

## **ARTICLE XVIII ADMINISTRATION AND ENFORCEMENT**

### **18.0 BUILDING INSPECTION ADMINISTRATION & ENFORCEMENT**

The purpose of this Section is to provide for the administration and enforcement of the Georgia State Minimum Standard Codes for Construction as adopted and amended by the Georgia Department of Community Affairs. Hereinafter, the State Minimum Standard Codes for Construction shall be referred to as “the construction codes”.

#### **18.0.1 CODE REMEDIAL**

- A. These construction codes are hereby declared to be remedial, and shall be construed to secure the beneficial interests and purposes thereof which are public safety, health, and general welfare through structural strength, stability, sanitation, adequate light and ventilation, and safety to life and property from fire and other hazards attributed to the built environment including alteration, repair, removal, demolition, use and occupancy of buildings, structures, or premises, and by regulating the installation and maintenance of all electrical, gas, mechanical and plumbing systems, which may be referred to as service systems.
- B. Quality control of materials and workmanship is not within the purview of the construction codes except as it relates to the purposes stated therein.
- C. The inspection or permitting of any building, system or plan, under the requirements of construction codes shall not be construed in any court as a warranty of the physical condition of such building, system or plan or their adequacy. The Town of Braselton nor any employee thereof, shall be liable in tort for damages for any defect or hazardous or illegal condition or inadequacy in such building, system or plan, nor for any failure of any component of such, which may occur subsequent to such inspection or permitting.

#### **18.0.2 SCOPE**

- A. Where, in any specific case, different sections of these construction codes specify different materials, methods of construction or other requirements, the most restrictive shall govern. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.
- B. The provisions of the Standard Building Code, as adopted and amended by the Georgia Department of Community Affairs, or as adopted and amended by the Town Council, shall apply to the construction, alteration, repair, equipment, use and occupancy, location, maintenance, removal and demolition, of every building or structure or any appurtenances connected or attached to such buildings or structures, except in one and two family dwellings.
- C. The provisions of the National Electrical Code, as adopted and amended by the Georgia Department of Community Affairs, shall apply to the installation of electrical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and appurtenances thereto.
- D. The provisions of the Standard Gas Code, as adopted and amended by the Georgia Department of Community Affairs, shall apply to the installation of consumer's gas piping, gas appliances and related accessories as covered in this Code. These requirements apply to gas piping systems extending from the point of delivery to the inlet connections of appliances and the installation and operation of residential and commercial gas appliances and related accessories, except in one and two family dwellings.
- E. The provisions of the Standard Mechanical Code, as adopted and amended by the Georgia Department of Community Affairs, shall apply to the installation of

mechanical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and/or appurtenances, including ventilating, heating, cooling, air conditioning and refrigeration systems, incinerators, and other energy related systems. Except in one and two family dwellings.

- F. The provisions of the Standard Plumbing Code, as adopted and amended by the Georgia Department of Community Affairs, shall apply to every plumbing installation, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and appurtenances, and when connected to a water or sewerage system.
- G. The provisions of the Standard Fire Prevention Code, as adopted and amended by the Georgia Department of Community Affairs, shall apply to the construction, alteration, repair, equipment, use and occupancy, location, maintenance, of every building or structure or any appurtenances connected or attached to such buildings or structures.
- H. The provisions of the CABO Model Energy Code, as adopted and amended by the Georgia Department of Community Affairs, shall regulate the design of building envelopes for adequate thermal resistance and low air leakage and the design and selection of mechanical, electrical, service water heating and illumination systems and equipment that will enable the effective use of energy in new building construction.
- I. The provisions of the CABO One and Two Family Dwelling Code, as adopted and amended by the Georgia Department of Community Affairs, shall apply to the construction, alteration, repair, equipment, use and occupancy, location, maintenance, of every one or two family dwelling or any appurtenances connected or attached to such buildings or structures.
- J. The provisions of this code provide code enforcement personnel with the necessary tools to have dangerous and unsafe buildings repaired or demolished.
- K. The provisions of the construction codes shall not be held to deprive any Federal or State agency, or any applicable governing authority having jurisdiction, of any power or authority which it had on the effective date of the adoption of the construction codes or of any remedy then existing for the enforcement of its orders, nor shall it deprive any individual or corporation of its legal rights as provided by law.
- L. Appendices referenced in the text of the construction codes shall be considered an integral part of the construction codes.
- M. Standards referenced in the text of the construction codes shall be considered an integral part of the construction codes. If specific portions of a standard are denoted by code text, only those portions of the standard shall be enforced. Where construction code provisions conflict with a standard, the construction code provisions shall be enforced. Permissive and advisory provisions in a standard shall not be construed as mandatory.
- N. All buildings, structures, electrical, gas, mechanical and plumbing systems, both existing and new, and all parts thereof, shall be maintained in a safe and sanitary condition. All devices or safeguards, which are required by the construction codes when constructed, altered, or repaired, shall be maintained in good working order. The owner, or his/her designated agent, shall be responsible for the maintenance of buildings, structures, electrical, gas, mechanical and plumbing systems.

## **18.1 BUILDING DEPARTMENT (18.1-18.10.3 amended 8/06)**

There is hereby established a Building Inspections Division under the Planning and Development Department.

- A. An officer or employee connected with the department, except one whose only connection is as a member of the board established by this ordinance, shall not be financially interested in the furnishing of labor, material, or appliances for the construction, alteration, or maintenance of a building, structure, service, system, or in the making of plans or of specifications thereof, unless he is the owner of such. This officer or employee shall not engage in any other work, which is inconsistent with his duties or conflict with the interests of the department.
- B. The Building Official shall keep, or cause to be kept, a record of the business of the department. The records of the department shall be open to public inspection pursuant to the provisions of the Georgia Open Records Act.
- C. Any officer or employee, or member of the Board of Adjustments and Appeals, charged with the enforcement of the construction codes, acting for the applicable governing authority in the discharge of his duties, shall not thereby render himself/herself personally liable, and is hereby relieved from all personal liability, for any damage that may occur to persons or property as a result of any act required or permitted in the discharge of his/her duties. Any suit brought against any officer or employee or member because of such act performed by him/her in the enforcement of any provision of the Construction codes shall be defended by the governing jurisdiction until the final termination of the proceedings.

### **18.1.0 POWERS AND DUTIES OF THE BUILDING OFFICIAL**

- A. The Building Official is hereby authorized and directed to enforce the provisions of the construction codes. The Building Official is further authorized to render interpretations of the construction codes, which are consistent with its intent and purpose.
- B. There may be Residential Building Official and a Commercial Building Official, both entitled to the powers and authorities as defined in this article. The Residential Building Official shall concentrate his or her duties toward residential and multi-family structures. The Commercial Building Official shall concentrate his or her duties toward commercial structures and uses.
- C. The Building Official shall have the authorities and duties of the Enforcement Officer as defined in this article, in the absence of said Officer.
- D. Whenever necessary to make an inspection to enforce any of the provisions of the Construction codes, or whenever the Building Official has reasonable cause to believe that there exists in any building or upon any premises any condition or code violation which makes such building, structure, premises, electrical, gas, mechanical or plumbing systems unsafe, dangerous or hazardous, the Building Official may enter such building, structure or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Building Official by these construction codes, provided that if such building or premises is occupied, he shall first present proper credentials and request entry. If such building, structure, or premises is unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of such and request entry. If entry is refused, the Building Official shall have recourse to every remedy provided by law to secure entry. When the Building Official shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care or control of

any building, structure, or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the Building Official for the purpose of inspection and examination pursuant to the construction codes.

- E. Upon notice from the Building Official, work on any building, structure, electrical, gas, mechanical or plumbing system that is being done contrary to the provisions of the construction codes or in a dangerous or unsafe manner, shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed. Where an emergency exists, the Building Official shall not be required to give a written notice prior to stopping the work.

**F. REVOCATION OF PERMITS**

- 1. The Building Official may revoke a permit or approval, issued under the provisions of the construction codes, in case there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.
  - 2. The Building Official may revoke a permit upon determination by the Building Official that the construction erection, alteration, repair, moving, demolition, installation or replacement of the building, structure, electrical, gas, mechanical or plumbing systems for which the permit was issued is in violation of, or not in conformity with, the provisions of the construction codes.
- G. The Building Official shall have the authority to grant an administrative variance from the Minimum Yard Requirements specified in this Code up to no greater than a 10% reduction of said requirement. (amended 6-04)

**18.1.1 EXISTING BUILDINGS**

- A. Alterations, repairs or rehabilitation work may be made to any existing structure, building, electrical, gas, mechanical or plumbing system without requiring the building, structure, plumbing, electrical, mechanical or gas system to comply with all the requirements of the construction codes provided that the alteration, repair or rehabilitation work conforms to the requirements of the construction codes for new construction. The Building Official shall determine the extent to which the existing system shall be made to conform to the requirements of the construction codes for new construction.
- B. If the occupancy classification of any existing building or structure is changed, the building, electrical, gas, mechanical and plumbing systems shall be made to conform to the intent of the construction codes as required by the Building Official.

