

Senate Bill 89

By: Senators Adelman of the 42nd, Pearson of the 51st, Weber of the 40th, Golden of the 8th, Stoner of the 6th and others

AS PASSED SENATE

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Title 36 of the Official Code of Georgia Annotated, relating to local government,
2 so as to provide for the creation of townships; to provide a short title; to provide for the
3 requirements for the creation of such townships; to provide for boards of town supervisors
4 for such townships; to provide for powers, duties, and functions of such town supervisors;
5 to provide for officers, meetings, elections, and filling of vacancies for such town
6 supervisors; to provide for certain immunities; to provide that property within such townships
7 shall not be subject to municipal annexation; to provide for the enactment of ordinances; to
8 prohibit certain conflicts of interest; to provide for an audit; to provide for a transition of
9 services; to provide that counties shall continue to provide services in the township that are
10 not specifically delegated by law to the township; to conform related laws; to provide for
11 related matters; to provide for an effective date and for automatic repeal under certain
12 circumstances; to repeal conflicting laws; and for other purposes.

13 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

14 **SECTION 1.**

15 This Act shall be known and may be cited as the "Georgia Township Act."

16 **SECTION 2.**

17 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended
18 by adding a new Chapter 93 to read as follows:

19 **"CHAPTER 93**

20 36-93-1.

21 The General Assembly shall be authorized by local law to provide for the creation of
22 townships in the unincorporated areas of one or more counties in this state in accordance
23 with the provisions of this chapter.

1 36-93-2.

2 The local Act creating a township in accordance with this chapter shall contain the
3 following:

4 (1) The name by which the township shall be known which shall be in the form of the
5 'Township of _____' and shall not use any name that is currently the name of
6 an active, incorporated municipality or county in the State of Georgia;

7 (2) A description of the area to be included in the township which shall not include any
8 area that is a part of an active, incorporated municipality in the State of Georgia and
9 which shall be comprised of a single, contiguous geographical area containing at least
10 500 acres, containing an average resident population density of at least 200 persons per
11 square mile, and in which at least 10 percent of the total geographical area is used or is
12 zoned for purposes other than residential uses;

13 (3) The number of members of the board of town supervisors of the township;

14 (4) Whether members of the board of town supervisors shall be elected at large or by
15 district and, if such members are to be elected by district, a description of the district
16 boundaries;

17 (5) The initial terms of office for members of the board of town supervisors and the date
18 for the initial election of members of the board of town supervisors which shall be in
19 accordance with the provisions of Code Section 21-2-540;

20 (6) Whether elections for the board of town supervisors shall be by majority or plurality
21 vote;

22 (7) The amount and nature of compensation of the members of the board of town
23 supervisors, if any; and

24 (8) The number of members of the board of town supervisors who must be present to
25 constitute a quorum for the transaction of business by the board and the number of
26 affirmative votes necessary for the board to take official action.

27 36-93-3.

28 (a) The activities of a township created pursuant to this chapter shall be governed by a
29 board of town supervisors.

30 (b) A township shall not be a municipality under Georgia law nor shall it exercise any
31 municipal powers except as expressly provided in this chapter. A township shall not have
32 nor exercise the power of eminent domain.

33 (c) The board of town supervisors shall have the following authority, powers, and duties:

34 (1) To provide comprehensive township planning for development by zoning and to
35 provide subdivision regulation and the like as the board deems necessary and reasonable
36 to ensure a safe, healthy, and esthetically pleasing community in accordance with a

1 properly adopted zoning and land use ordinance and in accordance with the provisions
2 of Chapters 66, 67, and 67A of this title in the same manner as counties and
3 municipalities of this state presently or hereafter exercise such power;

4 (2) To adopt, amend, modify, and repeal ordinances relating to the authority, powers, and
5 duties of the township under this Code section;

6 (3) To levy an ad valorem tax for the purpose of raising revenues to defray the limited
7 costs of discharging the obligations of the township and of providing township services,
8 for the repayment of principal and interest on general obligations, and for any other
9 public purpose within the authority, powers, and duties of the board of town supervisors.
10 Such tax shall be limited to an amount not to exceed .5 mill on all taxable real and
11 personal property located within the boundaries of the township that is subject to such
12 taxation by the state and county. Such tax shall be included by the tax commissioner or
13 tax collector of the county in which such property is located on county tax bills for such
14 property and shall be collected in the same manner as county taxes by such county tax
15 commissioner or tax collector, shall be deposited and maintained in a separate account
16 for such purpose including any interest received thereon, and shall be promptly remitted
17 to the township with the exception of an amount that may be withheld by the county to
18 cover the direct actual costs to the county of collecting and remitting such tax for the
19 township which shall not exceed the direct actual costs thereof;

20 (4) To establish a budget and make appropriations for the support of the township, to
21 authorize the expenditure of money for any purposes authorized by this chapter, and to
22 provide for the payment of expenses of the township;

