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GEORGIA MUNICIPAL ELECTION CODE

As Amended Through Regular Session 1982



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CHAPTER 3
MUNICIPAL ELECTIONS AND PRIMARIES

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ARTICLE 1
GENERAL PROVISIONS

21-3-1. Short title.

This chapter may be cited as the "Georgia Municipal Election Code." (Code 1933, § 34A-101, enacted by Ga. L. 1968, p. 885, § 1.)

21-3-2. (Effective January 1, 1983) Definitions.

As used in this chapter, the term:

(1) "Ballot card" means the tabulating or punch card upon which an elector records his vote by the use of a vote recorder.

(2) "Ballot labels" means the cards, paper, or other material placed on the front of a voting machine or vote recorder and containing the names of offices and candidates and statements of questions to be voted on.

(3) "Custodian" means the person charged with the duty of testing and preparing the voting machine or vote recorder for the primary or election and instructing the poll officers in the use of same.

(4) "Election" means any general or special municipal election and shall not include a municipal primary.

(5) "Election District" is synonymous with the terms "precinct" and "voting precinct."

(6) "Elector" means any person who shall possess all of the qualifications for voting now or hereafter prescribed by the laws of this state, including applicable charter provisions, and who shall have registered in accordance with this chapter.

(7) "General election" means an election recurring at stated intervals fixed by the respective municipal charters for the purpose of electing municipal officials.

(8) "Governing authority" means the governing authority of a municipality.

(9) "Independent" means a person unaffiliated with any political party or body.

(10) "Managers" means the chief manager and the assistant managers required to conduct municipal primaries and elections in any precinct in accordance with this chapter.

(11) "Municipality" means an incorporated municipality.

(12) "Municipal office" means every municipal office to which persons can be elected by a vote of the electors under the laws of this state and the respective municipal charters.

(13) "Nomination" means the selection, in accordance with this chapter, of a candidate for municipal office authorized to be voted for at a municipal election.

(14) "Oath" shall include affirmation.

(15) "Official ballot" means a paper ballot which is furnished by the superintendent in accordance with Code Section 21-3-180.

(16) "Official ballot label" means a ballot label prepared in accordance with Article 9 of

this chapter and delivered by the superintendent to the poll officers in accordance with Code Sections 21-3-228 and 21-3-258.

(17) "Paper ballot" or "ballot" means the forms described in Article 8 of this chapter. The term "paper ballot" shall not include a ballot card.

(18) "Party nomination" means the selection by a political party, in accordance with this chapter, of a candidate for a municipal office authorized to be voted for at a municipal election.

(19) "Political body" or "body" means any political organization other than a political party.

(20) "Political organization" means an affiliation of electors organized for the purpose of influencing or controlling the policies and conduct of government through the nomination of candidates for public office and, if possible, the election of its candidates to public office; except that the term "political organization" shall not include a "subversive organization" as defined in Chapter 11 of Title 16, the "Sedition and Subversive Activities Act of 1953."

(21) "Political party" or "party" means any political organization which at the preceding gubernatorial election nominated a candidate for Governor who polled at least 20 percent of the total vote cast in the state for Governor, or any political organization which at the preceding presidential election nominated a candidate for President of the United States who polled at least 20 percent of the total vote cast in the nation for that office.

(22) "Poll officers" means the chief manager, assistant managers, and clerks required to conduct municipal primaries and elections in any precinct in accordance with this chapter.

(23) "Polling place" means the room provided in each precinct for voting at a municipal primary or election.

(23.5) "Precinct" is synonymous with the term "voting precinct" and means a geographical area, established in accordance with this chapter, within which all electors vote at one polling place.

(24) "Primary" means any election held for the purpose of electing party officers or nominating candidates for municipal offices to be voted for at a municipal election.

(25) "Question" means a brief statement of such charter amendment or other proposition as shall be submitted to a popular vote at any municipal election.

(26) "Registrar" means, unless otherwise clearly apparent from the context, the municipal registrar.

(27) "Registration officers" means, unless otherwise clearly apparent from the context, one or more municipal registrars or one or more deputy municipal registrars or any combination thereof, as may be determined by the governing authority.

(28) "Residence" means domicile.

(29) "Special election" means a municipal election that arises from some exigency or special need outside the usual routine.

(30) "Special primary" means a municipal primary that arises from some exigency or special need outside the usual routine.

(31) "Superintendent" means:

(A) In the case of a primary, the municipal executive committee of the political party holding the primary within a municipality (or its agent) or, if none, the county executive committee of the political party (or its agent);

(B) In the case of a nonpartisan primary, the person appointed by the proper municipal executive committee; and

(C) In the case of a municipal election, the person appointed by the governing authority pursuant to authority granted in paragraph (3) of Code section 21-3-8.

(32) "Swear" shall include affirm.

(33) "Tabulating machine" means any data processing machine used in counting ballot cards and tabulating votes thereon.

(34) "The call," as used in relation to special elections or special primaries, means the affirmative action taken by the responsible public officer to cause a special election or special primary to be held. The date of the call shall be the date of the first publication in a newspaper of appropriate circulation of such affirmative action.

(35) "Vote recorder" means a device into which a ballot card may be inserted so that an elector may record his vote for any candidate and for or against any question by punching or marking the ballot card.

(36) "Voting machine" shall not include a vote recorder or tabulating machine.

(37) "Write-in ballot" means the paper or other material on which a vote is cast for persons whose names do not appear on the ballot labels. (Ga. L. 1958, p. 269, § 1; Code 1933, § 34A-103, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1969, p. 355, § 1; Ga. L. 1979, p. 964, § 1; Ga. L. 1982, p. 1512, § 3.)

21-3-3. Qualifications of candidates for municipal office; determination of qualifications.

(a) Every candidate for municipal office who is certified by a municipal executive committee of a political party or who files a notice of candidacy shall meet the constitutional and statutory qualifications for holding the office being sought.

(b) The superintendent upon his own motion may challenge the qualifications of any candidate. Within two days after the deadline for qualifying, any elector who is eligible to vote for a candidate may challenge the qualifications of the candidate by filing a written complaint with the superintendent, giving the reasons why the elector believes the candidate is not qualified to seek and hold the public office for which he is offering. Upon his own motion or upon a challenge being filed, the superintendent shall notify the candidate in writing that his qualifications are being challenged and the reasons therefor, advise the candidate that he is setting a hearing on the matter, and inform the candidate of the date, time, and place of the hearing.

(c) The superintendent shall determine if the candidate is qualified to seek and hold the public office for which he is offering. If the superintendent determines that the candidate is not qualified, he shall withhold the name of the candidate from the ballot or strike his name from the ballot if the ballots have been printed.

