Revocation. Any permit issued under the provisions of this division may be revoked for the violation by the permittee of any applicable provision of this Code, state law or local ordinance.
  - (13) Fees. The fees and/or bonding requirements for a permit required by this division shall be as set forth in the schedule of fees and charges on file in the office of the Town Clerk.
  - (14) Appeals. Any person aggrieved by the action of the Town shall have the right to appeal the decision to the Town's Board of Appeals. Such appeal shall be taken by filing such appeal with the Town within ten days of the action or decision.
  - (15) Transferability. No permit shall be used at any time by any person other than the one to whom it was issued.
  - (16) Alteration. It shall be unlawful for any person to alter or deface any permit issued for the purposes of this division.

*(Adopted Jun 9, 2008)*

**Section 32-207 Charitable Solicitors**

All charitable solicitors shall comply with *O.C.G.A. § 43-17-1* et seq.

**Section 32-208 Junk Dealers and Junkyards**

- 1. **License Required.** Each junk dealer, as such term is defined in this section, who does business within this municipality, shall be required to obtain a license from the Town Clerk in the manner specified in this chapter.

2. **Definitions.** For the purpose of this section, the following words and phrases shall have the meanings respectively ascribed to them herein:
- A. Business Premises or Premises - the area of junkyard as described in a junk dealer's license or application for license, as provided for in this section.
  - B. Junk - old iron, steel, brass, copper, tin, lead, or other base metals; old cordage, ropes, rags, fibers, or fabrics; old rubber; old bottles or other glass; bones; wastepaper and other waste or discarded material which might be prepared to be used again in some form; and motor vehicles, no longer used as such, to be used for scrap metal or stripping of parts; but "junk" shall not include materials or objects accumulated by a person as by-products, waste, or scraps from the operation of his own business, or materials or objects held and used by a manufacturer as an integral part of his own manufacturing processes.
  - C. Junk Dealer - any person, firm or corporation or offices, agent or employee of any person, firm or corporation who operates a junkyard, as defined above, within the Town.
  - D. Junkyard a yard, lot, or place, covered or uncovered, outdoors or in an enclosed building, containing junk as defined above, upon which occurs one or more acts of buying, keeping dismantling, processing, selling, or offering for sale any such junk, in whole units or by parts, for a business or commercial purpose, whether or not the proceeds from such act or acts are to be used for charity.

NOTE: See O.C.G.A & 12-8-28 for state law regarding acceptance and sale of lead acid vehicle batteries.

3. **Application.** Application for a license under this section shall be made as provided in Section 32-101, except that such application shall contain the following additional information:
- A. Trade names used during the previous five (5) years by the applicant and each person signing the application, along with the locations of prior establishments;
  - B. Names and addresses of employers of each person signing the application during the previous five (5) years;
  - C. The name, residence address, and telephone number of each person employed or intended to be employed in the business as of the time the application is filled;
  - D. A sketch of the actual premises to be used in connection with the business, giving distances in feet and showing adjoining roads, property lines, buildings, uses; and
  - E. A description of the materials with which any buildings to be used in connection with the licensed business are to be made; a sketch giving distances, showing the location of such buildings on the business premises; and a diagram or plan giving distances and heights, showing floors, exits, entrances, windows, ventilators, and walls.
4. **Review of Application.** No action on any application for a license to operate a junkyard shall be taken by the Town Council until the Municipal Planning Commission has reviewed such application and forwarded its recommendation thereon to the Town Clerk/Treasurer in the manner specified in this chapter.
5. **Fee Established.** The annual business license fee for each junk dealer doing business in this municipality shall be as determined by Mayor and Council.
6. **General Operation Requirements.** The following general operating requirements shall apply to all junk dealers licensed in accordance with the provisions of this section:
- A. The junkyard, together with things kept therein, shall at all times be maintained in a sanitary condition;
  - B. No space not covered by the license shall be used in the licensed business;
  - C. No water shall be allowed to stand in any place on the premises in such manner as to afford a breeding place for mosquitoes;
  - D. No weeds shall be permitted to attain a height of more than four (4) inches;
  - E. No garbage or other waste liable to give off a foul odor or attract vermin shall be kept on the premises; nor shall any refuse of any kind be kept on the premises, unless such refuse is junk as defined herein and is in use in the licensed business;
  - F. No junk shall be allowed to rest upon or protrude over any public street, walkway, or curb, or become scattered or blown off the business premises;
  - G. Junk shall be stored in piles not exceeding ten (10) feet in height and shall be arranged so as to permit easy access to all such junk for firefighting purposes;
  - H. No combustible material of any kind not necessary or beneficial to the licensed business shall be kept on the premises; nor shall the premises be allowed to become a fire hazard;
  - I. Gasoline and oil shall be removed from any scrapped engines or vehicles on the premises;

- J. No junk or other material shall be burned on the premises in any incinerator not meeting the requirements of the building code; and no junk or other material shall be burned on the premises in the open except in accordance with the provisions of Chapter 13 of this code;
  - K. No noisy processing of junk or other noisy activity shall be carried on in connection with the licensed business on any Sunday, Christmas, Thanksgiving, or at any time between the hours of 6:00 p.m and 7:00 a.m;
  - L. The area on the premises where junk is kept (other than indoors) shall be enclosed, except for entrances and exits, with a solid, vertical wall or fence of a minimum height of eight (8) feet measured from ground level. The fence or wall shall not contain any poster or advertising of any kind excepting one (1) sign of the licensee not to exceeding four (4) square feet in size. Entrances and exits shall not be wider or more numerous than reasonably necessary for the conduct of the licensed business;
  - M. The licensee shall permit inspection of the business premises by a police officer at any reasonable time; and
  - N. No junkyard shall be allowed to become a nuisance; nor shall any junkyard be operated in such manner as to become injuries to the health, safety, or welfare of the community or of any residents close by.
7. **Records.** Each acquisition of junk shall be recorded in a permanent type register kept on the business premises, giving the name and residence address of the person from whom the acquisition was made, a description of the junk acquired, and the date of the transaction. Such data shall be held available for inspection by any police officer.
8. **Minors.** No junk dealer shall have any business dealings as a junk dealer with a minor, nor shall a junk dealer's license be issued to a minor, nor shall a junk dealer employ a minor to assist him in his business.
9. **Stolen Goods.** Every junk dealer who shall receive or be in possession of any goods, articles, or things of value which may have been lost or stolen shall upon demand produce such article or thing to any member of the Police Department for examination.
10. **Vehicles.** Every vehicle used by a junk dealer in the conduct of his business shall bear thereon in legible characters the name and address of the owner and proprietor thereof.

**Section 32-209 Pawnshops**

1. **Definitions**
- A. Employee means:
    - (1) Any owner or pawnbroker who, in the performance of his or her duties or the management of the business affairs of a pawnshop, comes into contact with members of the public; or
    - (2) Any person working for an owner or pawnbroker; or
    - (3) Any person who is employed on a part-time or full-time basis, either with or without remuneration, by a pawnshop.
  - B. Pawn or pledge means a bailment of personal property as security for any debt or engagement, redeemable upon certain terms and with the power of sale on default.
  - C. Pawnbroker means any person engaged in whole or in part in the business of lending money on the security of pledged goods, or in the business of purchasing tangible personal property on the condition that it may be redeemed or repurchased by the seller for a fixed price within a fixed period of time, or in the business of purchasing tangible personal property from persons or sources other than manufacturers or licensed dealers as part of or in conjunction with the business activities described in this section.
  - D. Pawnshop means any business wherein a substantial part thereof is to take or receive, by way of pledge, pawn, consignment or exchange, any goods, wares, merchandise, or any kind of personal property whatever, as security for the repayment of money lent thereon.
  - E. Pawnshop transaction means to take or receive any article of property or, from any customer, by pawning, pledging, trading, exchanging, purchasing, or other means .
2. **Annual permit required.** All persons, before beginning the business of operating a pawnshop or similar place where money is advanced on goods or other effects, or merchandise of any kind is taken in pawn, shall first file an application with the Town police department for an annual permit to conduct such business. The issuance of such perm it will be based on a criminal history background investigation of the applicant. The cost of the permit/criminal history background investigation shall be \$ 1 00.00, or a fee established by the Town Council. This fee is imposed to cover investigative expenses and/or administrative costs associated with issuing an initial permit for all owners. In the event an owner has more than one pawnshop, then each location will be assessed the above fee. This fee is nonrefundable in the event an applicant, for any reason, is not issued a permit and/or an

occupational tax certificate. Owners are required to renew the permit upon expiration thereof and shall be required to pay a renewal fee established by the Town Council.

3. **Permit prerequisite to issuance of occupation tax certificate.** No occupation tax certificate required by this section shall be granted to any person until a permit required by Section 32-209.2 has been issued or approved by the Town Police Department.
4. **Application for permit.** The application for the annual permit required by Section 32-209.4 shall state the street number and address at which the business is proposed to be operated. The application shall contain the full name, address, phone number, date of birth, photograph, and social security number of all persons, including pawnbrokers and employees, having any interest in the proposed business, plus any additional information, including fingerprints, deemed necessary by the Finance Department and/or the Town Police Department.
5. **Regulation as to employees and managers.**
  - A. No person shall be employed by a pawnshop in any capacity until such person is found to be in compliance with the qualifications as described in this section and has paid a fee which shall be established by the Town Council. Upon complying with the requirements of this section, a certificate authorizing such person to be a pawnshop employee will be issued. Each employee and/or manager will be required to renew the certificate annually. The certificate and occupation tax certificate will expire annually, on the date established generally for expiration of the occupation tax certificate. All persons having any interest in the proposed business including each owner, employee, manager, and pawnbroker shall, while on the pawnshop premises, have in their possession and available for inspection such certificate. It shall be the duty of the pawnbroker to insure compliance with the provisions of this section. Certificates shall be prominently displayed on the premises in plain view. The cost of the certificate/criminal history background investigation shall be \$ 100.00, or a fee as established by the Town Council. This fee is imposed to cover investigative expenses and/or administrative costs associated with issuing a certificate to the respective employee.
  - B. The following qualifications shall apply to all employees and managers:
    - (1) No certificate shall be issued until such time as a signed application has been filed with the Town Police Department, chief of police or his designee and a search of the criminal record of the person completed. Such application shall include the applicant's name, fingerprints, social security number, date of birth, and prior arrest record; though an applicant's arrest record shall be used for investigative purposes only and shall not give rise to a presumption or inference of guilt. Applicant must also provide positive identification (only official government issued picture identification accepted, e.g. driver's license, passport, military card, or state identification card).
    - (2) The chief of police or his designee shall conduct a complete and exhaustive search relative to any police record of the applicant.
    - (3) In the event the applicant is qualified for employment in a pawnshop under this section and there is no record of a violation of this chapter, the chief of police or his designee shall issue a certificate to the applicant, by mail, stating that the person is eligible for employment. If it is found that the person is not qualified for a certificate and therefore ineligible for employment in a pawnshop, the chief of police or his designee shall notify the person in writing, that they are not eligible for employment, the cause of such denial and their right to appeal.
    - (4) No person who has been convicted or pled guilty or entered a plea of nolo contendere to any crime involving moral turpitude, illegal gambling, or any felonies, or any crime involving theft or fraudulent practices for the five years preceding the date of application, shall be issued a certificate. For purposes of 32-209, a conviction or plea of guilt or nolo contendere entered under the Georgia First Offender Act, O.C.G.A. § 428-60 et seq., shall be ignored. Provided, however, that any such offense shall not be ignored where the defendant violated any term of probation imposed by the court granting first offender status or committed another crime and the sentencing court entered an adjudication of guilt as to the crime for which the defendant had previously been sentenced as a first offender.
    - (5) No person shall be issued a certificate if it is determined that the person falsified, concealed, or misrepresented any material fact by any device, trick, or scheme while making application to the police department for a pawnshop certificate under this section.
    - (6) All certificates issued through administrative error can be terminated and seized by the chief of police or his designee or the Finance Department or its designee.

- (7) Replacement certificates will be issued within 30 days of original date, upon paying one-half of the fee charged for pawnshop certificates. After 30 days of original application date, a new application and fee must be submitted.
- (8) All certificates issued hereunder remain the property of the Town Police Department, and shall be produced for inspection upon the demand of any officer or designee of the Town Police Department or employee of the licensing and revenue department.
- (9) No pawnshop owner shall allow any employee or manager to work on the premises unless the employee or manager has in their possession a current valid Town certificate. Pawnshop owners are required by this chapter to inspect and verify that each employee or manager has in their possession a valid current pawnshop certificate.

For new pawnshop employees, a fee receipt issued by the Town police certificate unit may be used in lieu of a Town certificate for a maximum of 30 days from the date of issue. Issuance of this fee receipt shall allow the applicant to work in the position applied for only until such time as the required criminal history background investigation is completed. The temporary privilege conferred by issuance of this fee receipt shall expire immediately upon completion of such background investigation. If the background investigation indicates that the applicant does not meet the requirements for issuance of a pawnshop certificate, the applicant may appeal the denial of the certificate as provided in section 32-209. However, issuance of this fee receipt and the temporary privilege granted thereby shall not be construed as conferring any right or privilege to the applicant to continue working in the position for which the certificate sought during the pendency of the appeal from the denial of a certificate under section 32-209.

- (10) It shall be the duty of all persons holding a pawnshop occupation tax certificate to file with the chief of police or his designee, the name of the establishment, the occupation tax certificate number and a list of all employees, including their date of birth, social security number, home address and home telephone numbers. Information shall be filed twice annually; during the month of June and again during the month of December.
- (11) If it is determined that any person issued a pawnshop certificate has falsified, concealed, or misrepresented any material fact by any device, trick, or scheme in the application for the pawnshop certificate, such certificate shall be revoked or canceled.
- (12) Town employees who are directly involved in the issuance of pawnshop certificates or in the regulation of pawnshops shall not be eligible for a certificate.

**6. Denial, suspension or revocation of permit.**

A permit may be denied, suspended or revoked by the chief of police or his designee where the pawnbroker or employee furnishes fraudulent or untruthful information in the application for a permit or fails to meet all qualifications set forth under the provisions of section 32-209.

**7. Hearings for denial, suspension or revocation of permit.**

No permit shall be denied, suspended or revoked without the opportunity for a hearing as hereinafter provided.

- A.** The chief of police or his designee shall provide written notice to the applicant of his or her order to deny, suspend or revoke the permit. Such written notification shall set forth in reasonable detail the reasons for such action and shall notify the applicant of the right to appeal under the provisions of section 32-209. Any applicant who is aggrieved or adversely affected by a final action of the chief of police may have a review thereof by appeal to the Zoning Board of Appeals.

Such appeal shall be by written petition, filed in the office of the Finance Department within 15 days after the final order or action of the chief of police and in order to defray administrative costs, must be accompanied by a filing fee of \$ 100.00. The Finance Department, at its discretion, may waive or reduce the filing fee amount if it is determined the fee would create a hardship on the individual filing such appeal. The Zoning Board of Appeals, at the request of the appellant, may refund the filing fee by a majority vote.

- B.** A hearing shall be conducted on each appeal within 30 days of the date of filing with the Finance Department unless a continuance of such date is agreed to by the appellant and the Town. The appellant at such hearing shall have the right to be represented by an attorney, at the expense of the appellant, and to present evidence and cross-examine witnesses. The appellant shall have the burden of proof on any such appeal.

- C. The findings of the Appeals Board shall be forwarded to the Finance Manager within 15 days after the conclusion of the hearing, and it shall be the duty of the Finance Department to notify the appellant of the action of the Appeals Board.
  - D. The findings of the Appeals Board shall not be set aside unless found to be:
    - (1) Contrary to law or ordinances, or
    - (2) Unsupported by substantial evidence on the records as a whole, or
    - (3) Unreasonable.
  - E. The findings of the Appeals Board shall be final unless appealed within 30 days of the date of such finding by certiorari to the superior court of Jackson County.
- 8. Occupation tax certificate applications, renewals and qualifications.**
- A. All persons, firms, or corporations desiring to engage in the business, trade or occupation of a pawnshop shall, before engaging in such business, trade or profession, make application for an occupation tax certificate in the form and manner prescribed by the Finance Department.
  - B. The application shall include but shall not be limited to the information required on all occupation tax returns, along with the following additional information:
    - (1) Full name, date of birth, address, and social security number of applicant.
    - (2) Full name(s), dates of birth, and social security numbers of any other persons having an ownership interest in the business. In the case of a corporation, this list shall include owners of ten percent or more of the common or preferred stock.
    - (3) Full names, dates of birth, social security numbers, and titles of corporate officers, where appropriate.
    - (4) Full names, addresses, telephone numbers, dates of birth, title, and social security numbers of individuals to be employed.
    - (5) A copy of the alcohol, tobacco and firearms license, where applicable.
  - C. All occupation tax certificates granted under the provisions of section 32-209 shall expire annually, on the date established generally for expiration of the occupation tax certificates.
  - D. Certificate holders who desire to renew their certificates for the following year shall file the application and all applicable fees with the Finance Department on the form prescribed for renewal of the certificate. Applications for renewal must be filed on or before the annual deadline provided for all businesses for filing of renewal applications, with payment of tax being due on the date(s) set for occupation taxes generally.
  - E. All occupation tax certificates granted hereunder shall be for the full calendar year and are not subject to proration.
  - F. It shall be the duty of the renewal applicant to obtain renewal permits as required by section 32-209.
  - G. The following occupation tax certificate qualifications shall also apply :
    - (1) No occupation tax certificate required by section 32-209 shall be granted to any person who is not a citizen of the United States or registered resident alien. Where the owner/applicant is a partnership or corporation, the provisions of section 32-209 shall apply to all its partners, officers, managers and majority stockholders.
    - (2) Where the applicant is a corporation, a certificate will be issued jointly to the corporation, president or chief executive officer and to the majority stockholder. Where the applicant is a partnership, the certificate may be issued to a partner or general partner.
    - (3) An occupation tax certificate for the practices listed herein may not be issued where the applicant has been convicted, plead guilty, or entered a plea of nolo contendere, and has been released from parole or probation, to any crime involving moral turpitude, illegal gambling, or has been convicted of any felonies, or any crime involving theft or fraudulent practices within a period of ten years immediately prior to the filing of such application. At the time an application is submitted for any pawnshop occupation tax certificate, the applicant shall, by duly sworn affidavit, certify that neither the applicant, nor any of the other owners of the establishment, have been convicted or have plead guilty or entered a plea of nolo contendere to any crime involving moral turpitude, illegal gambling, or have been convicted of any felonies, or any crime involving theft or fraudulent practices. Should any applicant, partner, or officer engaged in operating a pawnshop, after a certificate has been granted, be convicted or plead guilty or enter a plea of nolo contendere to any crime involving moral turpitude, illegal gambling, or any felony, or any crime involving theft or fraudulent practices, the certificate and/or permit shall be immediately revoked or canceled.

- 9. Suspension or revocation of occupation tax certificate.**
- A.** A certificate may be suspended or revoked by the Finance Department where the certificate holder furnishes fraudulent or untruthful information in the application for a certificate and failing to pay all fees, taxes, or other charges imposed under the provisions of section 32-209.
  - B.** The Finance Department shall revoke the certificate for any premises where goods are pawned during a period of suspension.
  - C.** The Finance Department may suspend or revoke the certificate of any establishment which does not meet the qualifications set forth in section 32-209 any time such knowledge becomes known to the Finance Department.
  - D.** An act or omission of a certificate holder, owner of more than 20 percent interest in the establishment, or employee of the certificate holder or establishment, willingly or knowingly performed, which constitutes a violation of federal or state law or of any provision of section 32-209 will subject the certificate holder to suspension or revocation of its certificate in accordance with the provisions of section 32-209, when the Finance Department determines to its own satisfaction that the act or omission did occur, regardless of whether any criminal prosecution or conviction ensues. Provided, however, in the case of an employee, the Finance Department or its designee must determine that the acts of the employee were known to, or under reasonable circumstances should have been known to, the certificate holder, were condoned by the certificate holder, or where the certificate holder has not established practices or procedures to prevent the violation from occurring.
  - E.** The Finance Department may suspend or revoke the certificate of any establishment whenever it can be shown that a certificate holder hereunder no longer maintains adequate financial responsibility upon which issuance of the certificate was conditioned or whenever the certificate holder has defaulted in any obligation of any kind whatsoever, lawfully owing to the Town.
  - F.** Wherever section 32-209 permits the Finance Department to suspend any certificate issued hereunder but does not mandate the period of such suspension, such discretion shall be exercised within the guidelines of this subsection.
    - (1) No suspension shall be for a period of time longer than the time remaining on such certificate.
    - (2) The following factors shall be considered on any revocation or suspension as set out above:
      - (a) Consistency of penalties mandated by section 32-209 and those set by the Finance Department.
      - (b) Likelihood of deterring future wrongdoing.
      - (c) Impact of the offense on the community.
      - (d) Any mitigating circumstances or remedial or corrective steps taken by certificate holder.
      - (e) Any aggravating circumstances or failure by the certificate holder to take remedial or corrective steps.

**10. Hearings for the denial, suspension or revocation of certificate.**

No certificate shall be denied, suspended or revoked without the opportunity for a hearing as hereinafter provided.

- A.** The Finance Department shall provide written notice to the applicant or certificate holder of his or her order to deny, suspend or revoke the certificate. Such written notification shall set forth in reasonable detail the reasons for such action and shall notify the applicant or certificate holder of the right to appeal under the provisions of section 32-209. Any applicant or certificate holder who is aggrieved or adversely affected by a final action of the Finance Department may have a review thereof by appeal to the Zoning Board of Appeals.

Such appeal shall be by written petition, filed in the office of the Finance Department within 15 days after the final order or action of the Finance Department and in order to defray administrative costs, must be accompanied by a filing fee of \$500.00. The Finance Department, at its discretion, may waive or reduce the filing fee amount if it is determined the fee would create a hardship on the individual filing such appeal. The appeal board may, at the request of the appellant, refund the filing fee by a majority vote.

- B.** A hearing shall be conducted on each appeal within 30 days of the date of filing with the Finance Department unless a continuance of such date is agreed to by the appellant and the Finance Department. The appellant at such hearing shall have the right to be represented by an attorney, at the expense of the appellant, and to present evidence and cross-examine witnesses. Should the appellant desire an official transcript of the appeal proceedings, then such request must be made at least three days prior to such hearing. The appellant shall have the burden of proof on any such appeal. Before hearing an appeal, each

member of appeal board shall sign an affidavit to be part of the record that he or she is not related to or personal friends with any the appellant or any owner of the establishment in question in the appeal being considered and that he or she has no financial interest in the outcome of the appeal. Should any member be unable to sign such an affidavit, that member shall not serve on that appeal and the case shall be heard by the remaining members of the appeal board.

- C. The findings of the appeal board shall be forwarded to the Finance Department within 15 days after the conclusion of the hearing, and it shall be the duty of the Finance Department to notify the appellant and the chief of police or his designee of the action of the appeal board.
- D. The findings appeal board shall not be set aside unless found to be:
  - (1) Contrary to law or ordinances;
  - (2) unsupported by substantial evidence on the records as a whole; or
  - (3) Unreasonable.
- E. The findings of the appeal board shall be final unless appealed within 30 days of the date of such finding by certiorari to the superior court of Jackson County.

**11.** Records and information to be maintained; display of pawnshop transaction number; identification; digital photographs; fingerprints; records storage.

Engaging in the business of pledging, trading, pawning, exchanging, or selling used or previously owned merchandise, furniture, machinery, appliances, utensils, firearms, gold, silver, coins, precious metals, jewelry, and precious stones within the unincorporated areas of the Town is hereby declared to be affected with the public interest due to the opportunity it affords for the disposal of stolen property.

In the public interest and as set forth herein, all pawnbrokers shall maintain records documenting all pawnshop transactions.

- A. All pawnbrokers shall maintain records documenting accurate descriptions of all property pledged, traded, pawned, exchanged, or sold to the pawnbroker. Such description shall include, to the extent possible, the manufacturer, model, serial number, style, material, kind, color, design, number of stones if jewelry, and all other identifying names, marks, and numbers. The pawnbroker shall assign a pawnshop transaction number documenting each transaction, and ensure each item received is tagged with the pawnshop transaction number.
- B. The tag bearing the pawnshop transaction number must remain attached to the item until the property is disposed of by sale, trade, or other lawful means. This paragraph does not apply to the purchase of property from licensed wholesale or distributor businesses for the purpose of retail sales; however the pawnbroker shall be required to maintain all purchasing records for property exempted from this paragraph.
- C. The pawnbroker shall require all persons pledging, trading, pawning, exchanging, or selling property to show proper identification prior to conducting a pawnshop transaction. Proper identification is defined as a government issued photo identification card such as a driver's license, military identification card, state identification card, or passport.
- D. The pawnbroker shall also document the name, address, telephone number, race, sex, height, weight, drivers license number, date of birth, and social security number of the person pledging, trading, pawning, exchanging, or selling the property, along with the date and time of transaction. This documentation shall be made at the time of the transaction.
- E. The pawnbroker shall photograph, with a digital camera, the person pledging, trading, pawning, exchanging, or selling the property. The photograph shall clearly show a frontal view of the subject's face along with the pawnbroker's ticket transaction number. Digital images shall be labeled and stored in such a manner that they are safe from corruption, readily identifiable, and readily available for review.
- F. The pawnbroker shall obtain from each person pledging, trading, pawning, exchanging, or selling any property, the fingerprint of the right hand index finger, unless such finger is missing, in which event the print of the next finger in existence on the right hand shall be obtained with a notation as to the exact finger printed. The fingerprint shall be imprinted onto the pawn transaction form in the designated area along with the signature of the person pawning, trading, pledging, exchanging, or selling the property. The fingerprint must be clear and legible. In the event that more than one pawn transaction form is required, a fingerprint and signature should be obtained for each form. Fingerprints and the information required herein shall be obtained each time such person pledges, trades, pawns, exchanges, or sells any property.
- G. Items of property that appear to be new, unused, and in their original packaging cannot be accepted by the pawnbroker unless the customer can supply a copy of the original sales receipt, or other proof of

purchase from the place of purchase, to the pawnbroker who shall retain the receipt or proof of purchase on file.

- H. The pawnbroker shall store the above records, digital images, and fingerprints for a period of four years and make them available to law enforcement personnel upon request.

**12. Daily report to police; required format.**

Every pawnbroker shall make a daily report, in such form as may be prescribed by the chief of police, of all pawnshop transactions that occurred during 24 hours ending at 9:00 p.m. on the date of the report.

- A. Such daily reports enumerating the respective transactions shall be transmitted to the Town Police Department via electronic mail and shall contain the requisite information set forth in O.C.G.A. §43-7-3.
- B. Daily reports shall list all property pledged, traded, pawned, exchanged, or sold, the pawn transaction number for each transaction, and a description of the property including, to the extent possible, the manufacturer, model, serial number, style, material, kind, color, design, number of stones if jewelry, and any other identifying names, marks, and numbers. The daily report shall also list the name, address, race, sex, height, weight, driver's license number, date of birth, and social security number of the person pledging, trading, pawning, exchanging, or selling the property, along with the date and time of the transaction.
- C. The Town shall levy a charge of 1% (or as amended by Town Council from time to time) for each transaction which may be assessed against the person pledging, trading, pawning, exchanging, or selling property. Such fee shall be invoiced to the pawnbroker and collected by the Finance Department. Fees shall be due and payable on or before the 10th day of each month and shall represent the prior month's transactions. Such fee assessment per transaction shall not commence until authorized by the Town Manager and Police Chief.

**13. Property not to be disposed of for 30 days after acquisition; location of property; police holds.**

- A. All property received through any pawnshop transaction shall be held for at least 30 days before disposing of same by sale, transfer, shipment, or otherwise, except when property is redeemed as per a pawn transaction contract.
- B. All property pledged, traded, pawned, exchanged, or purchased shall be held and maintained by the pawnbroker on the premises of the pawnshop or, if impracticable, at such other location as may have been previously approved in writing by the chief of police or his designee. The chief of police shall not approve any off-premises storage facilities located outside Town of Braselton.
- C. The Town police department has the authority to place property that is the subject of police investigation on "police hold." In that event, the Town police department shall notify the pawnbroker of the need for a police hold and identify all property subject to the police hold. Upon notification, it shall be the responsibility of the pawnbroker to maintain the subject property until such time as the property is released from police hold status or the property is confiscated as evidence.

**14. Dealing with minors.**

It shall be unlawful for any pawnbroker, his or her agents or employees, to receive through any pawnshop any property from minors. A minor, for the purpose of this section, is an individual 17 years of age or under.

**15. Responsibility for enforcement.**

The Town Police Department shall have the responsibility for the enforcement of section 32-209. Sworn officers of the Town police department and civilian employees designated by the chief of police shall have the authority to inspect establishments licensed under section 32-209 during the hours in which the premises are open for business. These inspections shall be made for the purpose of verifying compliance with the requirements of section 32-209 and state law. Section 32-209 is not intended to limit the authority of any other Town officer to conduct inspections authorized by other provisions of the Town code.

**16. Penalty for violation.**

Any person, firm, company, corporation or other entity who violates any provision of section 32-209 may be subject to arrest or summoned to appear in the Town of Braselton Municipal Court and upon conviction or other finding of guilt, be punished by a fine of up to \$1,000.00 or 60 days of imprisonment.

*(Adopted 4/9/2012)*

**Section 32-210 Parades**

1. **Registration and Permit.** Any person who wishes to organize, form or conduct a parade as defined herein shall be required to register such parade with the Town Manager at least twenty-four (24) hours in advance of the event and to obtain a permit therefore.
2. **Definition.** For the purpose of this section, "parade" shall mean any march, ceremony, demonstration, exhibition, or procession of any kind upon any public street or right-of-way of the Town.
3. **Application.** Application for a permit to conduct a parade shall be made to the Town Manager in writing, shall be signed by the person responsible for the conduct of the parade, and shall contain the following information:
  - A. The time proposed for the parade;
  - B. The route of the proposed parade;
  - C. The number of vehicles (if any) and number of persons whose participation is anticipated in the proposed parade;
  - D. The name and address of the person or organization sponsoring or promoting the proposed parade; and
  - E. The name and address of the person making the application for a parade permit.
4. **Review of Application.** The Town Manager shall forward the application to the Police Chief, who shall review the information set forth in the application and ascertain the following: the extent of vehicular and pedestrian traffic to be anticipated at the time and place of and on the route of the proposed parade; the availability of police forces to escort the proposed parade and to direct traffic in conjunction with the proposed parade; and whether or not, in the light of all the circumstances, the proposed parade will unreasonably burden or interfere with the normal use of the streets or sidewalks of the Town by the general public.
5. **Disposition.** In the event the Police Chief determines in view of all the circumstances that the proposed parade will unreasonably burden and interfere with the normal use of the streets or sidewalks of the Town by the general public, he shall deny the request for a parade permit; and if he determines on the contrary that the proposed parade will not unreasonably burden or interfere with the normal use of the streets or sidewalks of the Town by the general public, he shall grant the parade permit. In either case, the Police Chief shall indicate his disposition on the application and the Town Manager shall notify the applicant or the action taken.
6. **Exemption.** The provisions of the section shall be inapplicable to any parade which is conducted under the supervision of a practicing mortician in conjunction with any funeral.

