

2002-25

**AN ORDINANCE AUTHORIZING THE SUSPENSION OF PORTIONS OF THE CODE OF ORDINANCES AND OTHER FORMALITIES DURING A STATE OF EMERGENCY**

WHEREAS, the health, safety and welfare of the citizens and property of Banks County may be jeopardized during an emergency, disaster or the subsequent recovery period by the inability for the local governing authority to act expeditiously without regard to certain formalities;

WHEREAS, the local governing authority of Banks County is authorized pursuant to O.C.G.A. §§ 38-3-27(b) and 38-3-28 to take actions necessary to provide for the health and safety of persons and property during periods of emergency or disaster, provided that such actions are not inconsistent with any orders, rules, or regulations promulgated by the Governor or his delegates;

WHEREAS, the powers and functions exercised by the local governing authority necessary to conduct the business and affairs of Banks County during an emergency or disaster proclaimed as such by the appropriate state official may continue without the regard to compliance with time consuming procedures and formalities pursuant to O.C.G.A. § 38-3-54;

WHEREAS, in accordance with O.C.G.A. §§ 36-10-4(c)(5) and 32-4-53(5), certain formalities concerning public works contracts may be waived when necessitated by emergency;

WHEREAS, the Banks County Board of Commissioners believes that it is desirable to have legislation in place authorizing the Board to waive certain formalities and procedures as necessary in case of emergency, natural disaster or the subsequent recovery period.

NOW, THEREFORE, BE IT RESOLVED that the governing authority of Banks County hereby enacts the following ordinance to authorize the waiver of certain formalities and procedures in case of emergency, natural disaster or the subsequent recovery period:

**"Section 1. Authority to Waive Procedures and Fee Structures.**

(1) Meetings. Upon proclamation by the appropriate state official of an emergency or disaster of manmade or natural causes or enemy attack impending on or affecting Georgia or the United States, the affairs and business of Banks County may be conducted at places other than Banks the regular or usual place thereof, within or outside of Banks County, when it is not prudent, expedient or possible to conduct business at the regular location. When such meetings occur outside of County, all actions taken by the local governing body shall be as valid and binding as if performed within Banks County. Such meetings may be called by the presiding officer or any two members of the

governing body without regard to or compliance with time-consuming procedures and formalities otherwise required by law.

(2) Purchasing and Public Works Contracts. Upon the declaration of a state of emergency by the Governor, or upon the determination by the county governing authority, or its designee, of the existence of an emergency or disaster, the county governing authority, their designee or the emergency interim successor may contract for public works without letting such contract out to the lowest responsible bidder and without advertising and posting notification of such contract for four weeks; provided, however, that any public works contract entered into pursuant to this subsection shall be entered on the minutes of the county as soon as practical and the nature of the emergency described therein.

(3) Code Enforcement. Upon the declaration of a state of emergency by the Governor, or upon the determination by the county governing authority, or its designee, of the existence of an emergency or disaster, the county governing authority, their designee or the emergency interim successor may temporarily suspend the enforcement of the Code of Ordinances of Banks County, or any portion thereof, where: (a) the emergency or disaster is of such nature that immediate action outside the Code is required; (b) such suspension is consistent with the protection of the public health, safety and welfare; and (c) such suspension is not inconsistent with any federal or state statutes or regulations.

(4) Fees. Upon the declaration of a state of emergency by the Governor, or upon the determination by the county governing authority, or its designee, of the existence of an emergency or disaster, the county governing authority, their designee or the emergency interim successor may temporarily reduce or suspend any permit fees, application fees or other rate structures as necessary to encourage the rebuilding of the area impacted by the disaster or emergency.

(5) Temporary Dwellings. Upon the declaration of a state of emergency by the Governor, or upon the determination by the county governing authority, or its designee, of the existence of an emergency or disaster, the county governing authority, their designee or the emergency interim successor may issue temporary mobile home, trailer, recreational vehicle or other temporary dwelling structures or parks in any zoning district while the primary dwelling is being repaired provided that such temporary dwellings or parks are designed by an engineer and the plans are approved by the Banks County Health Department and Banks County Building and Inspections Department. The temporary permit shall not exceed six (6) in duration. In the case of continuing hardship and in the discretion of the governing authority or its designee, the permit may be extended for a period for an additional six (6) months. Upon expiration of the temporary permit or an extension, the temporary dwelling shall be removed.

**Section 2. Definitions.**

(1) Fees. Any fee or rate charged by the county for building permits, land disturbance permits, zoning applications, special land use permits, temporary land use permits, and other fees relating to the reconstruction, repair and clean up of areas impacted by the disaster or emergency. "Fees" shall not include those fees collected by the county on behalf of the federal or state government or those fees charged by the county pursuant to a federal or state statute or regulation.

(2) State of Emergency. As defined by O.C.G.A. § 38-3-3(5), as so declared by the Governor when, in his judgment, the threat or actual occurrence disaster, emergency, or energy emergency is of sufficient severity and magnitude to warrant extraordinary efforts in preventing or alleviating the damage, loss, hardship, or suffering threatened or caused thereby.

(3) Subsequent Recover Period. The period of time that the disaster emergency continues to cause disruptions in the area impacted by the disaster emergency. The "subsequent recovery period" shall not exceed six (6) months the State of Emergency declaration by the Governor is terminated unless extended by official action of the governing authority of Banks County.

(4) Temporary Dwelling. Any mobile or easily movable home, trailer, recreational vehicle or structure not otherwise permitted by the zoning regulations a particular zoning district.

**Section 3. Severability.**

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

**Section 4. Effective Date.**

This ordinance shall become effective upon adoption by the local governing authority of Banks County."

APPROVED AND ADOPTED by the Banks County Board of  
Commissioners this 10<sup>th</sup> day of December, 2002.

Kenneth Brooks  
Chairman

ATTEST:

9-1  
Deanna Staley  
County Clerk

[Because portions of this ordinance may constitute an amendment to the zoning regulations, the county attorney should be consulted to determine the necessity of complying with the Procedures Act in adoption.]