(d) The candidate or the elector filing the challenge shall have the right to appeal the decision of the superintendent by filing a petition in the superior court having jurisdiction, in accordance with Article 13 of this chapter, relating to contested primaries and elections. (Code 1933, § 34A-303, enacted by Ga. L. 1980, p. 314, § 1.)

21-3-4. Eligibility of subversive persons for nomination or election to public office.

No person who has been adjudged a subversive person, as defined in Part 2 of Article 1 of Chapter 11 of Title 16, the "Sedition and Subversive Activities Act of 1953," shall be nominated or elected to public office, as such nomination and election are provided for in this chapter. (Code 1933, § 34A-106, enacted by Ga. L. 1968, p. 885, § 1.)

21-3-5. Eligibility for party nomination, municipal office, etc., of persons convicted and sentenced for fraudulent violation of primary or election laws.

No person shall be eligible for party nomination for or election to municipal office, nor shall he perform any official acts or duties as a superintendent, registrar, deputy registrar, poll officer, or party officer, as set forth in this chapter, in connection with any election or primary held under this chapter, if under the laws of this state, any other state, or the United States he has been convicted and sentenced, in any court of competent jurisdiction, for fraudulent violation of primary or election laws, malfeasance in office, felony, or crime involving moral turpitude, unless on appeal such conviction shall have been set aside or unless such person shall have been pardoned. (Code 1933, § 34A-107, enacted by Ga. L. 1968, p. 885, § 1.)

21-3-6. Right of electors to inspect and copy primary and election records.

Except when otherwise provided by law or court order, the primary and election records of each governing authority, superintendent, registrar, and committee of a political party or body, including registration statements, nomination petitions, affidavits, certificates, tally papers, returns, accounts, contracts, reports, and other documents in custody, shall be open to public inspection and may be inspected and copied by any elector during usual business hours at any time when they are not necessarily being used by the custodian or his employees having duties to perform in reference thereto; provided, however, that such public inspection shall only be in the presence of the custodian or his employee and shall be subject to proper regulations for the safekeeping of such documents. (Code 1933, § 34A-108, enacted by Ga. L. 1968, p. 885, § 1.)

21-3-7. Powers and duties of State Election Board as to municipal primaries and elections generally; applicability to this chapter of procedures prescribed in Chapter 2 of this title for seeking mandamus, restraining illegal conduct, etc.

The State Election Board shall exercise the same powers and duties over municipal primaries and elections as over general primaries and elections as set forth in Part 1 of Article 2 of Chapter 2 of this title; and the procedures prescribed in such part for seeking

mandamus, injunction, or other relief to compel compliance with any election or primary law of the state, or of any valid rule or regulation of the board, or to restrain or otherwise prevent or prohibit any fraudulent or other illegal conduct in connection therewith, including the right to seek such relief for any anticipatory breach, shall apply to and shall be applicable to all municipal primaries and elections and shall be brought, tried, and disposed of under the procedures contained within Part 1 of Article 2 of Chapter 2 of this title, except that such actions shall be instituted in the county in which the city hall is located, and no bond shall be required of the party appealing. (Code 1933, § 34A-110, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1970, p. 341, § 1.)

21-3-8. Powers and duties of governing authority generally.

The governing authority shall exercise all the powers granted it by this chapter and shall perform all the duties imposed upon it by this chapter, which shall include the following:

(1) To budget and appropriate annually, and from time to time, the funds that it shall deem necessary for the conduct of elections in such municipality and for the performance of other duties under this chapter, including the payment of the compensation of the superintendent, the registrars, the poll officers, custodians, and other assistants and employees, provided for in this chapter; for the purchase or printing of all ballots and other election supplies required by this chapter; for the maintenance of voting machines, vote recorders, and of all other election equipment required by this chapter; and for all other expenses arising out of the performance of election duties under this chapter;

(2) To provide by purchase or rental, if required by charter or ordinance, the necessary number of voting machines, tabulating machines, and vote recorders;

(3) To select the superintendent, registrars, deputy registrars, poll officials, and other employees as provided in this chapter;

(4) To designate the polling places for all primaries and elections;

(5) To designate, by ordinance or resolution, voting districts or precincts for primaries and elections and to alter said districts or precincts as necessary;

(6) To make and issue such rules, regulations, and instructions, consistent with law (including the rules and regulations promulgated by the State Election Board) as it may deem necessary for the guidance of the superintendents, registrars, poll officers, custodians, and electors in elections, such rules and regulations to be adopted by ordinance and a copy filed with the city clerk promptly after enactment or revision;

(7) To furnish the proper election officials all blank forms, including tally and return sheets, for use in all municipal elections; and such forms shall have printed thereon appropriate instructions for their use;

(8) To furnish upon request a certified copy of any document in its custody by virtue of this chapter and to fix and charge a fee to cover the cost of furnishing same;

(9) To exercise supervisory control over superintendents and election poll officers in the performance of their duties under this chapter;

(10) To prepare and publish, in the manner provided by this chapter, all notices and advertisements which may be required by law in connection with the conduct of elections

and to transmit immediately to the Secretary of State a copy of any publication in which a call for a special primary, election, or runoff is issued;

(11) To receive registration statements from political parties and bodies and to determine their sufficiency prior to filing in accordance with this chapter and to settle any disputes concerning such statements; and

(12) To perform such other duties as may be prescribed by law. (Code 1933, § 34A-201, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1981, p. 1728, § 1.)

21-3-9. Preservation, etc., of primary and election records.

Each primary or election document on file in the office of a governing authority, superintendent, registrar, committee of a political party or body, or other officer shall be preserved in such office for at least 24 months; and then the same may be destroyed, unless otherwise provided by law. (Code 1933, § 34A-109, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1978, p. 1025, § 1.)

21-3-10. Governing authority of certain municipalities authorized to allow county to conduct all elections held pursuant to chapter; contracts between city and county; adjustment of responsibility for payment of costs of election; geographical extent of county's authority to conduct election.

In all counties of this state having a population in excess of 550,000 according to the United States decennial census of 1970 or any future such census, the governing authority of any municipality lying wholly or partially within such counties may authorize such county to conduct any or all elections held pursuant to this chapter. In the event such city shall by ordinance authorize such county to conduct elections, such city may request such county to perform any or all of the functions imposed by this chapter upon the governing authority of such municipality, with reference to any election. Such county, after consultation with the county board of registrations and elections, shall contract with such city to provide all those functions imposed by this chapter, which functions such city has requested such county to perform. With reference to any election, such municipality shall pay such county all costs incurred in performing those functions which the city has requested the county to perform; and, unless otherwise authorized, such county shall only perform those functions specifically enumerated in the contract. Such county shall have authority to conduct elections in any and all counties in which any part of such municipalities may lie. (Code 1933, § 34A-111, enacted by Ga. L. 1972, p. 482, § 1; Ga. L. 1978, p. 1045, § 1; Ga. L. 1981, p. 536, § 1; Ga. L. 1982, p. 3, § 21.)