**18.1.2 SPECIAL HISTORIC BUILDINGS**

The provisions of the construction codes relating to the construction, alteration, repair, enlargement, restoration, relocation or moving of buildings or structures shall not be mandatory for existing buildings or structures identified and classified by the state or local jurisdiction as Historic Buildings when such buildings or structures are judged by the Building Official to be safe and in the public interest of health, safety and welfare regarding any proposed construction, alteration, repair, enlargement, restoration, relocation or moving of buildings within fire districts.

### **18.1.3 UNSAFE BUILDINGS OR SYSTEMS**

All buildings, structures, electrical, gas, mechanical or plumbing systems which are unsafe, unsanitary, or do not provide adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use, constitute a hazard to safety or health, are considered unsafe buildings or service systems. All such unsafe buildings, structures or service systems are hereby declared illegal and shall be abated by repair and rehabilitation or by demolition in accordance with the provisions of the Standard Unsafe Building Abatement Code.

- A. Any requirements necessary for the strength, stability or proper operation of an existing or proposed building, structure, electrical, gas, mechanical or plumbing system, or for the public safety, health and general welfare, not specifically covered by or the construction codes, shall be determined by the Building Official.

### **18.1.4 ALTERNATE METHODS OF CONSTRUCTION**

The provisions of the construction codes are not intended to prevent the use of any material or method of construction not specifically prescribed by them, provided any such alternate has been reviewed by the Building Official. The Building Official shall approve any such alternate, provided the Building Official finds that the alternate for the purpose intended is at least the equivalent of that prescribed in the Construction codes, in quality, strength, effectiveness, fire resistance, durability and safety. The Building Official shall require that sufficient evidence or proof be submitted to substantiate any claim made regarding the alternate.

### **18.1.5 PERMITS**

- A. Any owner, authorized agent, or contractor who desires to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical, or plumbing system, the installation of which is regulated by the construction codes, or to cause any such work to be done, shall first make an application to the Planning and Development Department ~~Building Official~~ and obtain the required permit for the work.
- B. Permits shall not be required for the following mechanical work:
  - 1. Any portable heating appliance;
  - 2. any portable ventilation equipment;
  - 3. any portable cooling unit;
  - 4. any steam, hot or chilled water piping within any heating or cooling equipment regulated by the construction codes;
  - 5. replacements of any part which does not alter its approval or make it unsafe;
  - 6. any portable evaporative cooler;
  - 7. any self-contained refrigeration system containing 10 lb.(4.54 kg.) or less of refrigerant and actuated by motors of 1 horsepower (746 W) or less.
- C. A building, electrical, gas, mechanical or plumbing permit shall carry with it the right to construct or install the work, provided the same are shown on the drawings and set forth in the specifications filed with the application for the permit. Where these are not shown on the drawings and covered by the specifications submitted with the application, separate permits shall be required.
- D. Ordinary minor repairs may be made with the approval of the Building Official without a permit, provided that such repairs shall not violate any of the provisions of the construction codes.
- E. Each application for a permit, with the required fee, shall be filed with the Planning and Development Department on a form furnished for that purpose and shall

contain a general description of the proposed work and its location. The application shall be signed by the owner, or his/her authorized agent. The building permit application shall indicate the proposed occupancy of all parts of the building and of that portion of the site or lot, if any, not covered by the building or structure, and shall contain such other information as may be required by the Building Official.

- F. An application for a permit for any proposed work shall be deemed to have been abandoned 6 months after the date of filing for the permit, unless before then a permit has been issued. One or more extensions of time for periods of not more than 90 days each may be allowed by the Building Official for the application, provided the extension is requested in writing and justifiable cause is demonstrated.

#### **18.1.6 DRAWINGS AND SPECIFICATIONS**

- A. When required by the Building Official, two or more copies of specifications and of drawings drawn to scale with sufficient clarity and detail to indicate the nature and character of the work, shall accompany the application for a permit. Such drawings and specifications shall contain information, in the form of notes or otherwise, as to the quality of materials, where quality is essential to conformity with the construction codes. Such information shall be specific, and the construction codes shall not be cited as a whole or in part, nor shall the term "legal" or its equivalent be used, as a substitute for specific information. All information, drawings, specifications and accompanying data shall bear the name and signature of the person responsible for the design.
- B. The Building Official may require details, computations, stress diagrams, and other data necessary to describe the construction or installation and the basis of calculations. All drawings, specifications and accompanying data required by the Building Official to be prepared by an architect or engineer shall be affixed with their official seal.
- C. The design professional shall be an architect or engineer legally registered under the laws of this state regulating the practice of architecture or engineering and shall affix his official seal to said drawings, specifications and accompanying data, for the following:
  - 1. All Group A, E, and I occupancies.
  - 2. Buildings and structures three stories or more high.
  - 3. Buildings and structures 5000 sq. ft. (465 m<sup>2</sup>) or more in area. For all other buildings and structures, the submittal shall bear the certification of the applicant that some specific state law exception permits its preparation by a person not so registered.
- D. Single family dwellings, regardless of size, shall require neither a registered architect nor engineer, nor a certification that an architect or engineer is not required.
- E. Plans for all buildings shall indicate how required structural and fire resistance integrity will be maintained where a penetration of a required fire resistance wall, floor or partition will be made for electrical, gas, mechanical, plumbing, signal and communication conduits, pipes and systems and also indicate in sufficient detail how the fire integrity will be maintained where required fire resistance floors intersect the exterior walls.
- F. Drawings shall show the location of the proposed building or structure and of every existing building or structure on the site or lot. The Building Official may require a boundary line survey prepared by a qualified surveyor.

### **18.1.7 SITE DESIGN REQUIREMENTS**

- A. The Building Official may require the following:
  - 1. A general site plan drawn at a legible scale which shall include, but not be limited to, the location of all buildings, exterior storage facilities, permanent access ways, evacuation routes, parking lots, internal roads, chemical loading areas, equipment cleaning areas, storm and sanitary sewer accesses, emergency equipment and adjacent property uses. The exterior storage areas shall be identified with the hazard classes and the maximum quantities per hazard class of hazardous materials stored.
  - 2. A building floor plan drawn to a legible scale, which shall include, but not be limited to, all hazardous materials storage facilities within the building and shall indicate rooms, doorways, corridors, exits, fire rated assemblies with their hourly rating, location of liquid tight rooms, and evacuation routes. Each hazardous materials storage facility shall be identified on the plan with the hazard classes and quantity range per hazard class or the hazardous materials stored.

### **18.1.8 EXAMINATION OF DOCUMENTS**

- A. The Building Official shall examine or cause to be examined each application for a permit and the accompanying documents, consisting of drawings, specifications, computations, and additional data, and shall ascertain by such examinations whether the construction indicated and described is in accordance with the requirements of the Construction codes and all other pertinent laws or ordinances.
- B. The Building Official may accept a sworn affidavit from a Registered Architect or Engineer stating that the plans submitted conform to the construction codes. For buildings and structures the affidavit shall state that the plans conform to the laws as to egress, type of construction and general arrangement and if accompanied by drawings showing the structural design, and by a statement that the plans and design conform to the requirements of the construction codes as to strength, stresses, strains, loads and stability. The Building Official may without any examination or inspection accept such affidavit, provided the architect or engineer who made such affidavit agrees to submit to the Building Official, copies of inspection reports as inspections are performed and upon completion of the structure, electrical, gas, mechanical or plumbing systems a certification that the structure, electrical, gas, mechanical or plumbing system has been erected in accordance with the requirements of the Construction codes. Where the Building Official relies upon such affidavit, the architect or engineer shall assume full responsibility for the compliance with all provisions of the construction codes and other pertinent laws or ordinances.

### **18.1.9 ISSUING PERMITS**

- A. The Planning and Development Department shall act upon an application for a permit without unreasonable or unnecessary delay. If the Building Official or their designee is satisfied that the work described in an application for a permit and the contract documents filed therewith conform to the requirements of the construction codes and other pertinent laws and ordinances, he shall issue a permit to the applicant.
- B. If the application for a permit and the accompanying contract documents describing the work do not conform to the requirements of the construction codes

or other pertinent laws or ordinances, the Planning and Development Department shall not issue a permit, but shall return the contract documents to the applicant with his refusal to issue such permit. Such refusal shall, when requested, be in writing and shall contain the reason for refusal.

- C. When application for permit to erect or enlarge a building has been filed and pending issuance of such permit, the Building Official may, at his discretion, issue a special permit for the foundation only. The holder of such a special permit is proceeding at his own risk and without assurance that a permit for the remainder of the work will be granted nor that corrections will not be required in order to meet provisions of the construction codes.
- D. A permit shall not be given by the Building Official for the construction of any building, or for the alteration of any building where said building is to be changed and such change will affect the exterior walls, bays, balconies, or other appendages or projections fronting on any street, alley or public lane, or for the placing on any lot or premises of any building or structure removed from another lot or premises, unless the applicant has made application at the office of the Director of Public Works for the lines of the public street on which he/she proposes to build, erect or locate said building; and it shall be the duty of the Building Official to see that the street lines are not encroached upon except as provided for in Chapter 22 of the Standard Building Code.