## **Section 32-211 Tattoo Establishments**

1. **Definitions**
  - A. Interpretation of Certain Terms. For the purpose of this section, the following words and phrases when used herein shall be construed as follows:
    - (1) Tattoo – to mark or color the skin by pricking in coloring matter so as to form indelible marks or figures or by the production of scars.
    - (2) Tattoo Establishment - any room or space where tattooing is practiced or where the business of tattooing is conducted or any part thereof.
    - (3) Tattoo Operator - any person who controls, operates, conducts, or manages any tattoo establishment, whether actually performing the work of tattooing or not.
    - (4) Tattoo Artist - any person who actually performs the work of tattooing.
2. **Permit and Licensing Procedure**
  - A. Permit Required
    - (1) No person shall operate a tattoo establishment, or engage in the practice or business of tattooing as a tattoo operator or as a tattoo artist unless such person shall first obtain a permit from the Planning Director or the Planning Director's duly authorized agent. Applications for such permits shall be made in writing on a form prescribed by the Town of Braselton, wherein the applicant shall agree to conform to all rules and regulations governing such places now in effect or as subsequently enacted, and to authorize and permit such examination and inspection as may be deemed necessary by the Planning Director. Said permit shall be in addition to and not in lieu of a duly issued permit by the County Health Board or appropriate agency.
    - (2) No person shall be granted a permit to operate a tattoo establishment or engage in the practice or business of tattooing in the Town of Braselton without site plan approval from the Planning Director.
    - (3) No person shall operate a mobile tattoo establishment.

**B. Terms of Permit; Renewal of Permit; Fees**

- (1) All permits issued pursuant to this Chapter shall, unless revoked as set forth here after, expire on December 31st following their date of issue. The requirements for the renewal thereof shall be the same as for new permits. A fee of \$500.00 per year shall be charged for the issuance of permits to operate a tattoo establishment.
- (2) Form and Transfer of Permits. All permits shall be issued in the name of the individual person applying therefore, shall give the location of the tattoo establishment where said applicant will operate and shall not be transferable.
- (3) Public Display of Permit. It shall be the duty of the operator or owner of a tattoo establishment to display the current permit in a conspicuous place where it may be readily observed by the public.

**C. Inspection Schedule.** It shall be the duty of the Planning Director or authorized designee to cause inspections to be made on a recurring basis at least twice per year of all tattoo establishments and the equipment thereof. If said place of business is not maintained, conducted or operated in conformity with the requirements of this section as now enacted or as subsequently amended, then the Planning Director or authorized designee may suspend or revoke the permit of the operator or artist until the said tattoo establishment and the operation thereof is made to conform to the requirements of this Chapter.

**D. Tattooing of Minors.** Pursuant to O.C.G.A. §16-5-7, the tattooing of any person under the age of eighteen (18) is prohibited.

**E. Records Required**

- (1) Records for each patron or customer shall be kept and maintained by the operator of each tattoo establishment, which record shall contain the name, address and signature of each patron or customer. All records shall be available for inspection upon request of the Planning Director or authorized designee. Records shall be maintained a minimum of two years.
- (2) The operator shall inquire if the patron has at any time experienced a jaundiced condition or been infected with hepatitis. Those indicating a history of jaundice or hepatitis shall not be tattooed.

**F. Removal of Tattoo**

- (1) No tattoo operator or artist shall remove or attempt to remove any tattoo.
- (2) No tattoo operator or artist shall tattoo over any previous scar tissue.

**3. Operating Room Facilities**

**A. Separate Operating Room**

- (1) Each tattoo establishment shall have an operating room which shall be separate and apart from a waiting room, a public room or rooms that may be used for other than tattooing purposes. Patrons or customers shall be tattooed only in the said operating room.
- (2) The operating room shall be equipped with hot and cold running, potable water, together with such sinks and basins as may be necessary.
- (3) Furniture and furnishings used within the operating room shall be constructed of such material as to permit proper cleansing with hot or cold disinfecting solutions.
- (4) There shall be no overhead or otherwise exposed sewerage lines so as to create a potential hazard to the sanitary environment of the establishment.
- (5) All operating tables shall be constructed of easily cleanable material, with a smooth washable finish and at least six feet from any observer or waiting customers and/or separated by a panel at least four feet high.
- (6) The operating room shall have proper and sufficient lighting as needed to perform the tattooing process.

**B. Personal Cleanliness of Tattoo Artist; Required Equipment**

- (1) There shall be available within said tattoo establishment adequate hot and cold, potable running water, soap, germicidal solution, individual hand scrub brushes and fingernail files or orange sticks for each tattoo artist.
- (2) Each tattoo artist shall scrub his hands and forearms with soap and hot water using individual hand brush, clean his fingernails with an individual file or orange stick and thoroughly rinse his hands in a germicidal solution before working on each patron or customer. An individual disposable towel or napkin shall be used for drying the tattoo artist's hands and arms after rinsing.
- (3) Each tattoo artist shall wear clean clothes or a lab coat. Surgical gloves shall be worn during the tattooing process.

**C. Storage of Tattooing Equipment & Materials**

- (1) A steam sterilizer approved by the Health Officer shall be on site at each establishment. Tattoo instruments and accessories, dyes, stencils and other materials used in tattooing that come in contact with the patron or customer shall be stored in closed cabinets which shall be maintained in a sanitary condition.
- (2) Instruments used in tattooing such as needle bars, grips and tubes, shall be sterilized before using on each customer either by boiling for at least 30 minutes or by autoclaving under 15 pounds of pressure for 15 minutes. The temperature in autoclaving shall not be less than 121 C or 250 F.
- (3) If autoclaving is the method of sterilization, all tubes, grips and needle bars shall be left in the wrappers used during the autoclaving process.
- (4) If boiling is the method of sterilization, the hands shall be washed in accordance with section 32-211.3.B prior to removing the tubes, grips and needle bars from the basket. The tubes, grips and needle bars shall then be stored in a closed glass case and be maintained in a sanitary manner at all times.

**D. Floors, Walls & Ceilings.** The floor of the operating room of the tattoo establishment shall be of impervious material and shall be, at all times, maintained in a clean condition. The walls and ceiling of the operating room shall be a light color, shall be maintained in good repair without flaking or chipping and shall be of such material as to permit cleansing.

**E. Disposition of Waste Material.** The tattoo establishment shall have proper facilities for the disposition of biomedical waste materials as now defined by State and Federal regulations and as subsequently defined. A contract with an approved, licensed bio medical waste company is required.

**4. Tattooing Procedure**

**A. Preparation of area to be tattooed**

- (1) When it is necessary to shave the area to be tattooed, a new blade for each patron shall be used. When a safety razor is employed, and the permanent parts of the said razor shall be treated as hereinafter set forth for the care of a straight razor.
- (2) If a straight razor is used, it shall be cleaned with soap and water, rinsed in clean water, and then sterilized by being immersed for fifteen minutes in a germicidal solution approved by the local health department or by boiling for at least five minutes before the razor is used again on another patron.
- (3) After shaving the area to be tattooed, or if the area does not need to be shaved, the site of the tattoo shall be cleaned with soap and hot water, rinsed with clean water and germicidal solution applied in a sanitary manner before the design is placed on the skin. Only sterile, individual towels and gauze shall be used in preparing the site to be tattooed and properly disposed of after use on each patron.
- (4) If Vaseline is applied, it shall be done with a sterile swab or sterile syringe.

**B. Stencil for transferring design.** The stencil for transferring the design to the skin shall be thoroughly cleaned and rinsed in a germicidal solution approved by the local health department following each use and shall be maintained in a clean, sanitary condition.

**C. Tattooing Process**

- (1) A sterile set of needles shall be used for each patron or customer. Needles used in tattooing shall be sterilized by a sterilization method approved by the local health department after each use and, if not immediately used, stored in sterile containers. The open end of the needle tube of the tattooing machine shall be cleaned and sterilized in a similar method after each use. The use of disinfectants does not constitute an approved sterilization method.
- (2) Excess dye applied to the skin shall be removed with individual sterile gauze pads or sterile cotton only. The area tattooed shall then be allowed to dry and the entire site covered with a piece of sterile gauze only which may then be covered with a piece of tissue and fastened with adhesive. Only approved surgical dressings and tapes shall be used on patrons. The use of paper napkins, other materials and mastic tape for dressing is prohibited.
- (3) Single service or individual containers of dye or ink shall be used for each patron and any remaining ink or dye in the container following procedure shall be discarded.
- (4) Single use containers shall be disinfected prior to use.
- (5) Tattooing including the changing or repairing of previous tattoos shall not be performed on the hands below the wrist line, on the feet below the ankle, the head or face above the collar line or

on the genitalia. Nor shall such tattooing be undertaken at the site of an obviously recent hypodermic injection.

- D. Instruction to patrons or customers as to care of skin after tattooing.
  - (1) Written instructions shall be given to each patron or customer on the care of the tattooed site to prevent infection after each tattooing. A copy of these instructions shall also be posted in a conspicuous place in the tattoo establishment, clearly visible to the person being tattooed.
  - (2) All infections resulting from the practice of tattooing which become known to the operator shall be reported to the County Health Department by the owner of the tattoo establishment.
- E. Penalty for Non compliance. Anyone operating an unlicensed tattoo establishment, or an establishment that has had its license revoked or an establishment in an unapproved site shall face court action and fines up to \$1,000 per offense and/or six months in jail.

(Adopted July 12, 2010)

**Section 32-212      Massage Businesses**

- 1. **Definitions.** For purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section.
  - A. Applicant: Any person, firm, corporation, or other entity applying for an occupational license to practice massage, or operate a massage establishment as defined herein.
  - B. Employee: Any person over eighteen (18) years of age; including a massage therapist, who renders any service in connection with the operation of a massage business and receives compensation from the operator of the business or patrons.
  - C. Massage: Any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulating of the external parts of the human body with the hands or with the aid of any mechanical electrical apparatus or appliances with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointment or other such similar preparations commonly used in the practice of massage, including hydrotherapy, under such circumstances that it is reasonably expected that the person to whom the treatment is provided or some third person on his or her behalf will pay money or give any other consideration or gratuity therefor.
  - D. Massage establishment: Any commercial establishment having a source of income or compensation derived from the practice of massage, as defined in this section, and which has fixed a place of business where any person, firm, association, or corporation engages in or carries on any of the activities defined as "massage."
  - E. Massage therapist: Any person who, for any consideration whatsoever, engages in the practice of massage as defined in this section.
  - F. Outcall massage service: Providing any of the services which constitute massage as defined above from or at any place or location other than a fixed place of business licensed as such under this chapter as a massage establishment.
  - G. Patron: Any person over eighteen (18) years who receives a massage under such circumstances that it is reasonably expected that he will pay money or give any other consideration therefor.
  - H. Physical therapist: A person licensed by the State of Georgia to practice physical therapy as defined by the O.C.G.A. § 43-33-3.
  - I. Accredited school of massage: An educational program or course of study of not less than five hundred (500) hours in duration which is accredited by the Commission on Massage Training Accreditation/Approval (COMTAA) or recognized by a state licensing agency such as the Nonpublic Post Secondary Education Commission of the State of Georgia. The curriculum of such program or course of study shall include, but not be limited to, massage theory and technique, anatomy and physiology.
  - J. Sexual or genital area: Genitals, pubic area, anus, or perineum of any person, or the vulva or breast of a female.
- 2. **Business/occupation certificate requirements.**
  - A. The massage therapist must be qualified through graduation from an accredited school of massage, or from practical experience, provided such accredited school of massage must include a course of study of not less than six (6) months; provided further, any such practical experience may include apprenticeship and training in a place of massage or physical culture for not less than two (2) years; provided, further, the applicant must show that he/she has received training and experience in physical culture, massage,

hydrotherapy, electrotherapy and hygiene. Massages, massage therapy or acupressure treatments may be given by persons not holding a license as masseur, masseuse, massage therapist, or acupressurist, provided the massages, massage therapy or acupressure treatments are given under the direct supervision of a person having a license as a masseur, masseuse, massage therapist or acupressurist, and further provided that a person holding a license as a masseur, masseuse, massage therapist or acupressurist shall be in the same room where the massage, massage therapy or acupressure treatment is being administered during the entire time of the giving of the treatment.

- B. A business license is required for any person, firm, corporation or other entity operating a massage establishment. Such applicant must be at least eighteen (18) years of age, employ one or more massage therapists meeting the requirements set forth in (a) above, and if a corporation, is an officer of the corporation which is organized and authorized to do business pursuant to the laws of the State of Georgia. The applicant to operate a massage establishment must be the owner of the premises wherein the business will be conducted or the holder of a lease thereon for the period to be covered by the certificate.
- C. An applicant must be of good moral character and a citizen of the United States or an alien lawfully admitted for permanent residence for at least one (1) year prior to application.
- D. Therapists' certificates shall be good for a period of three years and renewable upon verification that there has been no material change in applicant's status and applicant remains qualified under this article to hold such certificate.

**3. Application requirements; investigation; contents.** In addition to the requirements contained in section 32.212.5, every applicant for a business/occupation tax certificate to practice massage, or to maintain, operate or conduct a massage establishment shall file an application under oath with the Town upon a form provided by the code enforcement officer and pay a nonrefundable fee of one hundred dollars (\$100.00). Copies of the application shall within five (5) days be referred to the appropriate parties and/or departments. These departments shall, within thirty (30) days, inspect the premises proposed to be operated as a massage establishment and shall make written verification to the code enforcement officer concerning compliance with the codes of the Town which they administer. The police department shall also make an investigation of the applicant's character and qualifications. Each application shall contain the following information:

- A. A definition of service to be provided;
- B. The location, mailing address and all telephone numbers where the business is to be conducted;
- C. The name and residence of each applicant;
  - (1) If the applicant is a corporation, the names and residence address of each of the officers and directors of the corporation and of each stockholder owning more than (10) per cent of the stock of the corporation, and the address of the corporation itself, if difference from the address of the establishment;
  - (2) If the applicant is a partnership, the names and residence addresses of each of the partners, including limited partners, and the address of the partnership itself, if different from the address of the massage establishment;
- D. The two (2) previous addresses immediately prior to the present address of the applicant, including stockholders and partners if applicable;
- E. Proof that the applicant is at least eighteen (18) years of age, including stockholders and partners if applicable;
- F. Individual or partnership applicant's height, weight, color of eyes and hair, and sex;
- G. Copy of identification such as driver's license and social security card, including stockholders and partners if applicable;
- H. Any applicant for a business license under this article is required to submit to the police for a background investigation, fingerprinting and a portrait photograph. If the applicant is other than a sole proprietor, all partners, officers, managers and stockholders holding a ten (10) per cent or more interest in the company shall be subject to the provisions of this article. Each applicant authorizes the Town and its agents to secure from any court, law enforcement agency, or other public agency his criminal and civil history and to use such information in determining whether the certificate applied for shall be issued. Each applicant further authorizes the Town and its agents to use such information in any public hearing with respect to the certificate applied for, whether before or after the issuance of the certificate. Each applicant waives any rights which he would otherwise have to preclude the Town or its agents from obtaining and using such information, and each applicant further waives any liability of the Town or its agents from obtaining and using such information. A one hundred dollar (\$100.00) fee is to be submitted to the police department for a background check and photograph;

- I. Business, occupation or employment of the applicant for the three (3) years immediately preceding the date of application, including stockholders and partners if applicable;
  - J. The massage or similar business license history of the applicant; whether such person, in previously operating in this or another Town, county or state, has had a business license revoked or suspended, the reason therefor and the business activity or occupation subsequent to such action of suspension or revocation;
  - K. All criminal convictions other than misdemeanor traffic violations, including the dates of convictions, nature of the crimes and place convicted;
  - L. The name and address of each massage therapist who is or will be employed in the establishment;
  - M. The applicant must furnish a diploma or certificate of graduation from a recognized school as defined in this article; however, if the applicant will not engage in the practice of massage as defined herein, such applicant need not provide diploma or certificate of graduation;
  - N. The name and address of any massage business or other establishment owned or operated by any person whose name is required to be given in section 32-212.3.C. wherein the business or profession of massage is carried on;
  - O. A description of any other business to be operated on the same premises or adjoining premises owned or controlled by the applicant;
  - P. Authorization for the Town, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the permit;
  - Q. Such other identification and information necessary to discover the truth of the matters required to be set forth in the application;
  - R. The holder of a certificate to practice massage or operate a massage establishment shall notify the code enforcement officer of each change in any data required to be furnished by this article within ten (10) days after such change occurs.
- 4. Inspection authorized.** A code enforcement officer or his/her authorized representative(s) shall and the police may, from time to time, make inspections during regular business hours of each massage business establishment for the purposes of determining compliance with the provisions of this article. It shall be unlawful for any permittee or licensee hereunder to fail to allow the inspection officer or police officer access to the premises or to hinder the officer in any manner.
- 5. Operating requirements; unlawful acts.**
- A. The premises shall be kept clean, neat, and sanitary and shall comply with all sanitary and health requirements of the State of Georgia, the Town of Braselton, and respective County.
  - B. Price rates for all services shall be prominently posted in the reception area in a location available to all prospective customers.
  - C. Reserved.
  - D. It is unlawful for any person in a massage establishment to place his or her hands upon, to touch with any part of his or her body, to fondle in any manner, or to massage a sexual or genital area, as defined in this article, of any person or to act in a manner intended to arouse, appeal to or gratify the lust or passions or sexual desires.
  - E. It is unlawful for any person under the age of 18 to patronize any massage establishment unless such person carries with him at the time of such patronage, a written order directing the treatment to be given by a regularly licensed physician or written permission of the underage person's parent or guardian.
  - F. It is unlawful for any person or firm to provide "outcall" massage in any hotel, motel, rooming house or similar place offering short term lodging to the public.
  - G. During business hours, it is unlawful to block or obstruct the view into any establishment by tinting or covering windows and/or doors as to prevent an open view into the premises.
  - H. It shall be unlawful for any person owning, operating or managing a massage establishment to knowingly cause, allow, or permit in or about such massage establishment any agent, employee or other person under his supervision or control to perform any acts prohibited under this section.
  - I. Notwithstanding any local, state, or federal criminal violation, it is specifically declared that any violation of this article shall constitute a nuisance, the same being subject to abatement in the municipal court of the Town, as provided by charter. It shall be unlawful for any person to maintain or permit the existence of any nuisance on any property within the Town.
  - J. Any provision of state law notwithstanding, a violation of the provisions of this article shall be further punishable as provided in section 1-109 of this Code of Ordinances.

6. **Hours of operation.** No massage therapist shall engage in such business or profession except between the hours of 7:00 a.m. and 7:30 p.m.; nor shall any operator of a massage establishment or business operate the same except within and between those hours. Violations of this section shall be considered under this code as an offense and persons found guilty of such violations shall be punishable within the general limits of punishments as provided under the prevailing laws and ordinances of the Town of Braselton.
7. **Exemptions.** This article shall not apply to the following individuals while engaged in the personal performance of the duties of their respective profession:
  - A. Physicians, surgeons, chiropractors, osteopaths, and physical therapists who are duly licensed to practice their respective profession in the state.
  - B. Nurses who are registered under the laws of the state.
  - C. Barbers and beauticians who are duly licensed under laws of this state, except that this exemption shall apply solely to the massaging of the neck, face, scalp, and hair of the customer or client for cosmetic or beautifying purposes.
  - D. Physical therapists licensed under the laws of the State of Georgia.
8. **Posting of business/occupation tax certificate; transfer of certificate.**
  - A. Every person obtaining a business/occupation tax certificate under this chapter shall display such certificate in a prominent place.
  - B. No certificate whether for a massage establishment or a massage therapist shall be transferable or assignable from person to person or from location to location.
9. **Revocation or suspension of business/occupation certificate.** A certificate granted hereunder shall be subject to revocation. Whenever, in the opinion of the Town Manager, there is cause to revoke this certificate, a written notice of intention to revoke the certificate shall be furnished to the holder thereof. A hearing will be scheduled wherein the applicant may present his/her case before the Town Manager. After the hearing, the Town Manager may revoke this certificate if, in his/her discretion, revocation is in the best interest of the health, safety, and welfare of the Town. An appeal from the Town Manager shall be before the Zoning Board of Appeals.
  - A. The regulatory fee certificate of a massage therapist may be revoked upon one or more of the following grounds (but is not limited to such grounds):
    - (1) The applicant is guilty of fraud in the practice of massage, or fraud or deceit in obtaining a regulatory fee certificate to practice massage therapy;
    - (2) The applicant is engaged in the practice of massage therapy under a false or assumed name, or is impersonating another practitioner of a like or different name;
    - (3) The applicant is addicted to the habitual use of intoxicating liquors, narcotics or stimulants to such an extent as to incapacitate such person to the extent that he is unable to perform his or her duties;
    - (4) The applicant is guilty of fraudulent, false, misleading or deceptive advertising or practices;
    - (5) The applicant has been convicted of or has pled guilty or nolo contendere to a felony or to a misdemeanor involving moral turpitude or to any charge of lascivious nature;
    - (6) The original application, or renewal thereof, contains materially false information; or the applicant has deliberately sought to falsify information contained therein;
    - (7) Noncompliance with any section of this article;
    - (8) Any violation of state or local laws or ordinances.
  - B. The regulatory fee certificate of massage establishment may be revoked upon one or more of the following grounds (but is not limited to such grounds):
    - (1) Failure of the applicant to maintain initial qualification for obtaining the license;
    - (2) The applicant is guilty of employing any person who is not a licensed massage therapist and allowing or permitting such person to administer massage in said establishment;
    - (3) The premises in which the massage establishment is located are in violation of any of the federal, state, county, or municipal laws designed for the health, protection and safety of the occupants;
    - (4) The premises are in violation of the building codes;
    - (5) The original application, or renewal thereof, contains materially false information; or the applicant has deliberately sought to falsify information contained therein;
    - (6) The applicant or any of his employees or agents has been convicted or has pled guilty or nolo contendere to a felony or to a misdemeanor involving moral turpitude, or to any charge of a lascivious nature;
    - (7) The applicant or his employees have allowed to occur or have engaged in a violation of any part of this article;

- (8) Failure of the applicant to actively supervise or monitor the conduct of the employees, customers, and others on the premises in order to protect the health, safety, and well-being of the general public and the customers;
- C. Any massage therapist or massage establishment operator who has his or her or its regulatory fee certificate revoked shall be disqualified from reapplying for such a certificate for twelve (12) months immediately following revocation.
- 10. **Responsibility of owner or operator.** It shall be the responsibility of the owner or operator of any service described herein as "massage" to insure that each person employed as a masseuse shall have in his or her possession a valid permit.
- 11. **Record of treatment to be kept.**
  - A. It shall be the duty of any person granted a license under this article to maintain correct and accurate records of the names and addresses of the persons receiving treatment, the type of accurate records of the names and addresses of the persons receiving treatment, the type of treatment administered, and the name of the person administering this treatment. These records shall be subject to inspection any time by the Town of Braselton Code Enforcement Office or Police Department. Records shall be kept for a minimum of three years.
  - B. No massage therapy shall be preformed by any massage practitioner in the home of any client or in any place except for the place of business of a licensee hereunder, unless a written memorandum is first made in a log or record dept at the place of business for the purpose of recording consecutively the date, time of treatment, place of treatment, name and address of person to receive treatment, type of treatment to be received, name of person to render treatment, time the practitioner leaves to render treatment, and the fee charged. The practitioner shall record the time each treatment was completed immediately upon his return to the place of business.
- 12. **Compliance.** It is unlawful and a misdemeanor for any person or firm to engage in, conduct or carry on within the Town, any business as a massage establishment or to act as a massage technician without first obtaining and possessing a valid permit issued pursuant to this chapter, or without complying with all regulations contained in this chapter.
- 13. **Effective Date.** The effective date of this section shall be on the date of adoption. Provided however, any existing massage establishment (as defined supra) in the Town of Braselton on the date of adoption which possesses a duly issued business license shall be exempt from the requirements of this section.

*(Adopted October 16, 2003)*

## CHAPTER 33: NUISANCES

### Section

33-101	Definitions
33-102	Proceedings to Abate Generally
33-103	Summary Abatement
33-104	Unfit Buildings or Structures
33-105	Public Health Hazard or General Nuisance on Private Property



### Section 33-101 Definitions

For the purpose of this chapter, the following words shall have the meanings respectively ascribed below:

1. **Nuisance.** Anything which causes hurt, inconvenience, or damage to another, provided that the hurt, inconvenience or damage complained of shall not be fanciful, or such as would affect only one of fastidious taste, but rather such as would affect an ordinary reasonable man; and the fact that the act done may otherwise be lawful shall not keep it from being a nuisance.
2. **Nuisance per se.** An act, occupation, or structure which is a nuisance at all times and under any circumstances, regardless of location or surroundings.
3. **Nuisance, Private.** A nuisance limited in its injurious effects to one or a few individuals.
4. **Nuisance, Public.** A nuisance which damages all persons who come within the sphere of its operation, though it may vary in its effects on individuals.

### Section 33-102 Proceedings to Abate Generally

Any nuisance existing within the corporate limits of this Town, except for a nuisance hereinafter excepted, shall be abated in the manner set forth in this chapter.

1. **Initiation.** Proceedings to abate a nuisance, whether public or private, shall be initiated by the filing of a complaint with the Court Clerk, which complaint shall state the nature and location of the nuisance and the name and address of the complainant or complainants. In the case of a private nuisance, the complaint shall be filed by the person or persons injured by the nuisance; in the case of a public nuisance, the complaint shall be filed on behalf of the public by a Town official or by a citizen specifically injured by the nuisance.
2. **Notice of Hearing.** Upon the filing of a complaint as herein above provided, the Court Clerk shall issue a notice directed to the owner of the premises upon which the nuisance complained of is located and, if the person maintaining the same be a different person from the owner, then also to the person maintaining the nuisance, calling on such person to show cause, either personally or by attorney, at the time and place directed by the Court Clerk, why such activity alleged to be a nuisance should not be ordered abated and removed by the Judge of the Municipal Court. Such notice shall be served at least ten (10) days and not more than thirty (30) days prior to the date set for the hearing and shall be made either personally or by leaving a copy at the party's most well-known place of abode.

A copy of such notice shall also be mailed to the complainant or complainants.

Nonresidents of the State of Georgia shall be served by posting a copy of such complaint or orders in a conspicuous place on premises affected by the complaint or orders. Where the address of such nonresidents is known, a copy of such complaint or orders shall be mailed to them by registered or certified mail.

3. **Order of Abatement.** If, after hearing all the evidence, the judge of the Municipal Court should decide that the activity complained of is a nuisance, the Judge shall issue an order. The order shall specify within what time it is to be abated by the defendant. If not abated within the specified time, the Judge shall issue a writ directed to the Police Chief or any member of the police force, commanding that the nuisance be abated. A copy of such

order of abatement shall be served on the party or parties maintaining the nuisance. If the Town removed the nuisance the expenses incurred in the removal shall be paid by the owner.

4. **Effect of Non-compliance.** In the event of a refusal to comply with the order of abatement issued by the Judge of the Municipal Court, the person or persons maintaining the nuisance shall be subject to arrest for violation of state law.
5. **Penalty.** Any person who shall erect or continue after notice to abate a nuisance which tends to annoy the community, injure the health of the citizens in general or corrupt the public morals shall be guilty of a misdemeanor.

**Section 33-103 Summary Abatement**

Nothing contained in the foregoing section shall prevent the Mayor and Town Council from summarily and without notice ordering the abatement of or abating any nuisance that is a nuisance per se in the law or where the case is an urgent one and the health and safety of the public or a portion thereof is in imminent danger.

**Section 33-104 Unfit Buildings or Structures**

If there exists in a municipality of this state dwellings or other buildings or structures which are unfit for human habitation or for commercial, industrial, or business occupancy or use and are inimical to the welfare and are dangerous and injurious to the health, safety and welfare of the people of this Town; and that a public necessity exists for the repair, closing, or demolition of such dwellings, buildings, or structures, power is conferred upon such municipality to exercise its police power to repair, close, or demolish the dwellings, buildings, or structures. ( See O.C.G.A. 41-2-7).

NOTE: The municipality must comply with the regulations found in O.C.G.A. 41-2-9 through 41-2-17 relating to unfit buildings or structures.

**Section 33-105 Public Health Hazard or General Nuisance on Private Property**

All provisions of this section shall be applied to private property where an accumulation of weeds, trash, junk, filth and other unsanitary or unsafe conditions shall create a public health hazard or a general nuisance to those persons residing in the vicinity. A finding by any governmental health department, health officer, building inspector or Code Enforcement Officer that such property is a health or safety hazard shall constitute prima-facie evidence that said property is in violation of this section and O.C.G.A. 41-2-8 through 41-2-17.

# CHAPTER 34: FLOOD DAMAGE PREVENTION ORDINANCE

## Section

34-101	General Provisions
34-102	Definitions
34-103	Permit Procedures and Requirements
34-104	Standards for Development
34-105	Provisions for Flood Damage Reduction
34-106	Variance Procedures
34-107	Violations, Enforcement and Penalties



## Section 34-101 General Provisions

1. **Purpose and Intent.** The purpose of this ordinance is to protect, maintain and enhance the public health, safety, environment and general welfare and to minimize public and private losses due to flood conditions in flood hazard areas, as well as to protect the beneficial uses of floodplain areas for water quality protection, streambank and stream corridor protection, wetlands preservation and ecological and environmental protection by provisions designed to:
  - A. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
  - B. Restrict or prohibit uses which are dangerous to health, safety and property due to flooding or erosion hazards, or which increase flood heights, velocities, or erosion;
  - C. Control filling, grading, dredging and other development which may increase flood damage or erosion;
  - D. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands;
  - E. Limit the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters; and,
  - F. Protect the stormwater management, water quality, streambank protection, stream corridor protection, wetland preservation and ecological functions of natural floodplain areas.
2. **Applicability.** This ordinance shall be applicable to all Areas of Special Flood Hazard within the Town of Braselton.
3. **Designation of Ordinance Administrator.** The Town Manager or his/her designee is hereby appointed to administer and implement the provisions of this ordinance.
4. **Basis for Area of Special Flood Hazard - Flood Area Maps and Studies.** For the purposes of this ordinance, the following are adopted by reference:
  - A. The Flood Insurance Study (FIS), dated September 29, 2006 for Gwinnett County, September 29, 2006 for Hall County, October 16, 1991 for Barrow County and November 16, 1991 for Jackson County, or such Flood Insurance Studies and/or Flood Hazard Boundary Maps and/or Flood Insurance Rate Maps that may be provided by FEMA in the future, with accompanying maps and other supporting data and any revision thereto are hereby adopted by reference. For those land areas acquired by a municipality through annexation, the current effective FIS and data for Barrow County dated October 16, 1991, Gwinnett County dated September 29, 2006, Hall County dated September 29, 2006 and Jackson County, dated November 16, 1991, or such Flood Insurance Studies and/or Flood Hazard Boundary Maps and/or Flood Insurance Rate Maps that may be provided by FEMA in the future, with accompanying maps and other supporting data and any revision thereto are hereby adopted by reference.
  - B. Other studies which may be relied upon for the establishment of the base flood elevation or delineation of the 100-year floodplain and flood-prone areas include:
    - (1) Any flood or flood-related study conducted by the United States Army Corps of Engineers, the United States Geological Survey or any other local, State or Federal agency applicable to the Town of Braselton; or

- (2) Any base flood study authored by a registered professional engineer in the State of Georgia which has been prepared by FEMA approved methodology and approved by the Town of Braselton as the local permitting authority.
  - (3) Other studies which may be relied upon for the establishment of the future-conditions flood elevation or delineation of the future-conditions floodplain and flood-prone areas include:
    - (a) Any flood or flood-related study conducted by the United States Army Corps of Engineers, the United States Geological Survey, or any other local, State or Federal agency applicable to the Town of Braselton; or
    - (b) Any future-conditions flood study authored by a registered professional engineer in the State of Georgia, which has been prepared by FEMA approved methodology and approved by the Town of Braselton as the local permitting authority.
  - (4) The repository for public inspection of the FIS, accompanying maps and other supporting data is located at Braselton Town Hall.
5. **Compatibility with Other Regulations.** This ordinance is not intended to modify or repeal any other ordinance, rule, regulation, statute, easement, covenant, deed restriction or other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation or other provision of law, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or impose higher protective standards for human health or the environment shall control.
6. **Severability.** If the provisions of any section, subsection, paragraph, subdivision or clause of this ordinance shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision or clause of this ordinance.
7. **Warning and Disclaimer of Liability.** The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur; flood heights may be increased by manmade or natural causes. This ordinance does not imply that land outside the Areas of Special Flood Hazard or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the Town of Braselton or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made there under.