23 (5) To provide for the appointment, qualification, and selection of officers of the board
24 in addition to the chairperson and vice chairperson and provide for the duties of such
25 officers;

26 (6) To adopt, amend, and abolish bylaws and internal operating procedures that are not
27 in conflict with the provisions of this chapter for the governance of the board in carrying
28 out its authority, powers, duties, and functions;

29 (7) To employ and establish the compensation of persons to provide administrative,
30 managerial, legal, accounting, financial, and other such services related to the carrying
31 out of the authority, powers, duties, and functions of the board as the board deems
32 appropriate;

33 (8) To review the performance of, promote, discipline, and terminate the employment
34 of any employee of the township;

35 (9) To establish and provide health insurance, retirement, and other employment benefits
36 for employees of the township;

- 1 (10) To create, alter, or abolish departments, offices, and agencies of the township and
2 to confer upon such agencies the necessary and appropriate authority for carrying out all
3 the powers conferred upon or delegated to the same;
- 4 (11) To regulate the erection and construction of buildings and all other structures not
5 inconsistent with general law;
- 6 (12) To establish, amend, repeal, and collect fees for the services of the township from
7 the users of such services including, but not expressly limited to, fees for filing rezoning
8 and land use applications and other licenses;
- 9 (13) To enter into contracts and agreements with other governments and entities and with
10 private persons, firms, and corporations;
- 11 (14) To accept or refuse gifts, donations, bequests, or grants from any source for any
12 purpose related to the powers and duties of the township or of its citizens on such terms
13 and conditions as the donor or grantor may impose;
- 14 (15) To appropriate and borrow money for the payment of debts of the township on such
15 terms as the board deems appropriate;
- 16 (16) To acquire, dispose of, and hold in trust or otherwise any real, personal, or mixed
17 property, in fee simple or lesser interest, inside the property limits of the township;
- 18 (17) To provide for the preservation and protection of property and equipment of the
19 township and the administration and use of same by the public;
- 20 (18) To grant franchises or make contracts for public utilities and public services, with
21 the exception of cable television, and to prescribe the rates, fares, regulations, and the
22 standards and conditions of service applicable to the service to be provided by the
23 franchise grantee or contractor, insofar as not in conflict with valid regulations of the
24 Public Service Commission; and
- 25 (19) To provide for keeping a journal of its proceedings which shall be a public record.
- 26 (d) The board of town supervisors shall hold regular meetings at such times and places as
27 prescribed by ordinance. Special meetings of the board of town supervisors may be held
28 on call of the chairperson or a majority of the members of the board of town supervisors.
29 Notice of such special meeting shall be served on all other members personally, or by
30 telephone personally, at least 48 hours in advance of the meeting. Such notice to members
31 of the board of town supervisors shall not be required if all members are present when the
32 special meeting is called. Such notice of any special meeting may be waived by a member
33 in writing before or after such a meeting, and attendance at the meeting shall also constitute
34 a waiver of notice on any business transacted in such member's presence. Only the
35 business stated in the call may be transacted at the special meeting.
- 36 (e) All meetings of the board of town supervisors and all documents in the custody of the
37 township shall be public and, available, respectively, to the extent required by Chapter 14

1 of Title 50, relating to open meetings; Article 4 of Chapter 18 of Title 50, relating to open
2 records; and other applicable law, and notice to the public of special meetings shall be
3 given as required by law.

4 36-93-4.

5 A township and its board of town supervisors and employees shall be entitled to the same
6 privileges and immunities under law as a municipality and its governing authority and
7 employees.

8 36-93-5.

9 (a) Except as provided in subsection (c) of this Code section, the area within the boundary
10 of a township shall not be subject to annexation by any municipality without the approval
11 of a majority of the members of the board of town supervisors and approval by the electors
12 of the township in a referendum.

13 (b) Upon the approval by a majority of the members of the board of town supervisors and
14 approval by the electors of the township in a referendum, a township may be converted by
15 a local Act of the General Assembly into a municipality.

16 (c) Provided that such areas abut the limits of the township and provided that such
17 deannexation will not result in the township falling below the minimum standards for
18 townships contained in paragraph (2) of Code Section 36-93-2, a township may deannex
19 an area or areas of the existing limits of the township upon the written and signed
20 applications containing a complete description of the lands to be deannexed of all of the
21 owners, except the owners of any public street, road, highway, or right of way, of all of
22 the land proposed to be deannexed. Lands to be deannexed at any one time shall be treated
23 as one body, regardless of the number of owners, and all parts shall be considered as
24 abutting the limits of the township when any one part of the entire body abuts such limits.
25 When such application is acted upon by the township and the land is, by ordinance,
26 deannexed from the township, an identification of the property so deannexed shall be filed
27 with the Department of Community Affairs and with the governing authority of the county
28 in which the property is located in accordance with Code Section 36-36-3. When so
29 deannexed, such lands shall cease to constitute a part of the lands within the corporate
30 limits of the township as completely and fully as if the limits had been marked and defined
31 by local Act of the General Assembly and shall be subject to annexation by any municipal
32 corporation in accordance with the provisions of Chapter 36 of Title 36.