## **18.2 CONTRACTOR RESPONSIBILITIES**

It shall be the duty of every contractor who shall make contracts for the installation or repairs of building, structure, electrical, gas, mechanical, sprinkler or plumbing systems, for which a permit is required, to comply with state or local rules and regulations concerning licensing which the applicable governing authority may have adopted. In such case that the state requires a contractor to have obtained a state license before they are permitted to perform work, the contractor shall supply the local government with their license number before receiving a permit for work to be performed.

## **18.3 CONDITIONS OF THE PERMIT**

- A. A permit issued shall be construed to be a license to proceed with the work and not as authority to violate, cancel, alter, or set aside any of the provisions of the construction codes, nor shall issuance of a permit prevent the Building Official from thereafter requiring a correction of errors in plans, construction, or violations of the Construction codes. Every permit issued shall become invalid unless the work authorized by such permit is commenced within 6 months after its issuance, or if the work authorized by such permit is suspended or abandoned for a period of 6 months after the time the work is commenced. One or more extensions of time, for periods not more than 90 days each, may be allowed for the permit. The extension shall be requested in writing and justifiable cause demonstrated. Extensions shall be in writing by the Building Official.
- B. Whenever a permit is issued in reliance upon an affidavit or whenever the work to be covered by a permit involves installation under conditions which, in the opinion of the Building Official, are hazardous or complex, the Building Official shall require that the architect or engineer who signed the affidavit or prepared the drawings or computations shall supervise such work. In addition, they shall be responsible for conformity with the permit, provide copies of inspection reports as inspections are performed, and upon completion make and file with the Building Official written affidavit that the work has been done in conformity with the reviewed plans and with the structural provisions of the Construction codes. In the

event such architect or engineer is not available, the owner shall employ in his stead a competent person or agency whose qualifications are reviewed by the Building Official.

- C. When the Building Official issues a permit, he/she shall enforce, in writing or by stamp, both sets of plans "Reviewed for Code Compliance." One set of drawings so reviewed shall be retained by the Building Official and the other set shall be returned to the applicant. The permitted drawings shall be kept at the site of work and shall be open to inspection by the Building Official or his/her authorized representative.

#### **18.4 FEES**

- A. A permit shall not be issued until the fees prescribed by the governing body have been paid. Nor shall an amendment to a permit be released until the additional fee, if any, due to an increase in the estimated cost of the building, structure, electrical, plumbing, mechanical or gas systems, etc. has been paid.
- B. Any person who commences any work on a building, structure, electrical, gas, mechanical or plumbing, etc. system before obtaining the necessary permits, shall be subject to a penalty of 100% of the usual permit fee in addition to the required permit fees.
- C. The Town shall keep a permanent and accurate accounting of all permit fees and other money collected, the names of all persons upon whose account the same was paid, along with the date and amount thereof.
- D. On all buildings, structures, electrical, plumbing, mechanical and gas systems or alterations requiring a permit, a fee for each permit shall be paid as required at the time of filing application, in accordance with the fee schedules as set by the governing body.
- E. If, in the opinion of the Building Official, the valuation of building, alteration, structure, electrical, gas, mechanical or plumbing systems appears to be underestimated on the application, permit shall be denied, unless the applicant can show detailed estimates to meet the approval of the Building Official. Permit valuations shall include total cost, such as electrical, gas, mechanical, plumbing equipment and other systems, including materials and labor.

#### **18.5 INSPECTIONS**

- A. Before issuing a permit the Building Official may examine or cause to be examined any building, electrical, gas, mechanical or plumbing systems for which an application has been received for a permit to enlarge, alter, repair, move, demolish, install, or change the occupancy. He shall inspect all buildings, structures, electrical, gas, mechanical and plumbing systems, from time to time, during and upon completion of the work for which a permit was issued. He shall make a record of every such examination and inspection and of all violations of the construction codes.
- B. When deemed necessary by the Building Official he shall make, or cause to be made, an inspection of materials or assemblies at the point of manufacture or fabrication. A record shall be made of every such examination and inspection and of all violations of the Construction codes.
- C. The Building Official may make, or cause to be made, the inspections required by this code He/She may accept reports of inspectors of recognized inspection services provided that after investigation he/she is satisfied as to their qualifications and reliability. A certificate called for by any provision of the

Construction codes shall not be based on such reports unless the same are in writing and certified by a responsible officer of such service.

- D. The Building Official shall inspect or cause to be inspected at various intervals all construction or work for which a permit is required, and a final inspection shall be made of every building, structure, electrical, gas, mechanical or plumbing system upon completion, prior to the issuance of the Certificate of Occupancy or Completion.
- E. Work requiring a permit shall not commence until the permit holder or his/her agent posts the permit card in a conspicuous place on the premises. The permit shall be protected from the weather and located in such position as to permit the Building Official or representative to conveniently make the required entries thereon. This permit card shall be maintained in such position by the permit holder until the Certificate of Occupancy or Completion is issued by the Building Official.
- F. The Building Official upon notification from the permit holder or his agent shall make the following inspections and such other inspections as necessary, and shall either release that portion of the construction or shall notify the permit holder or his agent of any violations which must be corrected in order to comply with the Technical Code:
  - G. BUILDING
    - 1. Foundation Inspection: To be made after trenches are excavated and forms erected.
    - 2. Frame Inspection: To be made after the roof, all framing, fireblocking and bracing are in place, all concealing wiring, all pipes, chimneys, ducts and vents are complete.
    - 3. Final Inspection: To be made after the building is completed and ready for occupancy.
  - H. ELECTRICAL
    - 1. Underground Inspection: To be made after trenches or ditches are excavated, conduit or cable installed, and before any backfill is put in place.
    - 2. Rough-In Inspection: To be made after the roof, framing, fireblocking and bracing is in place and prior to the installation of wall or ceiling membranes.
    - 3. Final Inspection: To be made after the building is complete, all required electrical fixtures are in place and properly connected or protected, and the structure is ready for occupancy.
  - I. PLUMBING
    - 1. Underground Inspection: To be made after trenches or ditches are excavated, piping installed, and before any backfill is put in place.
    - 2. Rough-In Inspection: To be made after the roof, framing, fireblocking and bracing is in place and all soil, waste and vent piping is complete, and prior to this installation of wall or ceiling membranes.
    - 3. Final Inspection: To be made after the building is complete, all plumbing fixtures are in place and properly connected, and the structure is ready for occupancy.
    - 4. Note: See the Standard Plumbing Code for required tests.
  - I. MECHANICAL
    - 1. Underground Inspection: To be made after trenches or ditches are excavated, underground duct and fuel piping installed, and before any backfill is put in place.
    - 2. Rough-In Inspection: To be made after the roof, framing, fire blocking and bracing are in place and all ducting, and other concealed components are complete, and prior to the installation of wall or ceiling membranes.

3. Final Inspection: To be made after the building is complete, the mechanical system is in place and properly connected, and the structure is ready for occupancy.

J. GAS

1. Rough Piping Inspection: To be made after all new piping authorized by the permit has been installed, and before any such piping has been covered or concealed or any fixtures or gas appliances have been connected.
2. Final Piping Inspection: To be made after all piping authorized by the permit has been installed and after all portions which are to be concealed by plastering or otherwise have been so concealed, and before any fixtures or gas appliances have been connected. This inspection shall include a pressure test. To be made on all new gas work authorized by the permit and such portions of existing systems as may be affected by new work or any changes in order to insure compliance with all the requirements of the construction codes and to assure that the installation and construction of the gas system is in accordance with reviewed plans.

K. ENERGY

1. Foundation Inspection: be made before slab concrete is poured in place. To verify that perimeter insulation has been installed correctly on any slab on grade foundations, if required.
2. Frame Inspection: to be made before exterior wall insulation is concealed by wall board to check installation of exterior walls insulation and to inspect that all holes and cracks through the structure envelope have been sealed in an appropriate manner as to restrict air passage.
3. Final Inspection: To be made after the building is completed and ready for occupancy. To verify installation and R-value of ceiling and floor insulation. To verify correct SEER ratings on appliances.

L. Work shall not be done on any part of a building, structure, electrical, gas, mechanical or plumbing system beyond the point indicated in each successive inspection without first obtaining a written release from the Building Official. Such written release shall be given only after an inspection has been made of each successive step in the construction or installation as indicated by each of the foregoing three inspections.

M. Reinforcing steel, structural frame, insulation, plumbing, work of any part of any building or structure shall not be covered or concealed without first obtaining a release from the Building Official.

N. In all buildings where plaster is used for fire protection purposes, the permit holder or his agent shall notify the Building Official after all lathing and backing is in place. Plaster shall not be applied until the release from the Building Official has been received.

## **18.6 CERTIFICATES**

### **18.6.0 CERTIFICATE OF OCCUPANCY.**

- A. A new building shall not be occupied or a change made in the occupancy, nature or use of a building or part of a building until after the Building Official has issued a Certificate of Occupancy. Said Certificate shall not be issued until all required electrical, gas, mechanical, plumbing and fire protection systems have been inspected for compliance with the construction codes and other applicable laws and ordinances and released by the Building Official.
- B. Upon satisfactory completion of construction of a building or structure and

installation of electrical, gas, mechanical and plumbing systems in accordance with the construction codes, reviewed plans and specifications, and after the final inspection, the Building Official shall issue a Certificate of Occupancy stating the nature of the occupancy permitted, the number of persons for each floor when limited by law, and the allowable load per square foot for each floor in accordance with the provisions of the construction codes.

