

# COUNTY COMMISSIONERS: ROLES AND RESPONSIBILITIES

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## INTRODUCTION

County commissioners — officially, the board of commissioners<sup>1</sup> — are the governing authority of the county government, charged with many different obligations dictated by law. The board of commissioners functions in many roles for the county government. Depending upon the function, county commissioners serve in various capacities, such as policy maker, quasi-judicial, legislative, and executive.

The purpose of this chapter is to provide an overview of the legally required and optional functions of county commissioners, including the following:

- Position qualifications, leaving office, and prohibitions.
- Role with other members of county government.
- Powers and limitations.
- Services to the public.

This chapter is intended to be a broad, surface discussion of county commissioner responsibilities as established by law. Some, but not all, county roles and responsibilities must be implemented through the county governing authority. Therefore, this chapter should be read in conjunction with the Types of Government Chapter, which discusses the roles and responsibilities of county governments. Detailed information on specific responsibilities is available in other chapters and other publications.

## COUNTY COMMISSIONERS

In most counties, the board of commissioners consists of board members and a chair (full time or part time; elected by the voters or elected by the board). In some counties, the governing authority is a sole commissioner. In consolidated governments, it may be a mayor and council. For more information on different forms of county government, please see the Types of Government Chapter.

In this chapter, the term “commissioners” and “board of commissioners” will be used to describe all forms of the governing body of the county government.

### Qualifications

There are several qualifications for an individual to be eligible to run for and remain a county commissioner:

- No conviction of felony involving moral turpitude, unless civil rights have been restored for at least 10 years.<sup>2</sup>
- No default on federal, state, county, city, or school taxes.<sup>3</sup>
- No illegal holding of public funds.<sup>4</sup>

- No qualifying for another office that begins more than 30 days before the expiration of the current term.<sup>5</sup>
- No speculation in county orders.<sup>6</sup>
- No interested transactions.<sup>7</sup>
- No appointment to or employment by certain federal offices.<sup>8</sup>
- No physical or mental inability to discharge the duties of commissioners.<sup>9</sup>
- Inhabitant of the State of Georgia.<sup>10</sup>
- Resident of county at least 12 months before election.<sup>11</sup>
- Qualified voter entitled to vote.<sup>12</sup>
- Training.<sup>13</sup>
- Must take an oath.<sup>14</sup>

Additionally, commissioners cannot concurrently hold two county officer positions.<sup>15</sup> A state employee may not serve as a county commissioner if it is considered a conflict of interest with his or her position with the state.<sup>16</sup>

#### **Exit from Office**

Sometimes a commissioner leaves office, voluntarily or involuntarily, before the expiration of his or her term. A commissioner is considered to have vacated<sup>17</sup> his or her office under the following conditions:

- Death.<sup>18</sup>
- Resignation (upon acceptance by the Governor).<sup>19</sup>
- Decision of tribunal.<sup>20</sup>
- Ineligibility (see above qualifications for commissioner).<sup>21</sup>
- Nonresident of county.<sup>22</sup>
- Abandonment of office.<sup>23</sup>
- Ceasing to perform duties.<sup>24</sup>
- Final conviction of any felony.<sup>25</sup>

A county commissioner may be suspended from office upon indictment of a felony related to office<sup>26</sup> or upon initial conviction of any felony.<sup>27</sup>

## Prohibitions

There are certain activities that are specifically prohibited for commissioners. For example, commissioners may not engage in the bail bond business.<sup>28</sup> Commissioners may not commit any of the following acts:

- Extortion, including commissions from legal advertisements.<sup>29</sup>
- Coercion of officers or employees to donate for political purposes.<sup>30</sup>
- Violation of oath.<sup>31</sup>
- Bribery.<sup>32</sup>
- Acceptance of private funds to be used for enforcement of penal laws or regulations of the county.<sup>33</sup>
- Asking for or receiving anything of value in exchange for trying to obtain the passage or defeat the passage of any ordinance or other legislative action by the board of commissioners.<sup>34</sup>
- With limited exception, selling any real or personal property to the county.<sup>35</sup>
- Selling one's office (e.g., shifting duties to an unelected person in exchange for payment).<sup>36</sup>
- Malpractice, misfeasance, or malfeasance.<sup>37</sup>
- Oppression or tyrannical partiality.<sup>38</sup>
- Deliberate delay or avoidance of the due course or proceeding of law.<sup>39</sup>
- Demanding more cost than entitled.<sup>40</sup>

## Role with Other County Government Members

Commissioners are trustees of the people that they serve.<sup>41</sup> In this regard, commissioners should strive to perform the basic duties of trustees:

- **Care.** Each commissioner should participate actively in making decisions on behalf of the county and to exercise his or her best judgment while doing so.
- **Loyalty.** Each commissioner should put the interests of the county before their personal and professional interests when acting on behalf of the county in a decision-making capacity.
- **Obedience.** Each commissioner must ensure that the county complies with the applicable federal, state, and local laws and adheres to its mission.

## With Fellow Board Members

In counties without a sole commissioner, the county acts through the board as a whole – not individual commissioners – with two exceptions. First, local legislation may provide

specific authorities for individual commissioners. Second, the chair usually has additional authority, from presiding over commission meetings to directing county employees to representing the county on other boards.

To function effectively as a board, it is important for commissioners to put the county first by setting aside personalities and individual differences. Commissioners should be respectful to one another and remember that reasonable people can disagree. Each commissioner should be permitted to be heard on an issue, even when a commissioner is not in agreement with the majority. All commissioners should respect decisions approved in a commission meeting, even if they voted against the motion.

With Employees of County Commissioners

While many types of employees are paid by the county, the commissioners only have full “employer rights” (i.e., the ability to hire, fire, discipline, set compensation and benefit levels, establish hours of work, etc.) with employees of the county governing authority.

Employees of the County Government Authority (Generally)		
<ul style="list-style-type: none"> <li>• Administration</li> <li>County Administrator/Manager</li> <li>County Clerk</li> <li>Finance</li> <li>Purchasing</li> <li>Human Resources</li> <li>Internal Auditor</li> <li>Information Technology</li> <li>Communications</li> <li>Legal</li> <li>• Animal Control</li> <li>• Animal Shelter</li> <li>• Building Department</li> <li>• Code Enforcement</li> </ul>	<ul style="list-style-type: none"> <li>• E-9-1-1</li> <li>• Engineering</li> <li>• Fire Department</li> <li>• Geographic Information Systems</li> <li>• Landfill</li> <li>• Parks and Recreation</li> <li>• Planning</li> <li>• Public Works</li> <li>• Sewer Department</li> <li>• Transportation</li> <li>• Water Department</li> <li>• Zoning</li> </ul>	<p>May be under separate board authority:</p> <ul style="list-style-type: none"> <li>• Appraisal Department</li> <li>• Elections</li> <li>• Voter Registration</li> </ul>

In counties without a sole commissioner, the oversight of employees is done by the board as a whole, unless local legislation, ordinance, or policy provides authority to individual board members. Usually, the board functions as a policy maker or appellate board when dealing with employment issues. The authority to manage employees is often delegated to the chair or the county administrator/manager.

## With Other County Officials

In addition to the county governing authority, county government contains several other county elected and appointed officials, each with its own set of responsibilities.

### Other county elected officials:

- Sheriff
- Superior Court Clerk
- Tax Commissioner
- Probate Judge
- Magistrate Judge
- Coroner
- State Court Judge
- Solicitor General
- Surveyor

### Appointed officials:

- Board of Assessors
- Board of Equalization
- Board of Elections
- Board of Voter Registration, etc.

Not all of the above officials exist in every county. Please see the Other County Officials, Officers, Boards, Authorities, and Regional Commissions Chapter for a more detailed description of these officials.

Commissioners have certain affirmative responsibilities to other county elected officials. For example, commissioners

- fund compensation and expenses;<sup>42</sup>
- fund training;<sup>43</sup>
- determine the number of additional deputy coroners;<sup>44</sup>
- furnish historical container for the probate court;<sup>45</sup> and
- provide reimbursement of attorney's fees of constitutional officers in certain situations.<sup>46</sup>

The Georgia Constitution prohibits commissioners from taking any action affecting the salaries of "county officers" (i.e., the sheriff, superior court clerk, tax commissioner, and probate judge, often referred to as "county constitutional officers").<sup>47</sup> However, commissioners may provide local salary supplements to most county elected officials.<sup>48</sup> State law<sup>49</sup> and local legislation establishes the salaries of county elected officials. For more information on how to calculate salaries, see the [County Official Salary Guide](#).