33 (d)(1) As used in this subsection, the term 'contiguous area' means any area that meets
34 the following conditions at the time the annexation procedures are initiated:

1 (A) At least one-eighth of the aggregate external boundary or 50 feet of the area to be
 2 annexed, whichever is less, either abuts directly on the township boundary or would
 3 directly abut on the township boundary if it were not otherwise separated from the
 4 township boundary by lands owned by the township or some other political subdivision,
 5 by lands owned by this state, or by the definite width or length of:

6 (i) Any street or street right of way;

7 (ii) Any creek or river; or

8 (iii) Any right of way of a railroad or other public service corporation

9 which divides the township boundary and any area proposed to be annexed;

10 (B) The entire parcel or parcels of real property owned by the person seeking
 11 annexation is being annexed; provided, however, that lots shall not be subdivided in an
 12 effort to evade the requirements of this paragraph; and

13 (C) The private property annexed, excluding any right of way of a railroad or other
 14 public service corporation, complies with the annexing township's minimum size
 15 requirements, if any, to construct a building or structure occupiable by persons or
 16 property under the policies or regulations of the township's development, zoning, or
 17 subdivision ordinances.

18 (2) Notwithstanding the limitations of paragraph (1) of this subsection, an area may be
 19 annexed by agreement between the township and the governing body of the county in
 20 which the territory proposed to be annexed is located.

21 (3) If the entire area to be annexed is owned by the township to which the area is to be
 22 annexed at the time annexation procedures are initiated, then the term 'contiguous area'
 23 means any area which, at the time annexation procedures are initiated, abuts directly on
 24 the township boundary or which would directly abut on the township boundary if it were
 25 not otherwise separated from the township boundary by lands owned by the township or
 26 some other political subdivision, by lands owned by this state, or by the definite width
 27 or length of:

28 (A) Any street or street right of way;

29 (B) Any creek or river; or

30 (C) Any right of way of a railroad or other public service corporation

31 which divides the township boundary and any area proposed to be annexed.

32 (4) A township may annex to its existing limits unincorporated areas contiguous to the
 33 existing township limits at the time of such annexation upon the written and signed
 34 applications containing a complete description of the lands to be annexed of all of the
 35 owners, except the owners of any public street, road, highway, or right of way, of all of
 36 the land proposed to be annexed. Lands to be annexed at any one time shall be treated
 37 as one body, regardless of the number of owners, and all parts shall be considered as

1 abutting the limits of the township when any one part of the entire body abuts such limits.
 2 When such application is acted upon by the township and the land is, by ordinance,
 3 annexed to the township, an identification of the property so annexed shall be filed with
 4 the Department of Community Affairs and with the governing authority of the county in
 5 which the property is located in accordance with Code Section 36-36-3. When so
 6 annexed, such lands shall constitute a part of the lands within the corporate limits of the
 7 township as completely and fully as if the limits had been marked and defined by local
 8 Act of the General Assembly. Except as provided in subsection (c) of Code Section
 9 36-36-20, nothing in this article shall be construed to authorize annexation of the length
 10 of any public right of way except to the extent that such right of way adjoins private
 11 property otherwise annexed by the township.

12 36-93-6.

13 (a) At any township election, all persons who are qualified under the Constitution and laws
 14 of Georgia to vote for members of the General Assembly of Georgia and who are bona fide
 15 residents of a township shall be eligible to qualify as voters in the election.

16 (b) All elections shall be held and conducted in accordance with Chapter 2 of Title 21, the
 17 'Georgia Election Code,' and shall be conducted on a nonpartisan basis.

18 (c) Township general elections shall be held on the Tuesday after the first Monday in
 19 November in odd-numbered years.

20 (d) Members of the board of town supervisors of a township elected in a general election
 21 shall take office on the first day of January following the date of their election.

22 (e) Except for the initial terms of office in a newly created township, each member of the
 23 board of town supervisors shall serve a four-year term of office. The initial terms of
 24 members of the board of town supervisors for a newly created township shall be as
 25 specified in the local Act creating the township.

26 (f) A vacancy in the office of a member of the board of town supervisors shall be filled as
 27 follows:

28 (1) If there are more than 27 months remaining in the member's term of office at the time
 29 of the vacancy, the vacancy shall be filled by a special election; or

30 (2) If there are 27 months or less remaining in the member's term of office at the time
 31 of the vacancy, the vacancy shall be filled by appointment by the remaining members of
 32 the board of town supervisors.

33 36-93-7.