- C. A temporary/partial certificate of occupancy may be issued for a portion of a building, which may safely be occupied prior to final completion of the building.
- D. A Certificate of Occupancy for any existing building may be obtained by applying to the Building Official and supplying the information and data necessary to determine compliance with the construction codes for the occupancy intended. Where necessary, in the opinion of the Building Official, two sets of detailed drawings, or a general inspection, or both, may be required. When, upon examination and inspection, it is found that the building conforms to the provisions of the Construction codes and other applicable laws and ordinances for such occupancy, a Certificate of Occupancy shall be issued.

**18.6.1 CERTIFICATE OF COMPLETION.** Upon satisfactory completion of a building, structure, electrical, gas, mechanical or plumbing system, a Certificate of completion may be issued. This Certificate is proof that a structure or system is complete and for certain types of permits is released for use and may be connected to a utility system. This Certificate does not grant authority to occupy or connect a building, such as a shell building, prior to the issuance of a Certificate of Occupancy.

**A. SERVICE UTILITIES.**

1. No person shall make connections from a utility, source of energy, fuel or power to any building or system which is regulated by the construction codes for which a permit is required, until released by the Building Official and a Certificate of Occupancy or Completion is issued.
2. The Building Official may authorize the temporary connection of the building or system to the utility source of energy, fuel or power for the purpose of testing building service systems or for use under a temporary Certificate of Occupancy.
3. The Building Official shall have the power to authorized disconnection of utility service to the building, structure or system regulated by the Construction codes, in case of emergency where necessary to eliminate an immediate hazard to life or property. The Building Official shall notify the serving utility, and whenever possible the owner and occupant of the building, structure or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnecting, the owner or occupant of the building, structure or service system shall be notified in writing, as soon as practical thereafter.

**B. POSTING FLOOR LOADS**

1. An existing or new building shall not be occupied for any purpose, which will cause the floors thereof to be loaded beyond their safe capacity. The Building Official may permit occupancy of a building for mercantile, commercial or industrial purposes, by a specific business, when he is satisfied that such capacity will not thereby be exceeded.
2. It shall be the responsibility of the owner, agent, proprietor or occupant of Group S and Group F occupancies, or any occupancy where excessive floor loading is likely to occur, to employ a competent architect or engineer in computing the safe load capacity. All such computations shall be accompanied by an affidavit from the architect or engineer stating the safe allowable floor

load on each floor in pounds per square foot uniformly distributed. The computations and affidavit shall be filed as a permanent record of the Building Department.

3. In every building or part of a building used for storage, industrial or hazardous purposes, the safe floor loads, as reviewed by the Building Official on the plan, shall be marked on plates or approved design which shall be supplied and securely affixed by the owner of the building in a conspicuous place in each story to which they relate. Such plates shall not be removed or defaced, and if lost, removed or defaced, shall be replaced by the owner of the building.

#### **18.6.2 TESTS**

The Building Official may require tests or test reports as proof of compliance. Required tests are to be made at the expense of the owner, or his/her agent, by an approved testing laboratory or other approved agency.

### **18.7 CONSTRUCTION BOARD OF ADJUSTMENT AND APPEALS**

#### **18.7.0 APPOINTMENT**

There is hereby established a Board to be called the Construction Board of Adjustment and Appeals, which shall consist of seven members and two alternates. The Governing Body shall appoint the Board.

#### **18.7.1 MEMBERSHIP AND TERMS**

- A. The Construction Board of Adjustment and Appeals should consist of seven members. Such Board members should be composed of individuals with knowledge and experience in the construction codes, such as design professionals, contractors or building industry representatives. In addition to the regular members, there should be two alternate members, one member at large from the building industry and one member at large from the public. A Board member shall not act in a case in which he has a personal or financial interest.
- B. The terms of office of the Board member shall be staggered so no more than 1/3 of the board is appointed or replaced in any 12 month period. The two alternates, if appointed, shall serve one-year terms. Vacancies shall be filled for an unexpired term in the manner in which original appointments are required to be made. Continued absence of any member from required meetings of the Board shall, at the discretion of the applicable governing body, render any such member subject to immediate removal from office.
- C. A simple majority of the Board shall constitute a quorum. In varying any provision of the Construction codes, the affirmative votes of the majority present shall be required. In modifying a decision of the Building Official, not less than two affirmative votes shall be required. In the event that regular members are unable to attend a meeting, the alternate members, if appointed, shall vote.
- D. The Building Official shall act as Secretary of the Board and shall make a detailed record of all its proceedings, which shall set forth the reasons for its decision, the vote of each member, the absence of a member and any failure of a member to vote.

#### **18.7.2 POWERS**

The Construction Board of Adjustments and Appeals shall have the power, as further defined in 5.4, to hear the appeals of decisions and interpretations of the Building Official and consider variances of the construction codes.

### **18.7.3 APPEALS**

- A. The owner of a building, structure or service system, or his duly authorized agent, may appeal a decision of the Building Official to the Construction Board of Adjustment and Appeals whenever any one of the following conditions are claimed to exist:
  - 1. The Building Official rejected or refused to approve the mode or manner of construction proposed to be followed or materials to be used in the installation or alteration of a building, structure or service system.
  - 2. The provisions of the Construction codes do not apply to this specific case.
  - 3. That an equally good or more desirable form of installation can be employed in any specific case.
  - 4. The true intent and meaning of the Construction codes or any of the regulations there under have been misconstrued or incorrectly interpreted.
- B. The Construction Board of Adjustments and Appeals, when so appealed to and after a hearing, may vary the application of any provision of the Construction codes to any particular case when, in its opinion, the enforcement thereof would do manifest injustice and would be contrary to the spirit and purpose of this or the Construction codes or public interest, and also finds all of the following:
  - 1. That special conditions and circumstances exist which are peculiar to the building, structure or service system involved and which are not applicable to others.
  - 2. That the special conditions and circumstances do not result from the action or inaction of the applicant.
  - 3. That granting the variance requested will not confer on the applicant any special privilege that is denied by the Construction codes to other buildings, structures or service system.
  - 4. That the variance granted is the minimum variance that will made possible the reasonable use of the building, structure or service system.
  - 5. That the grant of the variance will be in harmony with the general intent and purpose of the Construction codes and will not be detrimental to the public health, safety and general welfare.
- C. In granting the variance, the Board may prescribe a reasonable time limit within which the action for which the variance is required shall be commenced or completed or both. In addition, the Board may prescribe appropriate conditions and safeguards in conformity with the Construction codes. Violation of the conditions of a variance shall be deemed a violation of the Construction codes.
- D. Notice of appeal shall be in writing and filed within 30 calendar days after the Building Official renders the decision. Appeals shall be in a form acceptable to the Building Official.
- E. In the case of a building, structure, or service system, which, in the opinion of the Building Officials, is unsafe, unsanitary or dangerous, the Building Official may, in his order, limit the time for such notice of appeals to a shorter period.

### **18.7.4 RULES AND REGULATIONS**

The Board shall establish rules and regulations for its own procedure not inconsistent with the provisions of these procedures. The Board shall meet on call of the Chairman. The Board shall meet within 30 calendar days after notice of appeal has been received. The Construction Board of Adjustment and Appeals shall, in every case, reach a decision without unreasonable or unnecessary delay. Each decision of the Board shall also include the reasons for the decision. If a decision of the Board reverses or modifies a

refusal, order, or disallowance of the Building Official or varies the application of any provision of the Construction codes, the Building Official shall immediately take action in accordance with such decision. Every decision shall be promptly filed in writing in the office of the Building Official and shall be open to public inspection. A certified copy of the decision shall be sent by mail or otherwise to the appellant and a copy shall be kept publicly posted in the office of the Building Official for two weeks after filing. Every decision of the Board shall be final, subject however to such remedy as any aggrieved party might have at law or in equity.

### **18.8 DIRECTOR OF PLANNING AND DEVELOPMENT**

The Planning and Development Director, or also referred to as the Planning Director, and/or his designee shall be responsible for the interpretation and administration of this code. The Planning Director or its designee shall be responsible for the administration of the procedures outlined as follows:

- A. Processing of all annexation, rezoning, conditional use, variances, and appeals.
- B. Processing of all development permits, and subdivision platting.
- C. Plat approval for compliance with the requirements of this code.
- D. Determination of land use, compliance with Comprehensive Plan and other related documentation.
- E. Determination if use is in violation of this code.

### **18.9 VIOLATIONS AND PENALTIES**

Any person, firm, corporation or agent who shall violate a provision of both the construction codes and the Development Code, or fail to comply therewith, or with any of the requirements thereof, or who shall disturb land, install improvements, or who shall erect, construct, alter, install, demolish or move any structure, electrical, gas, mechanical or plumbing system, or has erected, constructed, altered, repaired, moved or demolished a building, electrical, gas, mechanical or plumbing system, in violation of a detailed statement or drawing submitted and permitted there under, shall be guilty of a misdemeanor. Each such person shall be considered guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of the Construction codes is committed or continued, and upon conviction of any such violation such person shall be punished within the limits and as provided by state laws.