Commissioners may not take any actions affecting the office of any elected county official or court.<sup>50</sup> Creating a county government with several independent elected officials forms a system of checks and balance. However, it may also create tension

between the county elected officials. For additional information, please see the [Constitutional Officers: Budgeting, Contracting, and Other Critical Issues Guide for County Commissioners](#).

It is important for commissioners to put the county first by setting aside personalities and individual differences with other county elected and appointed officials. Commissioners should be respectful to other county elected officials and remember that each county elected official has his or her own set of duties with which he or she must comply. When county elected officials file legal action contesting an action of the commissioners, the county elected officials must prove that the commissioners acted with clear and manifest abuse of discretion.<sup>51</sup> While some disputes may seem unavoidable, all county elected officials should keep in mind that they serve the same constituency. Disputes between county elected officials are generally at the expense of the county taxpayer.

With Staff of Other County Officials

Commissioners are also prohibited from taking any action affecting the employees of county officers.<sup>52</sup> However, commissioners are authorized to provide temporary employees and equipment.<sup>53</sup> In limited situations, commissioners may include the employees in the county's civil service system.<sup>54</sup>

For more information on dealing with employees of county officers, please see the [Constitutional Officers: Budgeting, Contracting, and Other Critical Issues Guide for County Commissioners](#).

With Cities

Commissioners also have the responsibility to work with the cities within the county's boundaries. As within the county government, it is important for commissioners to set aside personalities and individual differences when dealing with city officials. Although there are certain services that counties may not provide within the city without an agreement,<sup>55</sup> countywide services are provided inside the city.<sup>56</sup>

In order to be eligible for state funding and permits, each county must have a service delivery strategy (SDS) agreement with cities located in the county.<sup>57</sup> For more information about SDS, please see [Charting a Course for Cooperation and Collaboration](#) and the Intergovernmental Agreements and Service Delivery Strategies Chapter. Additionally, Georgia's largest counties must meet at least annually with cities to discuss services.<sup>58</sup> Counties and cities also must periodically reach agreement with cities on dividing various sales tax proceeds, such as the local option sales tax (LOST) and special-purpose local option sales tax (SPLOST). For more information on those taxes, please see the County Revenues Chapter, the [Local Option Sales Tax Renegotiation Guidebook](#), and the [Special Purpose Local Option Sales Tax Guidebook](#).

With Board of Education

The county board of education is a separate legal entity from the county government with its own elected officials and its own specific mission. The board of education relies upon the county's tax digest and tax commissioner for its property taxes.<sup>59</sup> Additionally, the board of education relies upon the commissioners to implement the board of education's portion of the county millage rate.<sup>60</sup>

The board of commissioners is prohibited from taking action affecting public school systems.<sup>61</sup> Tensions between the board of commissioners and the board of education may arise over several types of issues. For example, the board of commissioners could approve a high-density residential development that places stress on an already overcrowded school, or the board of education could approve a new school that places stress on an already overburdened county road. Because both the county and the school system are funded by county taxpayers, it is important that both entities try to understand the different missions of each entity and work together to the extent possible.

## COMMISSIONER POWERS AND LIMITATIONS

In Georgia, commissioners have "home rule" authority to manage the county (rather than merely executing decisions made by the state, as in other states). Through this home rule authority, commissioners generally have the power to adopt ordinances, resolutions, or regulations relating to the county's property and affairs — as long as there is not a general law on the subject and it is not inconsistent with the Georgia Constitution and the county's local legislation.<sup>62</sup>

### Related to Governance

Although commissioners have home rule authority, commissioners cannot change the composition or form of the county governing authority.<sup>63</sup> For example, a sole commissioner may not vote to change to a board of commissioners. Commissioners may not take actions regarding procedures for election or filling a vacancy of county governing authority procedures.<sup>64</sup> Commissioners may not take action to remove another commissioner.

With limited exception,<sup>65</sup> commissioners may not change their own compensation, expenses, and allowances in the nature of compensation for the county governing authority.<sup>66</sup> For more information on how commissioners can set their own salaries, please see the [County Official Salary Guide](#).

### County Records

Commissioners are responsible for keeping official meeting minutes in the offices of the county commission.<sup>67</sup> Copies of contracts, maps, and other documents related to actions taken by the commissioners may be included in the minutes or incorporated by



reference to an alternate location.<sup>68</sup> If documents are incorporated by reference, then they must be stored in a central location identified in an ordinance or resolution of the commissioners.<sup>69</sup>

Commissioners are required to approve a records management plan by resolution or ordinance that includes the name or title of the individual who will serve as the county's records officer, a retention schedule establishing how long county records must be kept before being destroyed, and provisions for maintenance and security of records.<sup>70</sup>

It is a felony for a commissioner or other county official or staff to steal, take, alter, corrupt, or falsify any record, grant, contract, certificate, minutes, book, etc.<sup>71</sup> Similarly, intentionally concealing a record, document, or book of the county may be considered stealing.<sup>72</sup>

#### County Officials and Staff

Commissioners may vote to fill vacancies in county offices unless the law provides that authority to another official or entity.<sup>73</sup>

Commissioners may create the office of county manager with such administrative powers, duties, and responsibilities as the commissioners find appropriate.<sup>74</sup>

Certain powers of the board of commissioners may be delegated to the chair or chief executive officer through local law.<sup>75</sup>

#### County Ordinances

Commissioners are responsible for codifying all ordinances with the force of law.<sup>76</sup> Printed copies must be made available to all county departments and either at the county law library, if applicable, or online. Printed copies must also be available to members of the public at a reasonable price determined by the commissioners.<sup>77</sup>

#### **Related to Lawsuits and Claims against the County**

Commissioners are charged with the responsibility to examine, settle, allow, and audit all claims against the county.<sup>78</sup> The commissioners may adopt a policy establishing the terms and conditions under which the county may pay part or all of any claim or civil judgment.<sup>79</sup> Under certain circumstances, the county officers (i.e., sheriff, superior court clerk, tax commissioner, and probate judge) may hire an outside attorney in civil cases in which the county attorney has a conflict of interest.<sup>80</sup> The outside attorney must be paid by the commissioners. More details on the use of outside attorneys at the expense of the county may be found in the [Constitutional Officers: Budgeting, Contracting, and Other Critical Issues Guide for County Commissioners](#).

Commissioners may choose to purchase liability insurance and indemnity contracts to protect members of the governing bodies, managers, administrators, employees, and other elected and appointed officials from personal liability for damages arising out of

performance of their duties.<sup>81</sup> Additionally, commissioners may adopt policies to allow the county to defend lawsuits and claims brought against commissioners, managers, administrators, employees, and other elected and appointed officials other than for criminal offenses involving theft, embezzlement, or similar crimes with respect to property or money or in which the county has an interest.<sup>82</sup>

### **Related to Employees**

Commissioners are authorized to spend county funds for members of the governing authority, elected county officers, personnel of elected county officers, and dependents and beneficiaries to pay for the following:<sup>83</sup>

- Salaries.
- Expenses.
- Retirement benefits.
- Health insurance.
- Life insurance.
- Disability insurance.
- Liability insurance.
- Social security coverage.
- Employment security coverage.
- Other employment benefits.

Commissioners are authorized to provide workers compensation benefits to certain volunteers and others.<sup>84</sup>

Commissioners may provide a civil service system for employees – although the employees of county officers may only be included with the permission of the county officer.<sup>85</sup>

Commissioners may not provide extra compensation to any public officer or employee after service has been rendered.<sup>86</sup>

Since the county is a governmental employer, it is subject to constitutional requirements when dealing with its employees.<sup>87</sup> Additionally, it must comply with federal employment laws.<sup>88</sup>

Commissioners cannot require county employees to reside within the county.<sup>89</sup> Commissioners may not provide additional points, credits, or other benefits to employees or applicants who reside within the county for purposes of hiring, promotion, demotion, or termination.<sup>90</sup>

### **Related to Property**

Commissioners have several responsibilities related to county property.