21-3-11. Calling of municipal bond elections; giving notice of elections; contents of notice.

(a) The governing authority of a county, municipality, or political division desiring to incur bonded debt in accordance with the provisions of the Constitution of Georgia shall call a special election to be held on a certain day for the purpose of submitting to the electorate the question of whether such bonded debt shall be incurred. The governing authority shall publish notice of such election once a week for a period of four weeks immediately preceding the day of the election in a newspaper which publishes the sheriff's advertisements for the county containing all or the largest part of the area of the county,

municipality, or political division involved. Such notice shall specify (1) the date of the election and the question to be submitted to the electorate, and (2) the principal amount of bonds to be issued, the purpose for which such bonds are to be issued, the interest rate or rates such bonds are to bear, and the amount of principal to be paid in each year during the life of such bonds; provided, however, that the governing authority, in lieu of specifying the rate or rates of interest which such bonds are to bear, may specify in the notice that such bonds when issued will bear interest at a rate not exceeding a maximum per annum rate of interest as stated in the notice or that, in the event such bonds are to bear different rates of interest for different maturity dates, none of such rates will exceed the maximum rates stated in the notice.

(b) The date of a municipal bond election shall be specified by the governing authority of the municipality. Such date shall not be less than 30 days after call of such bond election.

(c) Nothing contained in this Code section shall prohibit the issuer from selling such bonds at a discount, even if in so doing the effective interest cost resulting therefrom would exceed the maximum per annum interest rate specified in the notice of the election. (Code 1933, § 34A-705, enacted by Ga. L. 1968, p. 885, § 1.)

21-3-12. Applicability of Chapter 2 of this title to municipal general primary or election held in conjunction with general primary or November general election.

Whenever a municipal general primary or election is held in conjunction with the general primary or November general election, the time specified for the closing of the registration list, the time within which candidates must qualify for the municipal primary or election, and the time specified for the holding of any runoff necessary shall be the same as specified in Chapter 2 of this title for general elections. (Code 1933, § 34A-706, enacted by Ga. L. 1975, p. 872, § 1; Ga. L. 1977, p. 303, § 1.)

21-3-13. Next succeeding business day substituted for Saturday, etc., as last day to exercise any privilege, etc., prescribed by chapter.

When the last day for the exercise of any privilege or the discharge of any duty prescribed by this chapter shall fall on a Saturday, Sunday, or legal holiday, the next succeeding business day shall be the last day for the exercise of such privilege or the discharge of such duty. (Code 1933, § 34A-105, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1969, p. 355, § 2.)

21-3-14. Applicability of chapter.

This chapter shall apply to any general or special election in every municipal corporation of this state to fill any municipal office; to any general or special municipal primary, if any, to nominate candidates for any such office; to any election to submit a question to the people; and to any other municipal election or primary for any other purpose whatsoever. Except as specifically provided in this chapter, its provisions shall take precedence over municipal charter provisions which are in conflict with this chapter. (Code 1933, § 34A-102, enacted by Ga. L. 1968, p. 885, § 1.)

21-3-15. Construction of chapter.

The provisions of this chapter, so far as they are the same as those of existing laws, are intended as a continuation of such laws and not as new enactments. This chapter shall

repeal any existing provision or provisions of any municipal act in conflict herewith. The repeal by this chapter of any Act, or part thereof, of the General Assembly or any municipal corporation shall not revive any Act, or part thereof, heretofore repealed or superseded. The provisions of this chapter shall not affect any act done, liability or penalty incurred, right accrued or vested, or nomination made prior to the taking effect of this chapter, nor shall they affect any action or prosecution then pending or to be instituted to enforce any right or penalty then accrued or to punish any offense theretofore committed. (Code 1933, § 34A-104, enacted by Ga. L. 1968, p. 885, § 1.)

21-3-16. Making of false statements in connection with filing notice of candidacy, etc.; duty of district attorney to cooperate with superintendent, etc., in investigation and to commence prosecution; change of venue.

(a) Any person knowingly making any false statement in connection with filing a notice of candidacy under Code Section 21-3-91 or in connection with qualifying as a candidate for party nomination under Code Section 21-3-98 commits the offense of false swearing.

(b) The district attorney of the county in which all or the greater portion of any municipality is situated shall furnish all investigative personnel and facilities to the election superintendent or political party as needed to determine the accuracy and correctness of all facts set forth in the affidavits filed pursuant to Code Sections 21-3-91 and 21-3-98 and shall commence prosecution of any person when it appears that a violation of this Code section has occurred.

(c) Where proper venue of any such prosecution would be in another county, the district attorney whose office conducted the investigation shall forward all evidence and other data to the district attorney of the county where venue is proper; and prosecution shall be commenced by such official. (Code 1933, § 34A-1602, enacted by Ga. L. 1974, p. 522, § 2; Ga. L. 1976, p. 205, § 4.)

21-3-17. Penalty for violation of chapter.

Except as otherwise provided in Code Section 21-3-16, Any person who violates any provision of this chapter shall be guilty of a misdemeanor. (Code 1933, § 34A-1601, enacted by Ga. L. 1968, p. 885, § 1.)

ARTICLE 2

POWERS, DUTIES, ETC., OF MUNICIPAL SUPERINTENDENTS, MANAGERS, ETC.

21-3-30. Duty of municipal superintendent to conduct all municipal elections within his municipality; selection; compensation; form of oath.

(a) The municipal superintendent shall conduct, in accordance with this chapter, all municipal elections held within his municipality.

(b) The municipal superintendent shall be a person or committee selected in the manner prescribed by the governing authority of the municipality with compensation fixed and paid by the governing authority of the municipality from municipal funds.

(c) The following shall be the form of oath for the election superintendent:

I, _____, do swear (or affirm) that I will as superintendent duly attend the ensuing election (or primary) during the continuance thereof, that I will to the best of my ability prevent any fraud, deceit, or abuse in carrying on the same, that I will make a true and perfect return of the said election (or primary), and that I will at all times truly, impartially, and faithfully perform my duties in accordance with Georgia laws to the best of my judgement and ability.

(Code 1933, § 34A-302, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1982, p. 1670, § 1.)

21-3-31. (Effective January 1, 1983) Powers and duties of municipal superintendents generally.