### **18.10 CODE ENFORCEMENT OFFICER**

Except as otherwise expressly provided, the provisions of this Ordinance and other locally adopted ordinances shall be enforced by the Code Enforcement Officer.

#### **18.10.0 PENALTIES FOR VIOLATIONS**

Any person, firm or corporation violating any provision of this Ordinance (including, without limitation, violations of conditions and safeguards established in connection with grants of variances, special exceptions, provisions or conditional uses) shall be guilty of a misdemeanor and upon conviction thereof shall be fined up to, but not more than, \$1,000.00 and, in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein shall prevent the Town from taking such other lawful civil, criminal, quasi-civil or quasi-criminal action as is necessary to prevent or remedy any violation of this Ordinance.

### **18.10.1 STOP WORK ORDER**

The Planning and Development Director, Code Enforcement Officer, Building Official, Building Inspector, and Environmental Specialist may place a stop work order on any construction project if such project violates this Code and any section herein. The stop work order shall be placed where activity upon the property is clearly endangering the public in general, the environment, or surrounding property owners, or where there is a violation of the use of the property. The stop work order shall be lifted when the violation or when a corrective action has been agreed upon by the enforcement officer and violator, or has been remedied. The actions necessary to correct the violation shall not be withheld during the correction of the violation.

### **18.10.2 REMEDIES-CUMULATIVE**

The remedies provided herein (e.g. stop work order, citation to be heard in Municipal Court) are cumulative in nature and nothing herein shall be construed as preventing the Town from pursuing relief in a court of equity including an injunction or a suit for monetary damages.

### **18.10.3 INSPECTIONS**

The Building Inspector, Planning and Development Director, Code Enforcement Officer, Chief of Police, and Environmental Specialist ( only as it relates to land disturbance) each has the power to make inspections of buildings (their construction and use) and land (its use, development and subdivision) to determine if they conform to the requirements of this Ordinance. If the Town agent performing the inspection determines that any such building or land does not conform to this Ordinance, he/she shall notify the owner thereof in writing of the manner in which such building or land does not conform and the owner shall remedy the conditions therein specified within a timeframe established by the inspecting party.

## **18.11 AMENDMENTS, VARIANCES, CONDITIONAL USE PERMITS**

### **18.11.1 AMENDMENT PROCEDURE JURISDICTION**

This Ordinance, including the Official Zoning Map of Braselton, Georgia may be amended from time to time by the Mayor and Town Council.

#### **A. Procedure.**

1. Any person or persons requesting a zoning change shall file with the Town copies of a completed application, including therewith any other materials or information deemed necessary by the Mayor and Town Council to render a decision on the application, together with payment of Six Hundred Dollars (\$600.00) to cover actual administrative, advertising and other costs relating to the processing of the application. The Town shall not accept incomplete applications. Any person or persons requesting a zoning change, or their authorized agent, shall appear in person at the public hearing held to consider such zoning change.
2. Upon the filing of a complete application for a change in zoning, including any proposed changes in the text of this Zoning Ordinance, zoning district boundary changes, or amendments to the Official Zoning Map of the Town of Braselton, the Town Clerk shall establish a date for a public hearing on the such zoning change petition which shall be not less than 45 days nor more than 90 days from the date of the filing of the petition for an annexation/rezoning, variance, conditional unit permit or amendment. Where a

proposed annexation and/or rezoning requires the submission of a Development of Regional Impact review, a public hearing shall not take place less than 60 days nor more than 120 days from the date of the petition. In cases where a dispute concerning h.b. 489 is offered by a county with regard to a proposed annexation, public hearings may be delayed as required by law. The Planning Director shall notify the applicant in writing of the public hearing date. Not less than 15 days prior to the date of such public hearing, the applicant shall erect or cause to be erected in a conspicuous place on the property in question, and visible to the public, a sign provided by the Town for the purpose of providing notice of the proposed action. At least one sign shall be posted on the frontage of each public road located in the Town limits adjacent to the property. In the event the property is proposed to be annexed into the Town limits, at least one sign shall be posted on all public road frontages. No sign shall be required for amendments to the text of this Zoning Ordinance. Such signs shall not be subject to the provisions of Article XV. The signs provided by the Town shall read as follows:

### **"NOTICE TO THE PUBLIC**

A petition has been filed with the Mayor and Town Council of the Town of Braselton requesting that this property be changed from district (insert present name) to district (insert district requested). A public hearing will be held (insert place) on (insert date) at (insert time). All those having an interest in this petition should be present at this time.

(Property Owner)  
(Address)"

3. Before enacting an amendment to this Ordinance or making a zoning decision, as defined under Georgia law, the Town shall hold a public hearing thereon. At least 15 but not more than 45 days prior to the hearing, a notice of such hearing shall be published in a newspaper of general circulation in the Town of Braselton. The notice shall state the time, place and purpose of the hearing. In addition, if the proposed amendment concerns a petition for a change in zoning districts, and such petition is initiated by a party other than the Town of Braselton, the newspaper notice of the public hearing shall include the location of the property, the present zoning classification of the property, and the proposed zoning classification of the property.
4. The public hearing shall be conducted by the Braselton Planning Commission in accordance with the hearing procedures provided herein.
5. The Planning Director shall review the application, and all accompanying data, and prepare a written recommendation to the Braselton Planning Commission and to the Mayor and Town Council regarding such application, taking into account the factors set forth in this Ordinance. Such recommendation shall be provided to the Braselton Planning Commission at least 3 days in advance of any public hearing thereon.
6. The following factors shall be considered by the Planning Director in making his or her recommendation pursuant to Article XVI, by the Braselton Planning Commission in preparing their recommendation, and by the Mayor and Town Council when making a final decision on rezoning requests, zoning district boundary changes, or amendments to the Official Zoning Map of the Town of Braselton requested by the Mayor and Town Council or by individual property owners or their duly authorized agents.

- a. Will the rezoning requested permit a use that is suitable in view of the existing use and development of adjacent and nearby property?
  - b. Will the rezoning requested adversely affect the existing use or usability of adjacent or nearby property?
  - c. Does the property for which the rezoning is requested have a reasonable economic use as currently zoned?
  - d. Is the subject property suitable for the zoned purposes?
  - e. Will the rezoning requested result in a use that could cause an overcrowding condition with respect to the existing streets, transportation facilities, utilities or schools?
  - f. Does the rezoning requested conform to the Town of Braselton Future Land Use Map?
  - g. Does the hardship imposed upon the individual property owner under the current zoning conditions outweigh the benefits to the public in maintaining those zoning conditions?
  - h. Will the rezoning request significant adverse impact on the environment, including, without limitation, soil erosion and sedimentation, flooding, air and water quality and water quantity?
  - i. Will the rezoning request have a significant adverse impact on the aesthetics of the property or the surrounding area?
  - j. Are there other existing or changing conditions regarding the use and development of the property which give support for approval or disapproval of the rezoning request?
7. If a residential development is proposed to be more than 200 units, a traffic impact study shall be submitted at the time of rezoning or annexation request.
  8. If a non-residential development or the combination of non-residential and residential rezoning or annexation proposal meets the threshold for a development of regional impact review, a traffic study shall be submitted at the with the application.

**B. Public Hearing and Planning Commission Action.**

1. A public hearing will be convened by the Braselton Planning Commission at the advertised time and place and will be presided over by the Chairperson of the Braselton Planning Commission or the Chairperson's designee (the "Presiding Officer").
2. The public hearing shall be operated in accordance with the Public Hearing Procedures contained in Article XVIII of this code. The Presiding Officer will review for those present the operating procedures for the hearing.
3. As part of the public hearing, the Presiding Officer or the Presiding Officer's designee will review the application or proposed zoning decision and the recommendation of the Planning Director.
4. The Braselton Planning Commission shall, by majority vote taken immediately following the close of the public hearing, recommend approval, approval with conditions, denial, or deferral of the application. Such recommendation shall be forwarded in writing to the Mayor and Council before their public hearing. Action on any application may be deferred by the Braselton Planning Commission only as provided in this Ordinance.
5. The Town Clerk shall take, or cause to be taken, a record of the public hearing proceedings.

**C. Decision-by the Mayor and Council.(amended 8-05)**

1. The Mayor and Town Council shall make a decision within 30 days of the

public hearing, provided action by the Braselton Planning Commission has not been deferred as provided in this Article of this Ordinance. For purposes of this subsection, a decision shall include approval, denial, or tabling of the request pending receipt of additional information.

2. Before the Mayor and Town Council takes action resulting in a zoning decision it shall provide for a public hearing on the proposed action. At least 15 but not more than 45 days prior to the date of the hearing, a notice of such hearing shall be published within a newspaper of general circulation within the territorial boundaries of the local government providing notice of the hearing. The notice shall state the time, place, and purpose of the hearing. Where applicable, not less than 15 days prior to the public hearing, the applicant shall erect in a conspicuous place on the property in question a sign provided by the Town for the purpose of providing notice of the proposed action.