#### **Acquiring Property**

In addition to purchasing property, commissioners may acquire property through eminent domain, using procedures established in state law.<sup>91</sup> However, commissioners may not create new condemnation methods.<sup>92</sup>

### Using Property

Commissioners are responsible for directing and controlling county property according to law.<sup>93</sup> However, state law places public grounds and property in the keeping of the sheriff, subject to the order of the commissioners.<sup>94</sup> Additionally, commissioners may not demolish a courthouse that was constructed before January 1, 1905 and is listed on the National Register of Historic Places without approval of the voters in a referendum.<sup>95</sup>

Commissioners are responsible for building, repairing, and furnishing the courthouse, jail, and other necessary county buildings.<sup>96</sup> The county jail must keep inmates free from cruel and unusual punishment.<sup>97</sup> The county buildings must be accessible to the disabled.<sup>98</sup> Hiring construction contractors for county buildings is subject to the Local Government Public Works Construction Act.<sup>99</sup>

Commissioners are responsible for keeping the courthouse open during working hours,<sup>100</sup> as well as designating room assignments in the courthouse.<sup>101</sup> Additionally, commissioners must furnish fireproof equipment, microfilming equipment and supplies, and safe facilities for records documenting property rights, deeds, wills, and tax records that document ownership and latest property valuations.<sup>102</sup> Commissioners must provide fire insurance on all volumes of public laws and decisions of the appellate courts that have been provided to the probate judge and superior court clerk.<sup>103</sup>

By January 15<sup>th</sup> of each year, the commissioner must complete an annual inventory of public property and enter it in the inventory book.<sup>104</sup>

### Selling Property

Equipment and vehicles that become unserviceable may be disposed by an order of the commissioners.<sup>105</sup> However, there are restrictions on methods that commissioners may use to sell county real property.<sup>106</sup>

### **Related to Fiscal Affairs**

Commissioners conduct the fiscal affairs of the county.<sup>107</sup>

### Budgeting and Auditing

The budget must be approved each fiscal year by the commissioners in compliance with procedures established in law.<sup>108</sup> Commissioners are charged with auditing the financial affairs and transactions of all funds and activities of the county,<sup>109</sup> as well as publishing annual financial statements.<sup>110</sup> Commissioners must examine and audit the accounts of all officers having care, management, retention, collection, or disbursement duties over county money or money appropriated for the use and benefit of the county.<sup>111</sup>

For more information on the role of commissioners with other county elected officials, please see the [Constitutional Officers: Budgeting, Contracting, and Other Critical Issues Guide for County Commissioners](#).

#### Spending County Funds

Commissioners have the power to expend county funds.<sup>112</sup> However, commissioners may not donate or give away county funds.<sup>113</sup>

Commissioners have the authority to enter into contracts, which must be approved in a commission meeting and included in the meeting minutes.<sup>114</sup> Although there are certain exceptions, county contracts typically must be of one year or less in duration.<sup>115</sup> For instance, contracts with other governmental entities (i.e., intergovernmental agreements) may be for as long as 50 years.<sup>116</sup> Commissioners may not provide extra compensation to any public officer, agent, or contractor after service has been rendered or a contract entered into.<sup>117</sup> Additionally, certain contracts involving construction of buildings must be procured in accordance with the Local Government Public Works Construction Law.<sup>118</sup>

#### Investment of County Funds

Commissioners must designate at least one bank to hold county money.<sup>119</sup> In addition to a deposit account with a bank, commissioners may also invest county funds in the following:

- Obligations of the United States.
- Bonds or certificates of indebtedness of the State of Georgia.
- Certificates of deposits of banks that are insured by the Federal Deposit Insurance Corporations.<sup>120</sup>

Commissioners may delegate this responsibility to the county treasurer or other financial officer with responsibility for custody of county funds.<sup>121</sup> Commissioners may also adopt a resolution or ordinances authorizing investment of county funds in the Local Government Investment Pool,<sup>122</sup> as well as authorizing county officials responsible for deposit and withdrawal from the pool.<sup>123</sup>

Commissioners have jurisdiction to cite defaulting officers, depositories, or sureties holding county funds.<sup>124</sup>

#### Taxes and Fees

Commissioners have the authority to levy taxes and fees, including the following:

- General taxes for general county purposes.<sup>125</sup>
- Special taxes for particular county purposes.<sup>126</sup>
- Creation of special service districts.<sup>127</sup>

However, commissioners may not create new forms of taxation.<sup>128</sup>

Commissioners levy taxes for the county government,<sup>129</sup> as well as for the county board of education.<sup>130</sup> However, commissioners do not have authority to set a board of education property tax rate that is different than that recommended by the board of education.<sup>131</sup>

Commissioners may not create new tax exemptions that are not authorized by law.<sup>132</sup> However, commissioners may ask the voters to approve a freeport tax exemption.<sup>133</sup>

Commissioners may not impose franchise fees, except for cable franchises.<sup>134</sup>

For more information on taxes and fees, please see the County Revenues Chapter.

#### Indebtedness

Borrowing money is a detailed topic discussed in the Debt Financing Chapter. However, some of the specific authority given commissioners allows them to

- accept federal loans and grants in excess of the 10% debt limit;<sup>135</sup>
- incur debt in excess of the 10% debt limit to pay for property valuation and equalization programs;<sup>136</sup>
- obtain temporary loans (i.e., tax anticipation notes or TANs);<sup>137</sup> and
- refund outstanding indebtedness.<sup>138</sup>

#### Stewardship of Public Funds

To ensure that commissioners are good stewards of county taxpayer funds, there are other restrictions:

- Commissioners may not forgive a debt or obligation owed to the county.<sup>139</sup>
- Commissioners cannot agree to clauses in contracts that would require the county to indemnify or hold harmless another party.<sup>140</sup>
- Commissioners may not file for bankruptcy or relief from payment of debts under federal law on behalf of the county.<sup>141</sup>

## SERVICES TO THE PUBLIC

Commissioners are authorized to provide the services outlined below. While some restrictions and preemptions are noted, there are other laws with which counties must comply generally.<sup>142</sup>

#### Public Safety

Authority given to county commissioners by state law related to public safety include:

- Making rules and regulations for the county police and patrol.<sup>143</sup>

- Enforcing building codes.<sup>144</sup>
- Requiring removal of junk vehicles.<sup>145</sup>

Commissioners have a limited ability to regulate the use of fireworks.<sup>146</sup> Commissioners may not create a new criminal offense or criminal punishment.<sup>147</sup> Commissioners may not install, service, etc. electronic security systems if a private contractor offers service within the county.<sup>148</sup>

### **Public Health**

Commissioners are specifically authorized to provide the following services related to public health:

- Providing the board of health with enough quarters and equipment for operation.<sup>149</sup>
- Making rules and regulations for the promotion of health.<sup>150</sup>
- Making rules and regulations for quarantine.<sup>151</sup>

Additionally, each year, the county board of health is supposed to certify its expenditures with a copy of its budget to the commissioners.<sup>152</sup> If commissioners deem the health department budget reasonable, they may levy a millage rate sufficient to raise the amount requested.<sup>153</sup> If they deem the budget unreasonable, then the commissioners must return the budget to the board of health with objections attached.<sup>154</sup>

Commissioners may also levy an ad valorem tax up to seven mills for use by the hospital authority.<sup>155</sup>

### **Land Use**

Commissioners have authority to act in the following issues related to land use:

- Planning and zoning.<sup>156</sup>
- Transfer of development rights.<sup>157</sup>
- Mobile broadband.<sup>158</sup>
- Restriction of adult bookstores and movie houses.<sup>159</sup>
- Burial disturbance permits.<sup>160</sup>

### **Planning**

Commissioners are required to prepare and adopt a comprehensive plan for the county.<sup>161</sup> These comprehensive plans provide a fact based resource for local constituents to track implementation of community based policies, as well as to create an environment of predictability for business, property owners, taxpayers and the general public.<sup>162</sup> They may impose development impact fees to promote orderly growth

and development by requiring new developments to pay a proportionate share of the cost of new public facilities needed to serve the residents.<sup>163</sup> For more information on planning, see the Planning and Land Use Chapter.