34 (a) No elected official, appointed officer, or employee of the township shall knowingly:

- 1 (1) Engage in any business or transaction or have a financial or other personal interest,
2 direct or indirect, which is incompatible with the proper discharge of official duties or
3 which would tend to impair the independence of his or her judgment or action in the
4 performance of official duties;
- 5 (2) Engage in or accept private employment or render services for private interests when
6 such employment or service is incompatible with the proper discharge of official duties
7 or would tend to impair the independence of his or her judgment or action in the
8 performance of official duties;
- 9 (3) Disclose confidential information concerning the property, government, or affairs of
10 the township without proper legal authorization or use such information to advance the
11 financial or other private interest of himself or herself or others;
- 12 (4) Accept any valuable gift, whether in the form of service, loan, object, or promise,
13 from any person, firm, or corporation which to his or her knowledge is interested, directly
14 or indirectly, in any manner whatsoever in business dealings with the township; provided,
15 however, that an elected official who is a candidate for public office may accept
16 campaign contributions and services in connection with any such campaign;
- 17 (5) Represent other private interests in any action or proceeding against the township or
18 any portion of its government; or
- 19 (6) Vote or otherwise participate in the negotiation or in the making of any contract with
20 any business or entity in which he or she has a financial interest.
- 21 (b) Any elected official, appointed officer, or employee who has any private financial
22 interest, directly or indirectly, in any contract or matter pending before or within any
23 department of the township shall disclose such private interest to the board of town
24 supervisors. Any member of the board of town supervisors of a township who has a
25 private interest in any matter pending before the board of town supervisors shall disclose
26 such private interest and such disclosure shall be entered on the records of the board, and
27 he or she shall disqualify himself or herself from participating in any decision or vote
28 relating thereto. Any elected official, appointed officer, or employee who shall have any
29 private financial interest, directly or indirectly, in any contract or matter pending before or
30 within the board of town supervisors shall disclose such private interest to the board of
31 town supervisors.
- 32 (c) No elected official, appointed officer, or employee of the township shall use property
33 owned by the township for personal benefit, convenience, or profit, except in accordance
34 with policies promulgated by the board of town supervisors.
- 35 (d) Any violation of this Code section which occurs with the knowledge, express or
36 implied, of a party to a contract or sale shall render said contract or sale voidable at the
37 option of the board of town supervisors.

1 (e) Except as authorized by law, no member of the board of town supervisors shall hold
2 any other elective township office or other township employment during the term for which
3 elected.

4 36-93-8.

5 There shall be an annual independent audit of all township accounts, funds, and financial
6 transactions by a certified public accountant selected by the board of town supervisors.

7 The audit shall be conducted according to generally accepted accounting principles. Any
8 audit of any funds by the state or federal government may be accepted as satisfying the
9 requirements of this chapter. Copies of all audit reports shall be available at printing cost
10 to the public.

11 36-93-9.

12 Except for the purposes expressly set forth in this chapter, the property within the
13 boundaries of a township shall remain subject to all other provisions of law and the
14 jurisdiction of the governing authority of the county in which it is located as if such area
15 were a part of the unincorporated area of the county in which such property is located, and
16 the governing authority of the county in which such property is located shall continue to
17 provide all government services, except those expressly provided for in this chapter to be
18 provided by the township, to such property.

19 36-93-10.

20 (a) Every proposed ordinance shall be introduced in writing and in the form required for
21 final adoption. No ordinance shall contain a subject which is not expressed in its title. The
22 enacting clause shall be 'The Board of Town Supervisors of the Township of
23 _____ hereby ordains...' and every ordinance shall so begin.

24 (b) An ordinance may be introduced by any member of the board of town supervisors and
25 be read at a regular or special meeting of the board. Ordinances shall be considered and
26 adopted or rejected by the board of town supervisors in accordance with the rules which
27 it shall establish; provided, however, an ordinance shall not be adopted the same day it is
28 introduced. Upon introduction of any ordinance, the board of town supervisors shall, as
29 soon as possible, distribute a copy to each member of the board of town supervisors and
30 shall file a reasonable number of copies in its offices and at such other public places as the
31 board of town supervisors may designate.

1 36-93-11.

2 (a) At the first meeting of the board of town supervisors in each calendar year, the
3 members of the board shall select from among their number a chairperson and vice
4 chairperson.

5 (b) The chairperson shall preside over all meetings of the board of town supervisors and
6 shall be entitled to vote in all matters coming before the board of town supervisors except
7 matters in which such chairperson has disqualified himself or herself as a result of a
8 conflict of interest or other cause.

9 (c) The vice chairperson shall assume the duties of the chairperson in the chairperson's
10 absence.

11 36-93-12.

12 (a) Until July 1 of the year following the election of the initial board of town supervisors
13 of a township, the county or counties in which the township is located shall continue to be
14 responsible for planning and zoning functions and the enforcement of land use provisions
15 for the property in such county in the same manner as if the township had not come into
16 existence.