(a) Each municipal superintendent shall exercise within his municipality all the powers granted to him by this chapter and by the governing authority pursuant to this chapter, which powers shall include the following:

(1) To instruct poll officers and others in their duties, calling them together in meeting whenever deemed advisable and to inspect systematically and thoroughly the conduct of elections in the precinct or precincts of his municipality to the end that elections may be honestly, efficiently, and uniformly conducted;

(2) To receive from poll officers the returns of all elections, to canvass and compute the same, and to certify as soon as practicable following the election the results thereof to such authorities as may be prescribed by law;

(3) To announce publicly by posting in his office the results of all elections held in his municipality;

(4) To equip polling places for use in primaries and elections in accordance with this chapter;

(5) To determine the forms of nomination petitions, ballots, and other forms it is required to determine under this chapter;

(6) To receive and determine the sufficiency of nomination petitions of candidates filing notice of their candidacy in accordance with this chapter; and

(7) To conduct all elections in such manner as to guarantee the secrecy of the ballot and to perform such other duties as may be prescribed by law. (Code 1933, § 34A-301, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1982, p. 1512, § 5.)

21-3-32. (Effective January 1, 1983) Appointment of chief manager and assistant managers; joint conduct of primaries; administering of oath by managers.

(a) All elections shall be conducted in each precinct by a board consisting of a chief manager, who shall be chairman of such board, and two assistant managers, assisted by clerks as provided in Code Section 21-3-33. The managers of each precinct shall be appointed by the governing authority.

(b) Depending upon the decision of the parties involved, primaries may be conducted either jointly with one set of managers, which shall consist of a chief manager and two assistant managers, or partially separately with a chief manager and two assistant managers appointed by each party for each precinct. Where a primary is conducted jointly by two or more parties, the managers and clerks shall be agreed upon and appointed jointly by the parties involved. When parties elect to use separate election officials, each party superintendent shall appoint the managers for each precinct.

(c) Each of the managers shall have the power to administer oaths to any person claiming the right to vote or in any matter or thing required to be done or inquired into by them under this chapter. (Code 1933, §§ 34A-401, 34A-405, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1969, p. 355, § 3; Ga. L. 1982, p. 1512, § 5.)

21-3-33. Appointment of clerks.

Prior to the opening of the polls in each district at each election, the governing authority shall appoint a sufficient number of clerks to serve therein at such election. In a primary, the superintendent shall appoint such clerks. If additional clerks are required during the day for the purpose of counting ballots or for other purposes, the superintendent may appoint same. (Code 1933, § 34A-402, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1969, p. 355, § 4.)

21-3-34. Qualifications of poll officers.

Poll officers shall be electors of the municipality in which they are appointed and shall be able to read, write, and speak the English language. No poll officer shall be eligible to any nomination or public office to be voted for at a primary or election in which he shall serve. (Code 1933, § 34A-403, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1969, p. 285, § 5.)

21-3-35. Oath of office for managers and clerks.

Before entering upon their duties at any primary or election, all managers and clerks shall be duly sworn in the presence of each other. (Code 1933, § 34A-404, enacted by Ga. L. 1968, p. 885, § 1.)

21-3-36. Instruction of poll officers as to use of voting machines, vote recorders, etc.; certificate of qualification.

In districts or precincts in which voting machines or vote recorders are to be used, the superintendent or a qualified poll officer shall instruct in the use of the voting machines or

vote recorders, and in their duties in connection therewith, all poll officers who are to serve at the primary or election and who have not been previously instructed and found qualified. The superintendent shall give to each poll officer, who has received such instruction and is found qualified to conduct such primary or election with the voting machine or vote recorder, a certificate to that effect. No poll officer shall serve at any primary or election at which a voting machine or vote recorder is used unless he shall have received a certificate of qualification. This shall not prevent the appointment of a poll officer to fill a vacancy arising on the day of a primary or election or on the preceding day. (Code 1933, § 34A-407, enacted by Ga. L. 1968, p. 885, § 1.)

21-3-37. Compensation of poll officers.

The compensation of managers and clerks serving in elections shall be fixed and paid by the governing authority. Compensation for such poll offices serving in a primary shall be fixed and paid by the superintendent. (Code 1933, § 34A-406, enacted by Ga. L. 1968, p. 885, § 1.)

21-3-38. Identification badges for poll officers.

Each poll officer, while in the performance of his duty, shall display conspicuously upon his person a badge showing his name and office; and such badge shall be supplied by the superintendent. (Ga. L. 1963, p. 506, § 1; Code 1933, § 34A-408, enacted by Ga. L. 1968, p. 885, § 1.)

ARTICLE 3

DATES OF PRIMARIES AND ELECTIONS GENERALLY

21-3-50. Date of municipal primary; giving notice of date.

Whenever any political party shall hold a municipal primary to nominate candidates for offices to be filled in the ensuing municipal election, the same shall be held at least four weeks prior to the general municipal election. Notice of such primary shall be publicly issued by the municipal or other appropriate party executive committee at least 20 days prior to such primary. (Code 1933, § 34A-701, enacted by Ga. L. 1968, p. 885, § 1.)

21-3-51. Date of municipal election; giving notice of date.

The date of the municipal election shall be specified by the charter of the municipality or, if not so specified, then by municipal ordinance. Public notice of such election shall be published by the governing authority in a newspaper of general circulation in the municipality at least 30 days prior to the election. (Code 1933, § 34A-702, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1982, p. 1670, § 2.)

21-3-52. Date of special primary; giving notice of date.

Whenever any political party shall hold a special primary to nominate candidates for offices to be filled in the ensuing special election, the same shall be held two weeks prior to the special election. Notice of such primary shall be publicly issued by the municipal or other appropriate party executive committee at least 15 days prior to such special primary. (Code 1933, § 34A-703, enacted by Ga. L. 1968, p. 885, § 1.)

21-3-53. Date of special elections; giving notice of date.

The date of a special election shall be no earlier than 30 days and no later than 60 days after the call of such special election by the governing authority of the municipality, such call to be published promptly in a newspaper of general circulation in the municipality. (Code 1933, § 34A-704, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1970, p. 341, § 3.)

ARTICLE 4

REGISTRATION OF AND COMMITTEE ORGANIZATION OF POLITICAL PARTIES AND BODIES

21-3-70. Filing of registration statements by municipal executive committees with the city clerk and state party or body executive committee; contents of registration statement; amendments; failure to file statement.

(a) The chief executive officer of each municipal executive committee, whose state executive committee has already filed with the Secretary of State as a political party or body, shall promptly file with the city clerk of the municipality and with its state political party or body executive committee a registration statement setting forth:

- (1) Its name and certified copies of its charter, bylaws, rules and regulations, and other documents of like dignity governing its organization and operation;
- (2) The address of its principal office; and
- (3) The names of its members, home addresses and titles of the persons composing its governing committee, and executive officers.

