

2002-24

AN ORDINANCE TO PROHIBIT OVERCHARGING FOR  
GOODS, MATERIALS, SERVICES AND HOUSING DURING A STATE OF  
EMERGENCY

WHEREAS, the health, safety and welfare of the citizens of  
Banks County depend upon the availability and affordability of certain  
essential goods, materials, services and housing; and,

WHEREAS, during certain periods of emergency resulting from natural or manmade  
disaster, citizens of Banks County are at risk from dramatic and  
unjustified increases in the prices of said goods, materials, services and housing; and,

WHEREAS, such increases in price may be excessive and unconscionable during a  
state of emergency and may hinder the ability of the community to recover from the  
disaster; and,

WHEREAS, legislation is necessary to prohibit any person from raising prices for  
goods, materials, services and housing to excessive, unconscionable or unfair levels  
during a declared state of emergency or subsequent recovery period; and,

WHEREAS, limitations on price overcharging during a declared emergency is  
authorized pursuant to the police powers of Banks County and  
§38-3-28 of the Official Code of Georgia Annotated.

NOW, THEREFORE, BE IT RESOLVED that the governing authority of  
Banks County hereby enacts the following ordinance-relatives  
to the prohibition of overcharging for goods, materials, services and housing during  
periods of declared emergency or subsequent recovery periods:

**"Section 1. Overcharging Prohibited.**

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

**Section 2. Definitions.**

(1) Overcharging. The term 'overcharging' is defined as charging prices for  
goods, materials, services, or housing which are substantially in excess of the  
customary charges or in applicable cases substantially in excess of the supplier's  
or provider's costs for such goods, materials, services or housing.

The existence of overcharging shall be presumed from a substantial increase in the price at which the goods, materials, services, or housing was offered in the usual course of business immediately prior to the onset of the emergency, but shall not include increases in costs to the supplier directly attributable to higher costs of materials, supplies, and labor costs resulting from the emergency.

(2) State of Emergency. The term 'state of emergency' is defined, pursuant to §38-3-3 (5) of the Official Code of Georgia Annotated, as a condition declared by the governor when, in his judgment, the threat or actual occurrence of a disaster or emergency is of sufficient severity and magnitude as to warrant extraordinary efforts in preventing or alleviating the damage, loss, hardship, or suffering threatened or caused thereby.

(3) Subsequent Recovery Period. The term 'subsequent recovery period' is defined as that period during which the disaster continues to cause disruptions in the disaster area, but shall not exceed six (6) months after the emergency declaration has been terminated by the Governor unless extended by official action of the governing authority of Banks County.

**Section 3. Penalties.**

Violation of the provisions of this ordinance upon conviction shall be punishable by a fine not to exceed \$1,000 per violation or imprisonment not to exceed sixty (60) days, or both such fine and imprisonment. Each sale shall constitute a separate offense.

**Section 4. Severability.**

If any section, paragraph, sentence, clause, phrase or word of this ordinance is for any reason held by the Court to be unconstitutional, inoperative, or void; such holding shall not the remainder of the ordinance.

**Section 5. Effective Date.**

This ordinance shall take effect on the date of its being duly adopted but shall be operative only during the period of a declared state of emergency and any subsequent recovery periods."

APPROVED AND ADOPTED by the Board of Commissioners of  
Banks County this 10th day of December,  
2012.

W. Kenneth Brady  
Chairman

ATTEST:

W. Bruce Staley  
County Clerk