### **Immigration Compliance**

Commissioners are required to register and participate in the federal work authorization program (E-Verify) to verify employment eligibility of all newly hired county employees.<sup>164</sup> Additionally, commissioners may not enter into contracts for the physical performance of services unless the contractor also participates in E-Verify.<sup>165</sup>

Commissioners are required to obtain a Systematic Alien Verification for Entitlements (SAVE) affidavit when providing certain public benefits.<sup>166</sup>

### **Transportation**

Commissioners are authorized to establish, alter, and abolish roads, bridges, and ferries in accordance with state law.<sup>167</sup> Commissioners are specifically required to install road grates to accommodate bicycles<sup>168</sup> and to maintain county roads in a condition that allows ordinary loads to pass along such roads.<sup>169</sup>

### **Indigent Support**

Commissioners are charged with general supervision of paupers<sup>170</sup> and are authorized to adopt rules and regulations to support the poor in the county.<sup>171</sup> Specifically, the commissioners are required to provide funds for a decent interment or cremation of indigent decedents.<sup>172</sup>

Commissioners may assist in the provision of indigent health care through the health department or the hospital authority.<sup>173</sup> Commissioners may adopt a resolution declaring a need for a housing authority to assist with low-income rental housing.<sup>174</sup>

Commissioners are responsible for indigent defense in county courts, such as state court, probate court, and ordinance violations in magistrate court.<sup>175</sup> The Georgia Public Defender's Council provides indigent defense for superior court and juvenile court, except in the "opt-out" counties<sup>176</sup> that have had alternative delivery systems approved. The opt-out counties are supposed to receive funding from the state in an amount equal to what the county would receive for minimum salary of the circuit public defender, the assistant circuit public defenders, the investigator, and the administrative staff if the judicial circuit was not operating as an alternative delivery system.<sup>177</sup>

### **Regulation of businesses**

Commissioners have the general authority over certain businesses listed below. However, other state laws may limit that general authority as to particular aspects of these businesses:

- Regulation of self service motor fuel dispensing pumps open to the public.<sup>178</sup>

- Regulation and establishment of a license cost for peddling.<sup>179</sup>
- Prohibition, regulation, or taxation of fortunetelling and related businesses.<sup>180</sup>
- Regulation to protect the public health, safety, or welfare and/or in the course of enforcing state or local building, health or safety codes to the extent not otherwise preempted by law:
  - Auto and motorcycle racing<sup>181</sup>
  - Boarding houses<sup>182</sup>
  - Boxing and wrestling promoters<sup>183</sup>
  - Building and construction contractors<sup>184</sup>
  - Burglar and fire alarm installers<sup>185</sup>
  - Businesses that provide appearance bonds<sup>186</sup>
  - Carnivals<sup>187</sup>
  - Dealers in precious metals<sup>188</sup>
  - Escort services<sup>189</sup>
  - Firearms dealers<sup>190</sup>
  - Food service establishments<sup>191</sup>
  - Garbage collectors<sup>192</sup>
  - Handwriting analysts<sup>193</sup>
  - Health clubs, gyms and spas<sup>194</sup>
  - Hotels and motels<sup>195</sup>
  - Hypnotists<sup>196</sup>
  - Landfills<sup>197</sup>
  - Locksmiths<sup>198</sup>
  - Massage parlors<sup>199</sup>
  - Modeling agencies<sup>200</sup>
  - Newspaper vending boxes<sup>201</sup>
  - Nursing homes, assisted living communities and personal care homes<sup>202</sup>
  - Parking lots<sup>203</sup>
  - Pawnbrokers<sup>204</sup>
  - Scrap metal processors<sup>205</sup>
  - Shooting galleries and firearms ranges<sup>206</sup>



- Stables<sup>207</sup>
- Tattoo artists<sup>208</sup>
- Tanning facilities<sup>209</sup>

Commissioners may **not** regulate the following:

- Any business, profession or occupation that is required to be licensed or registered by the state unless the state law specifically allows regulation by local governments.<sup>210</sup>
- Architects.<sup>211</sup>
- Businesses that are regulated by the Department of Public Safety<sup>212</sup> (e.g., commercial motor vehicles, limousines, taxis).<sup>213</sup>
- Businesses that are regulated by the Public Service Commission<sup>214</sup> (e.g., telephone companies, telegraph companies, docks, wharves, common carriers, railroads, dock companies, telephone companies, gas companies, electric companies, etc.).<sup>215</sup>
- Chiropractors.<sup>216</sup>
- Dentists.<sup>217</sup>
- Electrical service businesses.<sup>218</sup>
- Embalmers.<sup>219</sup>
- Engineers (civil, mechanical, hydraulic or electrical).<sup>220</sup>
- Farm operations other than agribusiness.<sup>221</sup>
- Funeral directors.<sup>222</sup>
- Land surveyors.<sup>223</sup>
- Landscape architects.<sup>224</sup>
- Lawyers.<sup>225</sup>
- Marriage and family therapists.<sup>226</sup>
- Merchants and dealers of businesses that do not have a situs in the county's jurisdiction and deliver goods previously ordered.<sup>227</sup>
- Motor vehicle dealers.<sup>228</sup>
- Optometrists.<sup>229</sup>
- Osteopaths.<sup>230</sup>

- Owners and operators of bona fide coin operated amusement machines.<sup>231</sup>
- Physicians.<sup>232</sup>
- Physiotherapy practitioners.<sup>233</sup>
- Podiatrists.<sup>234</sup>
- Professional counselors.<sup>235</sup>
- Psychologists.<sup>236</sup>
- Public accountants.<sup>237</sup>
- Social workers.<sup>238</sup>
- Taxicab and limousine operators.<sup>239</sup>
- Traveling salespersons who take orders for the sale of goods but do not deliver the goods at the time that the order is taken.<sup>240</sup>
- Veterinarians.<sup>241</sup>

### **Utilities**

Commissioners have the authority to act in the following ways related to utilities:

- Specify rates, fees, and other charges for utilities to be provided by the county for up to ten years.<sup>242</sup>
- Contract for industrial waste water treatment services.<sup>243</sup>
- Contract for operation and maintenance of water treatment systems.<sup>244</sup>

### **Parks and Recreation**

Commissioners are specifically authorized to provide recreation systems.<sup>245</sup>

### **Economic Development**

Commissioners may help encourage economic development through the following:

- Development authorities.<sup>246</sup>
- Urban redevelopment agencies.<sup>247</sup>
- Resource recovery development authorities.<sup>248</sup>
- Enterprise zones.<sup>249</sup>
- Community redevelopment/tax allocation districts.<sup>250</sup>

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<sup>1</sup> O.C.G.A. § 36-60-23.

<sup>2</sup> Ga. Const. art. II, § II, para. III; O.C.G.A. § 45-2-1(3) and (8).

<sup>3</sup> Ga. Const. art. II, § II, para. III; O.C.G.A. § 45-2-1(8).

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- <sup>4</sup> Ga. Const. art. II, § II, para. III; O.C.G.A. § 45-2-1(2) and (8).
- <sup>5</sup> Ga. Const. art. II, § II, para. V; O.C.G.A. § 45-2-1(8).
- <sup>6</sup> O.C.G.A. § 36-1-13.
- <sup>7</sup> O.C.G.A. § 36-1-14.
- <sup>8</sup> O.C.G.A. § 45-2-1(4).
- <sup>9</sup> O.C.G.A. § 45-2-1(5).
- <sup>10</sup> O.C.G.A. § 45-2-1(6).
- <sup>11</sup> O.C.G.A. § 45-2-1(7).
- <sup>12</sup> O.C.G.A. § 45-2-1(7).
- <sup>13</sup> O.C.G.A. § 36-20-1 et seq.
- <sup>14</sup> See, O.C.G.A. § 45-3-1 et seq.
- <sup>15</sup> O.C.G.A. § 45-2-2; see *Black v. Catoosa County School District et al*, 213 Ga. App. 534 (1994); May be a volunteer firefighter, O.C.G.A. § 36-60-23.
- <sup>16</sup> O.C.G.A. § 45-10-70.
- <sup>17</sup> O.C.G.A. § 45-5-1.
- <sup>18</sup> O.C.G.A. § 45-5-1(a)(1).
- <sup>19</sup> O.C.G.A. §§ 45-5-1(a)(2) and 45-5-5(a).
- <sup>20</sup> O.C.G.A. §§ 45-5-1(a)(3) and 45-5-6.
- <sup>21</sup> O.C.G.A. § 45-5-1(a)(4).
- <sup>22</sup> O.C.G.A. § 45-5-1(a)(5).
- <sup>23</sup> O.C.G.A. § 45-5-1(a)(7).
- <sup>24</sup> *Id.*
- <sup>25</sup> O.C.G.A. § 45-5-6.1.
- <sup>26</sup> O.C.G.A. § 45-5-6.
- <sup>27</sup> O.C.G.A. § 45-5-6.1.
- <sup>28</sup> O.C.G.A. § 45-11-8.
- <sup>29</sup> O.C.G.A. §§ 45-11-5 and 45-11-7.
- <sup>30</sup> O.C.G.A. § 45-11-10.
- <sup>31</sup> O.C.G.A. § 16-10-1.
- <sup>32</sup> O.C.G.A. § 16-10-2.
- <sup>33</sup> O.C.G.A. § 16-10-3(b).
- <sup>34</sup> O.C.G.A. § 16-10-4(b).
- <sup>35</sup> O.C.G.A. § 16-10-6.
- <sup>36</sup> O.C.G.A. § 45-11-2.
- <sup>37</sup> O.C.G.A. § 45-11-4(b)(1).
- <sup>38</sup> O.C.G.A. § 45-11-4(b)(2).
- <sup>39</sup> O.C.G.A. § 45-11-4(b)(4).
- <sup>40</sup> O.C.G.A. § 45-11-4(b)(5).
- <sup>41</sup> Ga. Const. art. I, § II, para. I.
- <sup>42</sup> See O.C.G.A. §§ 15-6-88, 15-6-88.2, 15-6-89, 15-6-90, 15-10-105, 15-12-1, 15-12-1.1, and 48-5-311(d)(4)(C.1) (superior court clerk); 15-7-22; see also Ga. Const. Art. VI, Sec. VII, Para. V (state court judge); 15-9-63, 15-9-63.1, 15-9-64, 15-9-64.1, 15-9-65 and 15-10-105 (probate judges); 15-10-23, 15-10-23.1, 15-10-105, and 15-10-105.2 (magistrate judges); 15-11-50(b) and 15-11-52( juvenile court judges); 15-12-7 (bailiffs' per diems); 15-12-7(a) (juror expense allowances); 15-16-20, 15-16-20.1, and 15-16-20.2 (sheriffs); 15-18-67 (solicitor general); 21-2-212, 21-2-213 and 21-2-213.1 (voter registrars); 45-16-11, 45-16-11.2, and 45-16-27(b) (coroners); 48-5-183(b)(3) (tax commissioners); 48-5-294 (board of tax assessors); 48-5-311(k) (board of equalization); 15-6-29.1(Cf. state officials provided compensation, supplements or expenses by county); Ga. Const. Art. VI, Sec. VII, Para. V (superior court judges); 15-18-10, 15-18-10.1, 15-18-11, and 19-11-23 (district attorneys and state paid staff); 17-12-25.1(d) (circuit public defenders).
- <sup>43</sup> See, O.C.G.A. §§ 15-6-50(c)(5) (superior court clerks); 15-10-25(d) (magistrate judges); 15-9-1.1 (probate judges); 15-9-2.1(c)(2) (associate probate judges); 15-11-65 (juvenile court); 21-2-100(d) (local election officials); 45-16-6 (coroner); 48-5-126.1 (d) (tax collectors and commissioners); 48-5-294 (board of tax assessors); 48-5-311(k) (board