(b) Within 30 days after the occurrence of a change in the information contained in any registration statement, or prior amendment thereto, the chief executive officer of the party or body filing such statement shall file an amendment thereto setting forth the information necessary to maintain the currency of such statement.

(c) A political party or body failing to file a registration statement, as required by subsection (a) of this Code section, at least 60 days before any primary or election at which it shall seek to have candidates on the ballot shall not have its name or the names of its candidates placed on any nomination petition, ballot, or ballot label. (Code 1933, § 34A-801, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1969, p. 355, § 5.)

21-3-71. Formulation, adoption, and promulgation of rules and regulations by municipal executive committee; filing of such rules and regulations; effective date.

Whenever a municipal executive committee of a political party is established, such committee shall formulate, adopt, and promulgate rules and regulations, consistent with law and the rules and regulations of the State Election Board and the state executive committee, governing the conduct of primaries, conventions, and other party affairs within the municipality. No such rule and regulation shall be effective until copies thereof, certified by the chairman, have been filed with the clerk of the municipality. (Code 1933, § 34A-802, enacted by Ga. L. 1968, p. 885, § 1.)

21-3-72. Power of state executive committee over municipal party executive committees.

The state executive committee shall have the same power over municipal party executive committees as it has over county party executive committees as set forth in Article 3 of Chapter 2 of this title. (Code 1933, § 34A-803, enacted by Ga. L. 1968, p. 885, § 1.)

ARTICLE 5

SELECTION AND QUALIFICATION OF CANDIDATES FOR PUBLIC OFFICE, ETC., GENERALLY

21-3-90. Fixing and publishing of qualification fee; manner of payment; restriction on amount of fee; filing of pauper's affidavit in lieu of payment of fee.

At least two weeks prior to the closing of qualifications for a special or general municipal election, the governing authority of any municipality shall fix and publish a qualification fee, if any, to be paid by candidates seeking election in any such special or general election. Such fee shall be paid to the municipal superintendent at the time a candidate files his notice of candidacy. Such fee shall be 3 percent of the annual salary of the office if a salaried office. If not a salaried office, a reasonable fee shall be set by the municipal governing authority, such fee not to exceed 3 percent of the income derived from such office by the person holding the office for the preceding year; provide, however, that, in cases where no income is provided for a municipal office, the governing authority shall be authorized to fix and publish a qualification fee not to exceed \$35.00 for such office. A pauper's affidavit may be filed in lieu of paying the qualifying fee otherwise required by this Code section. A candidate filing a pauper's affidavit instead of paying a qualifying fee shall under oath affirm his poverty and his resulting inability to pay the qualifying fee otherwise required. To be acceptable under this Code section, a pauper's affidavit must show on its face that the candidate has neither the assets nor the income to pay the qualifying fee otherwise required. (Ga. L. 1962, p. 504, § 1; Ga. L. 1963, p. 172, § 1; Code 1933, § 34A-904, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1978, p. 1025, § 6; Ga. L. 1981, p. 1728, § 4.)

21-3-91. Filing notice of candidacy; filing of certificate of nomination; filing of affidavit; filing of nominating petition by candidate not nominated in party primary.

(a) Each candidate or his designee shall file notice of his candidacy in the office of the municipal superintendent of his municipality at least 22 but not more than 52 days prior to the election in the case of a general election and at least 15 but not more than 30 days prior to the election in the case of a special election. The opening and closing dates shall, within the limitations as provided in this Code section, be as set forth in the municipal charter or, if not so specified, then by municipal ordinance. If a run-off primary is held, each candidate nominated therein or his designee shall file notice of his candidacy with the municipal superintendent within three days after the holding of such primary, irrespective of such three-day period's exceeding a qualification deadline prescribed in this subsection. Notice of the opening and closing dates for candidates to qualify shall be published by the governing authority in a newspaper of general circulation in the municipality at least ten days and not more than thirty days prior to the first date for qualifying.

(b) Each candidate who is a nominee of his political party or body, or such party or body, shall accompany his notice of candidacy with a certificate of nomination by his party or body stating that he is the duly qualified and nominated candidate of his party or body for the public office he is seeking. Every such certificate of nomination shall be sworn to by the chairman and secretary of the municipal or other appropriate executive committee (designated by the party or body) before an officer qualified to administer oaths. The

certificate of nomination shall contain such other information as may be prescribed by the officer with whom the candidate files his notice of candidacy.

(c) A certificate of party or body nomination shall not be filed if such party or body has not previously registered with the Secretary of State as required by Article 3 of Chapter 2 of this title and with the city clerk as required by Code Section 21-3-70.

(d) A certificate of nomination shall not be issued to a candidate by any political party unless the candidate is the nominee of such political party by virtue of having been nominated in a primary conducted by such political party for the purpose of nominating candidates for the particular office concerned or unless said candidate is the substituted nominee of such political party pursuant to Code Section 21-3-92.

(e) Each candidate described in subsection (a) of this Code section shall accompany his notice of candidacy with an affidavit stating:

- (1) His residence, with street and number, if any, and his post office address;
- (2) His profession, business, or corporation, if any;
- (3) The name of his precinct;
- (4) That he is an elector of the municipality of his residence and is eligible to vote in the election in which he is a candidate;
- (5) The name of the office he is seeking;
- (6) That he is eligible to hold such office;
- (7) That he has never been convicted and sentenced in any court of competent jurisdiction for fraudulent violation of primary or election laws, malfeasance in office, felony, or crime involving moral turpitude under the laws of this state or any other state or of the United States; and
- (8) That he will not knowingly violate any provisions of this chapter or any rules and regulations adopted thereunder.

The affidavit shall contain such other information as may be prescribed by the officer with whom the candidate files his notice of candidacy.

(f) Candidates not having been nominated in a party primary may also be required to accompany notice of candidacy with a nominating petition if the municipality's charter or ordinance so requires. (Ga. L. 1922, p. 97, § 3; Code 1933, § 34-1904; Ga. L. 1962, p. 618, § 1; Code 1933, § 34A-901, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1969, p. 282, § 1; Ga. L. 1969, p. 355, § 6; Ga. L. 1977, p. 303, § 2; Ga. L. 1978, p. 1025, § 5; Ga. L. 1982, p. 1512, § 5; Ga. L. 1982, p. 1670, § 3.)

21-3-92. Substitute nominations to fill vacancies in party nominations caused by death, disqualification, etc.

(a) Any vacancy happening in any party nomination (filled by primary) for a municipal office by reason of the death, disqualification, or withdrawal of any candidate after nomination may be filled by a substitute nomination made by the municipal or other appropriate party executive committee, unless the municipal charter or ordinance shall provide for the holding of another primary for the purpose of filling such vacancy.