## Section 34-102 Definitions

1. Addition (to an existing building) means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by an independent perimeter load-bearing wall, shall be considered New Construction.
2. Appeal means a request for a review of the Town Manager or designee interpretation of any provision of this ordinance.
3. Area of Shallow Flooding means a designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet, and/or where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.
4. Area of Special Flood Hazard is the land subject to a one percent or greater chance of flooding in any given year. This includes all floodplain and flood prone areas at or below the base flood elevation (including A, A1-30, A-99, AE, AO, AH, and AR on the FFBM or the FIRM), all floodplain and flood prone areas at or below the future-conditions flood elevation, and all other flood prone areas as referenced in Section 34-101.4. All streams with a drainage area of 100 acres or greater shall have the area of special flood hazard delineated.
5. Base Flood means the flood having a one percent chance of being equaled or exceeded in any given year, also known as the 100-year flood.
6. Base Flood Elevation means the highest water surface elevation anticipated at any given point during the base flood.
7. Basement means that portion of a building having its floor subgrade (below ground level) on all sides.
8. Building means any structure built for support, shelter, or enclosure for any occupancy or storage.
9. Development means any man-made change to improved or unimproved real estate including but not limited to buildings or other structures, mining, dredging, filling, clearing, grubbing, grading, paving, any other installation of impervious cover, excavation or drilling operations or storage of equipment or materials.

10. Elevated Building means a non-basement building built to have the lowest floor of the lowest enclosed area elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.
11. Existing Construction Any structure for which the "start of construction" commenced before August, 12 1991.
12. Existing Manufactured Home Park or Subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and final site grading or the pouring of concrete pads) is completed before August 12, 1991.
13. Expansion to an Existing Manufactured Home Park or Subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed, including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads.
14. FEMA means the Federal Emergency Management Agency.
15. Flood or Flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:
  - A. the overflow of inland or tidal waters; or
  - B. the unusual and rapid accumulation or runoff of surface waters from any source.
16. Flood Hazard Boundary Map or FHBM means an official map of a community, issued by the Federal Insurance Administration, where the boundaries of areas of special flood hazard have been defined as Zone A.
17. Flood Insurance Rate Map or FIRM means an official map of a community, issued by the Federal Insurance Administration, delineating the areas of special flood hazard and/or risk premium zones applicable to the community.
18. Flood Insurance Study or FIS means the official report by the Federal Insurance Administration evaluating flood hazards and containing flood profiles and water surface elevations of the base flood.
19. Floodplain means any land area susceptible to flooding.
20. Floodproofing means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
21. Floodway or Regulatory Floodway means the channel of a stream or other watercourse and the adjacent areas of the floodplain which is necessary to contain and discharge the base flood flow without cumulatively increasing the base flood elevation more than one foot.
22. Functionally Dependent Use means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water.
23. Future Conditions Flood means the flood having a one percent chance of being equaled or exceeded in any given year based on future-conditions hydrology. Also known as the 100-year future-conditions flood.
24. Future-conditions Flood Elevation means the flood standard equal to or higher than the Base Flood Elevation. The Future-conditions Flood Elevation is defined as the highest water surface anticipated at any given point during the future-conditions flood.
25. Future-conditions Floodplain means any land area susceptible to flooding by the future-conditions flood.
26. Future-conditions Hydrology means the flood discharges associated with projected land-use conditions based on a community's zoning map, comprehensive land-use plans, and/or watershed study projections, and without consideration of projected future construction of flood detention structures or projected future hydraulic modifications within a stream or other waterway, such as bridge and culvert construction, fill, and excavation.
27. Highest Adjacent Grade means the highest natural elevation of the ground surface, prior to construction, adjacent to the proposed foundation of a building.
28. Historic Structure means any structure that is;
  - A. Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
  - B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
  - C. Individually listed on a state inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or

- D. Individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:
  - (1) By an approved state program as determined by the Secretary of the Interior, or
  - (2) Directly by the Secretary of the Interior in states without approved programs.
- 29. Lowest Floor means the lowest floor of the lowest enclosed area, including basement. An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage, in an area other than a basement, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of other provisions of this ordinance.
- 30. Manufactured Home means a building, transportable in one or more sections, built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term includes any structure commonly referred to as a "mobile home" regardless of the date of manufacture. The term also includes parked trailers, travel trailers and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.
- 31. Mean Sea Level means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this ordinance the term is synonymous with National Geodetic Vertical Datum (NGVD) and/or the North American Vertical Datum (NAVD) of 1988.
- 32. National Geodetic Vertical Datum (NGVD) as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.
- 33. New Construction means any structure (see definition) for which the "start of construction" commenced after September 11, 2006 and includes any subsequent improvements to the structure.
- 34. New Manufactured Home Park or Subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after September 11, 2006.
- 35. North American Vertical Datum (NAVD) of 1988 is a vertical control used as a reference for establishing varying elevations within the floodplain.
- 36. Owner means the legal or beneficial owner of a site, including but not limited to, a mortgagee or vendee in possession, receiver, executor, trustee, lessee or other person, firm or corporation in control of the site.
- 37. Permit means the permit issued by the (the Town of Braselton as the local permitting authority) to the applicant which is required prior to undertaking any development activity.
- 38. Recreational Vehicle means a vehicle which is:
  - A. built on a single chassis;
  - B. 400 square feet or less when measured at the largest horizontal projection;
  - C. designed to be self-propelled or permanently towable by light duty truck; and,
  - D. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- 39. Repetitive Loss means flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals, or exceeds 25 percent of the market value of the structure before the damage occurred.
- 40. Site means the parcel of land being developed, or the portion thereof on which the development project is located.
- 41. Start of Construction means the date the permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of the structure such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation, and includes the placement of a manufactured home on a foundation. Permanent construction does not include initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of buildings appurtenant to the permitted structure, such as garages or sheds not occupied as dwelling units or part of the main structure. (NOTE: accessory structures are not exempt from any ordinance requirements). For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
- 42. Structure means a walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank.

43. Subdivision means the division of a tract or parcel of land resulting in one or more new lots or building sites for the purpose, whether immediately or in the future, of sale, other transfer of ownership or land development, and includes divisions of land resulting from or made in connection with the layout or development of a new street or roadway or a change in an existing street or roadway.
44. Substantial Damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
45. Substantial improvement means any combination of repairs, reconstruction, alteration, or improvements to a structure, taking place during a 10-year period, in which the cumulative cost equals or exceeds fifty (50) percent of the market value of the structure before the "start of construction" of the improvement. NOTE: The market value of the building should be (1) the appraised value of the structure prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring. This term includes structures, which have incurred "repetitive loss" or "substantial damage", regardless of the actual amount of repair work performed. The term does not, however, include either:
- A. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or
  - B. Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure".
- For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the structure commences, whether or not that alteration affects the external dimensions of the structure.
46. Substantially Improved Existing Manufactured Home Park or Subdivision is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.
47. Variance is a grant of relief from the requirements of this ordinance which permits construction in a manner otherwise prohibited by this ordinance.
48. Violation means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certificates, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

### Section 34-103 Permit Procedures and Requirements

#### 1. Permit Application Requirements

No owner or developer shall perform any development activities on a site where an Area of Special Flood Hazard is located without first meeting the requirements of this ordinance prior to commencing the proposed activity.

Unless specifically excluded by this ordinance, any landowner or developer desiring a permit for a development activity shall submit to the Town of Braselton a permit application on a form provided by the Town of Braselton as the local permitting authority for that purpose.

No permit will be approved for any development activities that do not meet the requirements, restrictions and criteria of this ordinance.

#### 2. Floodplain Management Plan Requirements. An application for a development project with any Area of Special Flood Hazard located on the site will be required to include a floodplain management / flood damage prevention plan. This plan shall include the following items:

- A. Site plan drawn to scale, which includes but is not limited to:
  - (1) Existing and proposed elevations of the area in question and the nature, location and dimensions of existing and/or proposed structures, earthen fill placement, amount and location of excavation material, and storage of materials or equipment;
  - (2) For all proposed structures, spot ground elevations at building corners and 20-foot or smaller intervals along the foundation footprint, or one foot contour elevations throughout the building site;
  - (3) Proposed locations of water supply, sanitary sewer, and utilities;

- (4) Proposed locations of drainage and stormwater management facilities;
  - (5) Proposed grading plan;
  - (6) Base flood elevations and future-conditions flood elevations;
  - (7) Boundaries of the base flood floodplain and future-conditions floodplain;
  - (8) If applicable, the location of the floodway; and
  - (9) Certification of the above by a registered professional engineer or surveyor.
- B.** Building and foundation design detail, including but not limited to:
- (1) Elevation in relation to mean sea level (or highest adjacent grade) of the lowest floor, including basement, of all proposed structures;
  - (2) Elevation in relation to mean sea level to which any non-residential structure will be floodproofed;
  - (3) Certification that any proposed non-residential floodproofed structure meets the criteria in Section 34-105.2.B.(2);
  - (4) For enclosures below the base flood elevation, location and total net area of foundation openings as required in Section 34-105.1.E.
  - (5) Design plans certified by a registered professional engineer or architect for all proposed structure(s).
- C.** Description of the extent to which any watercourse will be altered or relocated as a result of the proposed development;
- D.** Hard copies and digital files of computer models, if any, copies of work maps, comparison of pre-and post development conditions base flood elevations, future-conditions flood elevations, flood protection elevations, Special Flood Hazard Areas and regulatory floodway widths, flood profiles and all other computations and other information similar to that presented in the FIS;
- E.** Copies of all applicable State and Federal permits necessary for proposed development; and
- F.** All appropriate certifications required under this ordinance.

The approved floodplain management / flood damage prevention plan shall contain certification by the applicant that all development activities will be done according to the plan or previously approved revisions. Any and all development permits and/or use and occupancy certificates or permits may be revoked at any time if the construction and development activities are not in strict accordance with approved plans.

**3. Construction Stage Submittal Requirements**

For all new construction and substantial improvements on sites with a floodplain management / flood damage prevention plan, the permit holder shall provide to the Town Manager or designee a certified as-built Elevation Certificate or Floodproofing Certificate for non-residential construction including the lowest floor elevation or flood-proofing level immediately after the lowest floor or flood-proofing is completed. A final Elevation Certificate shall be provided after completion of construction including final grading of the site. Any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When flood-proofing is utilized for non-residential structures, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same.

Any work undertaken prior to approval of these certifications shall be at the permit holder's risk. The Town Manager or designee shall review the above referenced certification data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being allowed to proceed. Failure to submit certification or failure to make the corrections required hereby shall be cause to issue a stop work order for the project.

**4. Duties and Responsibilities of the Administrator.** Duties of the Town Manager or designee shall include, but shall not be limited to:

- A.** Review all development applications and permits to assure that the requirements of this ordinance have been satisfied and to determine whether proposed building sites will be reasonably safe from flooding;
- B.** Require that copies of all necessary permits from governmental agencies from which approval is required by Federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334, be provided and maintained on file;
- C.** When Base Flood Elevation data or floodway data have not been provided, then the Town Manager or designee shall require the applicant to obtain, review and reasonably utilize any base flood elevation and

- floodway data available from a Federal, state or other sources in order to meet the provisions of Sections 4 and 5;
- D. Review and record the actual elevation in relation to mean sea level (or highest adjacent grade) of the lowest floor, including basement, of all new or substantially improved structures;
  - E. Review and record the actual elevation, in relation to mean sea level to which any substantially improved structures have been flood-proofed;
  - F. When flood-proofing is utilized for a non-residential structure, the Town Manager or designee shall obtain certification of design criteria from a registered professional engineer or architect;
  - G. Notify affected adjacent communities and the Georgia Department of Natural Resources prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency (FEMA);
  - H. Where interpretation is needed as to the exact location of boundaries of the Areas of Special Flood Hazard (e.g., where there appears to be a conflict between a mapped boundary and actual field conditions) the Town Manager or designee shall make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this ordinance. Where floodplain elevations have been defined, the floodplain shall be determined based on flood elevations rather than the area graphically delineated on the floodplain maps; and,
  - I. All records pertaining to the provisions of this ordinance shall be maintained in the office of the Town Manager or designee and shall be open for public inspection.

**Section 34-104 Standards for Development**

**1. Definition of Floodplain Boundaries**

- A. Studied "A" zones, as identified in the FIS, shall be used to establish base flood elevations whenever available.
- B. For all streams with a drainage area of 100 acres or greater, the future-conditions flood elevations shall be provided by the Town of Braselton as the local permitting authority. If future-conditions elevation data is not available from the Town of Braselton as the local permitting authority, then it shall be determined by a registered professional engineer using a method approved by FEMA and the Town of Braselton as the local permitting authority.

**2. Definition of Floodway Boundaries**

- A. The width of a floodway shall be determined from the FIS or FEMA approved flood study. For all streams with a drainage area of 100 acres or greater, the regulatory floodway shall be provided by the Town of Braselton as the local permitting authority. If floodway data is not available from the Town of Braselton as the local permitting authority, then it shall be determined by a registered professional engineer using a method approved by FEMA and the Town of Braselton as the local permitting authority.

**3. General Standards.**

- A. No development shall be allowed within the future-conditions floodplain that could result in any of the following:
  - (1) Raising the base flood elevation or future-conditions flood elevation equal to or more than 0.01 foot;
  - (2) Reducing the base flood or future-conditions flood storage capacity;
  - (3) Changing the flow characteristics as to the depth and velocity of the waters of the base flood or future-conditions flood as they pass both the upstream and the downstream boundaries of the development area; or,
  - (4) Creating hazardous or erosion-producing velocities, or resulting in excessive sedimentation.
- B. Any development within the future-conditions floodplain allowed under (1) above shall also meet the following conditions:
  - (1) Compensation for storage capacity shall occur between the average ground water table elevation and the base flood elevation for the base flood, and between the average ground water table elevation and the future-condition flood elevation for the future-conditions flood, and lie either within the boundaries of ownership of the property being developed and shall be within the immediate vicinity of the location of the encroachment. Acceptable means of providing required compensation include lowering of natural ground elevations within the floodplain, or lowering of adjoining land areas to create additional floodplain storage. In no case shall any required compensation be provided via bottom storage or by excavating below the elevation of the top of

the natural (pre-development) stream channel unless such excavation results from the widening or relocation of the stream channel;

- (2) Cut areas shall be stabilized and graded to a slope of no less than 2.0 percent;
- (3) Effective transitions shall be provided such that flow velocities occurring on both upstream and downstream properties are not increased or decreased;
- (4) Verification of no-rise conditions (0.01 foot or less), flood storage volumes, and flow characteristics shall be provided via a step-backwater analysis meeting the requirements of Section 34-104.4;
- (5) Public utilities and facilities, such as water, sanitary sewer, gas, and electrical systems, shall be located and constructed to minimize or eliminate infiltration or contamination from flood waters; and
- (6) Any significant physical changes to the base flood floodplain shall be submitted as a Conditional Letter of Map Revision (CLOMR) or Conditional Letter of Map Amendment (CLOMA), whichever is applicable. The CLOMR submittal shall be subject to approval by the Town of Braselton as the local permitting authority using the Community Consent forms before forwarding the submittal package to FEMA for final approval. The responsibility for forwarding the CLOMR to FEMA and for obtaining the CLOMR approval shall be the responsibility of the applicant. Within six months of the completion of construction, the applicant shall submit as-built surveys for a final Letter of Map Revision (LOMR).

**4. Engineering Study Requirements for Floodplain Encroachments.** An engineering study is required, as appropriate to the proposed development activities on the site, whenever a development proposes to disturb any land within the future-conditions floodplain, except for a residential single-lot development on streams without established base flood elevations and/or floodways for which the provisions of Section 34-105.2.C apply. This study shall be prepared by a currently registered Professional Engineer in the State of Georgia and made a part of the application for a permit. This information shall be submitted to and approved by the Town of Braselton as the local permitting authority prior to the approval of any permit which would authorize the disturbance of land located within the future-conditions floodplain. Such study shall include:

- A. Description of the extent to which any watercourse or floodplain will be altered or relocated as a result of the proposed development;
- B. Step-backwater analysis, using a FEMA-approved methodology approved by the Town of Braselton as the local permitting authority. Cross-sections (which may be supplemented by the applicant) and flow information will be obtained whenever available. Computations will be shown duplicating FIS results and will then be rerun with the proposed modifications to determine the new base flood profiles, and future-conditions flood profiles;
- C. Floodplain storage calculations based on cross-sections (at least one every 100 feet) showing existing and proposed floodplain conditions to show that base flood floodplain and future-conditions floodplain storage capacity would not be diminished by the development;
- D. The study shall include a preliminary plat, grading plan, or site plan, as appropriate, which shall clearly define all future-conditions floodplain encroachments.

**5. Floodway Encroachments.** Located within Areas of Special Flood Hazard are areas designated as floodway. A floodway may be an extremely hazardous area due to velocity floodwaters, debris or erosion potential. In addition, floodways must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights. Therefore the following provisions shall apply:

- A. Encroachments are prohibited, including earthen fill, new construction, substantial improvements or other development within the regulatory floodway, except for activities specifically allowed in (2) below.
- B. Encroachments for bridges, culverts, roadways and utilities within the regulatory floodway may be permitted provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the encroachment shall not result in any increase to the pre-project base flood elevations, floodway elevations, or floodway widths during the base flood discharge. A registered professional engineer must provide supporting technical data and certification thereof; and,
- C. If the applicant proposes to revise the floodway boundaries, no permit authorizing the encroachment into or an alteration of the floodway shall be issued by the Town of Braselton as the local permitting authority until an affirmative Conditional Letter of Map Revision (CLOMR) is issued by FEMA and no-rise certification is approved by the Town of Braselton as the local permitting authority.

**6. Maintenance Requirements.** The property owner shall be responsible for continuing maintenance as may be needed within an altered or relocated portion of a floodplain on his property so that the flood-carrying or flood

storage capacity is not diminished. The Town of Braselton as the local permitting authority may direct the property owner (at no cost to the Town of Braselton) to restore the flood-carrying or flood storage capacity of the floodplain if the owner has not performed maintenance as required by the approved floodplain management plan on file with the Town of Braselton as the local permitting authority.

**Section 34-105 Provisions for Flood Damage Reduction**

1. **General Standards.** In all Areas of Special Flood Hazard the following provisions apply:
  - A. New construction of principal buildings (residential or non-residential), including manufactured homes, shall not be allowed within the limits of the future-conditions floodplain, unless all requirements of Sections 4.3, 4.4 and 4.5 have been met;
  - B. New construction or substantial improvements of existing structures shall be anchored to prevent flotation, collapse or lateral movement of the structure;
  - C. New construction or substantial improvements of existing structures shall be constructed with materials and utility equipment resistant to flood damage;
  - D. New construction or substantial improvements of existing structures shall be constructed by methods and practices that minimize flood damage;
  - E. Elevated Buildings - All new construction and substantial improvements of existing structures that include any fully enclosed area located below the lowest floor formed by foundation and other exterior walls shall be designed so as to be an unfinished and flood resistant enclosure. The enclosure shall be designed to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater.
    - (1) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:
      - (a) Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
      - (b) The bottom of all openings shall be no higher than one foot above grade; and,
      - (c) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwater in both directions.
    - (2) So as not to violate the "Lowest Floor" criteria of this ordinance, the unfinished and flood resistant enclosure shall solely be used for parking of vehicles, limited storage of maintenance equipment used in connection with the premises, or entry to the elevated area; and,
    - (3) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.
  - F. All heating and air conditioning equipment and components (including ductwork), all electrical, ventilation, plumbing, and other service facilities shall be designed and/or located three (3) feet above the base flood elevation or one (1) foot above the future-conditions flood elevation, whichever is higher, so as to prevent water from entering or accumulating within the components during conditions of flooding;
  - G. Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable State requirements for resisting wind forces;
  - H. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
  - I. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;
  - J. On-site waste disposal systems shall be located and constructed to avoid impairment to them, or contamination from them, during flooding; and,
  - K. Any alteration, repair, reconstruction or improvement to a structure which is not compliant with the provisions of this ordinance, shall be undertaken only if the non- conformity is not furthered, extended or replaced.
  - L. If the proposed development is located in multiple flood zones or multiple base flood elevation cross the proposed site, the higher or more restrictive base flood elevation or future condition elevation and development standards shall take precedence.
2. **Building Standards for Structures and Buildings Within the Future-Conditions Floodplain.** The following provisions, in addition to those in Section 34-105.1, shall apply:
  - A. Residential Buildings

- (1) New construction. New construction of principal buildings, including manufactured homes shall not be allowed within the limits of the future-conditions floodplain unless all requirements of Sections 4.3, 4.4 and 4.5 have been met. If all of the requirements of Sections 34.194.3 - 5 have been met, all new construction shall have the lowest floor, including basement, elevated no lower than three (3) feet above the base flood elevation or one (1) foot above the future-conditions flood elevation, whichever is higher. Should solid foundation perimeter walls be used to elevate the structure, openings sufficient to equalize the hydrologic flood forces on exterior walls and to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of Section 34-105.1.E.
  - (2) Substantial Improvements. Substantial improvement of any principal structure or manufactured home shall have the lowest floor, including basement, elevated no lower than three (3) feet above the base flood elevation or one (1) foot above the future-conditions flood elevation, whichever is higher. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to equalize the hydrologic flood forces on exterior walls and to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of Section 34-105.1.E.
- B. Non-Residential Buildings**
- (1) New construction. New construction of principal buildings, including manufactured homes shall not be allowed within the limits of the future-conditions floodplain unless all requirements of Sections 4.3, 4.4 and 4.5 have been met. New construction that has met all of the requirements of Sections 4.3, 4.4 and 4.5 may be flood-proofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be watertight to one (1) foot above the base flood elevation, or at least as high as the future-conditions flood elevation, whichever is higher, with walls substantially impermeable to the passage of water and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered Professional Engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the Town Manager or designee.
  - (2) Substantial Improvements. Substantial improvement of any principal non-residential structure located in A1- 30, AE, or AH zones, may be authorized by the Town Manager or designee to be flood-proofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be water tight to one (1) foot above the base flood elevation, or at least as high as the future-conditions flood elevation, whichever is higher, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered Professional Engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the Town Manager or designee.
  - (3) Accessory Structures and Facilities. Accessory structures and facilities (i.e., barns, sheds, gazebos, detached garages, parking lots, recreational facilities and other similar non-habitable structures and facilities) which are permitted to be located within the limits of the floodplain shall be constructed of flood-resistant materials and designed to pass all floodwater in accordance with Section 34-105.1.E and be anchored to prevent flotation, collapse or lateral movement of the structure.
  - (4) Standards for Recreational Vehicles. All recreational vehicles placed on sites must either:
    - (a) Be on the site for fewer than 180 consecutive days and be fully licensed and ready for highway use, (a recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions); or
    - (b) The recreational vehicle must meet all the requirements for Residential Buildings-Substantial Improvements (34-105.2.A.(2)), including the anchoring and elevation requirements.
  - (5) Standards for Manufactured Homes
    - (a) New manufactured homes shall not be allowed to be placed within the limits of the future-conditions floodplain unless all requirements of sections 34-104.3 - 5 have been met.
    - (b) Manufactured homes placed and/or substantially improved in an existing manufactured home park or subdivision shall be elevated so that either:

- (i) The lowest floor of the manufactured home is elevated no lower than three (3) feet above the level of the base flood elevation, or one (1) foot above the future-conditions flood elevation, whichever is higher; or
    - (ii) The manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least an equivalent strength) of no less than 36 inches in height above grade.
  - (c) All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement in accordance with standards of Section 34-105.1.G.
- C. Building Standards for Structures and Buildings Authorized Adjacent to the Future-Conditions Floodplain**
- (1) Residential Buildings - For new construction or substantial improvement of any principal residential building or manufactured home, the elevation of the lowest floor, including basement and access to the building, shall be at least three (3) feet above the base flood elevation or one (1) foot above the future-conditions flood elevation, whichever is higher.
  - (2) Non-Residential Buildings - For new construction or substantial improvement of any principal non-residential building, the elevation of the lowest floor, including basement and access to the building, shall be at least one (1) foot above the level of the base flood elevation or at least as high as the future-conditions flood elevation, whichever is higher.
- D. Building Standards for Residential Single-Lot Developments on Streams Without Established Base Flood Elevations and/or Floodway (A-Zones)**

For a residential single-lot development not part of a subdivision that has Areas of Special Flood Hazard, where streams exist but no base flood data have been provided (A-Zones), the Town Manager or designee shall review and reasonably utilize any available scientific or historic flood elevation data, base flood elevation and floodway data, or future-conditions flood elevation data available from a Federal, State, local or other source, in order to administer the provisions and standards of this ordinance.

If data are not available from any of these sources, the following provisions shall apply:

- (1) No encroachments, including structures or fill material, shall be located within an area equal to twice the width of the stream or fifty (50) feet from the top of the bank of the stream, whichever is greater.
  - (2) In special flood hazard areas without base flood or future-conditions flood elevation data, new construction and substantial improvements of existing structures shall have the lowest floor of the lowest enclosed area (including basement) elevated no less than three (3) feet above the highest adjacent grade at the building site. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with Section 34-105.1.E.
- E. Building Standards for Areas of Shallow Flooding (AO-Zones)**
- Areas of Special Flood Hazard may include designated "AO" shallow flooding areas. These areas have base flood depths of one (1) to three (3) feet above ground, with no clearly defined channel. In these areas the following provisions apply:
- (1) New and substantial improvements of residential and non-residential structures shall have the lowest floor, including basement, elevated to no lower than one (1) foot above the flood depth number in feet specified on the Flood Insurance Rate Map (FIRM), above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated at least three (3) feet above the highest adjacent grade. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of Section 34-105.1.E.
  - (2) New and substantial improvements of a non-residential structure may be flood-proofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be water tight to the specified FIRM flood level plus one (1) foot above the highest adjacent grade, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice; and,
  - (3) Drainage paths shall be provided to guide floodwater around and away from any proposed structure.

**F. Standards for Subdivisions**

- (1) All subdivision proposals shall identify the special flood hazard area and provide base flood elevation data and future-conditions flood elevation data;
- (2) All residential lots in a subdivision proposal shall have sufficient buildable area outside of the future-conditions floodplain such that encroachments into the future-conditions floodplain for residential structures will not be required;
- (3) All subdivision plans will provide the elevations of proposed structures in accordance with Section 34-103.2.
- (4) All subdivision proposals shall be consistent with the need to minimize flood damage;
- (5) All subdivision proposals shall have public utilities and facilities such as water, sanitary sewer, gas, and electrical systems located and constructed to minimize or eliminate infiltration of flood waters, and discharges from the systems into flood waters; and,
- (6) All subdivision proposals shall include adequate drainage and stormwater management facilities per the requirements of the Town of Braselton to reduce potential exposure to flood hazards.

**Section 34-106 Variance Procedures**

The following variance and appeals procedures shall apply to an applicant who has been denied a permit for a development activity, or to an owner or developer who has not applied for a permit because it is clear that the proposed development activity would be inconsistent with the provisions of this ordinance. A request for a variance may be submitted by an applicant who has been denied a permit by the Town of Braselton as the local permitting authority, or by an owner or developer who has not previously applied for a permit for the reasons stated herein above.

1. Requests for variances from the requirements of this ordinance shall be submitted to the Town of Braselton Zoning Board of Appeals. All such requests shall be heard and decided in accordance with procedures established in writing by the Town of Braselton. At a minimum, such procedures shall include notice to all affected parties and the opportunity to be heard.
2. Any person adversely affected by any decision of any Town official shall have the right to appeal such decision to the Town of Braselton Zoning Board of Appeals as established by the Town of Braselton in accordance with procedures established in writing by the Town of Braselton Zoning Board of Appeals. At a minimum, such procedures shall include notice to all affected parties and the opportunity to be heard.
3. Any person aggrieved by the decision of the Town of Braselton Zoning Board of Appeals may appeal such decision to the Jackson County Superior Court, as provided in Section 5-4-1 of the Official Code of Georgia Annotated.
4. Variances may be issued for the repair or rehabilitation of Historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an Historic structure, and the variance issued shall be the minimum necessary to preserve the historic character and design of the structure.
5. Variances may be issued for development necessary for the conduct of a functionally dependent use, provided the criteria of this Section are met, no reasonable alternative exists, and the development is protected by methods that minimize flood damage during the base flood and create no additional threats to public safety.
6. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
7. In reviewing such requests, Town of Braselton Zoning Board of Appeals shall consider all technical evaluations, relevant factors, and all standards specified in this and other sections of this ordinance.
8. Conditions for Variances:
  - A. A variance shall be issued only when there is:
    - (1) a finding of good and sufficient cause;
    - (2) a determination that failure to grant the variance would result in exceptional hardship; and,
    - (3) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, or the creation of a nuisance.
  - B. The provisions of this ordinance are minimum standards for flood loss reduction; therefore, any deviation from the standards must be weighed carefully. Variances shall only be issued upon determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and, in the instance of a Historic structure, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building.
  - C. Any person to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation of the proposed lowest floor and stating that the cost of flood

insurance will be commensurate with the increased risk to life and property resulting from the reduced lowest floor elevation.

- D. The Town Manager or designee shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.
- 9. Any person requesting a variance shall, from the time of the request until the time the request is acted upon, submit such information and documentation as the Town of Braselton Zoning Board of Appeals shall deem necessary to the consideration of the request.
- 10. Upon consideration of the factors listed above and the purposes of this ordinance, the Town of Braselton Zoning Board of Appeals may attach such conditions to the granting of variances as they deem necessary or appropriate, consistent with the purposes of this ordinance.
- 11. Variances shall not be issued "after the fact."