17 (b) On July 1 of the year following the election of the initial board of town supervisors of
18 a township, the county or counties in which the township is located shall no longer be
19 responsible for planning and zoning functions and the enforcement of land use provisions
20 and shall not undertake to exercise any such function over property located in the township.

21 (c) The expense of the initial election of the members of the board of town supervisors
22 shall be borne by the governing authority of the county in which the township is primarily
23 located. Within two years after the initial elections for the members of the board of town
24 supervisors, the township shall reimburse the county for the actual cost of printing and
25 personnel services for such election. It shall be the duty of the county election
26 superintendent to hold and conduct such election. It shall be his or her further duty to
27 certify the result thereof to the Secretary of State. Only for the purposes of holding and
28 conducting the election of the initial board of town supervisors, the election superintendent
29 of the county in which the township is primarily located is vested with the powers and
30 duties of the election superintendent of the township and the board of town supervisors
31 regarding elections.

32 36-93-13.

33 (a) When a township receives a request for rezoning, a change in the land use plan, the
34 creation of a subdivision, or an amendment to the township's planning or development
35 regulations or ordinances or subdivision regulations, the township shall submit the request

1 or proposed amendment to the governing authority of the county or counties in which the
2 township is located. The county governing authority or authorities shall have ten business
3 days to respond in writing to the township with any opinions, concerns, or potential fiscal
4 impacts on county residents that the county or counties desire the township to consider.
5 The county's response shall include any recommended actions that the county believes
6 might mitigate any adverse consequences or impacts to the county. The township shall
7 make any responses received from a county governing authority a part of the public record
8 and shall acknowledge receipt of the response. The township shall consider the county's
9 response and shall attempt to mitigate any adverse consequences or impacts identified by
10 the county. The township shall provide the county or counties with a copy of any final
11 action taken by the township on the rezoning, change in the land use plan, the creation of
12 a subdivision, or amendment to the township's planning or development regulations or
13 ordinances or subdivision regulations.

14 (b) When a township proposes a new ordinance or an amendment to existing ordinances,
15 the township shall submit the proposed ordinance or amendment to the governing authority
16 of the county or counties in which the township is located. The county governing authority
17 or authorities shall have ten business days to respond in writing to the township with any
18 opinions, concerns, or potential fiscal impacts on county residents that the county or
19 counties desire the township to consider. The county's response shall include any
20 recommended actions that the county believes might mitigate any adverse consequences
21 or impacts to the county. The township shall make any responses received from a county
22 governing authority a part of the public record and shall acknowledge receipt of the
23 response. The township shall consider the county's response and shall attempt to mitigate
24 any adverse consequences or impacts identified by the county. The township shall provide
25 the county or counties with a copy of any final action taken by the township on the
26 ordinance or amendment.

27 (c) When a township receives a request for rezoning, a change in the land use plan, or the
28 creation of a subdivision affecting property that abuts or is contiguous to another township
29 or a municipality, the township shall submit the request, change, or proposed subdivision
30 to the board of town supervisors of the other township or the governing authority of the
31 municipality, as appropriate. The other township or municipal governing authority shall
32 have ten business days to respond in writing to the township with any opinions, concerns,
33 or potential fiscal impacts on the other township's or municipality's residents that the other
34 township or municipality desires the township to consider. The other township's or
35 municipality's response shall include any recommended actions that the other township or
36 municipality believes might mitigate any adverse consequences or impacts to the other
37 township or municipality. The township shall make any responses received from another

1 township or municipality a part of the public record and shall acknowledge receipt of the
2 response. The township shall consider the other township's or municipality's response and
3 shall attempt to mitigate any adverse consequences or impacts identified by the other
4 township or municipality. The township shall provide the other township or municipality,
5 as appropriate, with a copy of any final action taken by the township on the rezoning,
6 change in the land use plan, or the creation of the subdivision.

7 (d) When a township proposes a new ordinance or an amendment to existing ordinances
8 that potentially may impact another township or municipality that abuts or is contiguous
9 to the township, the township shall submit the proposed ordinance or amendment to the
10 board of town supervisors of the other township or the governing authority of the
11 municipality, as appropriate. The other township or municipality shall have ten business
12 days to respond in writing to the township with any opinions, concerns, or potential fiscal
13 impacts on the other township's or municipality's residents that the other township or
14 municipality desires the township to consider. The other township's or municipality's
15 response shall include any recommended actions that the other township or municipality
16 believes might mitigate any adverse consequences or impacts to the other township or
17 municipality. The township shall make any responses received from the other township
18 or municipality a part of the public record and shall acknowledge receipt of the response.
19 The township shall consider the other township's or municipality's response and shall
20 attempt to mitigate any adverse consequences or impacts identified by the other township
21 or municipality. The township shall provide the other township or municipality, as
22 appropriate, with a copy of any final action taken by the township on the ordinance or
23 amendment.