(b) Any vacancy in any party nomination (filled by means other than by primary) or body nomination, by reason of the death, disqualification, or withdrawal of any candidate after nomination, may be filled by a substitute nomination made by such committee as is authorized by the rules and regulations of the party or body to make nominations in the event of vacancies on the party or body ticket. .

(c) Upon the making of any such substitute nomination, in the manner prescribed in this Code section, it shall be the duty of the chairman and secretary of the convention or committee making the nomination to file with the municipal superintendent a nomination certificate which shall be signed by such chairman and secretary. Every such certificate of nomination shall be sworn to by the chairman and secretary before an officer qualified to administer oaths. (Code 1933, § 34A-903, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1969, p. 355, §§ 7, 8.)

21-3-93. Designation by candidate of specific office sought in cases in which two or more public offices, each having same title, are to be filled at same election by same electors.

In the case of a candidate seeking one of two or more public offices, each having the same title and to be filled at the same election by the vote of the same electors, charter or ordinance provisions shall govern whether such candidate shall designate the specific office he is seeking. If required to designate the specific office, the candidate shall name his incumbent or give other appropriate designation. Such designation shall be entered on the ballot and ballot labels in such manner that in the ensuing primary or election such candidate shall only oppose the other candidate or candidates, if any, designating the same specific office. (Code 1933, § 34A-902, enacted by Ga. L. 1968, p. 885, § 1.)

21-3-94. Reopening of qualification for office upon death, etc., of sole remaining candidate in nonpartisan elections.

In the event of the death or disqualification of the sole remaining candidate prior to the date of a nonpartisan election, the governing authority may reopen qualification for the office sought by the deceased or disqualified candidate for a period of not less than one nor more than three days. (Ga. L. 1922, p. 97, § 3; Code 1933, § 34-1904; Ga. L. 1962, p. 618, § 1; Code 1933, § 34A-903.1, enacted by Ga. L. 1969, p. 355, § 9.)

21-3-95. Authority of political party or nonpartisan municipal executive committee to conduct municipal primary; manner of conducting, etc.; authority of municipalities to prohibit conducting of municipal primaries by political party.

(a) Either a political party, as defined in this chapter, or a nonpartisan municipal executive committee duly registered with the city clerk may conduct a municipal primary for the purpose of electing its own officials or nominating candidates for municipal elections. Every primary held for such purpose shall be presided over and conducted in the manner prescribed by the rules and regulations of such party or nonpartisan municipal executive committee, not inconsistent with the law and the rules and regulations of the State Election Board; provided, however, that all such primaries must be conducted in such manner as to guarantee the secrecy of the ballot.

(b) Municipalities may provide by their charter or by ordinance that no political party shall conduct primaries for the purpose of nominating candidates for municipal elections; provided, however, that the existing provisions of any charter or ordinance prohibiting primaries by political parties shall not be repealed by this Code section. (Code 1933, § 34A-905, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1969, p. 282, § 2.)

21-3-96. (Effective January 1, 1983) Provision and use of poll officers by political parties during primaries.

A political party, in nominating a candidate for public office in a primary, shall use and provide poll officers for each polling place in each precinct in the area wherein the electors reside who shall elect the person to fill such public office in the next election therefor. (Code 1933, § 34A-907, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1982, p. 1512, § 5.)

21-3-97. Delivery, preparation, etc., of ballots, ballot boxes, etc., for primaries generally; rental fees.

Ballots and ballot boxes, voting machines or vote recorders, where used, and other supplies for primaries shall be prepared, provided, and delivered to the poll officers, in accordance with this chapter, insofar as it is applicable to primaries. In municipalities where the governing authority possesses voting machines or vote recorders, it shall rent or furnish free of charge a sufficient number of voting machines or vote recorders to a political party or parties requesting same for use in a primary. When rental is required, such rental shall be fixed at an amount not in excess of the lowest reasonable amount necessary to pay the cost of the municipality in renting the voting machines or vote recorders; and such rental shall be equally divided among the parties jointly using same. A party which is unable or unwilling to pay its share of such rental shall not participate in the use of the voting machines or vote recorders. (Code 1933, § 34A-908, enacted by Ga. L. 1968, p. 885, § 1.)

21-3-98. (Effective January 1, 1983) Qualification of candidates for party nomination in a primary; automatic nomination of unopposed candidates; procedure upon death or disqualification of a candidate prior to primary; filing of affidavit with political party by each qualifying candidate.

(a) Unless otherwise provided by law, all candidates for party nomination in a primary shall qualify as such candidates in accordance with the rules of their party. In the case of a general primary, the candidates shall qualify at least 15 but not more than 45 days prior to the date of such primary. In the case of a special primary, the candidates shall qualify at least ten but not more than 30 days prior to the date of such primary. The executive committee or other rule-making body of the party shall fix the qualifying date within the limitations provided in this Code section.

(b) After the expiration of the applicable qualification deadline prescribed in subsection (a) of this Code section, each candidate for nomination to a municipal office, having no opposing candidates within his own political party, shall automatically become the nominee of this party for such office if the applicable city charter or ordinance does not provide to the contrary. The name of such an unopposed candidate and the title of the nomination he is seeking shall not be placed upon the primary ballots or ballot labels. The

proper officials of his political party shall certify him as the party nominee for the office involved for the purpose of having his name placed upon the election ballots or ballot labels. In applying Code Sections 21-3-90 through 21-3-92, such an unopposed candidate shall be deemed to have been nominated in a primary held by his political party.

(c) In the event of the death or disqualification of a candidate prior to the date of a primary, the municipal executive committee or other committee of the party authorized by party rule may reopen qualification for the office sought by the deceased or disqualified candidate for a period of not less than one nor more than three days.

(d) No person shall qualify with any political party as a candidate for nomination to any municipal office when such person has qualified for the same primary with another political party as a candidate for nomination by that party for any municipal office; nor shall a municipal or other appropriate executive committee of a political party certify any person as the candidate of said party when such person has previously qualified as a candidate for nomination for any public office for the same primary with another political party.

(e) Each candidate for party nomination described in subsection (a) of this Code section shall file an affidavit with the political party at the time of his qualifying stating:

- (1) His residence, with street and number, if any, and his post office address;
- (2) His profession, business, or occupation, if any;
- (3) The name of his precinct;
- (4) That he is an elector of the municipality of his residence and is eligible to vote in the primary election in which he is a candidate for nomination;
- (5) The name of the office he is seeking;
- (6) That he is eligible to hold such office;
- (7) That he has never been convicted and sentenced in any court of competent jurisdiction for fraudulent violation of primary or election laws, malfeasance in office, felony, or crime involving moral turpitude, under the laws of this state or any other state or of the United States; and
- (8) That he will not knowingly violate this chapter or any rules and regulations adopted thereunder. (Code 1933, § 34A-906, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1969, p. 355, § 10; Ga. L. 1975, p. 686, § 2; Ga. L. 1976, p. 205, § 3; Ga. L. 1982, p. 1512, § 5.)