**Section 34-107      Violations, Enforcement and Penalties**

Any action or inaction which violates the provisions of this ordinance or the requirements of an approved stormwater management plan or permit, may be subject to the enforcement actions outlined in this Section. Any such action or inaction which is continuous with respect to time is deemed to be a public nuisance and may be abated by injunctive or other equitable relief. The imposition of any of the penalties described below shall not prevent such equitable relief.

**1.      Notice of Violation**

If the Town of Braselton as the local permitting authority determines that an applicant or other responsible person has failed to comply with the terms and conditions of a permit, an approved stormwater management plan or the provisions of this ordinance, it shall issue a written notice of violation to such applicant or other responsible person. Where a person is engaged in activity covered by this ordinance without having first secured a permit therefor, the notice of violation shall be served on the owner or the responsible person in charge of the activity being conducted on the site.

The notice of violation shall contain:

- A. The name and address of the owner or the applicant or the responsible person;
  - B. The address or other description of the site upon which the violation is occurring;
  - C. A statement specifying the nature of the violation;
  - D. A description of the remedial measures necessary to bring the action or inaction into compliance with the permit, the stormwater management plan or this ordinance and the date for the completion of such remedial action;
  - E. A statement of the penalty or penalties that may be assessed against the person to whom the notice of violation is directed; and,
  - F. A statement that the determination of violation may be appealed to the Town of Braselton Zoning Board of Appeals by filing a written notice of appeal within thirty (30) days after the notice of violation (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours notice shall be sufficient).
- 2.      Penalties.** In the event the remedial measures described in the notice of violation have not been completed by the date set forth for such completion in the notice of violation, any one or more of the following actions or penalties may be taken or assessed against the person to whom the notice of violation was directed. Before taking any of the following actions or imposing any of the following penalties, the Town of Braselton as the local permitting authority shall first notify the applicant or other responsible person in writing of its intended action, and shall provide a reasonable opportunity, of not less than ten (10) days (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours notice shall be sufficient) to cure such violation. In the event the applicant or other responsible person fails to cure such violation after such notice and cure period, the Town of Braselton as the local permitting authority may take any one or more of the following actions or impose any one or more of the following penalties.
- A. Stop Work Order -The Town of Braselton as the local permitting authority may issue a stop work order which shall be served on the applicant or other responsible person. The stop work order shall remain in effect until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein, provided the stop work order may be withdrawn or modified to enable the applicant or other responsible person to take the necessary remedial measures to cure such violation or violations.

- B.** Withhold Certificate of Occupancy - The Town of Braselton as the local permitting authority may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.
- C.** Suspension, Revocation or Modification of Permit - The Town of Braselton as the local permitting authority may suspend, revoke or modify the permit authorizing the development project. A suspended, revoked or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated (upon such conditions as the Town of Braselton as the local permitting authority may deem necessary) to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.
- D.** Civil Penalties - In the event the applicant or other responsible person fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within ten (10) days, or such greater period as the Town of Braselton as the local permitting authority shall deem appropriate (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours notice shall be sufficient) after the Town of Braselton as the local permitting authority has taken one or more of the actions described above, the Town of Braselton as the local permitting authority may impose a penalty not to exceed \$1,000 (depending on the severity of the violation) for each day the violation remains unremedied after receipt of the notice of violation.
- E.** Criminal Penalties - For intentional and flagrant violations of this ordinance, the Town of Braselton as the local permitting authority may issue a citation to the applicant or other responsible person, requiring such person to appear in the Town of Braselton Municipal court to answer charges for such violation. Upon conviction, such person shall be punished by a fine not to exceed \$1,000 or imprisonment for 60 days or both. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.

*(Adopted September 11, 2006)*

# CHAPTER 35: SOIL EROSION SEDIMENTATION AND POLLUTION CONTROL

## Section

35-101	Definitions
35-102	Exemptions
35-103	Minimum Requirements for Erosion, Sedimentation and Pollution Control Using Best Management Practices
35-104	Application/Permit Process
35-105	Inspection and Enforcement
35-106	Penalties and Incentives
35-107	Education and Certification
35-108	Administrative Appeal Judicial Review
35-109	Effectivity, Validity and Liability



## Section 35-101 Definitions

The following definitions shall apply in the interpretation and enforcement of this chapter, unless otherwise specifically stated:

- 1. Best Management Practices (BMPs).** These include sound conservation and engineering practices to prevent and minimize erosion and resultant sedimentation, which are consistent with, and no less stringent than, those practices contained in the 'Manual for Erosion and Sediment Control in Georgia' published by the Commission as of January 1 of the year in which the land-disturbing activity was permitted.
- 2. Board.** The Board of Natural Resources.
- 3. Buffer.** The area of land immediately adjacent to the banks of state waters in its natural state of vegetation, which facilitates the protection of water quality and aquatic habitat.
- 4. Certified Personnel.** A person who has successfully completed the appropriate certification course approved by the Georgia Soil and Water Conservation Commission.
- 5. Commission.** The Georgia Soil and Water Conservation Commission (GSWCC).
- 6. 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, which is also referred to as CPESC or CPESC, Inc.
- 7. Cut.** A portion of land surface or area from which earth has been removed or will be removed by excavation; the depth below original ground surface to the excavated surface. Also known as excavation.
- 8. Department.** The Georgia Department of Natural Resources (DNR).
- 9. Design Professional.** A professional licensed by the State of Georgia in the field of: engineering, architecture, landscape architecture, forestry, geology, or land surveying; or a person that is a Certified Professional in Erosion and Sediment Control (CPESC) with a current certification by Certified Professional in Erosion and Sediment Control Inc.
- 10. Director.** The Director of the Environmental Protection Division or an authorized representative.
- 11. District.** The Soil and Water Conservation District or Districts serving the Town of Braselton, now or in the future.
- 12. Division.** The Environmental Protection Division (EPD) of the Department of Natural Resources.
- 13. Drainage Structure.** A device composed of a virtually nonerodible material such as concrete, steel, plastic or other such material that conveys water from one place to another by intercepting the flow and carrying it to a release point for storm water management, drainage control, or flood control purposes.
- 14. Erosion.** The process by which land surface is worn away by the action of wind, water, ice or gravity.
- 15. Erosion, Sedimentation and Pollution Control Plan.** A plan required by the Erosion and Sedimentation Act, *O.C.G.A. Chapter 12-7*, that includes, as a minimum protections at least as stringent as the State General Permit, best management practices, and requirements in section 35-103(3).
- 16. Fill.** A portion of land surface to which soil or other solid material has been added; the depth above the original ground surface or an excavation.

17. **Final Stabilization.** All soil disturbing activities at the site have been completed, and that for 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, one hundred percent (100%) of the soil surface is uniformly covered in permanent vegetation with a density of seventy percent (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.
18. **Finished Grade.** The final elevation and contour of the ground after cutting or filling and conforming to the proposed design.
19. **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.
20. **Ground Elevation.** The original elevation of the ground surface prior to cutting or filling.
21. **Land-Disturbing Activity.** Any activity which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands within the state, including, but not limited to, clearing, dredging, grading, excavating, transporting, and filling of land but not including agricultural practices as described in Section 35-102.5.
22. **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.
23. **Local Issuing Authority.** The Town of Braselton as certified pursuant to subsection (a) *O.C.G.A. § 12-7-8*.
24. **Metropolitan River Protection Act (MRPA).** A state law referenced as *O.C.G.A. § 12-5-440 et. seq.* which addresses environmental and developmental matters in certain metropolitan river corridors and their drainage basins.
25. **Natural Ground Surface.** The ground surface in its original state before any grading, excavation or filling.
26. **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 which colloiddally dispersed or suspended particles are present.
27. **NOI.** A Notice of Intent form provided by EPD for coverage under the State General Permit.
28. **NOT.** A Notice of Termination form provided by EPD to terminate coverage under the State General Permit.
29. **Operator.** The party or parties that have:
  - A. Operational control of construction project plans and specifications, including the ability to make modifications to those plans and specifications; or
  - B. Day-to-day operational control of those activities that are necessary to ensure compliance with an erosion, sedimentation and pollution control 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 erosion, sedimentation and pollution control plan or to comply with other permit conditions.
30. **Outfall.** The location where storm water in a discernible, confined and discrete conveyance, leaves a facility or site or, if there is a receiving water on site, becomes a point source discharging into that receiving water.
31. **Permit.** The authorization necessary to conduct a land-disturbing activity under the provisions of this chapter.
32. **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.
33. **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.
34. **Project.** The entire proposed development project regardless of the size of the area of land to be disturbed.
35. **Properly Designed.** Designed in accordance with the design requirements and specifications contained in the "Manual for Erosion and Sediment Control in Georgia" (Manual) published by the Georgia Soil and Water Conservation 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 NOI submittal.
36. **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 roadway consisting of one or more defined lanes, with or without shoulder areas, and carrying water to a release point on the other side.

37. **Sediment.** Solid material, both organic and inorganic, that is in suspension, is being transported, or has been moved from its site of origin by wind, water, ice, or gravity as a product of erosion.
38. **Sedimentation.** The process by which eroded material is transported and deposited by the action of water, wind, ice or gravity.
39. **Soil and Water Conservation District Approved Plan.** An erosion, sedimentation and pollution control plan approved in writing by the Soil and Water Conservation District or Districts serving the Town of Braselton, now or in the future.
40. **Stabilization.** The process of establishing an enduring soil cover of vegetation by the installation of temporary or permanent structures for the purpose of reducing to a minimum the erosion process and the resultant transport of sediment by wind, water, ice or gravity.
41. **State General Permit.** The National Pollution Discharge Elimination System (NPDES) general permit or permits for storm water 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. Section 1251, et seq., and subsection (f) of Code Section 12-5-30.
42. **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 Georgia which are not entirely confined and retained completely upon the property of a single individual, partnership, or corporation.
43. **Structural Erosion, Sedimentation and Pollution 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 riprap, sediment basins, dikes, level spreaders, waterways or outlets, diversions, grade stabilization structures and sediment traps, etc. Such practices can be found in the publication Manual for Erosion and Sediment Control in Georgia.
44. **Trout Streams.** All streams or portions of streams within the watershed as designated by the Wildlife Resources Division of the Georgia Department of Natural Resources under the provisions of the Georgia Water Quality Control Act, O.C.G.A. § 12-5-20, in the rules and regulations for Water Quality Control, Chapter 391-3-6 at [www.gaepd.org](http://www.gaepd.org). Streams designated as primary trout waters are defined as water supporting a self-sustaining population of rainbow, brown or brook trout. Streams designated as secondary trout waters are those in which there is no evidence of natural trout reproduction, but are capable of supporting trout throughout the year. First order trout waters are streams into which no other streams flow except springs.
45. **Vegetative Erosion and Sedimentation Control Measures.** Measures for the stabilization of erodible or sediment-producing areas by covering the soil with:
  - A. Permanent seeding, sprigging or planting, producing long-term vegetative cover, or
  - B. Temporary seeding, producing short-term vegetative cover; or
  - C. Sodding, covering areas with a turf of perennial sod-forming grass.Such measures can be found in the publication Manual for Erosion and Sediment Control in Georgia.
46. **Watercourse.** Any natural or artificial watercourse, stream, river, creek, channel, ditch, canal, conduit, culvert, drain, waterway, gully, ravine, or wash in which water flows either continuously or intermittently and which has a definite channel, bed and banks, and including any area adjacent thereto subject to inundation by reason of overflow or floodwater.
47. **Wetlands.** Those 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.

## **Section 35-102 Exemptions**

This chapter shall apply to any land-disturbing activity undertaken by any person on any land except for the following:

1. Surface mining, as the same is defined in O.C.G.A. § 12-4-72, "The Georgia Surface Mining Act of 1968".
2. Granite quarrying and land clearing for such quarrying;
3. Such minor land-disturbing activities as home gardens and individual home landscaping, repairs, maintenance work, fences, and other related activities which result in minor soil erosion;

4. The construction of single-family residences, when such construction disturbs less than one (1) 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 (1) acre and not otherwise exempted under this paragraph; provided, however, that construction of any such residence shall conform to the minimum requirements as set forth in *O.C.G.A. § 12-7-6* and this paragraph. For single-family residence construction covered by the provisions of this paragraph, there shall be a buffer zone between the residence and any state waters classified as trout streams pursuant to Article 2 of Chapter 5 of the Georgia Water Quality Control Act. In any such buffer zone, no land-disturbing activity shall be constructed between the residence and the point where vegetation has been wrested by normal stream flow or wave action from the banks of the trout waters. For primary trout waters, the buffer zone shall be at least 50 horizontal feet, and no variance to a smaller buffer shall be granted. For secondary trout waters, the buffer zone shall be at least fifty (50) horizontal feet, but the Director may grant variances to no less than twenty-five (25) feet. Regardless of whether a trout stream is primary or secondary, for first order trout waters, which are streams into which no other streams flow except for springs, the buffer shall be at least twenty-five (25) horizontal feet, and no variance to a smaller buffer shall be granted. The minimum requirements of subsection (b) of *O.C.G.A. § 12-7-6* and the buffer zones provided by this paragraph shall be enforced by the Local Issuing Authority;
5. Agricultural operations as defined in *O.C.G.A. § 1-3-3*, "definitions", to include raising, harvesting or storing of products of the field or orchard; feeding, breeding or managing livestock or poultry; producing or storing feed for use in the production of livestock, including but not limited to cattle, calves, swine, hogs, goats, sheep, and rabbits or for use in the production of poultry, including but not limited to chickens, hens and turkeys; producing plants, trees, fowl, or animals; the production of aqua culture, horticultural, dairy, livestock, poultry, eggs and apiarian products; farm buildings and farm ponds;
6. Forestry land management practices, including harvesting; provided, however, that when such exempt forestry practices cause or result in land-disturbing or other activities otherwise prohibited in a buffer, as established in section 35-103.3.N and P, no other land-disturbing activities, except for normal forest management practices, shall be allowed on the entire property upon which the forestry practices were conducted for a period of three (3) years after completion of such forestry practices;
7. Any project carried out under the technical supervision of the Natural Resources Conservation Service (NRCS) of the United States Department of Agriculture;
8. Any project involving less than one (1) acre of disturbed area; provided, however, that 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 (1) acre or within two hundred (200) feet of the bank of any state waters, and for purposes of this paragraph, "State Waters" excludes channels and drainage ways which have water in them only during and immediately after rainfall events and intermittent streams which do not have water in them year-round; provided, however, that any person responsible for a project which involves less than one (1) acre, which involves land-disturbing activity, and which is within two hundred (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 which is not specifically exempted by sections 35-102.1. - 10;
9. Construction or maintenance projects, or both, undertaken or financed in whole or in part, or both, by the Department of Transportation, the Georgia Highway Authority, or the State Road and Tollway Authority; or any road construction or maintenance project, or both, undertaken by any county or municipality; provided, however, that construction or maintenance projects of the Department of Transportation or the State Road and Tollway Authority which disturb 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 an 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 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, and violations shall be subject to the same penalties as violations by permit holders; and

11. Any public water system reservoir.

### **Section 35-103 Minimum Requirements for Erosion, Sedimentation and Pollution Control Using Best Management Practices**

1. **General Provisions.** Excessive soil erosion and resulting sedimentation can take place during land-disturbing activities if requirements of the chapter and the NPDES General Permit are not met. Therefore, plans for those land-disturbing activities which are not exempted by this chapter shall contain provisions for application of soil erosion, sedimentation and pollution control measures and practices. The 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 35-103.2. and 3. The application of measures and practices shall apply to all features of the site, including street and utility installations, drainage facilities and other temporary and permanent improvements. Measures shall be installed to prevent or control erosion, sedimentation and pollution during all stages of any land-disturbing activity in accordance with requirements of this ordinance and the NPDES General Permit.
2. **Minimum Requirements/Bmps.**
  - A. Best management practices as set forth in Section 35-103.2 & 3. shall be required for all land-disturbing activities. Proper design, installation, and maintenance of best management practices shall constitute a complete defense to any action by the Director or to any other allegation of noncompliance with paragraph B of this subsection or any substantially similar terms contained in a permit for the discharge of storm water issued pursuant to subsection (f) of *O.C.G.A. §12-5-30*, 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 for Erosion and Sediment Control in Georgia" specified in *O.C.G.A. §12-7-6* subsection (b).
  - B. A discharge of storm water runoff from disturbed areas where best management practices have not been properly designed, installed, and maintained shall constitute a separate violation of any land-disturbing permit issued by a local Issuing Authority or of any state general permit issued by the Division pursuant to subsection (f) of *O.C.G.A. §12-5-30*, 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 twenty-five (25) nephelometric turbidity units for waters supporting warm water fisheries or by more than ten (10) nephelometric turbidity units for waters classified as trout waters. The turbidity of the receiving waters shall be measured in accordance with guidelines to be issued by the Director. This paragraph shall not apply to any land disturbance associated with the construction of single family homes which are 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 best management practices 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 subsection (f) of Code Section 12-5-30, 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.
  - E. The LIA may set more stringent buffer requirements than stated in 3. O. and P., in light of *O.C.G.A. §12-7-6* (c).
3. The rules and regulations, ordinances, or resolutions adopted pursuant to *O.C.G.A. §12-7-1* et. seq. for the purpose of governing land-disturbing activities shall require, as a minimum, protections at least as stringent as the state general permit; and best management practices, including sound conservation and engineering practices to prevent and minimize erosion and resultant sedimentation, which are consistent with, and no less stringent than, those practices contained in the Manual for Erosion and Sediment Control in Georgia published by the Georgia Soil and Water Conservation Commission as of January 1 of the year in which the land-disturbing activity was permitted, as well as the following:

- A. Stripping of vegetation, regrading and other development activities shall be conducted in a manner so as to minimize erosion;
- B. Cut-fill operations must be kept to a minimum;
- C. Development plans must conform to topography and soil type so as to create the lowest practicable erosion potential;
- D. Whenever feasible, natural vegetation shall be retained, protected and supplemented;
- E. The disturbed area and the duration of exposure to erosive elements shall be kept to a practicable minimum;
- F. Disturbed soil shall be stabilized as quickly as practicable;
- G. Temporary vegetation or mulching shall be employed to protect exposed critical areas during development;
- H. Permanent vegetation and structural erosion control practices shall be installed as soon as practicable;
- I. 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.*;
- J. Adequate provisions must be provided to minimize damage from surface water to the cut face of excavations or the sloping of fills;
- K. Cuts and fills may not endanger adjoining property;
- L. Fills may not encroach upon natural watercourses or constructed channels in a manner so as to adversely affect other property owners;
- M. 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;
- N. Land-disturbing activity plans for erosion, sedimentation and pollution control shall include provisions for treatment or control of any source of sediments and adequate sedimentation control facilities to retain sediments on-site or preclude sedimentation of adjacent waters beyond the levels specified in Section 35-103.2.B;
- O. Except as provided in paragraph P of this subsection, there is established a twenty-five (25) foot buffer along the banks of all state waters, as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, except where the Director determines to allow a variance that is at least as protective of natural resources and the environment, where otherwise allowed by the Director pursuant to *O.C.G.A. §12-2-8*, 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 along any ephemeral stream. As used in this provision, 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 ground-water table year round; for which ground water is not a source of water; and for which runoff from precipitation is the primary source of water flow, Unless exempted as along an ephemeral stream, the buffers of at least twenty-five (25) feet established pursuant to part 6 of Article 5, Chapter 5 of Title 12, 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:
  - (1) 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; and
  - (2) 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 twenty-five (25) degrees of perpendicular to the stream; cause a width of disturbance of not more than fifty (50) feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented: (i) Stream crossings for water lines; or (ii) Stream crossings for sewer lines; and

- P. There is established a fifty (50) foot buffer as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, along the banks of any state waters classified as "trout streams" pursuant to Article 2 of Chapter 5 of Title 12, the "Georgia Water Quality Control Act", except where a roadway drainage structure must be constructed ; provided, however, that small springs and streams classified as trout streams which discharge an average annual flow of twenty-five (25) gallons per minute or less shall have a twenty-five (25) foot buffer or they may be piped, at the discretion of the landowner, pursuant to the terms of a rule providing for a general variance promulgated by the Board, so long as any such pipe stops short of the downstream landowner's property and the landowner complies with the buffer requirement for any adjacent trout streams. The Director may grant a variance from such buffer to allow land-disturbing activity, provided that adequate erosion control measures are incorporated in the project plans and specifications and are implemented. The following requirements shall apply to such buffer:
- (1) 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; and
  - (2) 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 twenty-five (25) degrees of perpendicular to the stream; cause a width of disturbance of not more than fifty (50) feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented: (i) Stream crossings for water lines; or (ii) Stream crossings for sewer lines.
4. Nothing contained in *O.C.G.A. §12-7-1 et. seq.* shall prevent any Local Issuing Authority from adopting rules and regulations, ordinances, or resolutions which contain stream buffer requirements that exceed the minimum requirements in 35-103.2 & 3.
  5. 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 chapter or the terms of the permit.

#### **Section 35-104 Application/permit Process**

1. **General.** The property owner, developer and designated planners and engineers shall design and review before submittal the general development plans. The Local Issuing Authority shall review the tract to be developed and the area surrounding it. They shall consult the Town of Braselton Development Code, storm water management ordinance, flood damage prevention ordinance, this chapter, and any other ordinances, rules, regulations or permits, which regulate the development of land within the jurisdictional boundaries of the Local Issuing Authority. However, the owner and/or operator are the only parties who may obtain a permit.
2. **Application Requirements.**
  - A. No person shall conduct any land-disturbing activity within the jurisdictional boundaries of the Town of Braselton without first obtaining a permit from the Town to perform such activity and providing a copy of Notice of Intent submitted to EPD if applicable.
  - B. The application for a permit shall be submitted to the Town's Planning and Development Director or designee, 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 in Section 35-104. Erosion, sedimentation and pollution control plans, together with supporting data, must demonstrate affirmatively that the land disturbing activity proposed will be carried out in such a manner that the provisions of Section 35-103.2 & 3 will be met. Applications for a permit will not be accepted unless accompanied by four (4) copies of the applicant's erosion, sedimentation and pollution control plans. All applications shall contain a certification stating that the plan preparer or the designee thereof visited the site prior to creation of the plan in accordance with EPD Rule 391-3-7-.10.

- C. In addition to the local permitting fees, fees will also be assessed pursuant to paragraph (5) subsection (a) of *O.C.G.A. §12-5-23*, provided that such fees shall not exceed eighty dollars (\$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 land disturbance permit. In a jurisdiction that is certified pursuant to subsection (a) of *O.C.G.A. 12-7-8* half of such fees levied shall be submitted to the Division; except that any and all fees due from an entity which is required to give notice pursuant to paragraph (9) or (10) of *O.C.G.A. §12-7-17* shall be submitted in full to the Division, regardless of the existence of a Local Issuing Authority in the jurisdiction.
- D. Immediately upon receipt of an application and plan for a permit, the Local Issuing Authority shall refer the application and plan to the District for its review and approval or disapproval concerning the adequacy of the erosion, sedimentation and pollution control plan. The District shall approve or disapprove a plan within thirty-five (35) days of receipt. Failure of the District to act within thirty-five (35) days shall be considered an approval of the pending plan. The results of the District review shall be forwarded to the Local Issuing Authority. No permit will be issued unless the plan has been approved by the District, and any variances required by Section 35-103.3.O & P has been obtained, all fees have been paid, and bonding, if required as per Section 35-104.2.F, have been obtained. Such review will not be required if the Local Issuing Authority and the District have entered into an agreement which allows the Local Issuing Authority to conduct such review and approval of the plan without referring the application and plan to the District. The Local Issuing Authority with plan review authority shall approve or disapprove a revised Plan submittal within thirty-five (35) days of receipt. Failure of the Local Issuing Authority with plan review authority to act within thirty-five (35) days shall be considered an approval of the revised Plan submittal.
- E. If a permit applicant has had two or more violations of previous permits, this chapter section, or the Erosion and Sedimentation Act, as amended, within three years prior to the date of filing the application under consideration, the Local Issuing Authority may deny the permit application.
- F. The Local Issuing Authority may require the permit applicant to post a bond in the form of government security, cash, irrevocable letter of credit, or any combination thereof up to, but not exceeding, three thousand dollars (\$3,000.00) per acre or fraction thereof of the proposed land-disturbing activity, prior to issuing the permit. If the applicant does not comply with this section or with the conditions of the permit after issuance, the Local Issuing Authority may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance. These provisions shall not apply unless there is in effect an ordinance or statute specifically providing for hearing and judicial review of any determination or order of the Local Issuing Authority with respect to alleged permit violations.

**3. Plan Requirements.**

- A. Plans must be prepared to meet the minimum requirements as contained in Section 35-103.2 and 3, or through the use of more stringent, alternate design criteria which conform to sound conservation and engineering practices. The Manual for Erosion and Sediment Control in Georgia is hereby incorporated by reference into this chapter. 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 storm water 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*.
- B. Data Required for Site 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.

**4. Permits.**

- A. Permits shall be issued or denied as soon as practicable but in any event not later than forty-five (45) days after receipt by the Local Issuing Authority of a completed application, providing variances and bonding are obtained, where necessary and all applicable fees have been paid prior to permit issuance. The permit shall include conditions under which the activity may be undertaken.

- B. No permit shall be issued by the Local Issuing Authority unless the erosion, sedimentation and pollution control plan has been approved by the District and the Local Issuing Authority has affirmatively determined that the plan is in compliance with this chapter, any variances required by Section 35-103.3.O & P are obtained, bonding requirements, if necessary, as per Section 35-104.2.F are met and all ordinances and rules and regulations in effect within the jurisdictional boundaries of the Local Issuing Authority are met. If the permit is denied, the reason for denial shall be furnished to the applicant.
- C. Any land-disturbing activities by a local issuing authority shall be subject to the same requirements of this chapter, and any other ordinances relating to land development, as are applied to private persons and the division shall enforce such requirements upon the local issuing authority.
- D. If the tract is to be developed in phases, then a separate permit shall be required for each phase.
- E. The permit may be suspended, revoked, or modified by the Local Issuing Authority, as to all or any portion of the land affected by the plan, upon finding that the holder or his successor in the title is not in compliance with the approved erosion and sedimentation control plan or that the holder or his successor in title is in violation of this chapter. A holder of a permit shall notify any successor in title to him as to all or any portion of the land affected by the approved plan of the conditions contained in the permit.
- F. The LIA may reject a permit application if the applicant has had two or more violations of previous permits or the Erosion and Sedimentation Act permit requirements within three years prior to the date of the application, in light of *O.C.G.A. §12-7-7 (f) (1)*.

### **Section 35-105 Inspection and Enforcement**

1. The Planning and Development Director will periodically inspect the sites of land-disturbing activities for which permits have been issued to determine if the activities are being conducted in accordance with the plan and if the measures required in the plan are effective in controlling erosion and sedimentation. Also, the Local Issuing Authority 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 best management practices where the primary permittee is conducting land-disturbing activities. Secondary permittees shall be responsible for installation and maintenance of best management practices 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, with permit conditions, or with the provisions of this chapter, a written notice to comply shall be served upon that person. The notice shall set forth the measures necessary to achieve compliance and shall state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, he shall be deemed in violation of this chapter.
2. The Local Issuing Authority must amend its ordinances to the extent appropriate within twelve (12) months of any amendments to the Erosion and Sedimentation Act of 1975.
3. The Planning and Development Director shall have the power to conduct such investigations as it may reasonably deem necessary to carry out duties as prescribed in this chapter, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigation and inspecting the sites of land-disturbing activities.
4. 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 purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out his official duties.
5. The District or the Commission or both shall semi-annually review the actions of counties and municipalities which have been certified as Local Issuing Authorities pursuant to *O.C.G.A. §12-7-8 (a)*. The District or the Commission or both may provide technical assistance to any county or municipality for the purpose of improving the effectiveness of the county's or municipality's erosion, sedimentation and pollution control program. The District or the Commission shall notify the Division and request investigation by the Division if any deficient or ineffective local program is found.
6. The Division may periodically review the actions of counties and municipalities which have been certified as Local Issuing Authorities pursuant to Code Section 12-7-8 (a). Such review may include, but shall not be limited to, review of the administration and enforcement of a governing authority's ordinance and review of conformance with an agreement, if any, between the district and the governing authority. If such review indicates that the governing authority of any county or municipality certified pursuant to *O.C.G.A. § 12-7-8 (a)* has not administered

or enforced its ordinances or has not conducted the program in accordance with any agreement entered into pursuant to *O.C.G.A. §12-7-7* (e), the Division shall notify the governing authority of the county or municipality in writing. The governing authority of any county or municipality so notified shall have 90 days within which to take the necessary corrective action to retain certification as a Local Issuing Authority. If the county or municipality does not take necessary corrective action within ninety (90) days after notification by the division, the division shall revoke the certification of the county or municipality as a Local Issuing Authority.

**Section 35-106 Penalties and Incentives**

- 1. Failure to Obtain a Permit for Land-disturbing Activity.** If any person commences any land-disturbing activity requiring a land-disturbing permit as prescribed in this chapter without first obtaining said permit, the person shall be subject to revocation of his business license, work permit or other authorization for the conduct of a business and associated work activities within the jurisdictional boundaries of the Local Issuing Authority.
- 2. Stop-work Orders.**
  - A.** For the first and second violations of the provisions of this chapter, the Director or the Local Issuing Authority shall issue a written warning to the violator. The violator shall have five days to correct the violation. If the violation is not corrected within five days, the Director or the Local Issuing Authority shall issue a stop-work order requiring that land-disturbing activities be stopped until necessary corrective action or mitigation has occurred; provided, however, that, if the violation presents an imminent threat to public health or waters of the state or if the land-disturbing activities are conducted without obtaining the necessary permit, the Director or the Local Issuing Authority shall issue an immediate stop-work order in lieu of a warning;
  - B.** For a third and each subsequent violation, the Director or the Local Issuing Authority shall issue an immediate stop-work order; and;
  - 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.
  - D.** 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 best management practices 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. 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. Such stop work orders shall apply to all land-disturbing activity on the site with the exception of the installation and maintenance of temporary or permanent erosion and sediment controls.
- 3. Bond Forfeiture.** If, through inspection, it is determined that a person engaged in land-disturbing activities has failed to comply with the approved plan, a written notice to comply shall be served upon that person. The notice shall set forth the measures necessary to achieve compliance with the plan and shall state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, he shall be deemed in violation of this chapter and, in addition to other penalties, shall be deemed to have forfeited his performance bond, if required to post one under the provisions of Section 35-104.2.F. The Local Issuing Authority may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance.
- 4. Monetary Penalties.**
  - A.** Any person who violates any provisions of this chapter, or any permit condition or limitation established pursuant to this chapter, or who negligently or intentionally fails or refuses to comply with any final or emergency order of the Director issued as provided in this chapter shall be liable for a civil penalty not to exceed two thousand five hundred dollars (\$2,500.00) per day. For the purpose of enforcing the provisions of this chapter, notwithstanding any provisions in any Town charter to the contrary, municipal courts shall be authorized to impose penalty not to exceed two thousand five hundred dollars (\$2,500.00) for each violation. Notwithstanding any limitation of law as to penalties which can be assessed for violations of county ordinances, any magistrate court or any other court of competent jurisdiction trying cases brought as violations of this chapter under county ordinances approved under this chapter shall be authorized to impose penalties for such violations not to exceed two thousand five hundred dollars (\$2,500.00) for each violation. Each day during which violation or failure or refusal to comply continues shall be a separate violation.