For actions in which the Planning Commission has previously considered such item and made recommendation(s), those wishing to offer public comment shall generally confine their statements to the recommendations of the Planning Commission.

3. The Mayor and Town Council may require any such conditions as part of an approval that, in their discretion, protects the health, safety or general welfare of the Town's inhabitants or adjacent property owners, or is intended to minimize the impact of the change in zoning on adjacent and nearby property.
4. If the Mayor and Town Council deny a rezoning request, the same property may not again be considered for rezoning until the expiration of at least 6 months immediately following the denial of the rezoning. In the event of changed circumstances, the Mayor and Council may waive some or all of such 6 month period.
5. All property that undergoes a zoning district change shall be developed in general accordance with any development plans submitted to and approved by the Mayor and Town Council.

#### **D. Newly Annexed Land.**

1. All land proposed to be annexed, and all newly annexed land, into the Town of Braselton will be zoned by the Mayor and Town Council pursuant to this section.
2. If an application filed pursuant to this Article concerns land to be annexed, then the Braselton Planning Commission and the Mayor and Town Council will complete the procedures for zoning changes provided for in this Article, including, without limitation, the public notice, sign, hearing and other requirements in this section, prior to the adoption of the annexation ordinance or resolution or the effective date of any Local Act, as applicable, but no sooner than the date the notice of proposed annexation is provided to the governing authority of the relevant county as required under Georgia law.
3. In addition to the public notice requirements in this Article, the Town shall also cause to be published within a newspaper of general circulation within the territorial boundaries of the county wherein the property to be annexed is located a notice of the hearing. The Town must cause such notice to be published at least 15 but not more than 45 days prior to the hearing, and such notice must state the time, place and purpose of the hearing as well as the location of the property, the present zoning classification of the property, and

the proposed zoning classification of the property.

4. The Town shall conduct the hearing on the application at the advertised time and place and pursuant to the procedures in this section and shall apply the factors set forth in rendering its decision on the application. The decision of the Mayor and Town Council on the application will become effective on the later of the date the zoning is approved by the Town or the date the annexation becomes effective pursuant to O.C.G.A. § 36-36-2, and any amendments thereto.

#### **18.11.2 CONDITIONAL USE PERMITS**

Any property owner may request a conditional use permit when it desires to use its property in a manner designated as a "Conditional Use" within the zoning district in which the property is located.

##### **A. Procedure.**

1. A property owner requesting a conditional use permit must file copies of a written application with the Town Clerk of the Town of Braselton. This application must state the proposed conditional use, the reason(s) for the application, and must include a site plan or plat of the property showing the location of all buildings and the area to be used for parking, as well as all other information required by this ordinance or that the Town deems necessary to process the application. All applications must be accompanied by a fee of Six Hundred Dollars (\$600.00) to cover administrative, advertising, and other costs related to the processing of the application. The Town shall not accept incomplete applications.
2. Upon the filing of a completed application for a conditional use permit, the Town Clerk shall establish a date for a public hearing on the application which shall not be less than 30 days nor more than 60 days from the date of the filing of the application. At least 15 but no more than 45 days prior to date of the hearing, the Town shall cause to be published in a newspaper of general circulation within the territorial boundaries of the Town a notice of the hearing. Such notice shall state the time, place, and purpose of the hearing.
3. Not less than 15 days prior to the date of such public hearing, the applicant shall erect or cause to be erected in a conspicuous place on the property in question, and visible to the public, a sign provided by the Town for the purpose of providing notice of the proposed action. At least one sign shall be posted on the frontage of each public road located in the Town limits adjacent to the property. Such sign(s) shall not be subject to the provisions of Article XV. The signs provided by the Town shall read as follows:

#### **"NOTICE TO THE PUBLIC**

A petition has been filed with the Mayor and Town Council of the Town of Braselton requesting a Conditional Use Permit be issued for this property to allow (insert use). A public hearing will be held (insert place) on (insert date) at (insert time). All those having an interest in this, petition should be present at this time.

(Property Owner)  
(Address)"

- . The Planning Director shall review the application, and all accompanying data,

and prepare a written recommendation to Braselton Planning Commission and to the Mayor and Town Council regarding such application, taking into account the factors set forth in this Article. Such recommendation shall be provided at least 3 days in advance of any public hearing thereon.

**B. Public Hearing and Planning Commission Action.**

1. The Braselton Planning Commission will conduct the public hearing on a conditional use application at the advertised time and place, and such hearing will be presided over by the Chairperson of the Braselton Planning Commission or his or her designee (the "Presiding Officer"). Such hearing will be conducted and the Braselton Planning Commission's recommendation forward to the Mayor and Council pursuant to the procedures set forth in this Article. The Mayor and Town Council shall make a decision as provided in this Article. The Mayor and Town Council may grant the permit, grant the permit with conditions, or deny the permit.
2. The Planning Director and Braselton Planning Commission may only recommend issuance of a conditional use permit and the Mayor and Town Council may only issue a conditional use permit if they determine that the use is consistent with adopted plans for the area and that the location, construction and operation of the proposed use will not result in significant adverse impact upon the surrounding development or the community in general. In making such a determination, the Planning Director, Braselton Planning Commission, and Mayor and Town Council must make the following findings, in addition to a finding that all specific requirements with respect to such use under this Ordinance are met, if the conditional use is to be approved:
  - a. The applicant has made adequate provision to reduce any adverse environmental impacts of the proposed use to an acceptable level, including, without limitation, drainage, soil erosion and sedimentation, flooding, air and water quality and water quantity; and
  - b. Vehicular traffic and pedestrian movement on adjacent streets will not be substantially hindered or endangered; and
  - c. Off-street parking and loading, and the entrances to and exits from such parking and loading, will be adequate in terms of location, amount and design to serve the use; and
  - d. Public streets, facilities, schools and utilities are capable of adequately serving the proposed use; and
  - e. The applicant has made adequate provisions regarding hours of operation; and
  - f. The proposed use will not adversely effect the level of property values or the general character of the area; and
  - h. The proposed use will not have a significant adverse effect on the aesthetics of the surrounding area; and
  - i. The applicant has made adequate landscape plans to ensure appropriate transition in uses of the property; and
  - j. The proposed use will not result in a nuisance as defined under state law; and
  - k. The proposed use is in conformity with the Town of Braselton Land Use Plan and Map.

**C. Decision-by the Mayor and Council.(amended 8-05)**

1. The Mayor and Town Council shall make a decision within 30 days of the

Planning Commission public hearing, provided action by the Braselton Planning Commission has not been deferred as provided in this Article of this Ordinance. For purposes of this subsection, a decision shall include approval, approval with conditions, denial, or tabling of the request pending receipt of additional information.

2. Before the Mayor and Town Council takes action on a conditional use application it shall provide for a public hearing on the proposed action. At least 15 but not more than 45 days prior to the date of the hearing, a notice of such hearing shall be published within a newspaper of general circulation within the territorial boundaries of the local government providing notice of the hearing. The notice shall state the time, place, and purpose of the hearing. Where applicable, not less than 15 days prior to the public hearing, the applicant shall erect in a conspicuous place on the property in question a sign provided by the Town for the purpose of providing notice of the proposed action.

For actions in which the Planning Commission has previously considered such item and made recommendation(s), those wishing to offer public comment shall generally confine their statements to the recommendations of the Planning Commission.

3. Any conditional use application brought before the Mayor and Town Council that is denied cannot be resubmitted in less than 6 months from the original hearing date. In the event of changed conditions, the Mayor and Town Council may waive all or a portion of this 6 month period.
4. The conditional use permit shall expire after one year if one of the following actions has not occurred: application for a development permit, application for a building permit, application for a business license, or the active start of the use. The conditional use approval shall continue to be valid on a piece of property so long as the use remains in the form presented in the application to the governing body.

## **18.12 PLANNING COMMISSION**

**18.12.0 Purpose** There is hereby established an advisory body to the Mayor and Council, referred to hereinafter as the "Braselton Planning Commission" or "Commission," which shall consist of five (5) members to be appointed by the Mayor and Council. One member of the Commission shall be appointed from each of the districts corresponding to any districts established now or in the future for purposes of electing members of the Town Council, and one member shall be appointed at large. All members of the Commission shall be residents of the Town of Braselton. Members shall serve two year terms, but may be reappointed by the Mayor and Council, provided, any member may be subject to removal by the Mayor and Council if such member is absent for three consecutive meetings of the Commission. Furthermore, any member no longer residing in the district from which he or she was appointed shall be removed from office upon verification of such change in residence by the Town Clerk. The members of the Commission shall not be compensated for their services, but shall be reimbursed for any training expenses approved in advance by the Mayor and Council. Administrative support to the Commission shall be provided by the Town Clerk or the Town Clerk's designee.