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of equalization); Cf., O.C.G.A. § 15-16-3 (training and compensation provided by the Georgia Sheriffs Association with funds appropriated by the state).

<sup>44</sup> O.C.G.A. § 45-16-7.

<sup>45</sup> O.C.G.A. § 36-16-1.

<sup>46</sup> O.C.G.A. § 45-9-21(e).

<sup>47</sup> Ga. Const. art. IX, § II, para. I(c)(1).

<sup>48</sup> O.C.G.A. §§ 15-6-88(d), 15-9-63(a)(3), 15-10-23(d), 15-16-20(a)(3), 45-16-11(a)(3), 48-5-183(b)(3).

<sup>49</sup> O.C.G.A. §§ 15-6-88, 15-9-63, 15-10-23, 15-16-20, 45-16-11, 48-5-183.

<sup>50</sup> Ga. Const. art. IX, § II, para. I(c)(1) and (7).

<sup>51</sup> *Moore v. Baldwin County*, 209 Ga. 541 (1953); *Lovett v. Bussell*, 242 Ga. 405 (1978); *Board of Commissioners of Randolph County v. Wilson*, 260 Ga. 482 (1990); *Chaffin v. Calhoun*, 262 Ga. 202 (1992); *Griffies v. Coweta County*, 272 Ga. 506 (2000); *Boswell v. Bramlett*, 274 Ga. 50 (2001) except for contingent expenses of superior court (O.C.G.A. §15-6-24).

<sup>52</sup> Ga. Const. art. IX, § II, para. I(c)(1).

<sup>53</sup> O.C.G.A. § 36-1-11.

<sup>54</sup> Ga. Const. art. IX, § I, para. IV; O.C.G.A. § 36-1-21.

<sup>55</sup> For example, Ga. Const. art. IX, sec. II, para. III requires a contract for counties to provide the following services inside of the city: air quality control, ambulance services, animal control, archives, arts and sciences programs and facilities, building code inspection and enforcement, emergency rescue services, fire protection, garbage and solid waste collection and disposal, libraries, parking facilities, parks and recreational areas, police protection (other than what is provided by the sheriff pursuant to O.C.G.A. § 15-16-9(a)(9)); however, pursuant to O.C.G.A. § 15-16-13, in counties with less than 900,000 population, sheriffs – with the consent of the county – may contract with cities to provide law enforcement functions on behalf of the city so long as the city reimburses the county general fund for costs incurred by the sheriff, including compensation and other personnel costs, as cost of equipment, materials, supplies, and utilities, public health facilities and services, public housing, public transportation, sewage collection and disposal systems, sidewalks, storm water collection and disposal systems, street and road construction and maintenance, streetlights, terminal and dock facilities, traffic control devices, and water (development, storage, treatment, purification, and distribution).

<sup>56</sup> For example, countywide services include, but are not limited to, the following: 9-1-1 (unless city provides independently), cooperative extension service, coroner, deeds and land records, elections, emergency management (unless city has its own emergency management director), GIS, indigent defense, jail, juvenile court, magistrate court, probate court, property tax appeals, property tax appraisal, property tax collection, state court, superior court, and vital records.

<sup>57</sup> O.C.G.A. § 36-70-20 et seq.

<sup>58</sup> O.C.G.A. § 36-60-10.

<sup>59</sup> O.C.G.A. § 48-5-404.

<sup>60</sup> *Id.*

<sup>61</sup> Ga. Const. art. IX, § II, para. I(c)(8).

<sup>62</sup> Ga. Const. art. IX, Sec. II, para. I.

<sup>63</sup> Ga. Const. art. IX, § II, para. I(c)(2); see also O.C.G.A. §§ 36-5-21 and 36-5-22.1.

<sup>64</sup> Ga. Const. art. IX, § II, para. I(c)(2).

<sup>65</sup> O.C.G.A. §§ 36-5-24, 36-5-25, and 36-5-27 through 29.

<sup>66</sup> Ga. Const. art. IX, § II, para. I(c)(2).

<sup>67</sup> O.C.G.A. § 36-1-25.

<sup>68</sup> O.C.G.A. § 36-1-25 and 36-10-1.

<sup>69</sup> O.C.G.A. § 36-1-25.

<sup>70</sup> O.C.G.A. § 50-18-99(e).

<sup>71</sup> O.C.G.A. § 45-11-1(a).

<sup>72</sup> O.C.G.A. § 45-11-1(b).

<sup>73</sup> O.C.G.A. §§ 36-5-21 and 36-5-22.1(a)(5); Cf., O.C.G.A. § 15-6-53 (superior court clerk); O.C.G.A. §§ 15-9-2.1 (probate judge); 15-10-20 (chief magistrate vacancy); 15-16-8 (sheriff); 45-16-2 (coroner); 48-5-212; 48-5--128.1, and 48-5-211 (tax commissioner); see also O.C.G.A. § 45-5-1 et seq.

<sup>74</sup> O.C.G.A. § 36-5-22.