**Section 35-107 Education and Certification**

1. 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*.
2. For each site on which 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 in responsible charge of erosion and sedimentation 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. A project site shall herein be defined as any land-disturbance site 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.
3. 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 chapter.
4. If a state general permittee who has operational control of land-disturbing activities for a site has met the certification requirements of paragraph (1) of subsection (b) of *O.C.G.A. §12-7-19*, then any person or entity involved in land-disturbing activity at that site and operating in a subcontractor capacity for such permittee shall meet those educational requirements specified in paragraph (4) of subsection (b) of *O.C.G.A. §12-7-19* and shall not be required to meet any educational requirements that exceed those specified in said paragraph.

**Section 35-108 Administrative Appeal Judicial Review**

1. **Administrative Remedies.** The suspension, revocation, modification or grant with condition of a permit by the Local Issuing Authority upon finding that the holder is not in compliance with the approved erosion, sediment and pollution control plan; or that the holder is in violation of permit conditions; or that the holder is in violation of any chapter; shall entitle the person submitting the plan or holding the permit to a hearing before the Town Attorney within thirty (30) days after receipt by the Local Issuing Authority of written notice of appeal.
2. **Judicial Review.** Any person, aggrieved by a decision or order of the Local Issuing Authority, after exhausting his administrative remedies, shall have the right to appeal denovo to the Superior Court of Jackson County.

**Section 35-109 Effectivity, Validity and Liability**

1. **Liability.**
  - A. Neither the approval of a plan under the provisions of this ordinance, nor the compliance with provisions of this chapter shall relieve any person from the responsibility for damage to any person or property otherwise imposed by law nor impose any liability upon the Local Issuing Authority or District for damage to any person or property.
  - B. The fact that a land-disturbing activity for which a permit has been issued results in injury to the property of another shall neither constitute proof of nor create a presumption of a violation of the standards provided for in this chapter or the terms of the permit.
  - C. No provision of this chapter shall permit any persons to violate the Georgia Erosion and Sedimentation Act of 1975, the Georgia Water Quality Control Act or the rules and regulations promulgated and approved thereunder or pollute any Waters of the State as defined thereby.

## CHAPTER 36: CONSTRUCTION CODES

### Section

36-101	State Minimum Standard Codes
36-102	Additional Building Codes
36-103	Enforcement of Codes
36-104	Permit Fees
36-105	Inspectors, Inspections, and Violations
36-106	Code Compliance Inspections



### Section 36-101 State Minimum Standard Codes

1. The following codes, as adopted and may be amended by the Georgia Department of Community Affairs, are incorporated by reference as if fully set out herein:
  - A. Standard Building Code (International Building Code (IBC) - 2006 Edition with Georgia amendments 2007, 2009, and 2010);
  - B. Standard One- and Two-Family Code (International Residential Code for One- and Two-Family Dwellings (ICC) - 2006 Edition with Georgia amendments 2011) with the following amendments:
    - (1) R502.2.1 Decks shall be constructed in accordance with Chapter 3 of the 1996 Forest Products Society, "Wood Decks, Materials, Construction, and Finishing" manual. (*Amended October 14, 2002*)
    - (2) R502.2.1. Guardrails shall comply with the live load requirements in Section R301.4. Guardrails shall be constructed as per Figures 44 and 435 of the 1996 Forest Products Society, "Wood Decks, Materials, Construction, and Finishing" manual and meet the design criteria as described in Section R316. (*Amended October 14, 2002*)
  - C. Standard Electric Code (National Electrical Code - 2008 Edition with Georgia amendment 2009);
  - D. Standard Mechanical Code (International Mechanical Code (IMC) - 2006 Edition with Georgia amendments 2011);
  - E. Standard Gas Code (International Fuel Gas Code (IFGC) - 2006 Edition with Georgia amendments 2007, 2008, 2009, and 2010);
  - F. Standard Plumbing Code (International Plumbing Code (IPC) - 2006 Edition with Georgia amendments 2011);
  - G. Standard Energy Code (International Energy Conservation Code - 2009 Edition with Georgia supplements and amendments 2011);
  - H. Standard Fire Code (International Fire Code (ICC) - 2006 Edition with Georgia amendments 2007 and 2011.

*(Adopted September 9, 2002.)*

### Section 36-102 Additional Building Codes

1. The following codes, as adopted and may be amended by the Georgia Department of Community Affairs, are incorporated by reference as if fully set out herein:
  - A. Standard Housing Code, excluding Chapter 1 Administration;
  - B. Standard Amusement Device Code
  - C. Standard Excavation and Grading Code
  - D. Standard Existing Building Code
  - E. Standard Swimming Pool Code, excluding Chapter 1 Administration
  - F. Standard Unsafe Building Abatement Code

*(Adopted September 9, 2002)*

**Section 36-103 Enforcement of Codes**

1. Construction codes shall be enforced by means of the Town’s building permit. Prior to the erection of a new building or the alteration of an existing building in connection with its repair or renovation (if greater than \$5,000.00 in value for such repairs and renovation), or in connection with making an addition to an existing building, the owner or contractor responsible for such construction shall make application to the Town’s building inspector for a building permit. An application for a building permit is not complete until the applicable fees have been paid and all information requested by the Building Inspector has been provided to enable that inspector to fully evaluate such construction for compliance with the sections 36-101 and 36-102. Further, in the case fo a building to be built in a Planned Unit Development (PUD), the Town’s Building Inspector shall require that the applicant for a building permit certify, on such forms as the Building Inspector may require, that the building is to be constructed in accordance with all covenants and restrictions of record for such PUD. Upon a full and final review of all necessary information, the Building Inspector shall issue the applicable building permit. Any appeals of the action or inaction of the Building Inspector shall be as provided under the Town of Braselton Development Code. *(Adopted December 11, 2000)*

**Section 36-104 Permit Fees**

The Mayor and Council shall, from time to time, publish a schedule of Building Permit Fees which are incorporated by reference as if fully set out herein.

**Section 36-105 Inspectors, Inspections, and Violations**

1. As used in this Code section, the term:
  - A. Qualified Inspector means:
    - (1) A person inspecting for compliance with the International Building Code or the building portion of the International Residential Code for One- and Two-Family Dwellings who holds a certification from the ICC as a building inspector;
    - (2) A person inspecting for the compliance of residential buildings with the National Electrical Code or the electrical portion of the International Residential Code for One- and Two-Family Dwellings who holds a certification from the ICC as a residential electrical inspector or an electrical contractor license from the State Construction Industry Licensing Board;
    - (3) A person inspecting for the compliance of nonresidential buildings with the National Electrical Code who holds a certification from the ICC as a commercial electrical inspector or an electrical contractor license from the State Construction Industry Licensing Board;
    - (4) A person inspecting for compliance with the International Fuel Gas Code who holds a certification from the ICC as a mechanical inspector or plumbing inspector or a conditioned air contractor, journeyman plumber, or master plumber license from the State Construction Industry Licensing Board;
    - (5) A person inspecting for compliance with the International Mechanical Code or the mechanical portion of the International Residential Code for One- and Two-Family Dwellings who holds a certification from the ICC as a mechanical inspector or a conditioned air contractor license from the State Construction Industry Licensing Board;
    - (6) A person inspecting for compliance with the International Plumbing Code or the plumbing portion of the International Residential Code for One- and Two-Family Dwellings who holds a certification from the ICC as a plumbing inspector or a journeyman plumber or master plumber license from the State Construction Industry Licensing Board;
    - (7) A person inspecting for compliance with any portion of the International Residential Code for One- and Two-Family Dwellings who holds a certification from the ICC as a one and two-family dwelling inspector;
    - (8) A person inspecting for compliance with the International Energy Conservation Code for Buildings who has completed eight hours of training that is conducted or approved by the department; or
    - (9) A person inspecting for compliance with any of the codes listed in section 36-101.1.A(1) - (8) who holds a certificate of registration as a professional engineer issued under Chapter 15 of Title 43 and is practicing within the scope of his or her branch of engineering expertise while conducting such inspection.

- (10) State Construction Industry Licensing Board means that board created pursuant to *O.C.G.A. § 43-14-3*.
2. The governing authority of any municipality which has adopted provisions for the enforcement of the state minimum standard codes shall post a notice stating whether the personnel employed by that governing authority to conduct inspections for compliance with such codes are qualified inspectors. Such notice shall separately address each minimum standard code enumerated in subdivisions (9)(B)(i)(I) through (9)(B)(i)(VII) of *O.C.G.A. § 8-2-20* and the building, electrical, mechanical, and plumbing portions of the CABO One- and Two-Family Dwelling Code, and state whether all personnel assigned to conduct inspections for the particular code or portion of the code are qualified inspectors for that code or portion of the code.
  3. If such notice states that not all personnel assigned to conduct inspections for a particular state minimum standard code or portion of such code are qualified inspectors for that code or portion of the code, then the governing authority may retain qualified inspectors not employed by the governing authority to conduct inspections. If the Mayor and Council does not so retain qualified inspectors, then any person, firm, or corporation engaged in a construction project which requires inspection shall have the option of retaining, at its own expense, a person who is a qualified inspector for that code or portion of the code and who is not an employee of or otherwise affiliated with or financially interested in such person, firm or corporation to provide the required inspection.
  4. The person, firm, or corporation retaining a qualified inspector to conduct an inspection pursuant to this section shall be required to pay to the municipality which requires the inspection the same permit fees and charges which would have been required had the inspection been conducted by a county or municipal inspector.
  5. A qualified inspector retained pursuant to this section shall be empowered to perform any inspection required by the governing authority of any county or municipality, including but not limited to inspections for footings, foundations, concrete slabs, framing, electrical, plumbing, heating ventilation and air condition (HVAC), or any and all other inspections necessary or required for the issuance of a certificate of occupancy by the governing authority of any county or municipality; provided, however, that the qualified inspector must possess the qualifications described in section 36-105.1.B for the particular type of inspection. Any inspection conducted pursuant to this section shall be no less extensive than an inspection conducted by a county or municipal inspector.
  6. Upon submission by the qualified inspector of a copy of his or her inspection report to the local governing authority, said local governing authority shall be required to accept the inspection of the qualified inspector without the necessity or further inspection or approval by the inspectors or other personnel employed by the local governing authority unless said governing authority has notified the qualified inspector, within two (2) business days after the submission of the inspection report, that it finds the report incomplete or the inspection inadequate and has provided the qualified inspector with a written description of the deficiencies and specific code requirements that have not been adequately addressed.
  7. Nothing in this section shall be construed to apply to inspections for compliance with a state or local fire safety standard or erosion control standard.
  8. Nothing in this section shall be construed to limit any public or private right of action designed to provide protection, rights, or remedies for consumers.

### **Section 36-106 Code Compliance Inspections**

1. If the Town cannot provide inspection services within two business days of receiving a valid written request for inspection, then in lieu of inspection by inspectors or other personnel employed by the Town, any person, firm or corporation engaged in a construction project which requires inspection shall have the option of retaining, at its own expense, a professional engineer who holds a certificate of registration issued under *O.C.G.A. § Chapter 15 of Title 43*, and who is not an employee of or otherwise affiliated with or financially interested in such person, firm, or corporation, to provide the required inspection.
2. Any inspection conducted by a registered professional engineer shall be no less extensive than an inspection conducted by a county or municipal inspector.
3. The person, firm, or corporation retaining a registered professional engineer to conduct an inspection shall be required to pay to Town which requires the inspection the same permit fees and charges which would have been required had the inspection been conducted by a county or municipal inspector.
4. The registered professional engineer shall be empowered to perform any inspection required by the Town, including, but not limited to, inspections for footings, foundations, concrete slabs, framing, electrical, plumbing, heating ventilation and air conditioning (HVAC), or any and all other inspections necessary or required for the

issuance of a certificate of occupancy by the Mayor and Council, provided that the inspection is within the scope of such engineer's branch of engineering expertise.

5. The registered professional engineer shall submit a copy of his or her inspection report to the Town.
6. Upon submission by the registered professional engineer of a copy of his or her inspection report to the Town the Town shall be required to accept the inspection of the registered professional engineer without the necessity of further inspection or approval by the inspectors or other personnel employed by the Town unless the Town Manager has notified the registered professional engineer, within two (2) business days after the submission of the inspection report, that it finds the report incomplete or the inspection inadequate and has provided the registered professional engineer with a written description of the deficiencies and specific code requirements that have not been adequately addressed.
7. The Town Manager may provide for the prequalification of registered professional engineers who may perform inspections pursuant to this subsection. No ordinance implementing prequalification shall become effective until notice of the governing authority's intent to require prequalification and the specific requirements for prequalification have been advertised in the newspaper in which the sheriff's advertisements for that locality are published. The ordinance implementing prequalification shall provide for evaluation of the qualifications of a registered professional engineer on the basis of the engineer's expertise with respect to the objectives of the inspection, as demonstrated by the engineer's experience, education, and training.
8. Nothing in this section shall be construed to limit any public or private right of action designed to provide protection, rights, or remedies for consumers.

## CHAPTER 37: BURNING, DISMANTLING, OR DEMOLITION OF DWELLINGS, BUILDINGS OR OTHER STRUCTURES

Section

37-101 Burning, Dismantling, or Demolition of Dwellings, Buildings or Other Structures



### **Section 37-101 Burning, Dismantling, or Demolition of Dwellings, Buildings or Other Structures**

1. It shall be unlawful for any person, corporation or any other entity to burn, dismantle or demolish any dwelling, building, or other structure location within the Town's national register district without first obtaining a permit authorized by the Mayor and Council. For all other dwellings, buildings, and structures located outside the Town's national register district, the Planning and Development Director shall first approve such request and issue a permit, however, Mayor and Council action is not required.

*(Adopted May 9, 2005)*

# CHAPTER 38: WATER CONSERVATION ORDINANCE

## ARTICLE I. REQUIRED FIXTURES TO BE USED IN CONSTRUCTION

### Section

38-101	Definitions
38-102	Residential Building Construction
38-103	Commercial Building Construction
38-104	Residential/Commercial Construction
38-105	Exemptions
38-106	Enforcement; Penalty

## ARTICLE II. OUTDOOR WATER USE ORDINANCE

38-201	Intent and Purpose
38-202	Definitions
38-203	Outdoor Irrigation
38-204	Reserved
38-205	Application of Ordinance
38-206	Enforcement
38-207	Penalty



### Article I. Required Fixtures To Be Used in Construction

#### Section 38-101 Definitions

- 1. Commercial.** Any type of building other than residential.
- 2. Construction.** The erection of a new building or the alteration of an existing building in connection with its repair or renovation or in connection with making an addition to an existing building and shall include the replacement of a malfunctioning, unserviceable, or obsolete faucet, showerhead, toilet, or urinal in an existing building.
- 3. Residential.** Any building or unit of a building intended for occupancy as a dwelling but shall not include a hotel or motel.

#### Section 38-102 Residential Building Construction

No construction may be initiated within the Town of Braselton for any residential building of any type which:

- 1.** Employs a gravity tank-type, flushometer-valve, or flushometer-tank toilet that uses more than an average of 1.6 gallons of water per flush;
- 2.** Employs a shower head that allows a flow of more than an average of 2.5 gallons of water per minute at sixty (60) pounds per square inch of pressure;
- 3.** Employs a urinal that uses more than an average of 1.0 gallons of water per flush;
- 4.** Employs a lavatory faucet or lavatory replacement aerator that allows a flow of more than 2.0 gallons of water per minute; or
- 5.** Employs a kitchen faucet or kitchen replacement aerator that allows a flow of more than 2.5 gallons of water per minute.

**Section 38-103 Commercial Building Construction**

There shall be no construction of any commercial building initiated within the Town of Braselton for any commercial building of any type which does not meet the requirements of Section 38-102.

**Section 38-104 Residential/Commercial Construction**

The requirements of Section 38-102 shall apply to any residential construction and any commercial construction, which involves the repair or renovation of or addition to any existing building when such repair or renovation of or addition to such existing building includes replacement of toilets or showers or both.

**Section 38-105 Exemptions**

New construction and the repair or renovation of an existing building shall be exempt from the requirements of Sections 38-102, 103, and 104 of this chapter when:

1. The repair or renovation of the existing building does not include the replacement of the plumbing or sewage system servicing toilets, faucets or showerheads within such existing buildings; or
2. When such plumbing or sewage system within such existing building, because of its capacity, design, or installation would not function properly if the toilets, faucets or showerheads required by this chapter were installed; or
3. Such system is a well or gravity flow from a spring and is owned privately by an individual for use in such individual's personal residence; or
4. Units to be installed are:
  - A. Specifically designed for use by the handicapped;
  - B. Specifically designed to withstand unusual abuse or installation in a penal institution; or
  - C. Specifically designed as toilets for juveniles.

The owner, or his agent, of a building undergoing new construction or repair or renovation who is entitled to an exemption as specified in sections 38-105.1 - .4 obtain the exemption by applying at the office of the building inspector for the Town of Braselton. A fee as determined by Mayor and Council shall be charged for the inspection and issuance of such exemption.

**Section 38-106 Enforcement; Penalty**

This Article shall be enforced by the Office of the Building Inspector of Town of Braselton. Citations for violations may be issued by the Building Inspector of Town of Braselton. Nothing herein shall be construed to waive any Town or State law, ordinance, or code governing such areas.

Any person, corporation, partnership or other entity violating this chapter shall be tried before the Town of Braselton Municipal Court. Upon conviction, a violation of this chapter may be punished by a fine not to exceed one hundred dollars (\$100.00) or imprisonment not to exceed ninety (90) days.

**Article II. Outdoor Water Use Ordinance**

**Section 38-201 Intent and Purpose**

1. It is the intent and purpose of this Article to implement procedures that promote water conservation through more efficient landscape irrigation.

**Section 38-202 Definitions**

1. "Person" means any person, firm, partnership, association, corporation, company, or organization of any kind.

**Section 38-203 Outdoor Irrigation**

1. The Town of Braselton adopts O.C.G.A. 12-5-7(a.1)(1) and said text is incorporated by reference as if fully set out herein.

**Section 38-204 Reserved**

**Section 38-205 Application of Ordinance**

1. The provision of this Article shall apply to each person located within the jurisdictional limits of the Town of Braselton. No person shall use or allow the use of water in violation of the restrictions on outdoor water use contained in this Article.

**Section 38-206 Enforcement**

1. The Public Works Director or his/her designee, is hereby authorized, empowered and directed to enforce compliance with this Article.

**Section 38-207 Penalty**

1. Violation of any provision of this Article shall be subject to the following penalties:
  - A. First Violation: Written Warning
  - B. Second Violation: \$50.00
  - C. Subsequent Violation: \$500.00
2. Each day in violation of this Article shall constitute a separate offense. Enforcement officials shall provide violators with no more than one written warning. In addition to the civil sanctions contained herein, the Town may take any other appropriate legal action, including, but not limited to, injunctive action to enforce the provisions of this Article. Any violation of this section may also be enforced by a citation or accusation returnable to the Municipal Court or by any other legal means as set forth in this Code.

# CHAPTER 39: DEVELOPMENT REGULATIONS, PLANS, and FEES

## ARTICLE I. DEVELOPMENT REGULATIONS AND PLANS

### Section

39-101	Development Ordinance
39-102	Comprehensive Plan
39-103	Northeast Georgia Regional Solid Waste Management Plan
39-104	Greenspace Plan
39-105	River Corridor Protection Ordinance
39-106	Water Supply Watershed

## ARTICLE II. IMPACT FEE ORDINANCE

39-201	Short Title, Authority, and Applicability
39-202	Findings, Purpose and Intent
39-203	Rules of Construction and Definitions
39-204	Imposition of Development Impact Fees
39-205	Fee Assessment and Payment – Fee Schedule
39-206	Timing of Assessment
39-207	Individual Assessment Determinations
39-208	Timing of Fee Payment
39-209	Fee Certification
39-210	Deposit and Expenditure of Fees
39-211	Periodic Review and Amendments
39-212	Administrative Appeals
39-213	Enforcement and Penalties
39-214	Repealer and Effective Date



### Article I. Development Regulations and Plans

#### Section 39-101 Development Ordinance

The Development Ordinance of the Town of Braselton, Georgia, as adopted January 12, 2004 and as may be amended, are incorporated by reference as if fully set out herein.

#### Section 39-102 Comprehensive Plan

The Braselton Community Agenda 2010 - 2010 Comprehensive Plan, revised June 2010 and as may be amended, is incorporated by reference as if fully set out herein.

#### Section 39-103 Northeast Georgia Regional Solid Waste Management Plan

The 2004 Northeast Georgia Regional Solid Waste Management Plan and 2009 Northeast Georgia Regional Solid Waste Management Plan Short-Term Work Program Update, are incorporated by reference as if fully set out herein.

#### Section 39-104 Greenspace Plan

The Community Greenspace Program FY2003 – Gwinnett County is incorporated by reference as if fully set out herein.  
(Adopted February 10, 2003)

**Section 39-105 River Corridor Protection Ordinance**

1. **Definitions.** For purposes of this section, the terms listed below shall be defined as follows:
  - A. Buffer or Buffer Area: See "River Corridor."
  - B. Comprehensive Plan: The Comprehensive Plan for the Town of Braselton, and as may be amended.
  - C. Contaminant: Any "regulated substance," as defined by the Federal Resource Conservation and Recovery Act, as in effect on the date of passage of this Ordinance and as amended from time to time, and all petroleum products, including gasoline, oil, waste oils, and other fuels as well as their hazardous constituents.
  - D. Hazardous Material: Any "contaminant" as defined in this Ordinance, and any hazardous chemical for which a material safety data sheet must be filed under 42 USC 11021 and 11022.
  - E. Hazardous Waste: Any solid waste which has been defined as a hazardous waste in regulations, promulgated by the Administrator of the United States Environmental Protection Agency according to federal act, which are in force and effect on February 1, 1988, codified as 40 FR § 261.3.
  - F. Land-disturbing Activity: Any grading, scraping, excavating, or filling of land; clearing of vegetation; and any construction, rebuilding, or alteration of a structure. Land-disturbing activity shall not include activities such as ordinary maintenance and landscaping operations, individual home gardens, yard and grounds upkeep, repairs, additions or minor modifications to a single-family dwelling, or the cutting of firewood for personal use.
  - G. Land Uses Existing Prior to the Effective Date of this Ordinance : Any land use or land-disturbing activity, including all human endeavors directly associated with such use or activity, which falls within one of the following categories prior to the effective date of this Ordinance:
    - (1) is completed;
    - (2) is under construction;
    - (3) is fully approved by the Town of Braselton;
    - (4) all materials have been submitted for approval by the Town of Braselton; or
    - (5) is zoned for such use and expenditures in excess of \$52,500.00 have been made in preparation for construction in accordance with such zoning.
  - H. Mayor and Council: The Mayor and Council of the Town of Braselton.
  - I. Natural Vegetative Buffer or Buffer Area: A river corridor containing the flora native to that area. The natural floras for specific areas are described in Georgia Geologic Survey Bulletin 114, "The Natural Environments of Georgia." Habitats for endangered and threatened species may require human management of the river corridor in order to maintain those species.
  - J. Perennial River: A river or section of a river that flows continuously throughout the year.
  - K. Person: Any individual, group of individuals, association, firm, partnership, corporation, trust, estate, organization, or legal entity of any kind, including municipal corporations, government agencies, or subdivisions thereof.
  - L. Protected River: Any perennial river or watercourse with an average annual flow of at least four hundred (400) cubic feet per second as determined by appropriate U.S. Geological Survey documents. In the Town of Braselton, protected river means the Mulberry River.
  - M. Public Utility or Utilities: A service or services provided by a public utility company or a private entity which provides such service or services and including all equipment and structures necessary to provide such services.
  - N. River Bank: The rising ground, bordering a river, which serves to confine the water to the natural channel during the normal course of flow.
  - O. River Corridor: All land, including islands, not regulated under the Metropolitan River Protection Act, O.C.G.A. § 12-5-40 et seq., or the Coastal Marshland Protection Act. O.C.G.A. § 12-5-280 through 12-293, in areas of a protected river and being within one hundred (100) feet horizontally on both sides of the river as measured from the river banks. The one hundred (100) ft. buffer shall be measured horizontally from the uppermost part of the river bank, usually marked by a break in slope. Although not within the measured one hundred (100) ft. wide buffer, the area between the top of the bank and the edge of the river shall be treated by local governments in the same manner as the river corridor. Because stream channels move due to natural processes such as meandering, river bank erosion, and jumping of channels, the river corridor may shift with time. For the purpose of this Ordinance, the river corridor shall be considered to be fixed at its position at the beginning of each review period for the local comprehensive plan as established by the Department of Community Affairs. Any shift in the location of the protected

river after the start of the review period will require a revision of the boundaries of the river corridor at the time of the next review by the Department of Community Affairs.

- P. River Corridor Protection Plan: That part of the Town of Braselton 's Comprehensive Plan that deals with river corridor protection as required by the Georgia Planning Act of 1989.
- Q. Sensitive Natural Area: Any area, as identified now or hereafter by the Department of Natural Resources, which contains one or more of the following:
  - (1) habitat, including nesting sites, occupied by rare or endangered species;
  - (2) rare or exemplary natural communities;
  - (3) significant landforms, hydroforms, or geological features, or
  - (4) other areas so designated by the Department of Natural Resources, and which are sensitive or vulnerable to physical or biological alteration.
- R. Single-family Dwelling: A dwelling structure that is designed for use by one family.
- S. Surface Mining: Any activity constituting all or part of a process for the removal of minerals, ores, and dimension stone, and other solid matter for sale or for processing or for consumption in the regular operation of a business.

2. **Applicability.** The standards and procedures detailed in this ordinance shall be applicable within the jurisdictional boundaries of the Town of Braselton.

3. **Protection Criteria.**

- A. A one hundred (100) ft. Natural vegetative buffer shall be maintained adjacent to the river corridor except as otherwise provided herein.
- B. Septic tanks and septic tank drainfields are prohibited within the river corridor, except as provided in Section 39-105.4.
- C. The natural vegetative buffer shall be restored as quickly as possible following any land-disturbing activity within the river corridor.

4. **Permitted Activities Within The River Corridor**

- A. Detached single-family dwellings and its customary appurtenances shall be permitted within the buffer subject to the following conditions:
  - (1) The dwelling and its customary appurtenances shall comply with all local zoning regulations, building codes and any other local regulations.
  - (2) The dwelling must be located on a tract of land containing at least two (2) acres. Where a tract includes any portion of the protected river the area between the river banks cannot be counted towards the two (2) acre minimum tract size.
  - (3) Only one (1) dwelling is permitted on each two (2) acre or larger tract.
  - (4) Septic tank or tanks serving the dwelling may be located within the buffer.
  - (5) Septic tank drainfields shall not be located within the buffer.
- B. Construction of road crossings and utility crossings within the river corridor shall be permitted provided that the construction meets all requirements of the Erosion and Sedimentation Control Act of 1975, as amended, and any applicable local ordinances pertaining to soil erosion and sedimentation control.
- C. Industrial and commercial land uses existing prior to the effective date of this ordinance are exempt from the protection criteria of this ordinance, except as provided in Section 39-105.5, provided that:
  - (1) the use of the river corridor does not impair the drinking quality of the river water; and
  - (2) the activity within the river corridor meets all state and federal environmental rules and regulations.
  - (3) Timber production and harvesting provided that the activity is consistent with the Georgia Forestry Commission's best management practices and the activity does not impair the drinking quality of the river water as defined by the Clean Water Act, as amended.
- D. Wildlife and fisheries management activities consistent with the purposes of O.C.G.A. §12-2-8.
- E. Waste-water treatment.
- F. Recreational usage consistent with either the maintenance of a natural vegetative buffer or with river-dependent recreation.
- G. Natural water quality treatment or purification.
- H. Agricultural production and management provided that the activity is consistent with the Georgia Soil and Water Conservation Commission's best management practices and the activity does not impair the drinking quality of the river water as defined by the Clean Water Act, as amended. Additionally, the activity must be consistent with all other state and federal laws and Georgia Department of Agriculture regulations.

- I. Any other uses permitted by the Department of Natural Resources or under §404 of the Clean Water Act.

**5. Prohibited Activities within the River Corridor**

- A. Hazardous waste or solid waste landfills, or construction and demolition (C&D) landfills.
- B. Commercial or Industrial uses that involve handling hazardous materials other than wastes.
- C. Handling areas for the receiving and storage of hazardous waste.
- D. Construction within the river corridor is prohibited unless permitted in Section 39-105.4.
- E. Surface mining activities.

**6. Permits**

- A. All persons desiring to undertake a permitted activity within a river corridor must first obtain a permit from the Town of Braselton. Permit applications shall be filed as provided for conditional use permits under the town of Town of Braselton Development Code.
- B. Permits shall be issued only if the activity is in compliance with the Town’s regulations and other applicable state, federal, and local laws. The Town of Braselton shall impose conditions on any permit necessary to assure that any adverse impacts upon the functions and values of the river corridor are prevented or kept to a minimum. Permits shall be valid for 6 months. If the activity has not been completed but substantial progress has been made, one 6 month extension to the permit may be granted by the Town of Braselton, or its designee.
- C. Permits may be revoked for failure to comply with regulatory guidelines, including conditions attached to the permit.

**7. Variance**

- A. A variance may be approved if such approval is not contrary to the public interest and where because of the special characteristics of the property and the activity, a literal enforcement of provisions of this section will, in an individual case, result in unnecessary hardship. However, the spirit of this section must be observed, public safety and welfare secured, and substantial justice done; provided that the variance, if granted, will not result in damage to the river corridor.
- B. An application for variance should be filed with the Town of Braselton’s building inspector as provided for conditional use permits under the Town of Braselton Development Code. The Town of Braselton shall process the application according to the Town of Braselton Development Code. However, only the following criteria shall be used to determine whether the variance should be granted.
  - (1) The application of this section to this particular property will result in unnecessary hardship; and
  - (2) it is proven that no damage to the river corridor will result from the requested activity; and
  - (3) relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of this section.

Proof of no damage to the river corridor must be supplied by the applicant as deemed necessary by the Mayor and Council including, but not limited to, an Environmental Impact Statement.

**8. Enforcement.** The Town of Braselton, its agent, officers and employees shall have authority to enter upon privately owned land for the purpose of performing their duties under this section and may take or cause to be made such examinations, surveys or sampling as the Town of Braselton deems necessary.

- A. The Braselton Planning and Development Department is hereby designated as the administrator and enforcement authority for this Section.
- B. The Braselton Planning and Development Department shall have authority to enforce this Section; issue permits hereunder; and address violations or threatened violations hereof by issuance of violation notices, administrative orders and civil and criminal actions. All costs, fees and expenses in connection with such actions may be recovered as damages against the violator.
- C. Law enforcement officials or other officials having police powers shall have authority to assist the elected body or their designee in enforcement of this Section.
- D. Any person who commits, takes part in or assists in any violation of any provision of this Chapter shall be fined as provided for in Section 1-109 for each offense. Each violation shall be a separate offense and, in the case of a continuing violation, each day's continuance shall be deemed to be a separate and distinct offense.
- E. The Braselton Planning and Development Department shall have the authority to issue cease and desist orders in the event of any violation of this Section. Cease and desist orders may be appealed to a court of competent jurisdiction, as identified in Section 39-105.9.

