

## INTRODUCTION

State law changes in Georgia impact many provisions in the ordinance codes of Georgia municipalities and counties. This pamphlet is intended to assist municipal and county attorneys in the identification of provisions in ordinance codes that may require revision in light of state law. The information in this pamphlet is based upon the experience of the legal staff of Municipal Code Corporation in working with the ordinance codes of Georgia municipalities and counties.

This pamphlet is current through the 2017 Legislative Session.

Not all provisions of this pamphlet will apply to every Code, nor does this pamphlet purport to include all state laws that may somehow affect the language of a Code.

The provisions of this pamphlet are intended to assist municipal and county attorneys and are not intended to be a substitute for the advice of counsel.

It is not the intent of Municipal Code Corporation in publishing this pamphlet to provide legal advice. An attorney admitted to practice in Georgia must be consulted as to the applicability of a given statute or case to a particular situation.

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## GENERAL PROVISIONS

1. *Codification.* Every municipality and county and municipality is required to codify or compile the ordinances and resolutions having the force and effect of law. See O.C.G.A. § 36-80-19.

2. *Penalty for violation of municipal ordinance.* Subject to certain exceptions, the maximum punishment for violation of a municipal ordinance is \$1,000.00 or imprisonment for a term of six months, or both. See generally O.C.G.A. § 36-35-6(a)(2).

3. *Penalty for violation of county ordinance.* Subject to certain exceptions, the maximum punishment for violation of a county ordinance is a fine of \$1,000.00, or imprisonment for a term of 60 days, or both. See generally O.C.G.A. § 36-1-20.

## ADMINISTRATION

1. *Employee residency requirements.* Counties and municipalities may not require residence within the county or municipality as a condition of employment and generally may not use residence as an advantage or disadvantage in administering employee merit systems. See O.C.G.A. §§ 45-2-5 and 45-2-6.

2. *Blanket bonds.* Requirements exist for blanket bonds purchased by municipalities, counties and other political subdivisions. See O.C.G.A. § 45-4-11.

## ALCOHOLIC BEVERAGES

1. *Residency of licensees.* Residency requirements for local alcoholic beverage licensees are restricted. See O.C.G.A. § 3-3-2.
2. *Fingerprints of license applications.* The power to require fingerprints of local alcoholic beverage license applicants is restricted. See O.C.G.A. § 3-3-2.
3. *Sales on election days.* Sales of alcoholic beverages are legal on election days unless prohibited locally. See O.C.G.A. § 3-3-20. At one time sales of alcoholic beverages on election days were prohibited unless allowed locally.
4. *Local wine tax.* The local wine tax is expressed in cents per liter. See O.C.G.A. § 3-6-60.
5. *Sales near churches, schools, etc.* The provisions of O.C.G.A. § 3-3-21 were amended in 2017.

## AMUSEMENTS

1. *Amusement and carnival ride safety.* Subject to certain exceptions, municipalities and counties are not authorized to regulate amusement rides and carnival rides. See O.C.G.A. §§ 25-15-69, 25-15-101.

## ANIMALS

1. *Guide or service dogs.* Subject to certain restrictions, totally or partially blind persons, deaf persons, physically disabled persons and persons training the dogs have a right to be accompanied by a guide dog or a service dog. See O.C.G.A. § 30-4-2.

## BUILDINGS AND BUILDING REGULATIONS

1. *State construction codes.* State minimum construction codes exist. Certain codes have statewide application and others may be adopted by a local government. See O.C.G.A. § 8-2-20 et seq.
2. *Mechanical, plumbing and electrical permits.* The city and county permit processes for heating, ventilation, air-conditioning, plumbing or electrical systems must conform certain mandatory requirements. See O.C.G.A. § 48-13-29. Such requirements were amended in 2017.
3. *Condominiums, timeshares, etc.* Local ordinances that regulate condominiums, the subdivision of any convertible space or unit or the timeshare interval form of ownership are restricted. See O.C.G.A. §§ 44-3-114, 44-3-164.
4. *Contractors.* Local authority to regulate contractors is restricted. See O.C.G.A. § 43-14-12 et seq.
5. *Registration of vacant or foreclosed real property.* Local government requirements for registration of vacant or foreclosed real property are restricted. See O.C.G.A. § 44-14-14.