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- <sup>75</sup> O.C.G.A. § 36-5-22.1(b).
- <sup>76</sup> O.C.G.A. § 36-80-19(b).
- <sup>77</sup> O.C.G.A. § 36-80-19(c) and (d).
- <sup>78</sup> O.C.G.A. §§ 36-5-22.1(a)(6) and 36-11-2.
- <sup>79</sup> O.C.G.A. § 45-9-22.
- <sup>80</sup> O.C.G.A. § 45-9-21(e).
- <sup>81</sup> O.C.G.A. § 45-9-20.
- <sup>82</sup> O.C.G.A. § 45-9-21(a).
- <sup>83</sup> Ga. Const. Art. IX, § II, Para. I(f); O.C.G.A. § 36-1-11.1.
- <sup>84</sup> O.C.G.A. §§ 34-9-1(2) and 34-9-3.
- <sup>85</sup> Ga. Const. art. IX, § I, para. IV; O.C.G.A. § 36-1-21.
- <sup>86</sup> Ga. Const. art. III, § VI, para. VI(a); *Grand Lodge of Georgia v. Thomasville*, 226 Ga. 4 (1970).
- <sup>87</sup> For example, the First Amendment (see generally *Pickering v. Board of Education*, 391 U.S. 563 (1968) and *Connick v. Myers*, 461 U.S. 138 (1983); the Fourth Amendment (see *City of Ontario v. Quon*, 560 U.S. 746, 761 (2010)); and the Fourteenth Amendment Equal Protection and Due Process (*Cleveland Board of Education v. Loudermill*, 470 U.S. 532 (1985); *Adams v. Sewell*, 946 F.2d 757, 766 (11th Cir. 1991) overruled on other grounds; *McKinney v. Pate*, 20 F.3d 1550 (1994) (en banc); Kelly, 764 F.2d at 1415-16; *Winkler v. County of DeKalb*, 648 F.2d 411 (5th Cir. Unit B 1981); *Paul v. Davis*, 424 U.S. 693 (1975); *Cotton v. Jackson*, 216 F.3d 1328, 1330 (11th Cir. 2000); *Campbell v. Pierce County*, 741 F.2d 1342, 1346 (11th Cir. 1984).
- <sup>88</sup> Fair Labor Standards Act (FLSA), 29 USC § 201 et seq. (minimum wage and hours); Age Discrimination in Employment Act (“ADEA”), 29 USC § 621 et seq. (prohibits discrimination on the basis of age over 40 years); Family and Medical Leave Act (“FMLA”) 29 USC 2601 et seq. (family and medical leave); Uniformed Services Employment and Reemployment Rights Act (“USERRA”), 38 USC § 4301 et seq. (military and reservist leave); Americans with Disabilities Act (“ADA”), 42 USC § 12101 (prohibits discrimination on the basis of covered disability); “Section 1981,” 42 USC § 1981 (prohibits race discrimination); and Civil Rights Act (“Title VII”), 42 USC § 2000 et seq. (prohibits discrimination on the basis of race, color, religion, sex, and national origin).
- <sup>89</sup> O.C.G.A. § 45-2-5.
- <sup>90</sup> O.C.G.A. § 45-2-6.
- <sup>91</sup> Ga. Const. art. IX, § II, para. V; see also Ga. Const. art. I, § III, para. I; O.C.G.A. Title 22.
- <sup>92</sup> Ga. Const. art. IX, § II, para. I(c)(6).
- <sup>93</sup> O.C.G.A. §§ 36-5-22.1(a)(1) and 36-9-2.
- <sup>94</sup> O.C.G.A. § 36-9-8.
- <sup>95</sup> O.C.G.A. § 36-9-2.1.
- <sup>96</sup> O.C.G.A. § 36-9-5; see also O.C.G.A. § 15-6-17(b) and 15-6-17(d) regarding courthouses and *Trapnall v. Candler County*, 146 Ga. 617 (1917) regarding selection of the courthouse site within the county seat; O.C.G.A. § 36-9-7 regarding supplies for county offices; O.C.G.A. § 36-15-8 regarding county law libraries.
- <sup>97</sup> Eighth Amendment (see *Farmer v. Brennan*, 511 U.S. 825 (1994); *Wilson v. Seiter*, 501 U.S. 294 (1991); *Rhodes v. Chapman*, 452 U.S. 337 (1981); *Alabama v. Pubh*, 438 U.S. 781 (1978); *Estelle v. Gamble*, 429 U.S. 97 (1976); *Hamm v. DeKalb County*, 774 F.2d 1567 (11th Cir. 1985).
- <sup>98</sup> Americans with Disabilities Act, 42 USCA § 12131 et seq.; 28 C.F.R. §35.102; see also O.C.G.A. § 30-3-1 et seq.
- <sup>99</sup> O.C.G.A. § 36-91-1 et seq.
- <sup>100</sup> O.C.G.A. § 36-1-12; see also O.C.G.A. §§ 15-6-93 and 15-9-83.
- <sup>101</sup> O.C.G.A. § 36-9-6; *Graham v. Merritt*, 165 Ga. 489 (1928); 1978 Op. Att’y Gen. No. 78-15.
- <sup>102</sup> O.C.G.A. § 36-9-5(c).
- <sup>103</sup> O.C.G.A. § 36-9-4.
- <sup>104</sup> O.C.G.A. § 50-16-141.
- <sup>105</sup> O.C.G.A. § 36-9-2.
- <sup>106</sup> O.C.G.A. §§ 36-9-2 and 36-9-3.
- <sup>107</sup> *Stephenson v. Board of Commissioners of Cobb County*, 261 Ga. 399 (1991).
- <sup>108</sup> O.C.G.A. § 36-81-1 et seq.; see also O.C.G.A. § 36-80-21.
- <sup>109</sup> O.C.G.A. § 36-81-7.
- <sup>110</sup> O.C.G.A. § 36-1-6.
- <sup>111</sup> O.C.G.A. § 36-5-22.1(a)(7).

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- <sup>112</sup> Ga. Const. art. IX, § IV, para. II.
- <sup>113</sup> Ga. Const. art. III, § VI, para. VI(a); *Grand Lodge of Georgia v. Thomasville* 226 Ga. 4 (1970).
- <sup>114</sup> O.C.G.A. § 36-10-1.
- <sup>115</sup> O.C.G.A. § 36-30-3; *Ledbetter Bros. v. Floyd County*, 237 Ga. 22 (1976) and *Buckhorn Ventures, LLC v. Forsyth County*, 262 Ga. App. 299 (2003) (applicability to county contracts); see also Ga. Const. art. IX, § V, para. I. See, O.C.G.A. §§ 36-60-13 through 36-60-15 (requirements for a multi-year contract).
- <sup>116</sup> Ga. Const. art. IX, § III, para. I(a).
- <sup>117</sup> Ga. Const. art. III, § VI, para. VI(a); *Grand Lodge of Georgia v. Thomasville*, 226 Ga. 4 (1970).
- <sup>118</sup> O.C.G.A. § 36-91-1 et seq.
- <sup>119</sup> O.C.G.A. § 45-8-14 (note: counties are authorized only to use banks, banking institutions not authorized to deposit funds into credit unions); see O.C.G.A. §§ 36-6-16, 36-80-3, 36-83-4 and 45-8-14.
- <sup>120</sup> O.C.G.A. § 36-80-3; see also O.C.G.A. § 36-83-4.
- <sup>121</sup> O.C.G.A. § 36-80-4.
- <sup>122</sup> O.C.G.A. § 36-83-8(d)(2); for information about the Local Government Investment Pool Act, see O.C.G.A. § 36-83-1 et seq.
- <sup>123</sup> O.C.G.A. § 36-83-8(d)(2).
- <sup>124</sup> O.C.G.A. § 45-8-19.
- <sup>125</sup> O.C.G.A. § 36-5-22.1(a)(2).
- <sup>126</sup> *Id.*
- <sup>127</sup> Ga. Const. art. IX, § II, para. VI.
- <sup>128</sup> Ga. Const. art. IX, § II, para. I(c)(4).
- <sup>129</sup> Ga. Const., art. IX, § IV, para. I(a) and O.C.G.A. § 36-5-21.1(a)(2).
- <sup>130</sup> Ga. Const. art. VIII, § VI, para. I(a) and O.C.G.A. § 48-5-400; see also O.C.G.A. § 48-5-220(3).
- <sup>131</sup> Ga. Const. art. VIII, § VI, para. 1(a).
- <sup>132</sup> Ga. Const. art. VII, § II, para. I.
- <sup>133</sup> Ga. Const. art. VII, § II, para. III; see also O.C.G.A. § 48-5-48.2.
- <sup>134</sup> O.C.G.A. § 36-18-1 et seq.; but see O.C.G.A. § 36-76-1; O.C.G.A. § 36-90-1 et seq.
- <sup>135</sup> Ga. Const. art. IX, § V, para. IV(1).
- <sup>136</sup> Ga. Const. art. IX, § V, para. IV(2).
- <sup>137</sup> Ga. Const. art. IX, § V, para. V; O.C.G.A. § 36-80-2.
- <sup>138</sup> Ga. Const. art. IX, § V, para. III.
- <sup>139</sup> Ga. Const. art. III, § VI, para. VI(a); *Grand Lodge of Georgia*, 226 Ga. 4 (1970).
- <sup>140</sup> Ga. Const. art. III, § VI, para. VI(a); *Grand Lodge of Georgia*, 226 Ga. 4, 172 S.E.2d 612 (1970); see also Ga. Const. art. VII, Sec. IV, para. VIII; 1980 Op. Att'y Gen. No. 80-67.
- <sup>141</sup> O.C.G.A. § 36-80-5.
- <sup>142</sup> For example, county commissioners may not affect laws governing private or civil relationships. Ga. Const. art. IX, § II, para. I(d). County commissioners must comply with the First Amendment (free speech and association), the Fourteenth Amendment (equal protection and due process) and the Religious Land Use and Institutionalize Persons Act, 42 U.S.C. § 2000cc et seq.; Americans with Disabilities Act, 42 USC §§ 12313 and 12141 et seq., 28 CFR Part 35, [State and Local Governments \(Title II\) \(ada.gov\)](https://www.ada.gov/).
- <sup>143</sup> O.C.G.A. § 36-5-22.1(a)(8); but see O.C.G.A. § 36-8-1, et seq.
- <sup>144</sup> O.C.G.A. § 36-13-1 et seq.; O.C.G.A. §§ 8-2-3 and 8-2-20 et seq.; but see O.C.G.A. § 8-2-4.
- <sup>145</sup> O.C.G.A. § 36-60-4.
- <sup>146</sup> O.C.G.A. § 36-60-24.
- <sup>147</sup> Ga. Const. art. IX, §II, para. I(c)(3).
- <sup>148</sup> O.C.G.A. § 36-60-12.
- <sup>149</sup> O.C.G.A. § 31-3-9.
- <sup>150</sup> O.C.G.A. § 36-5-22.1(a)(8).
- <sup>151</sup> *Id.*
- <sup>152</sup> O.C.G.A. § 31-3-14.
- <sup>153</sup> *Id.*
- <sup>154</sup> *Id.*
- <sup>155</sup> O.C.G.A. § 31-7-84(a).