- F. When a building or other structure has been constructed in violation of this Section, the violator shall be required to remove the structure.
  - G. When removal of vegetative cover, excavation or fill has taken place in violation of this Section, the violator shall be required to restore the affected land to its original contours and to restore vegetation, as far as practicable.
9. **Appeal Procedure.** Any aggrieved party may appeal a decision under this section according to Town of Braselton Development Code.

(Adopted October 12, 1998)

**Article II. Impact Fee Ordinance**

**Section 39-201 Short Title, Authority, and Applicability.**

- 1. **Short Title.** This section shall be known and may be cited as the "Impact Fee Ordinance of The Town of Braselton, Georgia.
- 2. **Authority.**
  - A. This article has been prepared and adopted by the Town Council of The Town of Braselton, Georgia, in accordance with the authority provided by Article 9, Section 2, Paragraph 3 of the Constitution of the State of Georgia, the Georgia Development Impact Fee Act (O.C.G.A. § 36-7 1 - 1 et seq., as amended), and such other laws as may apply to the provision of public facilities and the power to charge fees for such facilities.
  - B. The provisions of this article shall not be construed to limit the power of The Town of Braselton, Georgia, to use any other legal methods or powers otherwise available for accomplishing the purposes set forth herein, either in substitution of or in conjunction with this article.
  - C. This section shall apply to all areas under the regulatory control and authority of The Town of Braselton, Georgia, and such other areas as may be included by intergovernmental agreement.

**Section 39-202 Findings, purpose, and intent.**

- 1. **Findings.** The Town Council of The Town of Braselton, Georgia, finds and declares:
  - A. That an equitable program for planning and financing public facilities to serve new growth and development is necessary in order to promote and accommodate orderly growth and development and to protect the public health, safety, and general welfare of the citizens of The Town of Braselton.
  - B. That certain public facilities as herein defined have been and must be further expanded if new growth and development is to be accommodated at the same level of service available to existing development.
  - C. That it is fair and equitable that new land development shall bear a proportionate share of the cost of such public facilities necessary to serve new growth and development.
- 2. **Purpose.**
  - A. The purpose of this article is to impose impact fees, as hereinafter set forth, for certain public facilities, as hereinafter defined.
  - B. It is also the purpose of this article to ensure that adequate public facilities are available to serve new growth and development in the Town of Braselton and to provide that new growth and development bears a proportionate share of the cost of new public facilities needed to serve them.
- 3. **Intent.** This article is intended to implement and be consistent with the Town of Braselton Comprehensive Plan, as it may be adopted or amended in accord with the Georgia Comprehensive Planning Act (O.C.G.A. § 50-8- 1 et seq.) and the minimum standards and procedures for local comprehensive planning as adopted by the Georgia Board of Community Affairs and amended from time to time.

**Section 39-203 Rules of construction and definitions.**

- 1. **Generally.** The provisions of this article shall be construed so as to effectively carry out its purpose in the interest of the public health, safety, and general welfare of the citizens of The Town of Braselton.
- 2. **Rules of construction.** Unless otherwise stated in this article, the following rules of construction shall apply to the text of this article:

- A. In the case of any difference of meaning or implication between words or phrases as used in this article and as used in other codes, regulations or laws of The Town of Braselton, such difference shall not affect the meaning or implication of such words or phrases as used in this article.
  - B. In the case of any difference of meaning or implication between the text of this article and any caption, illustration, summary table or illustrative table, the text shall control.
  - C. The word "shall" is always mandatory and not discretionary; the word "may" is permissive.
  - D. Words used in the present tense shall include the future and words used in the singular number shall include the plural and the plural the singular, unless the context clearly indicates the contrary.
  - E. The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other legal or similar entity.
  - F. The conjunction "and" indicates that all the connected terms, conditions, provisions, or events shall apply.
  - G. The conjunction "or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.
  - H. The use of "either . . . or" indicates that the connected items, conditions, provisions, or events shall apply singly and not in combination.
  - I. The word "includes" shall not limit a term to the specific example but is intended to extend its meaning to all other instances or circumstances of like kind or character.
  - J. The article, section, and paragraph headings and enumerations used in this article are included solely for convenience and shall not affect the interpretation of this article.
- 3. Definitions.** As used in this article, the following terms shall have the meaning set forth below.
- A. Administrator means the appointed designee of the Town Council, who is hereby charged with implementation and enforcement of this article.
  - B. Building permit means the permit required for new construction, completion of construction, or an interior finish pursuant to the applicable building code. As used herein, the term shall not include permits required for remodeling; rehabilitation, or other improvements to an existing structure provided there is no increase in the demand placed on those public facilities as defined herein.
  - C. Capital improvement means an improvement with a useful life of ten years or more. by new construction or other action, which increases the service capacity of a public facility.
  - D. Capital improvements element means that portion of the Town of Braselton Comprehensive Plan that sets out projected needs for system improvements during the planning horizon established therein, which provides a schedule that will meet the anticipated need for system improvements, and which provides a description of anticipated funding sources for each required improvement.
  - E. Code enforcement officer means the employee or official who is designated and empowered to enforce the building codes of The Town of Braselton, Georgia. Also may be known as building inspector.
  - F. Commencement of construction, for private development, means initiation of physical construction activities as authorized by a development permit and leading to completion of a foundation inspection or other initial inspection and approval by a public official charged with such duties; and for public projects, means expenditure or encumbrance of any funds, whether they be development impact fee funds or not, for a public facilities project, or advertising of bids to undertake a public facilities project.
  - G. Completion of construction means the issuance of the final certificate of occupancy by the appropriate governmental jurisdiction. The date of completion is the date on which such certificate is issued.
  - H. Comprehensive plan means The Town of Braselton Comprehensive Plan as adopted or amended in accord with the Georgia Comprehensive Planning Act (O.C.G.A. §§ 50-81 et seq.) and the minimum standards and procedures for local comprehensive planning as adopted by the Georgia Board of Community Affairs.
  - I. Day means a calendar day, unless otherwise specifically identified as a "work" day or other designation when used in the text.
  - J. Developer means any person or legal entity undertaking development.
  - K. Development means any action, which creates demand on, or need for public facilities, as defined herein, and includes any construction or expansion of a building, structure, or use; and any change in use of land, a building, or structure.
  - L. Development approval means written authorization, such as issuance of a building permit, approval for connection to public utilities, or other forms of official action required by local law or regulation prior to commencement of construction or connection to public utilities.
  - M. Development impact fee means the payment of money imposed upon and paid by new development as a condition of development approval as its proportionate share of the cost of system improvements needed to serve it.

- N.** Development impact fee appeals board shall mean and be comprised of the Zoning Board of Appeals of the Town of Braselton.
- O.** Encumber means to legally obligate by contract or otherwise commit to use by appropriation or other official act of The Town of Braselton, Georgia.
- P.** Excess capacity means that portion of the capacity of a public facility or system of public facilities, which is beyond that necessary to provide adequate service to existing development at the adopted level-of-service standard.
- Q.** Fee payer means that person or entity who pays a development impact fee, or his legal successor in interest when the right or entitlement to any refund of previously paid development impact fees which is required by this article has been expressly transferred or assigned to the successor in interest.
- R.** Individual assessment determination means a finding by the administrator that an individual assessment study does or does not meet the requirements for such a study as established by this article or, if the requirements are met, the fee calculated therefrom.
- S.** Individual assessment study means the engineering, financial, or economic documentation prepared by a fee payer or applicant to allow individual determination of a development impact fee other than by use of the applicable fee schedule.
- T.** Level of service means a measure of the relationship between service capacity and service demand for specified public facilities as established by the Town Council of The Town of Braselton, Georgia in terms of demand to capacity ratios or the comfort and convenience of use or service of such public facilities or both.
- U.** Present value means the current value of past, present, or future payments, contributions, or dedications of goods, services, materials, construction, or money, as calculated using accepted methods of financial analysis for determination of "net present value."
- V.** Project means a single improvement or set of interrelated improvements undertaken together within a finite time period at a specific location. With regard to land development, a project may be identified as those construction activities authorized collectively by a building permit, or for an interrelated collection of buildings and common public facilities such as a residential subdivision or an office park.
- W.** Project improvements means site specific improvements or facilities that are planned, designed, or built to provide service for a specific development project and that are necessary for the use and convenience of the occupants or users of that project only, and that are not "system" improvements. The character of the improvement shall control a determination of whether an improvement is a project improvement or a "system" improvement, and the physical location of the improvement on-site or off-site shall not be considered determinative of whether an improvement is a "project" improvement or a "system" improvement. A project improvement may provide no more than incidental service or facility capacity to persons other than users or occupants of the particular project they serve.
- X.** Property owner means that person or entity that holds a majority interest in legal title to property.
- Y.** Proportionate share means that portion of the cost of system improvements that is reasonably and fairly related to the service demands and needs of a project.
- Z.** Public facilities means:
- (1) Roads, streets, and bridges, including rights of way, traffic signals, landscaping, and any local components of state or federal highways;
  - (2) Parks, open space, and recreation areas and related facilities;
  - (3) Public safety facilities, including police, fire, emergency medical, and rescue facilities; and
  - (4) Libraries and related facilities.
- AA.** Service area means a geographically defined area as designated in the capital improvements element of the comprehensive plan in which a defined set of public facilities provide or are proposed to provide service to existing or future development.
- BB.** System improvement costs means costs incurred to provide public facilities capacity to serve new growth and development, including the costs of planning, design, engineering, construction, land acquisition, and land improvement for the construction or reconstruction of facility improvements or expansions. System improvement costs include the construction contract price, surveying and engineering fees, related land acquisition costs (including land purchases, court awards and costs, attorneys' fees, and expert witness fees), and expenses incurred for qualified staff or any qualified engineer, planner, architect, landscape architect, or financial consultant for preparing or updating the capital improvements element, and administrative costs of up to three percent of the total of all other costs. Projected interest charges and other finance costs may be included if the impact fees are to be used for the payment of principal and

interest on bonds, notes, or other financial obligations issued to finance system improvements, but such costs do not include routine and periodic maintenance expenditures, personnel training, and other operating costs.

- CC. System improvements means capital improvements that are public facilities designed to provide service to more than one project or to the community at large, in contrast to "project" improvements.
- DD. Town means The Town of Braselton, a municipal corporation of the State of Georgia.
- EE. Town Council means the Town Council of The Town of Braselton, Georgia.
- FF. Unit of development means the standard incremental measure of land development activity for a specific type of land use upon which the rate of demand for public service and facilities is based. Such term includes but is not limited to, "housing unit," "acre of land," and "square feet of floor area."
- GG. Unused or excess impact fee means any individual impact fee payment from which no amount of money or only a portion thereof has been encumbered or expended according to the requirements of this article.

**Section 39-204 Imposition of development impact fees.**

Any person who after the effective date of this article engages in development as defined in this article shall pay a development impact fee in the manner and amount set forth in this article.

1. **Construction not subject to impact fees.** The following projects and construction activities do not constitute "development" as defined in this article, and are therefore not subject to the imposition of impact fees:
  - A. Rebuilding no more than the same number of units of development as defined in this article that were destroyed by fire or other catastrophe on the same lot or property.
  - B. Remodeling or repairing a structure that does not result in an increase in the number of units of development.
  - C. Replacing a residential housing unit with another housing unit on the same lot or property.
  - D. Placing a temporary construction or sales office on a lot during the period of construction or build-out of a development project.
  - E. Constructing an addition to or expansion of a residential housing unit that does not increase the number of housing units.
  - F. Adding uses that are typically accessory to residential uses and intended for the personal use of the residents, such as a deck or patio, satellite antenna, pet enclosure, or private recreational facilities such as a swimming pool.
2. **Grandfathered projects.** Notwithstanding any other provision of this article, that portion of a project for which a valid building permit has been issued prior to the effective date of this ordinance shall not be subject to development impact fees so long as the permit remains valid and construction is commenced and is pursued according to the terms of the permit.
3. **Method of calculation.**
  - A. Any development impact fee imposed pursuant to this article shall not exceed a project's proportionate share of the cost of system improvements, shall be calculated on the basis of the establishment of service areas, and shall be calculated on the basis of levels of service for public facilities that are the same for existing development as for new growth and development.
  - B. Notwithstanding anything to the contrary in this article, the calculation of impact fees shall be net of the present value of ad valorem tax or other revenues, if any, which:
    - (1) Are reasonably expected to be generated by new development; and
    - (2) Are reasonably expected on the basis of historical funding patterns to be made available to pay for system improvements of the same category and in the same service area for which an impact fee is imposed.
  - C. The method of calculating impact fees for public facilities under this article shall be maintained for public inspection as a part of the official records of The Town of Braselton, Georgia, and may be amended from time to time by official act.
  - D. In addition to the cost of new or expanded system improvements needed to be built to serve new development, the cost basis of a development impact fee shall also include the proportionate cost of existing system improvements to the extent that such public facilities have excess service capacity and new development will be served by such facilities.
  - E. Development impact fees shall be based on actual system improvement costs or reasonable estimates of such costs, as set forth in the Capital Improvements Element of the Comprehensive Plan of The Town of Braselton, Georgia.

**Section 39-205 Fee assessment and payment--Fee schedule.**

1. Payment of a development impact fee pursuant to the fee schedule incorporated into this article as Appendix A shall constitute full and complete payment of the project's proportionate share of system improvements and shall be deemed to be in compliance with the requirements of this article.
2. When a land development activity for which an application for a building permit has been made includes two or more buildings, structures or other land uses in any combination, including two or more uses within a building or structure, the total development impact fee shall be the sum of the fees for each and every building, structure, or use, including each and every use within a building or structure.
3. In the event that an applicant contends that the land use category of the proposed development is not shown on the fee schedule or fits within a different category, then:
  - A. The development impact fee appeals board shall make a determination as to the appropriate land use designation and the appropriate development impact fee as an appeal.
  - B. In making such determination, the development impact fee appeals board may require such additional information from the applicant as necessary to form a logical fee determination relative to the impact fees shown on the adopted fee schedule.
  - C. If a land use designation is not in a category contained in this article, then the board may add an appropriate new category.

**Section 39-206 Timing of assessment.**

1. Development impact fees shall be assessed at the time of application for a building permit, as applicable.
2. If the final use of a building cannot be determined at the time of the initial building permit, the administrator shall have the authority to assess a development impact fee based on the most likely use of the building, and shall adjust the fee in accordance with the actual use prior to issuance of an interior finishes permit or approval of a certificate of occupancy.

**Section 39-207 Individual assessment determinations.**

Individual assessments of development impact fees may be established as follows:

1. At their option, an applicant for development approval may petition the development impact fee appeals board for an individual assessment determination of development impact fees due for their project.
2. In the event that an applicant elects an individual assessment, the applicant shall submit an individual assessment study. Each individual assessment study shall:
  - A. Be based on relevant and credible information from an accepted standard source of engineering or planning data;
  - B. Be based on actual, relevant, and credible studies or surveys of facility demand conducted in The Town of Braselton or its region, carried out by qualified engineers or planners pursuant to accepted methodology; and
  - C. Provide any other written specifications as may be reasonably required by the Town Council from time to time.
3. The Town Council in its sole discretion shall determine whether the content of an individual assessment study satisfies the requirements of this article.
4. Any fee approved as an individual assessment determination shall have standing for 180 days following the date of approval. Payment of such an approved individual assessment determination shall constitute full and complete payment of the project's proportionate share of system improvements and shall be deemed to be in compliance with the requirements of this article.

**Section 39-208 Timing of fee payment.**

1. All development impact fees shall be collected no later than the time of issuance of a building permit.
2. For projects not involving issuance of a building permit, all development impact fees shall be collected at the time of approval of the development permit or such other authorization to commence construction.

**Section 39-209 Fee certification.**

Upon application to the administrator, a developer may receive a certified schedule of development impact fees for categories of development or a certified fee for a particular project, as applicable. Such certified schedule or fee shall establish the development impact fee due for a period of 180 days from the date of certification, even if new or revised rate schedules are adopted in the interim.

**Section 39-210 Deposit and expenditure of fees.**

**1. Maintenance of funds.**

- A.** All development impact fee funds collected for future expenditure on construction or expansion of facilities pursuant to this article shall be maintained in one or more interest-bearing accounts until encumbered or expended. Restrictions on the investment of development impact fee funds shall be the same that apply to investment of all such funds generally.
- B.** Separate accounting records shall be maintained for each category of system improvements within each service area wherein fees are collected.
- C.** Interest earned on development impact fees shall be considered funds of the account on which it is earned and shall be subject to all restrictions placed on the use of development impact fees under this article.

**2. Expenditures: restrictions.**

- A.** Expenditures from the impact fee accounts shall be made only for the category of system improvements within the service area for which the development impact fee was assessed and collected.
- B.** Except as provided below, development impact fees shall not be expended for any purpose that does not involve building or expanding system improvements that create additional capacity available to serve new growth and development.
- C.** Notwithstanding anything to the contrary in this article, the following shall be considered general revenue of the system, and may be expended accordingly:
  - (1) Impact fees collected to recover the present value of excess capacity in existing system improvements;
  - (2) Any portion of an impact fee collected as a repayment for expenditures made by The Town of Braselton for system improvements intended to be funded by such impact fee; and
  - (3) Any portion of an impact fee (but not to exceed three percent of the total) collected and allocated by the administrator for administration of the impact fee ordinance, and such additional amount assessed for repayment of the cost of preparing the Capital Improvements Element of the Comprehensive Plan.

**3. Annual report.** The administrator shall prepare an annual report to the Town Council as part of the annual audit or financial report describing the amount of any development impact fees collected, encumbered, and used during the preceding fiscal year by category of public facility and service area.

**4. Credits.** When eligible, fee payers shall be entitled to a credit against impact fees due under the circumstances and in the manner set forth in this section.

**5. Credits; restrictions.**

- A.** Except as provided in subsection B below, no credit shall be given for construction, contribution, or dedication of any system improvement or funds for system improvements made before the effective date of this article.
- B.** If the value of any construction, dedication of land, or contribution of money made by a developer (or his predecessor in title or interest) for system improvements to public facilities as defined herein, prior to the effective date of this article, is greater than the impact fee which would otherwise have been paid for the project, then the developer shall be entitled to a credit for such excess construction, dedication, or funding. Notwithstanding anything to the contrary in this article, any credit due under this section shall not constitute a liability of The Town of Braselton, Georgia, and shall accrue to the developer to the extent of impact fees assessed for new development for the same category of system improvements within the same service area.
- C.** In no event shall credit be given for project improvements.

**6. Granting of credits.**

- A.** Credit shall be given for the present value of any construction of improvements, contribution or dedication of land, or payment of money by a developer or his predecessor in title or interest for system improvements of the same public facilities category and in the same service area for which a development

impact fee is imposed, provided that the Town of Braselton Town Council shall have explicitly approved said improvement, contribution, dedication, or payment and the value thereof prior to its construction. dedication, or transfer.

- B. Developers, who construct system improvements, privately or in conjunction with The Town of Braselton for which impact fees would otherwise be imposed, shall be entitled to a credit. The credit allowed pursuant to this section shall be equal to the present value of the cost of construction of the system improvement, up to a maximum of the impact fee due for such system improvement. In the event that a developer enters into an agreement with The Town of Braselton to construct, fund, or contribute system improvements such that the amount of the credit created is in excess of the impact fee which would otherwise have been paid for the development project, the developer shall be reimbursed for such excess construction, funding, or contribution from impact fees paid by other development located in the service area which is benefitted by such improvements.
7. **Guidelines for credit valuation.** Credits under this section shall be valued using the following guidelines: For the construction of any system improvements by a developer or his predecessor in title or interest and accepted by The Town of Braselton, Georgia, the developer must present evidence satisfactory to the Town Council of the original cost of the improvement, from which present value may be calculated.
- A. For any contribution or dedication of land for system improvements by a developer or his predecessor in title or interest and accepted by The Town of Braselton, Georgia, the original value of the land shall be the same as that attributed to the property by the validated tax appraisal at the time of dedication, from which present value may be calculated.
  - B. For any contribution of capital equipment that qualifies as a system improvement by a developer or his predecessor in title or interest and accepted by The Town of Braselton, Georgia, the value shall be the original cost to the developer of the capital equipment or the cost that The Town of Braselton, Georgia would normally pay for such equipment, whichever is less.
  - C. For any contribution of money for system improvements from a developer or his predecessor in title or interest accepted by The Town of Braselton, Georgia, the original value of the money shall be the same as that at the time of contribution, from which present value may be calculated.
  - D. In making a present value calculation, the discount rate used shall be the net of the interest returned on a State of Georgia, AA rated or better municipal bond less average annual inflation, or such other discount rate as the Town Council in its sole discretion may deem appropriate.
8. **Credits; application.**
- A. Credits shall be given only upon written request of the developer to the Town Council. A developer must present written evidence satisfactory to the Town Council at or before the time of development impact fee assessment.
  - B. The Town Council, in its sole discretion, shall review all claims for credits and make determinations regarding the allowance of any claimed credit, and the value of any allowed credit.
  - C. Any credit approved by the Town Council shall be acknowledged in writing by the administrator and calculated at the time of impact fee assessment.
  - D. In the event that an impact fee is paid but the building permit is abandoned, credit shall be given for the present value of the impact fee against future impact fees for the same parcel of land, upon submission of adequate evidence to the administrator that an impact fee was received by The Town of Braselton, Georgia, the amount paid, and that the building permit was abandoned.
9. **Establishment of development impact fee appeals board.** The Zoning Board of Appeals for the Town of Braselton shall function as the development impact fee appeals board for the Town of Braselton. Said board shall hear appeals concerning the disputed amount of the impact fee and an individual assessment. Further, said board shall make recommendations to the Town Council of The Town of Braselton as to whether fee payer may be entitled to a waiver, in whole or in part of the impact fee.
10. **Waivers and appeals.** Pursuant to the public policies contained in the Town of Braselton Comprehensive Plan, the Town Council may waive, in whole or in part, development impact fees for projects, upon recommendation by the development impact fee appeals board as provided hereafter on a case-by-case basis.
11. **Refunds--Eligibility for a refund.**
- A. Upon the request of a fee payer or an owner of property on which a development impact fee has been paid, the development impact fee shall be refunded if:
    - (1) Capacity is available in the public facility for which the fee was collected but service is permanently denied; or

- (2) The development impact fee has not been encumbered or construction has not been commenced within six years after the date the fee was collected, whichever first occurs.
  - B. In determining whether development impact fees have been encumbered, development impact fees shall be considered encumbered on a first-in, first-out (FIFO) basis.
- 12. Notice of entitlement to a refund.** When the right to a refund exists due to a failure to encumber the development impact fees, the administrator shall provide written notice of entitlement to a refund to the fee payer who paid the development impact fee at the address shown on the application for development approval or to a successor in interest who has given adequate notice to the administrator of a legal transfer or assignment of the right to entitlement to a refund and who has provided a mailing address. Such notice shall also be published in The Town of Braselton within 30 days after the expiration of the six year period after the date that the development impact fee was collected and shall contain a heading "notice of entitlement to development impact fee refund." No refund shall be made for a period of 30 days from the date of said publication.
- 13. Filing a request for a refund.** All requests for refunds shall be made in writing to the administrator within one year of the time the refund becomes payable or within one year of publication of the notice of entitlement to a refund, whichever is later. Failure to make a claim for a refund within said time period shall result in a waiver of all claims to said funds. Such funds together with the accrued interest thereon shall be transferred to the general revenue account of The Town of Braselton.
- 14. Payment of refunds.**
- A. All refunds shall be made to the fee payer within 60 days after it is determined by the administrator that a sufficient proof of claim for refund has been made, but no sooner than 30 days after publication of the notice of entitlement to the refund.
  - B. A refund shall include a refund of a pro rata share of interest actually earned on the unused or excess impact fee collected.
  - C. In no event shall a fee payer be entitled to a refund for impact fees assessed and paid to recover the cost of excess capacity in existing system improvements, or to recover the amount of funds expended by The Town of Braselton for system improvements for which the impact fee was collected, or for that portion of the fee payment that was assessed for administration of the impact fee ordinance or for recovery of the cost of preparation of the capital improvements element of the comprehensive plan.
- 15. Private contractual agreements.**
- A. Private agreements; authorized. Nothing in this article shall prohibit the voluntary mutual approval of a private contractual agreement between The Town of Braselton, Georgia and any developer or property owner or group of developers and/or property owners in regard to the construction or installation of system improvements and providing for credits or reimbursement for system improvement costs incurred by a developer, including inter-project transfers of credits or providing for reimbursement for project improvement costs which are used or shared by more than one development project.
  - B. Private agreements; provisions. A private contractual agreement for system improvements may include, but shall not be limited to, provisions which:
    - (1) Modify the estimates of impact on public facilities according to the methods and provisions concerning the calculation of impact fees, provided that any such agreement shall allow The Town of Braselton, Georgia to assess additional development impact fees after the completion of construction according to schedules set forth in this article.
    - (2) Permit construction of, dedication of property for, or other in-kind contribution for specific public facilities of the type for which development impact fees would be imposed in the same service area in lieu of or with a credit against applicable development impact fees.
    - (3) Permit a schedule and method of payment appropriate to particular and unique circumstances of a proposed project in lieu of the requirements for payment under this article, provided that acceptable security is posted ensuring payment of the development impact fees. Forms of security that may be acceptable include a cash bond, irrevocable letter of credit from a bank authorized to do business within the State of Georgia, a surety bond, or lien or mortgage on lands to be covered by the building permit or other development approval.
  - C. **Private agreements; procedure.**
    - (1) Any private agreement proposed by an applicant pursuant to this section shall be submitted to the administrator for review, negotiation, and submission to the Town Council.
    - (2) Any such agreement must be presented to and approved by the Town Council of The Town of Braselton, Georgia prior to the issuance of a building permit or other development approval.

- (3) Any such agreement shall provide for execution by mortgagees, lien holders or contract purchasers in addition to the landowner, and shall require the applicant to submit such agreement to the clerk of superior court for recording.

**Section 39-211 Periodic review and amendments.**

1. Amendments.
  - A. This article may be amended from time to time as deemed appropriate or desirable. Any such amendment to this article, including an amendment to the development impact fee schedule as adopted from time to time by the Mayor and Council, shall follow the procedures for adoption of an ordinance imposing a development impact fee as set out and required under the Georgia Development Impact Fee Act (O.C.G.A. §§ 36-71-1 et seq., as amended).
  - B. As part of its annual capital improvement program review process or at any other time, the Town Council may review the capital improvements element and calculation of development impact fees, and may amend the capital improvements element, fee calculation methodology, or development impact fee schedule as deemed appropriate and necessary.
2. Capital improvements element update.
  - A. No less often than once each year, the Town Council may update the capital improvements element so as to maintain, at a minimum, a schedule of system improvements for each of the subsequent five years. The capital improvements element update may include changes in funding sources or project costs, or changes in the list or scheduling of projects. The capital improvements element update shall be submitted to the regional development center for their records, in accordance with the minimum standards and procedures for local comprehensive planning, as adopted by the Board of Community Affairs of the State of Georgia.
  - B. In conducting a periodic review of the capital improvements element and calculation of development impact fees, the Town Council may determine to amend the capital improvements element. Amendments to the capital improvements element shall comply with the procedural requirements of the minimum standards and procedures for local comprehensive planning as adopted by the Board of Community Affairs of the State of Georgia, and shall be required for any change to the capital improvements element that would:
    - (1) Redefine growth projections, land development assumptions, or goals or objectives that would affect system improvements proposed in the capital improvements element;
    - (2) Add new impact fee service areas or change the boundaries of existing impact fee service areas;  
or
    - (3) Change service levels established for an existing impact fee service area.
  - C. Continuation of validity. Failure of the Town Council to undertake a periodic review shall result in the continued use and application of the latest adopted development impact fee schedule and other data. The failure to review such data shall not invalidate this article.

**Section 39-212 Administrative appeals.**

1. Eligibility to file a waiver or appeal. Only applicants or fee payers who have already been assessed an impact fee by The Town of Braselton, Georgia, or who have already received a written determination of refund or credit amount shall be entitled to file for a waiver or an appeal.
2. Appeals and waiver process.
  - A. The aggrieved applicant or fee payer may file a written appeal with the administrator within 15 days of the receipt of written determination of the amount of the development impact fee due, or entitlement to an amount of a refund or credit. Such written appeal shall be of sufficient content to set forth the basis for the appeal and the relief sought.
  - B. Within 30 days after receipt of the appeal, the development impact fee appeals board shall make a written decision with respect to the appeal, such decision to be of sufficient content to set forth the basis for the determination.
  - C. The Town Council may hear an appeal, from the decision of the development impact fee appeals board, by filing such an appeal in writing within ten days after the decision of the development impact fee appeals board. Should the Town Council determine to hear such appeal, it shall thereafter establish a reasonable date and time for a hearing, on the appeal, give written notice thereof to the applicant or fee

- payer, and decide the issue within a reasonable time following the hearing. Any party making an appeal shall have the right to appear at the hearing to present evidence and may be represented by counsel.
- D. Requests for waiver of development impact fees, in whole or in part, shall be made to the board for a recommendation. The board may recommend a waiver of said fees, in whole or in part, upon a finding that a development project is determined to create extraordinary economic development and employment growth or encourage affordable housing. Upon such recommendation, the matter shall be referred to the Town Council of The Town of Braselton, who shall accept, reject or modify said recommendation. Upon acceptance of a waiver of fees, in whole or in part, the board shall then allocate from fund sources, the necessary funds to the impact fee program to provide for the fee so waived.
3. Payment of impact fee during appeal.
- A. The filing of an appeal shall not stay the collection of a development impact fee as a condition to the issuance of a building permit or other development approval.
  - B. A developer may pay a development impact fee under protest to obtain a building permit or other development approval, and by making such payment shall not be estopped from exercising this right of appeal or receiving a refund of any amount deemed to have been collected in excess.

**Section 39-213 Enforcement and penalties.**

- 1. **Enforcement authority.**
  - A. The enforcement of this article shall be the responsibility of the administrator and such personnel as the administrator may designate from time to time.
  - B. The administrator shall have the right to inspect the lands affected by this article and shall have the right to issue cease and desist orders and citations for violations. Refusal of written notice of violation under this article shall constitute legal notice of service.
  - C. The administrator may withhold the issuance of any building permit or other development approval if the owner or his assigns have violated the provisions of this article.
  - D. For any violation, the administrator shall have the authority to issue a citation. The citation shall be in the form of a written official notice issued in person or by certified mail to the owner of the property, or to his agent, or to the person performing the work. The receipt of a citation shall require that corrective action be taken within 30 working days unless otherwise extended at the discretion of the administrator. If the required corrective action is not taken within the time allowed, the administrator may use any available civil or criminal remedies to secure compliance, including revoking a permit.
- 2. **Violations.**
  - A. Knowingly furnishing false information on any matter relating to the administration of this article shall constitute an actionable violation.
  - B. A violation of this article shall be punishable pursuant to the Town's Charter, code of ordinances, and as according to state law. However, in addition to or in lieu of criminal prosecution, the Town Council shall have the power to sue in law or equity for relief in civil court to enforce this article, including recourse to such civil and criminal remedies in law and equity as may be necessary to ensure compliance with the provisions of this article, including but not limited to injunctive relief to enjoin and restrain any person from violating the provisions of this article and to recover such damages as may be incurred by the implementation of specific corrective actions.