### **18.12.1 PLANNING COMMISSION POWERS AND DUTIES**

The Commission shall select its Chairperson from among its membership. The Commission shall assist the Mayor and Council in planning for the future growth of the Town of Braselton by holding public hearings on any applications for rezoning, annexation and zoning, land use plan amendment, and conditional use permits submitted to the Town, and providing to the Mayor and Council a written recommendation as to the disposition of the application. The Commission may vote to recommend approval, approval with conditions, denial, or deferral of any application. Furthermore, should the Commission determine that insufficient information has been provided by any applicant to support the requested land use plan amendment, rezoning action, annexation and zoning, or conditional use permit application, the Commission may require the applicant to submit additional information prior to forwarding the application, and the Commission's recommendation, to the Mayor and Council. Except upon the written request of an Applicant, in no event will the Commission delay forwarding such application and recommendation to the Mayor and Council for more than thirty (30) days from the date of the original public hearing on such application. Any application delayed for more than thirty (30) days following written request by the Applicant shall be subject to an additional public hearing. The recommendation of the Commission is advisory only, and shall not be binding upon the Mayor and Council. Failure of the Commission to provide the application and its recommendation to the Mayor and Council within the time provided in this Section shall not prevent the Mayor and Council from taking action on such application.

The Commission also shall assist the Mayor and Council by performing other duties as may be assigned to the Commission from time to time by the Mayor and Council.

### **18.12.3 PLANNING COMMISSION MEETINGS**

The Braselton Planning Commission shall meet as required to review in a timely manner all applications received by the Town for rezoning, annexation and zoning, land use plan amendment, and conditional use permits, and may meet more often as called by the Chairperson in order to assist the Mayor and Council in any matter upon which the Mayor and Council request such assistance. Three (3) members of the Commission shall constitute a quorum. All meetings of the Commission shall be advertised and open as provided under Georgia law, this Ordinance, and any other applicable ordinances of the Town. Any public hearings conducted by the Planning Commission in accordance with its duties to provide advice to the Mayor and Council on any applications for land use plan amendment, rezoning, annexation and rezoning, and conditional use permits submitted to the Town shall be carried out in accordance with the Public Hearing Procedures contained in section 18.14 of this Ordinance.

### **18.12.4 PLANNING COMMISSION DISCLOSURE REQUIREMENTS**

All members of the Commission shall be considered Town Officials as defined in section 18.13.9 of this Ordinance, and shall be subject to such disclosure requirements as are placed on Town Officials by Article XIII of this Ordinance, and by State law.

## **18.13 ZONING BOARD OF APPEALS**

**18.13.0 Purpose** Pursuant to the authority conferred by the State of Georgia 1983 Constitution, Paragraph Four, Article Nine, and as amended, the Town of Braselton Zoning Board of Appeals (hereinafter referred to as the "board") is hereby created and established.

### **18.13.1 MEMBERSHIP AND APPOINTMENT**

The board shall consist of five members who shall be residents of the Town of Braselton and who shall be appointed by the Mayor and Town Council of the Town of Braselton. Each member including the Mayor shall appoint one member to the board.

### **18.13.2 TERMS OF OFFICE, VACANCIES AND REMOVAL**

The term of office of each member shall be for two years or thereafter until a successor is appointed. Members may be re-appointed.

Any vacancy in the membership that may occur shall be filled for the unexpired term in the same manner as the initial appointment. Members shall be removable for cause by the mayor and council upon written charges and after a public hearing. Notwithstanding the above, any member may be removed if such member is absent for three consecutive meetings or fails to reside in the corporate limits of the Town of Braselton.

### **18.13.3 OFFICERS**

The board shall elect one of its members as chairperson who shall serve for one year or until re-elected or a successor is elected. The Town Clerk or his/her designee shall serve as recording secretary.

### **18.13.4 RULES OF PROCEDURES, MEETINGS, MINUTES AND RECORDS**

The board shall adopt rules of procedures in accordance with the provision of this section. Meetings of the board shall be held at the call of the chairman and at such other times as the members of the board may determine pursuant to public notice requirements. The board shall keep the minutes of its proceedings showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact. The board shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the town clerk for public record.

### **18.13.5 POWERS**

The board shall have the following powers:

- A. To hear and decide appeals of an administrative decision when it is alleged there is error in any order, requirement, decision or determination made by the town building inspector or zoning enforcement officer in the enforcement of the zoning ordinance and development regulations.
- B. To authorize, upon appeal in specific cases, variances from the terms of the zoning ordinance or development regulations as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provision of the zoning ordinance or development regulations will, in an individual case, result in unnecessary hardship, so that the spirit of the zoning ordinance or regulations shall be observed, public safety and welfare secured, and substantial justice done. Such variances may be granted in individual cases of unnecessary hardships upon a finding by the board that:
  1. There are extraordinary and exception conditions pertaining to the particular property in question because of its size, shape or topography; and/or
  2. The application of the zoning ordinance to the particular piece of property would create an unnecessary hardship; and/or
  3. Such conditions are peculiar to the particular piece of property involved; and/or
  4. Such conditions are not the result of any actions of the property owner; and/or
  5. Relief, if granted, would not cause substantial detriment to the public good nor

- impair the purposes or intent of the zoning ordinance.
- C. In exercising the above powers, the board may, in conformity with the provision of the ordinance, reverse or affirm, wholly or partly, or may modify the order, requirements, decisions or determination from which the appeal is taken and, to that end, shall have all the powers of the town building inspector or zoning enforcement officer from whom the appeal is taken and may issue or direct the issuance of a building or occupancy permit.
  - D. In exercising the above process, the board may approve a variance subject to such conditions that are deemed appropriate by the board to further the health, safety and welfare of the Town.

#### **18.13.6 APPEALS OF ADMINISTRATIVE DECISION** (amended 5/04)

Appeals of administrative decision to the board may be taken by any person aggrieved, or by any officer, department, board or bureau of the town affected by a decision of the Planning Director. Such appeal shall be filed within 15 days of such decision, by filing with the Town an appeal specifying the grounds thereof. The Planning Director shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was filed. An appeal may stay all legal proceedings in furtherance of the action appealed from in the discretion of the Planning Director.

#### **18.13.7 VARIANCES**

- A. A property owner requesting a variance from the requirements of the Development Code shall file copies of a written application with the Town Clerk of the Town of Braselton. This application must state the nature of the variance requested, the reason(s) for the application, and must include a site plan, plat, or adequate sketch of the property showing the nature of the requested variance, as well as all other information required by this ordinance or that the Town deems necessary to process the application. All applications must be accompanied by a fee of Four Hundred Dollars (\$400.00) to cover administrative, advertising, and other costs related to the processing of the application. The Town shall not accept incomplete applications.
- B. In considering all applications for a variance to the development code, the board shall, in addition to this Section, before granting any variance from the ordinance in a specific case, first determine that it will not unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals, or welfare of the inhabitants of the town.
- C. An application for a variance which has been denied by the board shall not be resubmitted for a period of one year from the date of the public hearing. If additional information is furnished which warrants consideration before the one-year period has expired, the board may instruct the secretary to accept an application for a rehearing notwithstanding this provision.

#### **18.13.8 APPLICATION FOR VARIANCE**

The Zoning Board of Appeals may, through the grant of a variance, provide relief from the strict application of the regulations contained in the Development Code.

- A. The Zoning Board of Appeals may grant such variances only upon finding that all of the following conditions exist:

1. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography; and
  2. The application of this Ordinance to the particular piece of property would create an unnecessary hardship; and
  3. Relief, if granted, would not cause substantial detriment to the public good or impair the purpose and intent of this Ordinance; and
  4. Such conditions are peculiar to the particular piece of property involved; and
  5. The special circumstances surrounding the request for a variance are not the result of acts by the applicant; and
  6. The variance is not a request to permit a use of land, buildings, or structures that is not permitted by right or by conditional use permit in the district involved.
- B. No variance shall be granted to allow an otherwise prohibited use in the district involved.
- C. A property owner requesting a variance must file copies of a written application with the Town Clerk of the Town of Braselton. This application must state the nature of the variance requested, the reason(s) for the application, and must include a site plan or plat of the property showing the nature of the requested variance, as well as all other information required by this ordinance or that the Town deems necessary to process the application. All applications must be accompanied by a fee of Four Hundred Dollars (\$400.00) to cover administrative, advertising, and other costs related to the processing of the application. The Town shall not accept incomplete applications. The Mayor and Council may reduce this fee upon demonstration of financial hardship by the applicant.
- D. Upon the filing of a completed application for a variance, the Town Clerk shall establish a date for a public hearing on the application which shall not be less than 30 days nor more than 60 days from the date of the filing of the application. At least 15 but no more than 45 days prior to date of the hearing, the Town shall cause to be published in a newspaper of general circulation within the territorial boundaries of the Town a notice of the hearing. Such notice shall state the time, place, and purpose of the hearing.
- E. Not less than 15 days prior to the date of such public hearing, the applicant shall erect or cause to be erected in a conspicuous place on the property in question, and visible to the public, a sign provided by the Town for the purpose of providing notice of the proposed action. At least one sign shall be posted on the frontage of each public road located in the Town limits adjacent to the property. Such sign(s) shall not be subject to the provisions of Article XI. The signs provided by the Town shall read as follows:

### **"NOTICE TO THE PUBLIC**

A petition has been filed with the Zoning Board of Appeals of the Town of Braselton requesting a Variance be granted for this property. A public hearing will be held (insert place) on (insert date) at (insert time). All those having an interest in this petition should be present at this time.