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- <sup>156</sup> Ga. Const. art. IX, § II, para. IV; O.C.G.A. § 36-66-1 et seq.; see also O.C.G.A. 36-67A-1 et seq.
- <sup>157</sup> O.C.G.A. § 36-66A-2.
- <sup>158</sup> O.C.G.A. § 36-66B-3.
- <sup>159</sup> O.C.G.A. § 36-60-3; see also *Young v. American Mini Theatres*, 427 U.S. 5-(1976) and *City of Renton v. Playtime Theatres, Inc.* 475 U.S. 41 (1986) (local governments may use land use laws to regulate adult businesses under the secondary effects doctrine so long as content neutral, reasonable time, place, and manner restriction of expression); *City of Los Angeles v. Alameda Books*, 535 U.S. 425 (2002) (local government could rely on a study of the negative impact of adult businesses to justify banning multiple use adult businesses); compare, *Goldrush II v. City of Marietta*, 267 Ga. 683 (1997); but see *Sable Communications of California v. Federal Communications Commission* (1989) (sexual expression that is not obscene is protected by the First Amendment).
- <sup>160</sup> O.C.G.A. § 36-72-4.
- <sup>161</sup> O.C.G.A. § 36-70-1 et seq.
- <sup>162</sup> Ga. Rules and Regs. 110-12-1-.01.
- <sup>163</sup> O.C.G.A. § 36-71-1 et seq.
- <sup>164</sup> O.C.G.A. § 13-10-91(a).
- <sup>165</sup> O.C.G.A. § 13-10-91(b).
- <sup>166</sup> O.C.G.A. § 50-36-1 et seq.
- <sup>167</sup> O.C.G.A. §§ 32-4-41 et seq., 36-5-22.1(a)(3), and 36-14-1 et seq.
- <sup>168</sup> O.C.G.A. § 36-60-5.
- <sup>169</sup> O.C.G.A. § 9-6-21(b).
- <sup>170</sup> O.C.G.A. § 36-12-1.
- <sup>171</sup> O.C.G.A. §§ 36-5-22.1(a)(8) and 48-5-220(9).
- <sup>172</sup> O.C.G.A. § 36-12-5.
- <sup>173</sup> See, O.C.G.A. §§ 31-8-1, 48-5-220(9), and 48-5-220 (13); O.C.G.A. § 31-7-84 (county commissioners may levy an ad valorem tax up to seven mills for use by the hospital authority).
- <sup>174</sup> O.C.G.A. §§ 8-3-4 and 8-3-5.
- <sup>175</sup> O.C.G.A. §§ 17-12-23.
- <sup>176</sup> The counties that opted out of the state system and have an approved alternative delivery system are Cherokee County, Cobb County, Douglas County, Forsyth County, Gwinnett County, and Houston County.
- <sup>177</sup> O.C.G.A. § 17-12-36.
- <sup>178</sup> O.C.G.A. § 36-60-1.
- <sup>179</sup> O.C.G.A. § 36-5-22.1(a)(9).
- <sup>180</sup> O.C.G.A. §§ 36-1-15 and 48-13-9(b)(27).
- <sup>181</sup> O.C.G.A. § 48-13-9(b)(19); but see O.C.G.A. § 43-25-1 et seq.
- <sup>182</sup> O.C.G.A. § 48-13-9(b)(20).
- <sup>183</sup> O.C.G.A. § 48-13-9(b)(22).
- <sup>184</sup> O.C.G.A. § 48-13-9(b)(1); but see O.C.G.A. § 43-14-1 et seq.
- <sup>185</sup> O.C.G.A. § 48-13-9(b)(30); but see O.C.G.A. § 43-38-1 et seq.
- <sup>186</sup> O.C.G.A. § 48-13-9(b)(21); but see O.C.G.A. § 17-6-50.
- <sup>187</sup> O.C.G.A. § 48-13-9(b)(2); but see O.C.G.A. § 25-15-80 et seq.
- <sup>188</sup> O.C.G.A. § 48-13-9(b)(10); but see O.C.G.A. § 43-37-1 et seq.
- <sup>189</sup> O.C.G.A. § 48-13-9(b)(29).
- <sup>190</sup> O.C.G.A. § 48-13-9(b)(11).
- <sup>191</sup> O.C.G.A. § 48-13-9(b)(9); but see O.C.G.A. § 26-2-370 et seq.
- <sup>192</sup> O.C.G.A. § 48-13-9(b)(28).
- <sup>193</sup> O.C.G.A. § 48-13-9(b)(25).
- <sup>194</sup> O.C.G.A. § 48-13-9(b)(26).
- <sup>195</sup> O.C.G.A. § 48-13-9(b)(23).
- <sup>196</sup> O.C.G.A. § 48-13-9(b)(24).
- <sup>197</sup> O.C.G.A. § 48-13-9(b)(18); see, however, O.C.G.A. § 12-8-20 et seq.
- <sup>198</sup> O.C.G.A. § 48-13-9(b)(31).
- <sup>199</sup> O.C.G.A. § 48-13-9(b)(17); see also O.C.G.A. § 43-24A-30 et seq.
- <sup>200</sup> O.C.G.A. § 48-13-9(b).

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<sup>201</sup> O.C.G.A. § 48-13-9(b)(16).

<sup>202</sup> O.C.G.A. § 48-13-9(b)(14); but see O.C.G.A. § 31-7-12.

<sup>203</sup> O.C.G.A. § 48-13-9(b)(13).

<sup>204</sup> O.C.G.A. § 48-13-9(b)(8) and *Pawnmart, Inc. v. Gwinnett County*, 279; see also, O.C.G.A. § 44-12-135.

<sup>205</sup> O.C.G.A. § 48-13-9(b)(7); see, however, O.C.G.A §§ 10-1-359.1, 10-1-359.4, and 43-43-1 et seq.

<sup>206</sup> O.C.G.A. § 48-13-9(b)(6).

<sup>207</sup> O.C.G.A. § 48-13-9(b)(5).

<sup>208</sup> O.C.G.A. § 48-13-9(b)(4); but see O.C.G.A. § 31-40-1 et seq.

<sup>209</sup> O.C.G.A. § 31-38-1 et seq.