**Section 39-214 Repealer, severability, and effective date.**

- 1. **Repeal of conflicting laws.** Any and all ordinances, resolutions, or regulations, or parts thereof, in conflict with this article are hereby repealed to the extent of such conflict.
- 2. **Incorporation by reference of the Georgia Development Impact Fee Act, O. C. G.A. § 36- 71-1.** It is the intent of the Town Council of The Town of Braselton, Georgia, that the "Impact Fee Ordinance of The Town of Braselton, Georgia" comply with the terms and provisions of the "Georgia Development Impact Fee Act," O.C.G.A. § 36-71-1. Therefore, O.C.G.A. § 36-71-1 is incorporated by reference into this article. To the extent that any provision of this article is inconsistent with the provisions of O.C.G.A. § 36-71-1, the latter shall control. Furthermore, to the extent that this article is silent as to any provision of O.C.G.A. § 36-71-1 that is otherwise deemed mandatory by law, such provision shall control and shall be binding upon the Town.

3. Effective date.
  - A. This article shall take effect on January 26, 2005.
  - B. Any building for which a valid application for a building permit (or, if no building permit is required, other appropriate development approval) has been received prior to the effective date of this article may proceed without payment of fees otherwise imposed by this article, provided that:
    - (1) All fees and development exactions in effect prior to the effective date of this article shall be or have been paid in full; and
    - (2) Said development approval is issued within 90 calendar days of the effective date of this article; and
    - (3) Said construction or connection to public utilities shall have been completed within the time established by the development approval.

*(Adopted January 25, 2005)*

## CHAPTER 40: SEXUALLY ORIENTED BUSINESS

### Section

40-101	Purpose
40-102	Definitions
40-103	General Regulations
40-104	Certain Activities Prohibited
40-105	Sexually Oriented Business License Required
40-106	Operation of Unregulated Premises Unlawful
40-107	Admission of Minors Unlawful
40-108	Sales to Minors Unlawful
40-109	Location
40-110	Sexually Oriented Businesses Employees, Permits
40-111	Sexually Oriented Business License
40-112	Application Contents
40-113	Applicant to Appear
40-114	Application – Investigation
40-115	Persons Prohibited as Applicants
40-116	Sexually Oriented Business License – Refusal, Appeal
40-117	Sexually Oriented Business License
40-118	Sexually Oriented Business License Nontransferable
40-119	Change of Location or Name
40-120	Appeal Procedure
40-121	Appeal – Council Determines Procedure
40-122	Town Council Hearing
40-123	Powers of Hearing Officer
40-124	Rules of Evidence Inapplicable
40-125	Hearing Officer – Report
40-126	Hearing Officer Report – Action by Town Council
40-127	Penalty for Violation
40-128	Unlawful Operation Declared Nuisance
40-129	Revocation and Appeal
40-130	Occupation Tax Certificate and Annual Renewal Fees
40-131	Change of Location
40-132	Alcoholic Beverages – Prohibitions, Exceptions



### **Section 40-101 Purpose.**

The purpose of this Chapter is to regulate certain types of businesses, including but not limited to, sexually oriented business to the end that the many types of criminal activities frequently engendered by such businesses will be curtailed. However, it is recognized that such regulation cannot de facto approach prohibition. Otherwise a protected form of expression would vanish. This Chapter represents a balancing of competing interests: Reduced criminal activity and protection of the neighborhoods through the regulation of sexually oriented businesses versus the protected rights of sexually oriented businesses and patrons.

### **Section 40-102 Definitions.**

The following terms used in this Chapter defining sexually oriented businesses shall have the meanings indicated below:

1. Adult bookstore means an establishment having a substantial or significant portion of its stock in trade, books, magazines or other periodicals which are distinguished or characterized by their emphasis on matter depicting,

- describing or relating to specified sexual activities or specified anatomical areas or an establishment with a segment or section, comprising twenty (20) percent of its net sales consisting of printed material which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.
2. Adult cabaret means an adult entertainment facility, or that part of an adult entertainment facility, which regularly features or otherwise offers to the public, customers, or members, in a viewing area which is designed for occupancy by more than five (5) persons, any live exhibition, performance, or dance by a person or persons whose exhibition, performance, or dance is characterized by the exposure of any specified anatomical area, or by specified sexual activities, or who otherwise appear unclothed or in such attire, costume, or clothing so as to expose to view specified anatomical areas.
  3. Adult dancing establishment means a business that features dancers displaying or exposing specified anatomical areas.
  4. Adult hotel or motel means a hotel or motel wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.
  5. Adult massage parlor means a sexually oriented commercial enterprise whose major business is the offering, for any form of consideration, of a service of rubbing, kneading, touching, or striking of the customer's body in a way which is intended to provide sexual stimulation or sexual gratification to the customer.
  6. Adult mini-motion picture theater means an enclosed building with a capacity for less than fifty (50) persons used for presenting material distinguished or characterized by an emphasis on matter depicting or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.
  7. Adult motion picture arcade means any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image producing devices are maintained to show images to five (5) or fewer persons per machine at any one time and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.
  8. Adult motion picture theater means an enclosed building with a capacity of fifty (50) or more persons, used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.
  9. Adult video store means any establishment having a substantial or significant portion of its stock in trade, video tapes or movies or other reproductions, whether for sale or rent, which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas or an establishment with a segment or section, comprising five percent of its total floor space, devoted to the sale or display of such material or which derives more than five percent its net sales from videos which are characterized or distinguished or relating to specified sexual activities or specified anatomical areas.
  10. Church means a church, temple, mosque, or other building consecrated to the honor of God, Allah, or other supreme being and religion; or an assembly of persons united by the profession of the same religious faith, meeting together routinely for religious worship.
  11. Erotic dance establishment means a nightclub, theater or other establishment which features live performances by topless and/or bottomless dancers, go-go dancers, strippers or similar entertainers, where such performances are distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.
  12. Encounter center or rap establishment means any business, agency or person who, for any form of consideration or gratuity, provides a place where two or more persons may congregate, assemble or associate for the primary purpose of engaging in, describing or discussing specified sexual activities, or exposing specified anatomical areas.
  13. Escort bureau or introduction services means any business, agency or person who, for a fee, commission, hire, reward or profit furnishes or offers to furnish names or persons, or who introduces, furnishes or arranges for persons who may accompany other persons to or about social affairs, entertainments or places of amusement, or who may consort with others about any place of public resort or within any private quarters.
  14. Good moral character means a person is of good moral character according to this Chapter if that person has not been convicted of a drug-related or alcohol-related felony or sex-related crime in the past five years. For purposes of this Chapter, the term "convicted" or "conviction" shall include an adjudication of guilt or a plea of guilty.
  15. Minor means any person who has not attained the age of eighteen (18) years.
  16. Sexually oriented businesses means either:

- A. Those businesses expressly specified in this Chapter, as well as any business other than those expressly specified in this Chapter, where employees or patrons expose specified anatomical areas or engage in specified sexual activities; or
  - B. Any other business or establishment which offers its patrons services or entertainment characterized by an emphasis on matter depicting, describing, discussing or relating to specified sexual activities or specified anatomical areas; or
  - C. Any business advertising or holding itself out in any forum as "XXX," "adult," "sex," or otherwise as a sexually oriented business.
17. Specified anatomical areas shall include any of the following:
- A. Less than completely and opaquely covered human genitals or pubic region; buttock; or female breast below a point immediately above the top of the areola; or
  - B. Human male genitalia in a discernibly turgid state, even if completely and opaquely covered.
18. Specified sexual activities shall include any of the following:
- A. Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relations, and any of the following sexually oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zoerasty; or
  - B. Clearly depicted human genitals in a state of sexual stimulation, arousal or tumescence; or
  - C. Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation; or
  - D. Fondling or touching of nude human genitals, pubic region, buttocks or female breast; or
  - E. Masochism, erotic or sexually oriented torture, beating or the inflicting of pain; or
  - F. Erotic or lewd touching, fondling or other sexual contact with an animal by a human being; or
  - G. Human excretion, urination, menstruation, vaginal or anal irrigation.
19. Town Clerk shall mean the Town Clerk of the Town of Braselton, or his or her designee.
20. Town Council shall mean the Mayor and Town Council of the Town of Braselton, Georgia.

**Section 40-103 General Regulations.**

- 1. No person, firm, partnership, corporation, or other entity shall advertise, or cause to be advertised a sexually oriented business, as defined in this Chapter, without a sexually oriented business license issued pursuant to this Chapter.
- 2. No later than March 1st of each year, a sexually oriented business applicant shall file a verified report with the Town Clerk or his/her designee showing the applicant's gross receipts and amounts paid to any and all persons employed as dancers for the preceding calendar year.
- 3. A sexually oriented business applicant shall maintain and retain for a period of two years the names, addresses, and ages of any and all persons employed as dancers.
- 4. No sexually oriented business applicant shall employ or contract with as a dancer a person under the age of eighteen (18) years, or a person not licensed pursuant to this Chapter.
- 5. No person under the age of eighteen (18) years shall be admitted to a sexually oriented business.
- 6. A sexually oriented business, as defined in this Section, may only operate between 10:00 a.m. and 11:55 p.m. Monday through Saturday.
- 7. No employee shall fondle or caress any patron and no patron shall fondle or caress any employee.
- 8. Within an erotic dance establishment or adult cabaret, all dancing and performances shall occur on a platform intended for that purpose which is raised at least two (2) feet from the level of the floor.
- 9. Within an erotic dancing establishment or adult cabaret, no dancing or performances shall occur closer than ten (10) feet to any patron.
- 10. Within an erotic dancing establishment or cabaret, no patron shall directly pay or give any gratuity to any dancer or performer, and no dancer or performer shall solicit any payment or gratuity from any patron.
- 11. All areas of any establishment licensed hereunder shall be fully lighted at all times patrons are present. "Fully lighted" shall mean illumination equal to three and five tenths (3.5) foot candles per square foot.
- 12. If any portion, section, or subsection of this Chapter or its application to any person or circumstance, is held invalid by a court of competent jurisdiction, the remainder of application to other persons or circumstances shall not be affected.
- 13. Any adult entertainment establishment having available for customers or patrons any booth, room, or cubicle for the private viewing of any adult entertainment must comply with the following requirements:

- A. Access. Each booth, room, or cubicle shall be totally accessible to and from aisles and public areas of the establishment, and shall be unobstructed by any curtain, door, lock, or other control-type or view obstructing devices or materials.
- B. Construction. Every booth, room or cubicle shall meet the following construction requirements:
  - (1) Each booth, room or cubicle shall be separated from adjacent booths, rooms, and cubicles and any nonpublic areas by a wall.
  - (2) Have at least one side totally open to a public lighted area or aisle so that there is an unobstructed view of anyone occupying the booth from the area in which the cash register for the adult entertainment is located.
  - (3) All walls shall be solid and without openings, extended from the floor to a height of not less than six feet and be light colored, nonabsorbent, smooth-textured and easily cleanable.
  - (4) The lighting level of each booth, room, or cubicle when not in use shall be a minimum of ten foot candles per square foot at all times, as measured from the floor.
- C. Occupants. Only one individual shall occupy a booth, room, or cubicle at anytime. No occupant shall engage in any type of sexual activity, cause any bodily discharge or litter while in the booth, room, or cubicle or shall damage deface any portion of the booth, room, or cubicle.

**Section 40-104 Certain activities prohibited.**

No person, firm, partnership, corporation or other entity operating or employed by a sexually oriented business shall publicly display or expose or suffer the public display or exposure, with less than a full opaque covering, of any portion of a person's genitals, pubic area, or buttocks in a lewd and obscene fashion.

**Section 40-105 Sexually oriented business license required.**

It is unlawful for any person, association, partnership, corporation to engage in, conduct or carry on, in or upon any premises within the Town of Braselton any of the sexually oriented businesses, defined in this Chapter, without a sexually oriented license to do so. No sexually oriented business license so issued shall condone or make legal any activity thereunder if the same is deemed illegal or unlawful under the laws of the State of Georgia or the United States. These requirements supplement, rather than replace, any other business license or occupation tax requirements of the Town of Braselton.

**Section 40-106 Operation of unregulated premises unlawful.**

It is unlawful for any person to operate an adult bookstore, adult motion picture theater, adult mini-motion picture theater, adult hotel or motel, adult video store, adult motion picture arcade, cabaret, encounter center, escort bureau or adult business or adult dancing establishment unless such business shall have a currently valid sexually oriented business license or shall have made proper application for renewal within the time required thereof under this Chapter, which sexually oriented business shall not be under suspension or permanently or conditionally revoked.

**Section 40-107 Admission of minors unlawful.**

It is unlawful for an applicant to admit or permit the admission of minors within a regulated premises.

**Section 40-108 Sales to minors unlawful.**

It is unlawful for any person to sell, barter or give, to any minor any service, material, device, or thing sold or offered for sale by an adult bookstore, adult motion picture theater, adult video store adult massage parlor, adult dancing establishment or other sexually oriented business.

**Section 40-109 Location.**

No sexually oriented business or use restricted hereunder shall be located:

- 1. Within 1500 feet of any parcel of land which is zoned for any residential use or purpose.
- 2. Within 1500 feet of any parcel of land upon which a church, school, governmental building simultaneously owned and occupied by such government, library, community center, public park, or public playground is located.

3. Within 1500 feet of any parcel of land upon which another establishment regulated or defined hereunder is located.
4. Within any zoning category other than B-P.
5. Within 1500 feet of any structure, property, or district listed in the National Register of Historic Places or designated as a historic structure under applicable Town ordinances.
6. Within 1500 feet of any parcel of land upon which a business holding a license pursuant to the Town's Alcoholic Beverage Ordinance is located. For the purposes of this Chapter only, distance shall be measured in a straight line from property line to property line using the closest property lines of the parcels of land involved. The term "parcel of land" means any quantity of land capable of being described by location and boundary, designated and used or to be used as a unit.

**Section 40-110 Sexually oriented businesses employees, permits.**

1. **Qualifications.** Employees of sexually oriented businesses shall be not less than 18 years of age. Every employee must be of good moral character as defined in this Chapter. Any employee who is convicted of a sex-related crime, or drug-related or alcohol-related felony while employed as sexually oriented business employee shall not thereafter work on any premises requiring licenses under this Chapter for a period of five years from the date of such conviction, unless a longer time is ordered by a court of competent jurisdiction. The terms "convicted" or "conviction" shall include an adjudication of guilt or a plea of guilty. The terms "employed as a sexually oriented business employee" and "work on any licensed premises" shall include all work done or services performed while in the scope of employment elsewhere than on the licensed premises.
2. **Approval for Employment.** Before any person may work on a regulated premises, such person shall file a notice with the Town Clerk or designee of his or her intended employment on forms that require the information set forth in 40-110.1 of this Section. The Town shall have 15 days to investigate the information required by the prospective employee. If the prospective employee is found to be of good moral character, the Town Clerk or designee shall grant approval of employment and issue a sexually oriented business employment permit. Upon approval, the employee may begin working on the regulated premises. If approval is denied, the prospective employee may, within ten days of said denial, apply to the chief of police for a hearing. The decision of the Chief of Police after hearing may be appealed within ten days thereafter to the Town Council who shall issue such order as is required. The decision of the Town Council may thereafter be appealed, within 30 days, to Jackson County Superior Court. An investigation fee of \$100.00 shall accompany the notice of intended employment.
3. **Suspension; Revocation of Permit.** Conviction of violating the provisions of this Chapter, the ordinances of the Town of Braselton, laws and regulations of the State of Georgia, or the rules and regulations of the Town shall subject an employee to suspension or revocation of any permit issued pursuant to this subsection.
4. **Independent Contractors.** For the purpose of this Chapter, independent contractors shall be considered as employees and shall apply for and receive the same permits as employees, regardless of the business relationship with the owner or applicant of any sexually oriented business.

**Section 40-111 Sexually oriented business license.**

1. Any person, association, partnership or corporation desiring to obtain a business license to operate, engage in, conduct or carry on any sexually oriented business shall make application to the Town Clerk, or the Town Clerk's designated representative. Prior to submitting such application, a nonrefundable application fee of \$250.00 shall be paid to defray, in part, the cost of investigation and report required by this Section. The Town Clerk shall issue a receipt showing that such processing fee has been paid.
2. The application for a sexually oriented business does not authorize the engaging in, operation of, conduct of or carrying on of any sexually oriented business.
3. The premises for which the application is sought shall be posted with a sign, provided by the Town, indicating the proposed use for a period of not less than 30 days, during which time no license may be issued.
4. The issuance of a sexually oriented business license does not authorize the engaging in, operation of, conduct of or carrying on of any sexually oriented business unless all other applicable requirements of the Town's ordinances are met.

**Section 40-112 Application contents.**

Each application for sexually oriented business license shall contain the following information:

1. The applicant's full true name and any other names used by the applicant.
2. The present address and telephone number of the applicant.
3. Acceptable written proof that the applicant is at least 21 years of age.
4. Business, occupation or employment history of the applicant for the five years immediately preceding the date of application. Business or employment records of the applicant, partners in a partnership (including limited partners), directors and officers of a corporation.
5. The business license or occupation tax history of the applicant and whether such applicant, in previous operations in this or any other town, Town, county, state, or territory under license, has had such license or occupation tax certificate for a sexually oriented business, adult entertainment business, or similar type of business revoked or suspended, the reason therefore, and the business activity or occupation subsequent to such action of suspension or revocation.
6. If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation or charter, together with the place and date of incorporation, and the names and addresses of each of its current officers and directors. If the applicant is a partnership, the applicant shall set forth the name, residence address and dates of birth of the partners. If the applicant is a limited partnership, it shall furnish a copy of its certificate of limited partnership filed with the county clerk. If one or more of the partners is a corporation, the provisions of this subsection pertaining to corporations shall apply. The applicant corporation or partnership shall designate one of its officers or general partners to act as its responsible managing officer. Such designated persons shall complete and sign all application forms required of an individual applicant under this Chapter, but only one application fee shall be charged.
7. If the applicant, any partners, including limited partners, if the applicant is a partnership, or any corporate officers or directors, if the applicant is a corporation, have been convicted of any crime involving moral character in the past five years and, if so, a complete description of any such crime including date of violation, date of conviction, jurisdiction and any disposition, including any fine or sentence imposed and whether terms of disposition have been fully completed. For purposes of this Chapter, the terms "convicted" or "conviction" shall include an adjudication of guilt or a plea of guilty.
8. If applicant is a person doing business under a trade name, a copy of the trade name properly recorded. If the applicant is a corporation, a copy of authority to do business in Georgia, including articles of incorporation, trade name affidavit, if any, last annual report, if any.
9. At least three character references from individuals who are in no way related to the applicant or individual shareholders, officers or directors of a corporation and who are not or will not benefit financially in any way from the application if the occupation tax certificate is granted and who have not been convicted of any crime involving moral character. The Town Clerk or designee shall prepare forms consistent with the provisions of this subsection for the applicant who shall submit all character references on such forms.
10. Address of the premises to be regulated.
11. Whether the premises are owned by the applicant or rented from another person.
12. A plat by a registered engineer, licensed by the State of Georgia, showing the location of the proposed premises is not inconsistent with the provisions contained in Section 40-109 of this Chapter which provides that no sexually oriented business or use restricted shall be located within 1500 feet of any parcel of land which is zoned for any residential use or purposes; within 1500 feet of any parcel of land upon which a church, school, governmental building simultaneously owned and occupied by such government, library, civic center, neighborhood public park or neighborhood playground is located; within 1500 feet of any parcel upon which another establishment regulated or defined hereunder is located; within any zoning category other than B-P; or within 1500 feet of any historic district, property, or structure.
13. Each application for a sexually oriented business license shall be verified and acknowledged under oath to be true and correct by:
  - A. If the applicant is an individual, the individual;
  - B. If by a partnership, by the managing or general partner;
  - C. If a corporation, by the president of the corporation;
  - D. If any other organization or association, by the chief administrative official.

**Section 40-113 Applicant to appear.**

The applicant, if an individual, or designated responsible partner or managing officer, if a partnership or corporation, shall personally appear at Town Hall and pay the nonrefundable application fee, and shall present the application containing the aforementioned and described information.

**Section 40-114 Application--Investigation.**

The Town shall have up to 45 days to investigate the application and the background of the applicant. Upon completion of the investigation, the Town Council may grant the permit at its next regular meeting if it finds:

1. The required application fee has been paid.
2. The application conforms in all respects to the provisions of this Chapter.
3. The applicant has not knowingly made a material misrepresentation in the application.
4. The applicant has fully cooperated in the investigation of the application.
5. The applicant, if an individual, or any officers or directors, if the applicant is a corporation, or any of the partners, including limited partners, if the applicant is a partnership, has not been convicted in a court of competent jurisdiction of an offense involving a sex-related crime, or a drug-related or alcohol-related felony or convicted of an attempt to commit any of the above-mentioned offenses, or convicted in any state of any offense which if committed or attempted in this state, would have been punishable as one or more of the above-mentioned offenses. For purposes of this Chapter, the terms "convicted" or "conviction" shall include an adjudication of guilt or a plea of guilty.
6. The applicant has not had a sexually oriented business license, occupation tax certificate, or other similar license or permit denied or revoked for cause involving moral character in this town or any other town, Town, county, state, or territory prior to the date of application.
7. The building, structure, equipment, or location of such business, as proposed by applicant, would comply with all applicable zoning and building codes and ordinances of the Town.
8. The applicant is at least 21 years of age.
9. That the applicant, his or her employees, agents, partners, directors, officers, or managers has not within five years of the date of the application knowingly allowed or permitted any of the specified sexual activities as defined herein to be committed or allowed in or upon the premises where such sexually oriented business is to be located, or to be used as a place in which solicitations for the specified sexual activities as defined herein openly occur.
10. That on the date the business for which a sexually oriented business license is required herein commences, and thereafter, there will be a responsible person on the premises to act as manager at all times during which the business is open.
11. That the proposed premises are in compliance with those location restrictions as set out in Section 40-109 of this Chapter, based on a plat prepared and certified by a registered engineer or land surveyor, licensed by the State of Georgia, showing the location of the proposed premises is not inconsistent with the provisions contained in Section 40-109 of this Chapter.

**Section 40-115 Persons prohibited as applicants.**

1. No sexually oriented business license provided for by this Chapter shall be issued to or held by:
  - A. An applicant who has not paid all required fees and taxes for a business at that location or property taxes.
  - B. Any person who is not of good moral character as defined herein.
  - C. Any corporation, any of whose directors are not of good moral character as defined herein.
  - D. Any partnership or association, any of whose partners, including limited partners, or members is not of good moral character as defined herein.
  - E. Any applicant who is not qualified to hold and conduct business according to the laws of the United States, the State of Georgia, or the Town of Braselton.

**Section 40-116 Sexually oriented business license--Refusal, appeal.**

If the Town, following investigation of the applicant, deems that the applicant does not fulfill the requirements as set forth in this Chapter, it shall prepare a written investigation report stating such opinion and, within 45 days of the date of application, provide copies of the investigation report to the Town Clerk. The Town Clerk shall, within ten days of receipt of such written report, notify the applicant by certified mail of such denial. Any applicant who is denied a sexually oriented business

license may appeal such denial to the Town Council by filing a written notice of appeal within ten days of the receipt of such notice from the Town Clerk. A hearing before Town Council shall be scheduled within 45 days of such notice.

**Section 40-117 Sexually oriented business license.**

A sexually oriented business license shall be renewed, following review and approval of a renewal application, on a calendar year basis provided that the license holder continues to meet the requirements set out in this Chapter. The renewal fee for the sexually oriented business license shall be \$100.00. Renewal applications shall be due by November 15th of the year preceding that for which such license renewal is requested. Failure to submit a renewal application by the above-stated deadline shall constitute surrender of such license, effective January 1st of the following year.

**Section 40-118 Sexually oriented business license nontransferable.**

No sexually oriented business license may be sold, transferred, or assigned by a license holder, or by operation of law, to any other person or persons. Any such sale, transfer or assignment, or attempted sale, transfer or assignment, shall be deemed to constitute a voluntary surrender of such license and such license shall thereafter be null and void; provided and excepting, however, that if the applicant is a partnership and one or more of the partners should die, one or more of the surviving partners may acquire, by purchase or otherwise, the interest of the deceased partner or partners without effecting a surrender or termination of such license, and in such case, the license upon notification to the Town, shall be placed in the name of the surviving partner. A sexually oriented business license issued to a corporation shall be deemed terminated and void when either any outstanding stock of the corporation is sold, transferred, or assigned after the issuance of a license, or any stock authorized but not issued at the time of the granting of a sexually oriented business license is thereafter issued and sold, transferred, or assigned.

**Section 40-119 Change of location or name.**

1. No sexually oriented business shall move from the location specified on its license until a change of location fee of \$100.00 has been deposited with the Town, and approval has been obtained from the Town Council. Such approval shall not be given unless all requirements and regulations, as contained in the Town's codes are demonstrated by the license holder to have been met using such information as the Town requires.
2. No applicant shall operate, conduct, manage, engage in, or carry on a sexually oriented business under any name other than his name and the name of the business as specified on sexually oriented business license.
3. Any application for an extension or expansion of a building or other place of business where a sexually oriented business is located shall require inspection and shall comply with the provisions and regulations of this Chapter.

**Section 40-120 Appeal procedure.**

1. The applicant shall, within ten days after he has been notified of an adverse determination, submit a notice of appeal to the Town Clerk.
2. The notice of appeal shall be addressed to the Town Council and shall specify the subject matter of the appeal, the date of any original and amended application or requests, the date of the adverse decision (or receipt of notice thereof), the basis of the appeal, the action requested of the Town Council, and the name and address of the applicant.
3. The Town Clerk shall place the appeal on the agenda of the next regular Town Council meeting occurring not less than five nor more than 30 days after receipt of the application for Town Council action.

**Section 40-121 Appeal--Council determines procedure.**

When an appeal is placed on the Town Council agenda, the Town Council may take either of the following actions:

1. Set a hearing date and instruct the Town Clerk to give such notice of hearing as may be required by law.
2. Appoint a Hearing Officer and fix the time and place for hearing. The Hearing Officer may or may not be an employee of the Town, and may be appointed for an extended period of time. The Town Clerk shall assume responsibility for such publication of notice of the hearing as may be required by law. If a Hearing Officer is appointed, the hearing shall be conducted in accordance with the procedures set out in this Chapter.

**Section 40-122 Town Council hearing.**

Whenever the Town Clerk has scheduled an appeal before the Town Council, at the time and date set therefore, the Town Council shall receive all relevant testimony and evidence from the applicant, from interested parties, and from Town staff. The Town Council may sustain, overrule or modify the action complained of. The action of the Town Council shall be final.

**Section 40-123 Powers of Hearing Officer.**

The Hearing Officer, appointed pursuant to the procedure set out in this Chapter, may receive and rule on admissibility of evidence, hear testimony under oath and call witnesses as he may deem advisable with respect to the conduct of the hearing.

**Section 40-124 Rules of evidence inapplicable.**

The Town Council and the Hearing Officer shall not be bound by the traditional rules of evidence in hearings conducted under this Chapter. Rules of evidence as applied in an administrative hearing shall apply.

**Section 40-125 Hearing Officer --Report.**

1. The Hearing Officer shall, within a reasonable time not to exceed 30 days from the date such hearing is terminated, submit a written report to the Town Council. Such report shall contain a brief summary of the evidence considered and state findings, conclusions and any recommendations. All such reports shall be filed with the Town Clerk, and shall be considered public records.
2. A copy of such report shall be forwarded by the Hearing Officer via certified mail to the appellant the same day it is filed with the Town Clerk, with additional copies furnished to the Chief of Police.
3. The Town Clerk shall place the Hearing Officer's report on the agenda of the next regular Town Council meeting occurring not less than ten days after the report is filed and shall notify the appellant of the date of such meeting by certified mail at least ten days prior to the meeting unless the appellant stipulates to a shorter notice period.

**Section 40-126 Hearing Officer Report--Action by Town Council.**

The Town Council may adopt or reject the Hearing Officer's recommendation in its entirety or may modify the recommendation. If the Town Council does not adopt the Hearing Officer's recommendation, it may:

1. Refer the matter to the same or another hearing officer for a completely new hearing, or for the taking of additional evidence on specific points. In either of such cases the Hearing Officer shall proceed as provided in this Chapter.
2. Decide the case upon a review of the entire record before the Hearing Officer with or without taking additional evidence.

**Section 40-127 Penalty for violation.**

Any person violating the provisions of this Chapter shall be guilty of a misdemeanor, punishable by a fine not to exceed \$1,000.00 per violation or by imprisonment for a period not to exceed 90 days, or by both such fine and imprisonment. In addition to such fine or imprisonment, violation of this Chapter shall also be grounds for immediate suspension or revocation of the sexually oriented business license or employment permit issued hereunder.

**Section 40-128 Unlawful operation declared nuisance.**

Any sexually oriented business operated, conducted, or maintained contrary to the provisions of this Chapter shall be and the same is declared to be unlawful and a public nuisance. The Town may, in addition to, or in lieu of prosecuting a criminal action hereunder, commence an action or actions, proceeding or proceedings for abatement, removal or enjoinder thereof, in the manner provided by law. It shall take such other steps and shall apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such sexually oriented business and restrain and enjoin any person from operating, conducting, or maintaining a sexually oriented business contrary to the provisions of this Chapter. In addition, violation of the provisions of this Chapter shall be per se grounds for suspension or revocation of the sexually oriented business license granted hereunder.

**Section 40-129 Revocation and appeal.**

1. The Chief of Police shall be authorized to suspend or revoke any sexually oriented business license previously granted herein. In the event the Chief of Police seeks to suspend or to revoke sexually oriented business license, the Chief of Police shall give written notification to the applicant of such action and such notice shall contain a specification of the violation or violations and shall be served upon the licensee at least five days prior to the notice of hearing. The applicant shall be given written notice of the time and place of the hearing.
2. The Chief of Police shall be authorized to suspend or revoke a sexually oriented business license in the event of any one or more of the following:
  - A. An applicant gave false or misleading information in the original application process;
  - B. An applicant has knowingly allowed possession, use, distribution, or sale of alcoholic beverages or controlled substances on the premises and/or knowingly allowed possession, use, distribution, or sale of alcoholic beverages or controlled substances to a minor on the premises;
  - C. An applicant has knowingly allowed the violation of an ordinance of the Town or a violation of any criminal law of the State of Georgia to occur on the premises;
  - D. An applicant has violated any provision of this Section;
  - E. An applicant has been convicted of any drug-related, alcohol-related, or sex-related crime by the State of Georgia or the Town of Braselton regarding an offense which was committed on the premises or which would otherwise violate the provisions of this Chapter, with the terms "convicted" or "conviction" including an adjudication of guilt or a plea of guilty; or
  - F. An applicant fails to pay any fee, fine, or other amount of money due to the Town of Braselton under this Chapter or any other ordinance of the Town of Braselton.
3. In the event the Chief of Police shall suspend or revoke any sexually oriented business license hereunder, such suspension or revocation shall be for a period of not less than one day nor more than three hundred sixty-five (365) days, within the discretion of the Chief of Police. Provided, however, that the applicant shall be authorized to continue its business operations until that date of the hearing scheduled in accordance with subsection 4 of this Section. No applicant may apply for a sexually oriented business license during any period of suspension or revocation. In any hearing conducted by the Chief of Police, the Chief shall consider, among other things, the severity of the allegations, the evidence submitted and the testimony presented, in making any decision on suspension, revocation and the duration of either.
4. In the event of a suspension or revocation by the Chief of Police, the applicant may appeal the decision of the Chief of Police to the Town Council for the Town of Braselton by filing a written notice of appeal within ten (10) days from the date of the decision of the Chief of Police. Thereafter, a hearing shall be scheduled before the Town Council within forty-five (45) days after the date of the notice of appeal by the applicant. After hearing by the Town Council, the Town Council may take such action as it deems appropriate, including the upholding of the action of the Chief of Police or the imposition of such action as the Town Council may deem appropriate under the facts. The decision of the Town Council shall be final. Appeals from the decision of the Town Council shall be to the Superior Court of Jackson County filed within thirty (30) days of the final action of Town Council. In the event the applicant does not file an appeal from any decision of the Chief of Police, as provided herein, the decision of the Chief of Police shall be final.