21-3-99. Payment of primary expenses.

(a) The expenses of a primary shall be borne by the political party holding such primary except as provided in subsections (b) and (c) of this Code section.

(b) The expenses of providing polling places on public premises and electors lists shall be paid by the respective municipalities.

(c) The governing authority of each municipality may in its discretion authorize the payment by the municipality of any or all primary expenses other than those required by

subsection (b) of this Code section to be paid by the municipality. This authorization of payment by the municipality of other primary expenses shall extend only to the expenses of primaries conducted by political parties which meet the definition of a "political party" contained in paragraph (21) of Code Section 21-3-2. Such additional expenditures as a municipal governing authority elects to make under this subsection are declared to be for a public purpose. (Code 1933, § 34A-909, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1981, p. 486, § 1.)

21-3-100. Nomination of candidates by petition; form of petition; manner of signing; limitations as to manner of circulation and amendment of petitions.

(a) In addition to the party nominations made at primaries, nominations of candidates for public office may also be made by nomination petitions if the municipality's charter or ordinances so provide. Such petitions shall be in the form prescribed by the officers with whom they are filed, and no other forms than the ones so prescribed shall be used for such purposes. A nomination petition of a candidate shall be signed by the number of electors prescribed by municipal charter or ordinance.

(b) Each person signing a nomination petition shall declare therein that he is a duly qualified and registered elector of the municipality and is entitled to vote in the next election for the filling of the office sought by the candidate supported by the petition; and each person signing the petition shall add to his signature his residence address, giving municipality, with street and number, if any. No person shall sign the same petition more than once. Each petition shall support the candidacy of only a single candidate. A signature shall be stricken from the petition when the signer so requests prior to the presentation of the petition to the appropriate officer for filing, but such request may be disregarded if made after such presentation.

(c) A nomination petition shall be on one or more sheets of uniform size, and different sheets must be used by signers residing in different counties. The upper portion of each sheet, prior to being signed by any petitioner, shall bear the name and title of the officer with whom the petition will be filed; the name of the candidate to be supported by the petition; his profession, business, or occupation, if any; his place of residence, with street and number, if any; his political body affiliation, if he is its nominee for the office he is seeking; and the name and date of the election in which the candidate is seeking election. If more than one sheet is used, they shall be bound together when offered for filing if they are intended to constitute one nomination petition; and each sheet shall be numbered consecutively, beginning with number one, at the foot of each page. Each sheet shall bear on the bottom or back thereof the affidavit of the circulator of such sheet, setting forth:

- (1) His residence address, giving municipality, with street and number, if any;
- (2) That each signer manually signed his own name with full knowledge of the contents of the nomination petition;
- (3) That each signature of such sheet was signed within 180 days of the last day on which such petition may be filed; and
- (4) That, to the best of affiant's knowledge and belief, the signers are registered electors of the municipality and are qualified to sign the petition, that their respective

residences are correctly stated in the petition, and that they all reside in the municipality named in the affidavit.

(d) No nomination petition shall be circulated prior to 180 days before the last day on which such petition may be filed; and no signature shall be counted unless it was signed within 180 days of the last day for filing the same.

(e) A nomination petition shall not be amended or supplemented after its presentation to the appropriate officer for filing. (Ga. L. 1962, p. 618, § 1; Code 1933, § 34A-910, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1970, p. 341, § 4; Ga. L. 1974, p. 82, § 8.)

21-3-101. Examination of petitions; basis for grant or denial; review and appeal of denial.

(a) When any nomination petition is presented in the office of the superintendent for filing within the period limited by this chapter, it shall be the responsibility of such officer to examine the same to the extent necessary to determine if it complies with the law. If the petition complies with the law, it shall be granted, and the candidate named therein shall be notified in writing. If the petition fails to comply with the law, it shall be denied, and the candidate named therein shall be notified of the cause for such denial by letter directed to his last known address. In neither case shall the petition be returned to the candidate.

(b) The decision of the officer denying a nomination petition may be reviewed by the superior court of the county containing the office of such officer, upon an application for a writ of mandamus to compel the granting of such petition; and the decision of the officer granting a nomination petition may be reviewed by such superior court, upon an application for a writ of injunction to restrain the honoring of such petition. The application for such writ of mandamus or injunction shall be made within five days of the time when the petitioner is notified of such decision. Upon the application being made, a judge of such court shall fix a time and place for hearing the matter in dispute as soon as practicable, and notice thereof shall be served, with a copy of such application, upon the officer with whom the nomination petition was filed. Any decision of the superior court may be taken to the appropriate appellate court, as is usual in such cases. (Code 1933, § 34A-911, enacted by Ga. L. 1968, p. 885, § 1.)

21-3-102. Nonpartisan primaries — Calling and holding by governing authority; preparation for and conduct.

The governing authority of any municipality may call and hold a nonpartisan primary for the purpose of nominating candidates to seek municipal office in a subsequent election. If held, such a nonpartisan primary shall be held at least 50 but not more than 60 days prior to the date of the election for which nominations are to be made; and the call for such primary shall be publicly issued at least 60 days prior to the date of holding the primary. To the extent practicable, the provisions of this chapter which apply to the preparation for and conduct of primaries of political parties shall also apply to the preparation for and conduct of municipal nonpartisan primaries. (Code 1933, § 34A-912, enacted by Ga. L. 1968, p. 885, § 1.)

21-3-103. Same — Procedures for qualification of candidates.

Each candidate for nomination to an office in a nonpartisan primary shall qualify as such candidate by personally, or by his duly authorized agent, filing notice of his candidacy in the office of the superintendent of his municipality at least 45 days prior to the date of the primary, in accordance with the provisions of the charter and ordinances of the municipality not inconsistent with the requirements of this chapter. (Code 1933, § 34A-913, enacted by Ga. L. 1968, p. 885, § 1.)

21-3-104. Same — Payment of primary expenses.

The expenses of a municipal nonpartisan primary may be paid by the municipality calling and holding such primary; provided, however, that the expenses of providing polling places on public premises and electors lists shall be paid by the municipality. (Code 1933, § 34A-914, enacted by Ga. L. 1968, p. 885, § 1.)

21-3-105. Notice of intent of write-in candidates.

In a general or special municipal election, no person elected on a write-in vote shall be eligible to hold office unless notice of his intention of candidacy was given 20 or more days prior to the election by the person to be a write-in candidate or by some other person or group of persons qualifying to vote in the election, to the mayor or similar officer of the municipality and by publication in the official gazette of the municipality holding the election. (Code 1933, § 34A-915, enacted by Ga. L. 1979, p. 967, § 1.)