<sup>210</sup> For example, accountants, O.C.G.A. § 43-3-1 et seq.; acupuncture, O.C.G.A. § 43-34-1 et seq.; architects, O.C.G.A. § 43-4-1 et seq.; athlete agents, O.C.G.A. § 43-4A-1 et seq.; athletic trainers, O.C.G.A. § 43-5-1 et seq.; auctioneers, O.C.G.A. § 43-6-1 et seq.; audiologist, O.C.G.A. § 43-44-1 et seq.; barbers, O.C.G.A. § 43-10-1 et seq.; billiard room operators, O.C.G.A. § 43-8-1 et seq.; cancer and glaucoma treatment, O.C.G.A. § 43-34-1 et seq.; cemeteries, O.C.G.A. § 43-8B-1 et seq.; chiropractors, O.C.G.A. § 43-9-1 et seq.; clinical perfusionists, O.C.G.A. § 43-34-1 et seq.; conditioned air contractors, O.C.G.A. § 43-14-1 et seq.; cosmetologists, O.C.G.A. § 43-10-1 et seq.; crematories, O.C.G.A. § 43-18-1 et seq.; dental assistants, O.C.G.A. § 43-11-1 et seq.; dental hygienists, O.C.G.A. § 43-11-1 et seq.; dentists, O.C.G.A. § 43-11-1 et seq.; dieticians, O.C.G.A. § 43-11A-1 et seq.; dispensing opticians, O.C.G.A. § 43-29-1 et seq.; driver training instructors, O.C.G.A. § 43-13-1 et seq.; electrical contractors, O.C.G.A. § 43-14-1 et seq.; embalmers, O.C.G.A. § 43-18-1 et seq.; family therapists, O.C.G.A. § 43-10A-1 et seq.; funeral directors, O.C.G.A. § 43-18-1 et seq.; general contractors, O.C.G.A. § 43-41-1 et seq.; geologists, O.C.G.A. § 43-19-1 et seq.; health physics, O.C.G.A. § 43-21A-1 et seq.; hearing aid dealers, O.C.G.A. § 43-20-1 et seq.; hotels, O.C.G.A. § 43-21-1 et seq.; ignition interlock providers, O.C.G.A. § 43-12A-1 et seq.; industrial hygiene, O.C.G.A. § 43-21A-1 et seq.; inns, O.C.G.A. § 43-21-1 et seq.; junk dealers, O.C.G.A. § 43-22-1 et seq.; laboratory analysts, O.C.G.A. § 43-51-1 et seq.; lactation consultants, O.C.G.A. § 43-22A-1 et seq.; land surveyors, O.C.G.A. § 43-15-1 et seq.; landscape architects, O.C.G.A. § 43-23-1 et seq.; librarians, O.C.G.A. § 43-24-1 et seq.; long term care facility administrators, O.C.G.A. § 43-27-1 et seq.; low voltage contractors, O.C.G.A. § 43-14-1 et seq.; marriage therapists, O.C.G.A. § 43-10A-1 et seq.; massage therapists, O.C.G.A. § 43-24A-1 et seq.; midwifery, O.C.G.A. § 31-26-1 et seq.; motor vehicle racetracks, O.C.G.A. § 43-25-1 et seq.; music therapy, O.C.G.A. § 43-25A-1 et seq.; nurses, O.C.G.A. § 43-26-1 et seq.; occupational therapists, O.C.G.A. § 43-28-1 et seq.; optometrists, O.C.G.A. § 43-30-1 et seq.; orthotics, see, O.C.G.A. § 43-34-1 et seq.; physical therapists, O.C.G.A. § 43-33-1 et seq.; physician assistants, O.C.G.A. § 43-34-1 et seq.; physicians, O.C.G.A. § 43-34-1 et seq.; plumbers, O.C.G.A. § 43-14-1 et seq.; podiatry, O.C.G.A. § 43-35-1 et seq.; precious metal and gem dealers, O.C.G.A. § 43-37-1 et seq.; private detectives, O.C.G.A. § 43-38-1 et seq.; private immigration assistance services, O.C.G.A. § 43-20A-1 et seq.; private security, O.C.G.A. § 43-38-1 et seq.; professional boxing, O.C.G.A. § 43-8A-1 et seq.; professional counselors, O.C.G.A. § 43-10A-1 et seq.; professional engineers, O.C.G.A. § 43-15-1 et seq.; prosthetics, O.C.G.A. § 43-34-1 et seq.; psychologists, O.C.G.A. § 43-39-1 et seq.; real estate appraisers, O.C.G.A. § 43-39A-1 et seq.; real estate brokers, O.C.G.A. § 43-40-1 et seq.; real estate sales, O.C.G.A. § 43-40-1 et seq.; residential contractors, O.C.G.A. § 43-41-1 et seq.; respiratory care, O.C.G.A. § 43-34-1 et seq.; roadhouses, O.C.G.A. § 43-21-1 et seq.; sanitarians, O.C.G.A. § 43-42-1 et seq.; scrap metal processors, O.C.G.A. § 43-43-1 et seq.; sewage management systems, O.C.G.A. § 31-2A-11; snow skiing safety, O.C.G.A. § 43-43A-1 et seq.; social workers, O.C.G.A. § 43-10A-1 et seq.; speech-language pathologists, O.C.G.A. § 43-44-1 et seq.; structural pest control, O.C.G.A. § 43-45-1 et seq.; tanning facilities, O.C.G.A. § 31-38-1 et seq.; tourist court, O.C.G.A. § 31-28-1 et seq.; transient merchants, O.C.G.A. § 43-46-1 et seq.; trauma scene waste management practitioners, O.C.G.A. § 43-46A-1 et seq.; used motor vehicle dealers, O.C.G.A. § 43-47-1 et seq.; used motor vehicle parts dealers, O.C.G.A. § 43-47-1 et seq.; used watch dealers, O.C.G.A. § 43-49-1 et seq.; utility contractors, O.C.G.A. § 43-14-1 et seq.; veterinarians, O.C.G.A. § 43-50-1 et seq.; veterinary technicians, O.C.G.A. § 43-50-1 et seq.; wastewater treatment plant operators, O.C.G.A. § 43-51-1 et seq.; and water treatment plant operators, O.C.G.A. § 43-51-1 et seq.

<sup>211</sup> O.C.G.A. § 48-13-9(c)(17); see also, O.C.G.A. § 43-4-1 et seq.



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- <sup>212</sup> O.C.G.A. § 48-13-16(a).
- <sup>213</sup> O.C.G.A. §§ 35-2-100, 35-2-102, 40-1-50 et seq., and 40-1-150 et seq.
- <sup>214</sup> Ga. Const. art. IX, § II, para. I(c)(5); O.C.G.A. § 48-13-16(a)(1).
- <sup>215</sup> O.C.G.A. §§ 46-2-20 and 21.
- <sup>216</sup> O.C.G.A. § 48-13-9(c)(4).
- <sup>217</sup> O.C.G.A. § 48-13-9(c)(6).
- <sup>218</sup> O.C.G.A. § 48-13-16(a).
- <sup>219</sup> O.C.G.A. § 48-13-9(c)(14).
- <sup>220</sup> O.C.G.A. § 48-13-9(c)(16).
- <sup>221</sup> O.C.G.A. § 48-13-16(a).
- <sup>222</sup> O.C.G.A. § 48-13-9(c)(15).
- <sup>223</sup> O.C.G.A. § 48-13-9(c)(11).
- <sup>224</sup> O.C.G.A. § 48-13-9(c)(10).
- <sup>225</sup> O.C.G.A. § 48-13-9(c)(1).
- <sup>226</sup> O.C.G.A. § 48-13-9(c)(18).
- <sup>227</sup> O.C.G.A. §§ 48-5-354 and 48-13-9(c)(21).
- <sup>228</sup> O.C.G.A. § 48-13-9(c)(19).
- <sup>229</sup> O.C.G.A. § 48-13-9(c)(7).
- <sup>230</sup> O.C.G.A. § 48-13-9(c)(3).
- <sup>231</sup> O.C.G.A. § 48-13-9(c)(20).
- <sup>232</sup> O.C.G.A. § 48-13-9(c)(2).
- <sup>233</sup> O.C.G.A. § 48-13-9(c)(12).
- <sup>234</sup> O.C.G.A. § 48-13-9(c)(5).
- <sup>235</sup> O.C.G.A. § 48-13-9(c)(18).
- <sup>236</sup> O.C.G.A. § 48-13-9(c)(8).
- <sup>237</sup> O.C.G.A. § 48-13-9(c)(13).
- <sup>238</sup> O.C.G.A. § 48-13-9(c)(18).
- <sup>239</sup> Although O.C.G.A. § 48-13-9(b)(3) includes taxi and limousine services, O.C.G.A. § 40-1-162 (local governments preempted from regulating limousine carriers) and 40-1-191 (local governments preempted from regulating ride share network services, transportation referral services, transportation referral service providers, and taxi services) preempt counties from most regulation of these services.
- <sup>240</sup> O.C.G.A. §§ 48-5-354 and 48-13-9(c)(21).
- <sup>241</sup> O.C.G.A. § 48-13-9(c)(9).
- <sup>242</sup> O.C.G.A. § 36-1-26.
- <sup>243</sup> O.C.G.A. § 36-60-2.
- <sup>244</sup> O.C.G.A. § 36-60-15.1.
- <sup>245</sup> Ga. Const. art IX, § II, para. III; O.C.G.A. § 36-64-1 et seq.
- <sup>246</sup> O.C.G.A. § 36-62-1 et seq.
- <sup>247</sup> O.C.G.A. § 36-61-2 et seq.
- <sup>248</sup> O.C.G.A. § 36-63-1 et seq.
- <sup>249</sup> O.C.G.A. § 36-88-1 et seq.
- <sup>250</sup> Ga. Const. art. IX, § II, para. VII; O.C.G.A. § 36-44-1 et seq.