## BUSINESSES

1. *Timber harvesting.* Local regulation of timber harvesting operations is restricted. See O.C.G.A. § 12-6-24. Such provisions were amended in 2015.
2. *Occupation taxes.* Local occupation taxes, administrative fees and regulatory fees are restricted. See O.C.G.A. § 48-13-5 et seq.
3. *Sport shooting ranges.* Regulation of noise from sport shooting ranges is restricted. See O.C.G.A. § 41-1-9.
4. *Secondary metals.* Subject to certain exceptions, local regulation of secondary metal recyclers and the sale or purchase of regulated metal property are preempted to the state. See O.C.G.A. § 10-1-359.4.

5. *Wage or benefit mandates.* Subject to certain exceptions, a local government may not impose or enforce a wage or employment benefit mandate. See O.C.G.A. § 34-4-3.1.

### **HISTORIC PRESERVATION**

1. *Generally.* Historic preservation ordinances are restricted and regulated. See O.C.G.A. § 44-10-20 et seq.

### **HUMAN RELATIONS**

1. *Fair housing.* Local governments may adopt verbatim certain statutory provisions that prohibit discriminatory housing practices. See O.C.G.A. § 8-3-220.

### **NUISANCES**

1. *Graffiti.* Graffiti removal programs are restricted. See O.C.G.A. § 17-15A-4.

### **OFFENSES AND MISCELLANEOUS PROVISIONS**

1. *Firearms.* Local regulation of firearms is restricted. See O.C.G.A. § 16-11-173. Such statute was amended in 2015.

2. *Knives.* Subject to certain exceptions, local regulation of knives cannot be more restrictive than O.C.G.A. title 16, ch. 11, art. 4, pt. 3 (O.C.G.A. § 16-11-125.1 et seq.). See O.C.G.A. § 16-11-136.

3. *Fireworks.* Local regulation of consumer fireworks is restricted. See O.C.G.A. § 36-60-24.

4. *Unmanned aircraft.* Local regulation of unmanned aircraft is restricted. See O.C.G.A. § 6-1-4.

### **TAXATION**

1. *Freeport exemptions.* The provisions of O.C.G.A. §§ 48-5-48.1 and 48-5-48.2 were amended in 2017.

### **TELECOMMUNICATIONS**

1. *Cable television.* Cable and video service providers may obtain a state franchise. See O.C.G.A. § 36-76-1 et seq.

2. *Wireless communication facilities.* Regulation of siting of wireless communication facilities is restricted. See O.C.G.A. § 36-66B-1 et seq.

### **TRAFFIC AND VEHICLES**

1. *Fully autonomous vehicles or automated driving systems.* No rules or regulations relative to the operation of fully autonomous vehicles or automated driving systems shall be adopted that limit the authority to operate such vehicles or systems conferred by O.C.G.A. § 40-8-11. See O.C.G.A. § 40-8-11(c).

### **ZONING**

1. *Effect on restrictive covenants.* Subject to certain exceptions, covenants restricting lands to certain uses shall not run for more than 20 years in municipalities that have adopted zoning laws nor in those areas in counties for which zoning laws have been adopted, except that whenever a zoning ordinance, upon its initial enactment by a county or municipality, expressly acknowledges the continuing application of a covenant restricting lands to certain uses within that jurisdiction, any such covenant, if created prior to zoning laws being adopted by that county or municipality, shall continue to be effective in such jurisdiction until the expiration of such covenant in accordance with its terms. See O.C.G.A. § 44-5-60, which section was amended in 2017.