(Property Owner)  
(Address)"

- F. The Planning Director shall review the application, and all accompanying data, and prepare a written recommendation to the Zoning Board of Appeals regarding such application, taking into account the factors set forth in this code. Such recommendation shall be provided at least three (3) days in advance of any

public hearing thereon.

- G. The Zoning Board of Appeals of the Town of Braselton will conduct the public hearing on a variance application at the advertised time and place, and such hearing will be presided over by the Chairman or his designee (the "Presiding Officer"). Such hearing will be conducted and a decision made pursuant to the procedures contained in Article XIV of this Ordinance. The Zoning Board of Appeals may grant the variance, grant the variance with conditions, or deny the variance. If a variance is denied, no variance applications affecting the same property shall be accepted by the Town for a period of 6 months following the date of such denial provided, this time period may be reduced upon the affirmative vote of the Zoning Board of Appeals.

#### **18.13.10 APPEALS FROM DECISION OF THE ZONING BOARD OF APPEALS**

Any person or persons who may have substantial interest in any decision of the board, or any officer, board or bureau of the town, may, appeal from any decision of the said board to the Superior Court of Jackson County by filing with the clerk of said court a petition in writing setting forth plainly, fully, and distinctly wherein such decision is contrary to the law. Such appeal shall be filed within 30 days after the decision of the board is rendered and upon failure to file the appeal within 30 days, the decision of the zoning board of appeals shall be final.

- A. Upon the filing of such an appeal, the clerk of the superior court shall give immediate notice thereof to the secretary of the board and within 30 days from the time of such notice the board shall cause to be filed with the said clerk a duly certified copy of the proceedings before the said board, including a transcript of the evidence heard before it, if any, and the decision of the said board.
- B. Thereafter at the next term of the superior court, the judge of such court shall proceed to hear and pass upon the said appeal. The findings of fact by the said board shall be final and conclusive on such appeal. In determining the questions presented by the appeal, the court shall determine only whether the decision of the board is correct as a matter of law.
- C. Any party at interest who is aggrieved by the judgment rendered by the superior court upon such appeal may have the same reviewed by appeal in the same manner as provided by law.
- D. The filing of an appeal in the superior court from any decision of the board shall not by the very nature of the case act as an order of stay, but an order of stay may be granted by the court upon such terms and conditions as may seem reasonable and proper.

#### **18.13.11 MEETINGS; QUORUM**

The Board shall schedule its meetings/public hearings as necessary throughout the year, provided however that any such variance or administrative appeal shall be heard within sixty (60) days of filing of such application or appeal. Said meetings shall be held and advertised pursuant to the requirements set forth supra and pursuant to state law.

Three members of the board shall constitute a quorum, however an affirmative vote of three (3) members shall be required to approve any variance or overturn any administrative action.

## **18.14 PUBLIC HEARING PROCEDURES**

### **18.14.0 Application of Procedures.**

The Public Hearing Procedures in this Article shall govern public hearings conducted by the Braselton Mayor and Council, Planning Commission and Zoning Board of Appeals on applications for future land use plan amendments, variances, rezonings, annexations, amendments to this code, modifications of standards, and conditional uses.

### **18.14.1 PROCEEDINGS TO BE OPEN**

In accordance with Georgia law and the provisions of this Ordinance, all hearings before the Braselton Planning Commission, Board of Appeals, and before the Mayor and Council shall be open to the public, and visual and sound recordings of such proceedings shall be permitted. Public Hearing Procedures.

- A. The Presiding Officer shall describe, or cause to be described, the application to be heard, and allow the Applicant or such Applicant's representative (the "Applicant") 10 minutes to fully describe the substance of the application and justification for the action requested in the application.
- B. Upon completion of the Applicant's presentation, the Presiding Officer shall allow persons who wish to speak in support of the application a total of 10 minutes in which to speak in support of the application.
- C. Upon conclusion of the time provided for those to speak in favor of an application, the Presiding Officer shall allow persons who wish to speak in opposition to an application a total of 10 minutes in which to speak in opposition to the application.
- D. Upon conclusion of the opposing application, the Presiding Officer shall allow the Applicant 3 minutes, in addition to any time the Applicant may have reserved from their presentation above, to rebut any issue(s) raised by persons speaking in opposition. During this time, the Applicant may submit any additional information or evidence to support the rebuttal.
- E. At the discretion of the Presiding Officer, additional time may be granted to supporters of the application, opponents to the application, or to the Applicant speaking in rebuttal.
- F. Upon conclusion of rebuttal, the Presiding Officer and Town Officials hearing the application may ask any questions of the Applicant, supporters, or opponents of the application who have previously spoken.
- G. All persons speaking at the public hearing shall submit disclosure forms as required by State law, and as described in this Code.
- H. All persons speaking at the public hearing, before speaking to the application, shall first identify himself or herself and furnish a home or business address for the record. All comments shall be addressed to the Presiding Officer and Town Officials present for the hearing, and not to the Applicant or members of the audience.
- I. The Presiding Officer may rule as out of order and have removed from the hearing any person who makes inappropriate or offensive comments, who disrupts the proceedings, or who engages in personal attacks upon any person present at the hearing.
- J. Upon completion of all presentations and questions, the Presiding Officer shall close the public hearing on the application and, in the case of an application for future land use plan amendment, rezoning, annexation, or conditional use permit, shall call for discussion and a vote on the application. Should the Town body vote to defer consideration of an application for 30 days or less, such vote shall specify the time and date for such consideration, and shall constitute public notice on the application and no further notice, except posting, shall be required. Should such

deferral, in response to a written request from the Applicant, be more than 30 days in length, additional public notice shall be required as provided in this Ordinance, and the Applicant requesting such deferral shall be required to provide to the Town One Hundred Dollars (\$100.00) for the additional costs of such notice. The Planning Commission's action (consisting of a recommendation as to the ultimate disposition of the application, or deferral of same) shall be provided, in writing, to the Mayor and Council before their public hearing.

- K. In the case of a public hearing on a variance application, upon completion of all presentations and questions, the Presiding Officer shall close the public hearing on the application, and call for discussion and a vote of the application. Should the Board of Appeals vote to defer consideration of an application, such vote shall specify the time and date for such consideration, and shall constitute public notice on the application and no further notice, except posting, shall be

### **18.15 DISCLOSURE OF FINANCIAL INTERESTS**

A. A Town Official who:

1. has a property interest in any real property affected by a rezoning action, conditional use application, or variance application upon which that official is authorized to vote; or

has a financial interest in any business entity which has a property interest in any real property affected by a rezoning action, conditional use application, or variance application upon which that official is authorized to vote; or

has a Member of the Family, as defined herein, having any interest described in paragraph (1) or (2) of this section, shall immediately disclose the nature and extent of such interest, in writing, to the Town Council, to the Town Attorney, and to the Braselton Planning Commission if such Town Official is a member of the Braselton Planning Commission, and shall disqualify himself or herself from voting on the rezoning action, conditional use application, or variance application if such interest is defined in paragraph (1) or (2) of this section. Such disqualified Town Official shall not take any other action on behalf of himself, herself, or any other person to influence action on the application for a rezoning action, conditional use, or variance. Such disclosures shall be a public record and available for public inspection at any time during normal working hours.

B. Disclosure of Campaign Contributions and Gifts.

1. When any applicant for a rezoning action, land use plan amendment, conditional use permit, or variance has made, within two years immediately preceding the filing of the application for the rezoning action, conditional use permit, or variance, campaign contributions aggregating \$250.00 or more or made gifts having in the aggregate a value of \$250.00 or more to any official of the Town of Braselton, it shall be the duty of the applicant and any attorney representing the applicant to file a disclosure report with the Town Council within 10 days of such application showing:
- a. the name of the Town Official of the Town of Braselton to whom the campaign contribution or gift was made;
  - b. the dollar amount of each campaign contribution made by the applicant to the official during the two years immediately preceding the filing of the application for rezoning, conditional use permit, or variance and the date of each such contribution; and

- c. an enumeration and description of each gift and its value made by the applicant to the Town Official during the two years immediately preceding the filing of the application for rezoning, conditional use permit, or variance.
2. When any opponent of an application for a rezoning action, conditional use permit, land use plan amendment or variance has made, within two years immediately preceding the filing of the application for the rezoning action, conditional use permit, or variance, campaign contributions aggregating \$250.00 or more or made gifts having in the aggregate a value of \$250.00 or more to a Town Official of the Town of Braselton, it shall be the duty of the opponent of the application and any attorney representing such opponent to file a disclosure report with the Town Council no later than 5 calendar days prior to the public hearing concerning such application showing:
  - a. the name of the Town Official of the Town of Braselton to whom the campaign contribution or gift was made;
  - b. the dollar amount of each campaign contribution made by the opponent of the application for a rezoning action, conditional use permit, or variance to the official during the two years immediately preceding the filing of such application and the date of each such contribution; and
  - c. an enumeration and description of each gift and its value made by the opponent of the application for a rezoning action, conditional use permit, or variance to the Town Official during the two years immediately preceding the filing of such application.