**Section 40-130 Occupation tax certificate and annual renewal fees.**

The occupation tax and any renewal fee for such occupation tax certificate for the sexually oriented business shall be based on the schedule adopted pursuant to the ordinance providing for the issuance of such occupation tax certificates.

**Section 40-131 Change of location.**

Any person holding a sexually oriented business license intending to change its location of such business shall be required to submit an application, together with the application fee and all such supporting materials as are required by Code Section 40-112 of this Chapter, and shall be required to meet all requirements of this Chapter, and obtain the approval of the Town Council, before such business may be relocated.

**Section 40-132      Alcoholic beverages--Prohibitions, exceptions.**

1. No person, association, partnership or corporation licensed under this Chapter of the Town of Braselton Code after the effective date of the Ordinance codified in this Chapter shall serve, sell, distribute, or suffer the consumption or possession of any intoxicating liquor, beer, wine, or controlled substance upon the premises of any license holder.
2. The word "premises" is hereby defined as the building for which or upon which a license is issued hereunder and "premise" and "building" are further defined as a structure or edifice enclosing a space within its exterior walls, and covered with a roof or outside top covering of a building or connected or attached or joined with or by a wall, roof, walkway or breezeway. Any structure or structures of any nature that share a wall, roof, walkway or breezeway shall be considered a single premises and building for the purposes of this Chapter. No building may be subdivided for the purpose of creating more than one premise for the purposes of this Chapter. In addition, solely for purpose of this Chapter the word "premises" shall include the land and real estate as well as its appurtenances, including the entire parcel together with the boundaries thereof, upon which the licensed premises sits as well as the area of land surrounding said premises."

*(Adopted November 9, 2002)*

# CHAPTER 41: WELLHEAD PROTECTION ORDINANCE

## Section

41-101	Short Title and Purpose
41-102	Definitions
41-103	Establishment of Wellhead Protection Zone
41-104	Permitted Uses
41-105	Prohibited Uses
41-106	Separation Distances
41-107	Existing Facilities
41-108	Administration



### Section 41-101 Short Title and Purpose

1. This ordinance shall be known as the "Wellhead Protection Ordinance."
2. The purpose of this ordinance is to insure the provision of a safe and sanitary drinking water supply for the Town of Braselton (hereinafter "Town") and to prevent temporary and permanent contamination of the environment by the establishment of wellhead protection zones surrounding the wellheads for all wells which are the supply sources for the Town water system and by the designation and regulation of property uses and conditions which may be maintained within such zones.

### Section 41-102 Definitions

When used in this ordinance the following words and phrases shall have the meaning given in this Section:

1. **Hazardous Waste or Material.** Any waste or material which because of its quantity, concentration or physical, chemical or infectious characteristics may:
  - A. Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or
  - B. Pose a substantial present or potential hazard to human health or to the environment when improperly treated, stored, transported, disposed of or otherwise managed.
  - C. Be designated by the United States Environmental Protection Agency as dangerous to human health or the environment; or
  - D. Include, but not be limited to, synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids, asbestos, indeterminate construction debris and alkalis.
2. **Wellhead.** The upper terminal of a well, including adapters, ports seals, valves and other attachments.
3. **Impervious Surface.** Material or structure on, above, or below the ground that does not allow precipitation or surface water to penetrate directly into the soil.
4. **Existing facilities which may threaten to cause environmental pollution.** Facilities which may include, but are not limited to, sites listed on the Georgia Department of Natural Resources Hazardous Site Inventory or Underground Storage Tank Inventory.

### Section 41-103 Establishment of Wellhead Protection Zone

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/county water supply wellhead and the radius of which is one thousand five hundred (1,500) feet.

**Section 41-104 Permitted Uses**

The following uses shall be permitted within wellhead protection zones:

1. Any use permitted within existing agricultural or single family residential districts, except that the minimum residential lot size for a lot any portion of which lies within the wellhead protection zone shall not be less one acre; and
2. Any other open land use where any building located on the property is incidental and accessory to the primary open land use.

**Section 41-105 Prohibited Uses**

The following uses or conditions shall be and are hereby prohibited within wellhead protection zones, whether or not such use or condition may otherwise be ordinarily included as a part of a use permitted under Section 41-104 of this Ordinance;

1. Surface use or storage of hazardous material, expressly including commercial use of agricultural pesticides;
2. Septic tanks or drain fields appurtenant thereto;
3. Impervious surfaces other than roofs of buildings, and streets, driveways and walks serving buildings permitted under Section 41-104 of this ordinance;
4. All solid waste handling facilities, as defined by O.C.G.A. Section 391-3-4-.01;
5. Hazardous waste disposal sites;
6. Storm water infiltration basins;
7. Underground storage tanks;
8. Sanitary sewer lines within one hundred fifty (150) feet of a wellhead;
9. Automobile junkyards and graveyards;
10. Storage of animal manure unless properly covered or contained;
11. Discharge to the ground of non-sanitary wastewater including industrial and chemical process water; and
12. Storage of commercial fertilizers, unless such storage is within a structure designed to prevent the generation and escape of contaminated run-off or leachate.

**Section 41-106 Separation Distances.**

The following distances shall be maintained and not exempted as a permitted use listed in section 41-104.a and b:

1. Fifty (50) feet between a well and storm sewer main;
2. Two hundred (200) feet between a well and sanitary sewer main, lift station, or a single family residential fuel oil tank;
3. Four hundred (400) feet between a well and a septic system, tank, or drain field receiving less than eight thousand (8,000) gallons per day, or a cemetery, or a storm water drainage pond;

**Section 41-107 Existing Facilities.**

The requirements for all existing facilities which may threaten to cause environmental pollution:

1. Facilities shall provide copies of all federal, state, and local facility operation approvals and on-going environmental monitoring results to the Town for pollutants listed in Appendices I and II of 40 CFR Part 258, Subpart E, as amended, 56 Fed. Reg. 51032-51039, according to the groundwater monitoring provisions of O.C.G.A. § 391-3-4-.14, which are hereby incorporated by reference;
2. Facilities shall provide additional environmental or safety structure or monitoring as deemed necessary;
3. Facilities shall replace equipment or expand in a manner which improves existing environmental and safety technologies;
4. Facilities shall have the responsibility of devising and filing a contingency plan with the Town for the immediate notification of Town officials in the event of an emergency.

**Section 41-108 Administration**

The policies and procedures for administration of any wellhead protection zone established under this ordinance, including without limitation those applicable to non-conforming uses, exceptions, enforcement and penalties, shall be the same as provided in the Town of Braselton Development Code, as the same is presently enacted or may from time to time be amended.

*(Adopted November 12, 2001)*

# INDEX

<u>Subject</u>	<u>Section</u>
<b>-A-</b>	
ADMINISTRATION	
Bonds.....	3-105
Code of Ethics.....	3-102
Compensation.....	3-106
Governmental Authority, Exercise of.....	3-101
Oaths.....	3-104
Policy and Procedures.....	3-103
AIR QUALITY CONTROL	
Exhibit A: Open Ban Burn Rules Penalties.....	13-102
Open Burning.....	13-101
ANIMALS	
Animal Control Regulations.....	30-101
Enforcement.....	30-102
<b>-B-</b>	
BALL PLAYING.....	31-105
BONFIRES.....	31-106
BUDGET	
Adoption.....	4-307
Budget Ordinances or Resolutions, Adoption of.....	4-303
Procedures for Adoption of Budget.....	4-305
Amendments.....	4-310
Annual Report, Submitted to the Department of Community Affairs.....	4-316
Appropriations	
Emergency.....	4-319
Lapse of.....	4-320
Transfer of.....	4-318
Audits	
Conduct of.....	4-312
Contents of Audit Reports.....	4-313
Forwarding to State Auditor.....	4-314
Public Inspection of.....	4-315
Required.....	4-311
Capital Program.....	4-317
Fiscal Year.....	4-301
Form and Content of Budget.....	4-306
Officer.....	4-304
Requirement of Annual Balanced Budget.....	4-302
BURNING, DISMANTLING, OR DEMOLITION OF DWELLINGS, BUILDINGS OR OTHER STRUCTURES	
Burning Dismantling, or demolition of Dwellings, Buildings or Other Structures.....	37-101
BUSINESS REGULATION (See Licensing and Business Regulation)	
<b>-C-</b>	
CONSTRUCTION CODES	
Additional Building Codes.....	36-102
Code Compliance Inspections Codes.....	36-106
Enforcement of Codes.....	36-103

Inspectors, Inspections, and Violations... 36-105
Permit Fees ... 36-104

State Minimum Standard Construction Codes... 36-101

CODE OF ORDINANCES

Altering... 1-107
Amending... 1-106
Construction, Rules of... 1-102
Definitions... 1-103
Designated and Cited... 1-101
Ordinances Not Affected by Code Cited... 1-110
Penalty Where No Penalty Provided... 1-109
Repeal or Expiration of Code Section or Ordinance, Effect of... 1-105
Section Headings... 1-104
Severability... 1-108

COMPREHENSIVE PLAN... 39-102

CURBS (See Streets, Curbs, and Sidewalks)

-D-

DEFINITIONS

Code of Ordinances... 1-103
Flood Damage Prevention Ordinance... 34-102
Identity Theft Protection Program... 7-103
Illicit Discharge and Illegal Connection... 21-103
Noise Regulation... 14-102
Nuisances... 33-101
Outdoor Water Use Ordinance... 38-202
Parks and Recreation... 23-101
Post-Development Stormwater Management for New Development and Redevelopment... 21-202
Required Fixtures to be Used in Construction... 38-101
Sewer Use Ordinance... 20-272
Sexually Oriented Business... 40-102
Soil Erosion and Sedimentation Control... 35-102
Solid Waste Management... 12-101
Treatment of Address Discrepancies... 7-202
Wellhead Protection Ordinances... 41-102

DISORDERLY CONDUCT... 31-101

DOGS (See Animals)

-E-

ELECTIONS

Candidates
Campaign Financing Disclosure... 2-304
Notice of Candidacy, Name on Ballot... 2-301
Notice of Candidacy, Write-in Vote... 2-302
Qualifying Fees... 2-303
Contested Elections... 2-408
Date of... 2-404
Districts... 2-402
Expenses... 2-103
Municipal Elections, Authority to Conduct... 2-102
Officials... 2-401
Registration
Absentee... 2-206

Challenge of Registration List..... 2-204  
Election Superintendent, Registrars, and Deputy Registrars..... 2-201  
Elector Identification. .... 2-207  
Elector Qualifications. .... 2-202  
Permanency of. .... 2-205  
State Rules and Regulations, Adoption of.. .... 2-101  
Voting  
Absentee Ballots. .... 2-406  
Contested Elections. .... 2-408  
Date of Election.. .... 2-404  
Election Officials. .... 2-401  
Election Districts. .... 2-402  
Polling Places.. .... 2-403  
Vote Required for Election... .... 2-407  
EMPLOYMENT HANDBOOK. .... 3-603

**-F-**

FIREARMS, AIR GUNS, ETC., DISCHARGING.. .... 31-102  
FIRE PREVENTION AND PROTECTION  
State Minimum Fire Safety Standards..... 10-101  
FLOOD DAMAGE PREVENTION ORDINANCE  
Definitions. .... 34-102  
General Provisions. .... 34-101  
Permit Procedures and Requirements. .... 34-103  
Provisions for Flood Damage Reduction..... 34-105  
Standards for Development..... 34-104  
Variance Procedures.. .... 34-106  
Violations, Enforcement and Penalties.. .... 34-107

**-G-**

GOLF CART ORDINANCE. .... 11-105

**-H-**

**-I-**  
IDENTITY THEFT PROTECTION PROGRAM  
Identity Theft Prevention Program  
Access to Covered Account Information..... 7-106  
Credit Card Payments..... 7-107  
Definitions. .... 7-103  
Findings. .... 7-104  
Outside Service Providers.. .... 7-112  
Prevention and Mitigation of Identify Theft..... 7-109  
Process of Establishing a Covered Account..... 7-105  
Program Administration..... 7-111  
Purpose. .... 7-102  
Short Title. .... 7-101  
Sources and Types of Red Flags..... 7-108  
Updating the Program. .... 7-110  
Address Discrepancies, Treatment of  
Definitions..... 7-202  
Effective Date ADDRESS DISCREPANCIES, TREATMENT OF  
Definitions..... 7-202

Furnishing Consumer’s Address to Consumer Reporting Agency.....	7-204
Methods of Confirming Consumer Addresses.....	7-206
Policy.....	7-203
Purpose.....	7-201
Furnishing Consumer’s Address to Consumer Reporting Agency.....	7-204
Methods of Confirming Consumer Addresses.....	7-205
Policy.....	7-203
Purpose.....	7-201

IMPACT FEES

Administrative Appeals.....	39-212
Deposit and Expenditure of Fees.....	39-210
Enforcement and Penalties.....	39-213
Fees Assessment and Payment – Fee Schedule.....	39-205
Fee Certification.....	39-209
Findings, purpose and intent.....	39-202
Imposition of Development Impact Fees.....	39-204
Individual Assessment Determinations.....	39-207
Periodic Review and Amendments.....	39-211
Repealer, Severability, and Effective Date.....	39-214
Rules of Construction and Definitions.....	39-203
Short Title, Authority, and Applicability.....	39-201
Timing of Assessment.....	39-206
Timing of Fee Payment.....	39-208

-J-

JUNK, ACCUMULATION OF.....	31-108
----------------------------	--------

-K-

-L-

LAND DEVELOPMENT REGULATION

Comprehensive Plan.....	39-102
Development Ordinance.....	39-101
Greenspace Plan.....	39-104
Northeast Georgia Regional Solid Waste Management Plan.....	39-103
River Corridor Protection Ordinance.....	39-105
Water Supply Watershed.....	39-106

LICENSING AND BUSINESS REGULATION

Application Fees and Deadlines.....	32-101
Branch Offices.....	32-113
Charitable Solicitors.....	32-207
Commencement of Business, Time Limit.....	32-105
Compliance with State Regulations.....	32-108
Confidentiality of Information.....	32-109
Construction Contractors.....	32-202
Display of Licenses.....	32-110
Duplicate Licenses.....	32-112
Grounds for Non-acceptance of Application and for Revocation, Suspension, and Renewals.....	32-103
Inspections.....	32-111
Insurance Business.....	32-204
Joint License.....	32-114
Junk Dealers and Junkyards.....	32-208
Massage Businesses.....	32-212
Parades.....	32-210
Pawnshops.....	32-209

*Braselton Code of Ordinances*

Payment of License Fees After Approval of Application, Time Limit. . . . . 32-104  
Peddlers and Itinerant Merchants. . . . . 32-206  
Penalties. . . . . 32-115  
Renewals and Terminations. . . . . 32-106  
Restrictions Upon Transfers. . . . . 32-107  
Tattoo Establishments. . . . . 32-211

--

MAYOR

General Authority. . . . . 3-301  
Duties. . . . . 3-302

MAYOR AND CITY COUNCIL

Election. . . . . 3-201  
Legislative Authority Generally. . . . . 3-206  
Meetings. . . . . 3-204  
Qualifications for Office. . . . . 3-202  
Rules for the Conduct of Business. . . . . 3-205  
Vacancies. . . . . 3-203

MOTOR VEHICLES

Abandonment of. . . . . 31-109  
Municipal Property. . . . . 3-701

MUNICIPAL COURT

Appeal. . . . . 5-115  
Bailiff. . . . . 5-104  
Bond  
    Arrest and Bond. . . . . 5-110  
    Forfeiture of . . . . . 5-111  
Collection of Fines. . . . . 5-114  
Contracting for Municipal Court Services. . . . . 5-116  
Court Cost. . . . . 5-112  
Judge  
    Appointment and Qualifications of. . . . . 5-102  
    Required Training for Judges of Municipal Courts. . . . . 5-103  
Limitations. . . . . 5-106  
Malicious Prosecution. . . . . 5-113  
Record of Cases. . . . . 5-105  
Scope of Jurisdiction. . . . . 5-101  
Subpoenas  
    Failure to Obey. . . . . 5-109  
    Subpoenas. . . . . 5-108  
Summons  
    Failure to Obey. . . . . 5-109  
    Service of. . . . . 5-107

MUNICIPAL PROPERTY. . . . . 3-701

--

NATIONAL INCIDENT MANAGEMENT SYSTEM

Standardized Unified Incident Command System. . . . . 9-101

NOISE REGULATION

Definitions. . . . . 14-102  
Duties and Responsibilities of Other Departments. . . . . 14-104  
Exemptions. . . . . 14-107  
  
Penalties. . . . . 14-110

Powers and Duties. . . . .	14-103
Prohibited Acts, Specific. . . . .	14-108
Purpose. . . . .	14-101
Sound Level Limitations. . . . .	14-106
Sound Measurement Procedures. . . . .	14-105
Temporary Relief. . . . .	14-109

NORTHEAST GEORGIA REGIONAL SOLID WASTE MANAGEMENT PLAN. . . . . 39-103

NUISANCES

Definitions. . . . .	33-101
Proceedings to Abate Generally. . . . .	33-102
Public Health Hazard or General Nuisance on Private Property. . . . .	33-105
Summary Abatement. . . . .	33-103
Unfit Buildings or Structures. . . . .	33-104

-O-

OFFENSES, GENERAL

Alarm Ordinance. . . . .	31-115
Ball Playing. . . . .	31-105
Bonfires. . . . .	31-106
Disorderly Conduct. . . . .	31-101
Firearms, Air Guns, Etc., Discharging. . . . .	31-102
Illegal Gambling Devices. . . . .	31-112
Junk, Accumulation of. . . . .	31-108
Junked Automobiles. . . . .	31-114
Litter Control. . . . .	31-113
Loitering. . . . .	31-110
Motor Vehicles, Abandonment of. . . . .	31-109
Other Offenses. . . . .	31-121
Throwing of Missiles. . . . .	31-104
Wounds, Report of Treatment of. . . . .	31-103

OFFICERS AND EMPLOYEES

Employment Handbook. . . . .	3-603
Town Attorney. . . . .	3-601
Public Officers and Employees - Labor Practices; Strikes by Public Employees Prohibited. . . . .	3-602

-P-

PARKS AND RECREATION

Parks and Recreation Facility Rules

Definitions. . . . .	23-101
Enforcement. . . . .	23-102
Penalties for Violation. . . . .	23-103
Town of Braselton; powers and duties. . . . .	23-104

Permits. . . . . 23-301

Regulations and Posting of Rules, Persons Authorized. . . . . 23-401

Use of Recreation Facilities

Alcoholic Beverages, possession or use of. . . . .	23-208
Animals Restricted. . . . .	23-216
Annoying noises prohibited. . . . .	23-204
Commercial Activity Restricted. . . . .	23-212
Damaging or Removal of Park Property or Vegetation. . . . .	23-207
Fire restricted. . . . .	23-206
Hot Air Balloons and Hobby Rockets, Launching Restricted. . . . .	23-218
Hours open to public restricted. . . . .	23-213
Littering prohibited. . . . .	23-201

Parking restricted. . . . . 23-210  
Parking limited to Recreation Facility Users. . . . . 23-211  
Person conduct. . . . . 23-205  
Pyrotechnics restricted. . . . . 23-217  
Streams and Rivers regulated. . . . . 23-214  
Throwing objects prohibited. . . . . 23-203  
Vehicles restricted. . . . . 23-209  
Violation of Facility Regulations. . . . . 23-215  
Weapons prohibited. . . . . 23-201

**-Q-**

**-R-**

RECREATION CENTERS (See Parks and Re-creation)

REVOLVING LOAN FUND

Applicant Requirements. . . . . 8-109  
Definitions. . . . . 8-107  
Eligibility. . . . . 8-108  
Eligible Activities. . . . . 8-104  
Goals . . . . . 8-101  
Ineligible Activities. . . . . 8-106  
Ineligible Borrowers. . . . . 8-105  
Objective. . . . . 8-102  
Recaptured Funds. . . . . 8-111  
Scope. . . . . 8-103  
Terms and Conditions. . . . . 8-110

**-S-**

SEWER (See Water and Sewer)

SEXUALLY ORIENTED BUSINESS

Alcoholic Beverages – Prohibitions, Exceptions. . . . . 40-132  
Appeal  
    Procedure. . . . . 40-120  
    Procedure Determined by Council. . . . . 40-121  
Applicants  
    Appearance Required. . . . . 40-113  
    Persons Prohibited. . . . . 40-115  
Application  
    Contents. . . . . 40-112  
    Investigation. . . . . 40-114  
Business License  
    License. . . . . 40-104, 40-111, 40-117  
    Nontransferable. . . . . 40-118  
    Refusal, Appeal. . . . . 40-116  
Certain Activities Prohibited. . . . . 40-104  
Change of Location or Name. . . . . 40-119, 40-131  
Definitions. . . . . 40-102  
Employees and Permits. . . . . 40-110  
General Regulations. . . . . 40-103

Hearing	
Hearing Officer. . . . .	40-125
Hearing Officer Report – Action by Town Council. . . . .	40-126
Powers of Hearing Officer. . . . .	40-123
Rules of Evidence, Inapplicable. . . . .	40-124
Town Council Hearing. . . . .	40-122
Location. . . . .	40-109
Minors	
Admission of, Unlawful. . . . .	40-107
Sales to, Unlawful. . . . .	40-108
Occupation Tax Certificate and Annual Renewal Fees. . . . .	40-130
Operation of Unregulated Premises Unlawful. . . . .	40-106
Penalty for Violation. . . . .	40-127
Purpose. . . . .	40-101
Revocation and Appeal. . . . .	40-129
Unlawful Operation Declared Nuisance. . . . .	40-128
SOIL EROSION AND SEDIMENTATION CONTROL	
Administrative Appeal, Judicial Review. . . . .	35-108
Application/Permit Process. . . . .	35-104
Definitions. . . . .	35-101
Education and Certification. . . . .	35-107
Effectivity, Validity and Liability. . . . .	35-109
Exemptions. . . . .	35-102
Inspection and Enforcement. . . . .	35-105
Minimum Requirements For Erosion, Sedimentation, and Pollution Control Using Best Management Practices. . . . .	35-103
Penalties and Incentives. . . . .	35-106
Title. . . . .	35-101
SOLID WASTE MANAGEMENT	
Definitions. . . . .	12-101
Enforcement. . . . .	12-105
General. . . . .	12-102
Penalties. . . . .	12-104
Requirements for Service Providers. . . . .	12-103
SOLID WASTE MANAGEMENT PLAN, NORTHEAST GEORGIA REGIONAL. . . . .	39-104
STORMWATER	
Illicit Discharge and Illegal Connection	
Access and Inspection of Properties and Facilities. . . . .	21-106
Definitions. . . . .	21-103
General Provisions. . . . .	21-102
Industrial or Construction Activity Discharges. . . . .	21-105
Introduction. . . . .	21-101
Notification of Accidental Discharges and Spills. . . . .	21-107
Prohibitions. . . . .	21-104
Violations, Enforcement and Penalties. . . . .	21-108
Post-Development Stormwater Management for New Development and Redevelopment	
Construction Inspections of Post-Development Stormwater. . . . .	21-205
Definitions. . . . .	21-202
General Provisions. . . . .	21-201
Ongoing Inspection and Maintenance of Stormwater Facilities and Practices. . . . .	21-206
Permit Procedures and Requirements. . . . .	21-203
Post-Development Stormwater Management Performance Criteria. . . . .	21-204
Violations, Enforcement and Penalties. . . . .	21-207

STREETS, CURBS, AND SIDEWALKS

General Regulations. . . . .	22-101
Speed Humps. . . . .	22-102

-T-

TAXES

Distilled Spirits Excise. . . . .	4-104
Distilled Spirits Sold by the Drink; Excise. . . . .	4-106
Gross Direct Premiums. . . . .	4-108
Hotel-Motel Excise Tax. . . . .	4-110
Local Option Sales. . . . .	4-112
Malt Beverage Excise. . . . .	4-102
Municipal Tax Sales. . . . .	4-114
Occupation Tax. . . . .	4-115
Public Utility Franchise. . . . .	4-110
Wine Excise. . . . .	4-103

THROWING OF MISSILES. . . . .	31-104
-------------------------------	--------

TOWN ATTORNEY. . . . .	3-601
------------------------	-------

TOWN CLERK AND TREASURER

Bond. . . . .	3-503
Compensation. . . . .	3-506
Duties of Town Clerk. . . . .	3-504
Duties of Town Treasurer. . . . .	3-505
Election. . . . .	3-501
Term of Office. . . . .	3-502

TOWN MANAGER

Duties. . . . .	3-402
General Authority. . . . .	3-401
Term of Office. . . . .	3-403

TOWN STORAGE OF MOTOR VEHICLES

Fees for Town Storage of Motor Vehicles. . . . .	4-501
--	-------

TRAFFIC CONTROL

Golf Cart Ordinances. . . . .	11-105
Speed Limit on Public Streets. . . . .	11-102
Speed Limits, On-system and Off-system. . . . .	11-104
Traffic Ordinance. . . . .	11-103
Uniform Rules of the Road. . . . .	11-101

-U-

URBAN REDEVELOPMENT AGENCY

Exercise of Powers. . . . .	6-102
Financing. . . . .	6-105
Preparation of Urban Redevelopment Plan. . . . .	6-104
Project Area. . . . .	6-107
Project Area, Generally. . . . .	6-101
Terms of Office of Commissioners and Initial Appointments. . . . .	6-103
Urban Redevelopment Plan. . . . .	6-106

-V-

VOTING (See Elections)

-W-

WATER CONSERVATION ORDINANCE

Outdoor Water Use Ordinance

Application of Ordinance. . . . . 38-205

Definitions. . . . . 38-202

Enforcement. . . . . 38-206

Intent and Purpose. . . . . 38-201

Outdoor Irrigation. . . . . 38-203

Penalty. . . . . 38-207

Required Fixtures to be used in Construction

Commercial Building Construction. . . . . 38-103

Residential Building. . . . . 38-102

Residential/Commercial. . . . . 38-104

Definitions. . . . . 38-101

Enforcement; Penalty. . . . . 38-106

Exemptions. . . . . 38-105

WATER and SEWER

Grease Management Program

Grease Management Program: Sand and Oil/Grease Interceptors. . . . . 20-301

Sewer Use Ordinance

Abbreviations. . . . . 20-202

Accidental Discharges. . . . . 20-222

Civil Liability. . . . . 20-247

Connection to Public Sewer Required upon failure of Septic Tank or Individual Sewage Management System. . . . . 20-206

Connection to Public Water and Wastewater Systems Required; Septic Tanks and Individual Sewage Management Systems; Certificate of Occupancy. . . . . 20-204

Consent Orders. . . . . 20-243

Criminal Prosecution. . . . . 20-248

Definitions, General. . . . . 20-272

Dilution. . . . . 20-226

Discharge Permits. . . . . 20-216

Discharge, Termination of . . . . .

Discharge Violations, Affirmative Defenses to. . . . . 20-224

Discharges, Accidental. . . . . 20-222

Disposal, Sewage and Waste; Impoundment of Surface Waters. . . . . 20-203

Duty of Owner and Occupant to Properly Operate and Maintain Septic Tanks and Other Permitted Individual Sewage Management Systems. . . . . 20-205

Effective Date. . . . . 20-274

Emergency Suspensions. . . . . 20-246

Enforcement. . . . . 20-241

Federal and State Requirements. . . . . 20-212

Hauled Wastewater. . . . . 20-223

Impoundment of Surface Waters. . . . . 20-203

Industrial Pretreatment Facilities. . . . . 20-220

Injunctive Relief. . . . . 20-244

Notification and Delivery of Enforcement Actions. . . . . 20-251

Prohibited Discharges. . . . . 20-211

Publication of Users in Significant Noncompliance. . . . . 20-250

Purpose and Policy. . . . . 21-201

Records, Maintenance of. . . . . 20-218

Reporting Requirements. . . . . 20-217

Remedies, Non Exclusive. . . . . 20-249

Sampling and Testing Procedures. . . . . 20-214

Sand and Oil Grease Receptors. . . . . 20-221  
Separate Building Sewers Required.. . . . . 20-207  
Significant Industrial Users.. . . . . 20-215  
Termination of Discharge.. . . . . 20-245  
Town’s Right of Revision. . . . . 20-225  
Violation, Notice of.. . . . . 20-242  
Waste Received from Other Jurisdictions, Regulation of.. . . . . 20-219  
Wastewater Pretreatment Permit Application.. . . . . 20-213  
Wastewater Surcharge, High Strength. . . . . 20-227  
Water and Sewer Rates, Application, Meter Reading, Complaints, Wastewater Allocation, etc.  
Access to Premises and Extensions of System. . . . . 20-110  
Allocation and Capacity Certification Procedures, Wastewater. . . . . 20-115  
Application for Water and Sewer Service.. . . . . 20-103  
Change of Occupancy.. . . . . 20-111  
Complaints – Adjustments.. . . . . 20-114  
Connection Fees. . . . . 20-104  
Extraordinary Rates. . . . . 20-102  
Meter Readings.. . . . . 20-112  
Minimum Charges.. . . . . 20-105  
Penalties. . . . . 20-110  
Rate Schedule. . . . . 20-101  
Responsibility and Liability, Consumer’s.. . . . . 20-107  
Responsibility and Liability, Town’s.. . . . . 20-106  
Rules for Outdoor Water Use.. . . . . 20-108  
Suspension of Surface.. . . . . 20-113  
Violations, Procedure for.. . . . . 20-109  
WATER AND SEWER REVENUE  
Water and Sewer Revenue Account. . . . . 4-401  
WELLHEAD PROTECTION ORDINANCE  
Administration . . . . . 41-108  
Definitions.. . . . . 41-102  
Existing Facilities.. . . . . 41-107  
Establishment of Wellhead Protection Zone. . . . . 41-103  
Permitted Uses . . . . . 41-104  
Prohibited Uses.. . . . . 41-105  
Short Title and Purpose. . . . . 37-101  
Separation Distances. . . . . 41-101  
WOUNDS, REPORT OF TREATMENT OF.. . . . . 31-103

-X-

-Y-

-Z-