24 (e) The county or counties in which a township is located shall coordinate service delivery
25 of county-wide services within the township. The township shall provide regular input and
26 advice to the county or counties in which the township is located regarding county-wide
27 services that are delivered within the township. If a township deems it necessary, it may
28 request that the county or counties consider, and the county or counties shall consider, the
29 establishment of a special service and taxing district for higher levels of service within the
30 township. If such districts are to be created, the county shall seek the advice of the
31 township and the township shall advise the county in the establishment, implementation,
32 and management of such districts.

33 (f) The board of town supervisors and the county governing authority of the county or
34 counties in which the township is located shall meet jointly at least twice each year to
35 discuss any coordination needs that any of such governing bodies deems relevant to the
36 proper and efficient operations of such governments.

1 (g) When a county receives a request for rezoning, a change in the land use plan, or the
 2 creation of a subdivision affecting property that abuts or is contiguous to a township, the
 3 county shall submit the request, change, or proposed subdivision to the board of town
 4 supervisors of the township. The township shall have ten business days to respond in
 5 writing to the county with any opinions, concerns, or potential fiscal impacts on township
 6 residents that the township desires the county to consider. The township's response shall
 7 include any recommended actions that the township believes might mitigate any adverse
 8 consequences or impacts to the township. The county shall make any responses received
 9 from a township a part of the public record and shall acknowledge receipt of the response.
 10 The county shall consider the township's response and shall attempt to mitigate any
 11 adverse consequences or impacts identified by the township. The county shall provide the
 12 township with a copy of any final action taken by the county on the rezoning, change in the
 13 land use plan, or the creation of the subdivision.

14 (h) When a county proposes a new ordinance or an amendment to existing ordinances that
 15 potentially may impact a township, the county shall submit the proposed ordinance or
 16 amendment to the board of town supervisors of the township. The township shall have ten
 17 business days to respond in writing to the county with any opinions, concerns, or potential
 18 fiscal impacts on township residents that the township desires the county to consider. The
 19 township's response shall include any recommended actions that the township believes
 20 might mitigate any adverse consequences or impacts to the township. The county shall
 21 make any responses received from a township a part of the public record and shall
 22 acknowledge receipt of the response. The county shall consider the township's response
 23 and shall attempt to mitigate any adverse consequences or impacts identified by the
 24 township. The county shall provide the township with a copy of any final action taken by
 25 the county on the ordinance or amendment."

26 SECTION 3.

27 Said title is further amended by revising paragraph (1) of Code Section 36-66-3, relating to
 28 definitions regarding zoning procedures, to read as follows:

29 "(1) 'Local government' means any county, ~~or municipality,~~ or township which exercises
 30 zoning power within its territorial boundaries."

31 SECTION 4.

32 Said title is further amended by revising Code Section 36-66A-1, relating to definitions
 33 regarding transfer of development rights, to read as follows:

1 "36-66A-1.

2 As used in this chapter, the term:

3 (1) 'Development rights' means the maximum development that would be allowed on the
4 sending property under any general or specific plan and local zoning ordinance of a
5 municipality, ~~or county,~~ or township in effect on the date the municipality, ~~or county,~~ or
6 township adopts an ordinance pursuant to this chapter. Development rights may be
7 calculated and allocated in accordance with factors including dwelling units, area, floor
8 area, floor area ration, height limitations, traffic generation, or any other criteria that will
9 quantify a value for the development rights in a manner that will carry out the objectives
10 of this Code section.

11 (2) 'Person' means any natural person, corporation, partnership, trust, foundation,
12 nonprofit agency, or other legal entity.

13 (3) 'Receiving area' means an area identified by an ordinance as an area authorized to
14 receive development rights transferred from a sending area.

15 (4) 'Receiving property' means a lot or parcel within which development rights are
16 increased pursuant to a transfer of development rights. Receiving property shall be
17 appropriate and suitable for development and shall be sufficient to accommodate the
18 transferable development rights of the sending property without substantial adverse
19 environmental, economic, or social impact to the receiving property or to neighboring
20 property.

21 (5) 'Sending area' means an area identified by an ordinance as an area from which
22 development rights are authorized to be transferred to a receiving area.

23 (6) 'Sending property' means a lot or parcel with special characteristics, including farm
24 land; woodland; desert land; mountain land; a flood plain; natural habitats; wetlands;
25 ~~groundwater~~ ground water recharge area; marsh hammocks; recreation areas or parkland,
26 including golf course areas; or land that has unique ~~aesthetic~~ esthetic, architectural, or
27 historic value that a municipality, ~~or county,~~ or township desires to protect from future
28 development.

29 (7) 'Transfer of development rights' means the process by which development rights from
30 a sending property are affixed to one or more receiving properties."

31 **SECTION 5.**

32 Said title is further amended by revising Code Section 36-66A-2, relating to procedures,
33 methods, and standards for transfer of development rights, to read as follows:

34 "36-66A-2.

35 (a) Pursuant to the provisions of this Code section, the governing body of any
36 municipality, ~~or county,~~ or township by ordinance may, in order to conserve and promote

1 the public health, safety, and general welfare, establish procedures, methods, and standards
2 for the transfer of development rights within its jurisdiction.

3 (b) Any proposed transfer of development rights shall be subject to the approval and
4 consent of the property owners of both the sending and receiving property.

5 (c) Prior to any transfer of development rights, a municipality, ~~or county,~~ or township shall
6 adopt an ordinance providing for:

7 (1) The issuance and recordation of the instruments necessary to sever development
8 rights from the sending property and to affix development rights to the receiving
9 property. These instruments shall be executed by the affected property owners and
10 lienholders;

11 (2) The preservation of the character of the sending property and assurance that the
12 prohibitions against the use and development of the sending property shall bind the
13 landowner and every successor in interest to the landowner;

14 (3) The severance of transferable development rights from the sending property and the
15 delayed transfer of development rights to a receiving property;

16 (4) The purchase, sale, exchange, or other conveyance of transferable development rights
17 prior to the rights being affixed to a receiving property;

18 (5) A system for monitoring the severance, ownership, assignment, and transfer of
19 transferable development rights;

20 (6) The right of a municipality, ~~or county,~~ or township to purchase development rights
21 and to hold them for conservation purposes or resale;

22 (7) The right of a person to purchase development rights and to hold them for
23 conservation purposes or resale;

24 (8) Development rights made transferable pursuant to this Code section shall be interests
25 in real property and shall be considered as such for purposes of conveyancing and
26 taxation. Once a deed of transferable development rights created pursuant to this Code
27 section has been sold, conveyed, or otherwise transferred by the owner of the parcel from
28 which the development rights were derived, the transfer of development rights shall vest
29 in the grantee and become freely alienable. For the purposes of ad valorem real property
30 taxation, the value of a transferable development right shall be deemed appurtenant to the
31 sending property until the transferable development right is registered as a distinct
32 interest in real property with the appropriate tax assessor or the transferable development
33 right is used at a receiving property and becomes appurtenant thereto;

34 (9) A map or other description of areas designated as sending and receiving areas for the
35 transfer of development rights between properties; and

36 (10) Such other provisions as the municipality, ~~county,~~ or township deems necessary to
37 aid in the implementation of the provisions of this chapter.

1 (d)(1) Prior to the enactment of an ordinance as provided in subsection (c) of this Code
 2 section, the local governing authority shall provide for a hearing on the proposed
 3 ordinance. At least 15 but not more than 45 days prior to the date of the hearing, the local
 4 governing authority shall cause to be published in a newspaper of general circulation
 5 within the territorial boundaries of the political subdivision a notice of the hearing. The
 6 notice shall state the time, place, and purpose of the hearing.

7 (2) Prior to any changes in an area designated in an ordinance as a sending or receiving
 8 area, the local governing authority shall provide for notice and a hearing as provided in
 9 paragraph (1) of this subsection.

10 (e) Proposed transfers of development rights shall become effective upon the recording of
 11 the conveyance with the appropriate deed-recording authorities and the filing of a certified
 12 copy of such recording with the local governing authority of each political subdivision in
 13 which a sending or receiving area is located in whole or in part.

14 (f) Municipalities ~~and counties~~, counties, and townships which are jointly affected by
 15 development are authorized to enter in to into intergovernmental agreements for the
 16 purpose of enacting interdependent ordinances providing for the transfer of development
 17 rights between or among such jurisdictions, provided that such agreements otherwise
 18 comply with applicable laws. Any ordinances enacted pursuant to this subsection may
 19 provide for additional notice and hearing and signage requirements applicable to properties
 20 within the sending and receiving areas in each participating political subdivision."

21 SECTION 6.

22 Said title is further amended by revising Code Section 36-67-1, relating to applicability and
 23 definitions relating to zoning proposal review procedures, to read as follows:

24 "36-67-1.

25 This article shall apply only to those counties which have a population of 625,000 or more
 26 according to the United States decennial census of 2000 or any future such census and to
 27 those municipalities and townships wholly or partially located within such counties which
 28 have a population of 100,000 or more according to the United States decennial census of
 29 1980 or any future such census. As used in this article, the term 'local government' means
 30 those counties, townships, and municipalities subject to this article; and the term 'governing
 31 authority' means the governing authority of each such county, township, and municipality."

32 SECTION 7.

33 Said title is further amended by revising paragraph (4) of Code Section 36-67A-1, relating
 34 to definitions relating to conflicts of interest in zoning actions, to read as follows:

35 "(4) 'Local government' means any county, township, or municipality of this state."

1 (5.1) 'Inactive municipality' means any municipality which has not for a period of three
 2 consecutive calendar years carried out any of the following activities:

3 (A) The levying or collecting of any taxes or fees;

4 (B) The provision of any of the following governmental services: water; sewage;
 5 garbage collection; police protection; fire protection; or library; or

6 (C) The holding of a municipal election.

7 (5.2) 'Local government' means any county as defined in paragraph (3) of this Code
 8 section, any township as defined in paragraph (10) of this Code section, or any
 9 municipality as defined in paragraph (7) of this Code section. The term does not include
 10 any school district of this state nor any sheriff, clerk of the superior court, judge of the
 11 probate court, or tax commissioner or the office, personnel, or services provided by such
 12 elected officials.

13 (5.3) 'Mechanisms' includes, but is not limited to, intergovernmental agreements,
 14 ordinances, resolutions, and local Acts of the General Assembly in effect on July 1, 1997,
 15 or executed thereafter.

16 (6) 'Minimum standards and procedures' means the minimum standards and procedures
 17 for preparation of comprehensive plans, for implementation of comprehensive plans, and
 18 for participation in the coordinated and comprehensive planning process, as established
 19 by the department, in accordance with Article 1 of Chapter 8 of Title 50. Minimum
 20 standards and procedures shall include any standards and procedures for such purposes
 21 prescribed by a regional development center for counties, townships, and municipalities
 22 within its region and approved in advance by the department.

23 (7) 'Municipality' means any municipal corporation of the state and any consolidated
 24 city-county government of the state.

25 (8) 'Region' means the territorial area within the boundaries of operation for any regional
 26 development center, as such boundaries shall be established from time to time by the
 27 board of the department.

28 (9) 'Regional development center' means a regional development center established
 29 under Article 2 of Chapter 8 of Title 50.

30 (10) 'Township' means a township created pursuant to Chapter 93 of this title.

31 36-70-3.

32 The governing bodies of municipalities, townships, and counties are authorized:

33 (1) To develop, or to cause to be developed pursuant to a contract or other arrangement
 34 approved by the governing body, a comprehensive plan;

35 (2) To develop, establish, and implement land use regulations which are consistent with
 36 the comprehensive plan of the municipality, township, or county, as the case may be;

1 (3) To develop, establish, and implement a plan for capital improvements which
 2 conforms to minimum standards and procedures and to make any capital improvements
 3 plan a part of the comprehensive plan of the municipality, township, or county, as the
 4 case may be;

5 (4) To employ personnel, or to enter into contracts with a regional development center
 6 or other public or private entity, to assist the municipality, township, or county in
 7 developing, establishing, and implementing its comprehensive plan;

8 (5) To contract with one or more counties, townships, or municipalities, or both or any
 9 combination thereof, for assistance in developing, establishing, and implementing a
 10 comprehensive plan, regardless of whether the contract is to obtain such assistance or to
 11 provide such assistance; and

12 (6) To take all action necessary or desirable to further the policy of the state for
 13 coordinated and comprehensive planning, without regard for whether any such action is
 14 specifically mentioned in this article or is otherwise specifically granted by law.

15 36-70-4.

16 (a) Each municipality, township, and county shall automatically be a member of the
 17 regional development center for the region which includes such municipality, township,
 18 or county, as the case may be.

19 (b) Each municipality, township, and county shall pay, when and as they become due, the
 20 annual dues required for membership in its regional development center.

21 (c) Each municipality, township, and county shall participate in compiling a Georgia data
 22 base and network, coordinated by the department, to serve as a comprehensive source of
 23 information available, in an accessible form, to local governments and state agencies.

24 36-70-5.

25 (a) Except as provided in subsection (b) of this Code section, nothing in this article shall
 26 limit or compromise the right of the governing body of any county, township, or
 27 municipality to exercise the power of zoning.

28 (b) Any municipality which is as of April 17, 1992, an inactive municipality shall not on
 29 or after April 17, 1992, exercise any powers under this article or exercise any zoning
 30 powers, until and unless the municipality is restored to active status by the enactment of
 31 an appropriate new or amended charter by local Act of the General Assembly. Any
 32 municipality which becomes an inactive municipality after April 17, 1992, shall not after
 33 becoming inactive exercise powers under this article or exercise any zoning powers, until
 34 and unless the municipality is restored to active status by the enactment of an appropriate
 35 new or amended charter by local Act of the General Assembly.

1 (c) Any county which has located within its boundaries all or any part of any inactive
2 municipality shall have full authority to exercise through its governing body all planning
3 and zoning powers within the area of such inactive municipality within the county, in the
4 same manner as if such area were an unincorporated area."

5

6

SECTION 9.

7 This Act shall become effective on January 1, 2009, provided that an amendment to the state
8 Constitution is passed by the General Assembly and ratified by the voters at the 2008 general
9 election providing for the creation of townships and the exercise of zoning powers by such
10 townships. If such an amendment is not passed and ratified, then this Act shall stand
11 repealed by operation of law on January 1, 2009.

12

SECTION 10.

13 All laws and parts of laws in conflict with this Act are repealed.