ARTICLE 6

REGISTRATION OF VOTERS

21-3-120. Appointment and compensation of registrars and deputy registrars; designation and duties of chief registrar; duty of principals, directors, etc., of high schools, vocational schools, etc., to act as deputy registrars for purpose of registering students.

(a) The governing authority shall appoint registrars as necessary, and the appointments shall be entered on the minutes of the governing authority. The governing authority shall designate one of the registrars as chief registrar. The chief registrar will serve as such during his term of office, and such designation shall likewise be entered on the minutes of the governing authority. Such registrars shall serve at the pleasure of the governing authority, and compensation of the registrars shall be fixed by the governing authority.

(b) Any registrar shall have the right to resign at any time by submitting a resignation to the governing authority. In the event of such removal or resignation of any registrar, his duties and authority as such shall terminate immediately. Successors shall be appointed by the governing authority. Each appointment or change in designation shall be entered on the minutes of the governing authority and certified by the governing authority. The governing authority may furnish such employees and facilities as it deems necessary for the operation of the office and the affairs of the registrars.

(c) The chief registrar shall serve as the chief administrative officer of the board of registrars and shall generally supervise and direct the administration of the affairs of the board of registrars.

(d) The governing authority may appoint such deputy registrars and may hire such clerical help to aid the registrars in the performance of their duties as are necessary. The terms of office and compensation shall be fixed by the governing authority. Compensation shall be provided from municipal funds.

(e) Each principal, or his designee, of every public or private high school and the director of each area vocational school or his designee, in this state shall be a deputy registrar for the purpose of registering as electors only those qualified applicants who are enrolled students within the principal's school or who are employed by the school. Such principals or assistant principals and directors shall inform their students of the powers conferred upon such officials by this Code section and shall provide reasonable and convenient procedures to enable students who are qualified applicants to register.

(f) Code Section 21-3-121 shall not apply to deputy registrars who serve as such by virtue of this Code section. (Ga. L. 1894, p. 115, § 7; Civil Code 1895, § 50; Civil Code 1910, § 52; Code 1933, § 34-301; Ga. L. 1949, p. 1204, §§ 6, 47; Ga. L. 1957, p. 385, § 1; Ga. L. 1958, p. 269, § 3; Ga. L. 1961, p. 164, § 1; Code 1933, § 34A-502, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1980, p. 1005, § 1; Ga. L. 1982, p. 3, § 21.)

21-3-121. Qualifications of registrars and deputy registrars; eligibility of registrars, deputy registrars, etc., to file candidacy for public office or nomination therefor; exceptions; appointment of county registrars as deputy registrars of municipality; registration procedure in municipalities using own registration system.

(a) Registrars and deputy registrars shall be able to read, write, and speak the English language. No person, while serving as a registrar, deputy registrar, or member of a board of elections, or within a period of six months after so serving, shall be eligible to file a notice of candidacy for any nomination or office to be voted for at a primary or election; provided, however, that this ineligibility shall not apply to a tax commissioner or tax collector or to any candidate for the office of tax commissioner or tax collector in performing the functions of a deputy to the board of registrars as provided in subsection (b) of Code Section 21-2-212. However, nothing contained in this Code section shall preclude a registrar, deputy registrar, or member of a municipal board of elections from qualifying for office, having his name placed on the ballot, or holding office in a political party or body or serving as a presidential elector.

(b) Notwithstanding any other provision of this Code section to the contrary, in those municipalities maintaining their own registration lists, the municipal governing authority shall appoint county registrars or deputy registrars as deputy registrars of the municipality, notwithstanding such county registrars or deputy registrars may not be electors of the municipality.

(c) In cases where a municipality uses its own registration system, the registrar or deputy registrar shall require the applicant to complete two registration cards and the registrar shall forward one of such registration cards to the county registrars. Where a municipality is located in more than one county, the registrar shall forward the registration card to the county of the applicant's residence. The registrars of the county shall check the name and identifying information of each applicant against the registration cards on file in their office so as to ensure that no voter is registered twice. If the registrar finds the applicant meets the qualifications for registration in the county, the registration card shall be placed on file in the registrars' office and the applicant's name shall be added to the electors list. (Ga. L. 1955, p. 344, § 1; Code 1933, § 34A-503, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1969, p. 285, § 6; Ga. L. 1974, p. 82, § 2; Ga. L. 1978, p. 1035, § 2; Ga. L. 1981, p. 1716, § 1; Ga. L. 1982, p. 3, § 21; Ga. L. 1982, p. 1670, § 4.)

21-3-122. Oath required of registrars and deputy registrars.

Before entering upon his duties, each registrar and deputy registrar shall swear to perform his duties faithfully, which oath shall be administered by some officer authorized to administer oaths under the laws of this state. (Ga. L. 1894, p. 115, § 7; Civil Code 1895, § 52; Civil Code 1910, § 54; Code 1933, § 34-303; Ga. L. 1949, p. 1204, § 8; Ga. L. 1958, p. 269, § 5; Code 1933, § 34A-504, enacted by Ga. L. 1968, p. 885, § 1.)

21-3-123. Registration duties of county registrar in municipalities using county registration system; location of main office of board of registrars; registration of electors at main office and at other designated locations; hours of operation of registration places; advertisement of additional registration places; requirement as to location of registration places in public places.

(a) In those municipalities electing to use the county registration system, the county registrar shall carry out the functions necessary for municipal registration and shall maintain all registration cards; and his office shall be deemed the main registration office.

(b) In those municipalities electing to maintain their own registration system, the registrars shall keep the completed registration cards and their other papers in the main office of the municipal registrars, which office shall be in the city hall or other public building designated by the governing authority. If no such office exists, the registrars shall keep the completed registration cards and their other papers in the office of the city clerk; and such office shall be deemed the main office of the board of registrars. For the purpose of taking applications for registration and for the purpose of registering electors, such number of registrars or deputy registrars as shall be designated by the chief registrar shall be stationed at such main office where the completed registration cards are kept at such times as the office is open during regular office hours. The governing authority, in addition to the main office, may designate other fixed places to be used for the purpose of receiving applications for registration and for the registration of electors.

(c) The main office of the board of registrars in each municipality shall remain open for business during regular office hours on each business day. The board of registrars may enlarge such minimum office hours and may open the offices at any time in order to suit the convenience of the public.

(d) Additional registration places must be advertised in a newspaper of general circulation in the municipality one or more times at least seven days prior to the first day for registration.

(e) All voter registration places shall be places open to the general public and frequented by the general public. (Ga. L. 1949, p. 1204, § 13; Ga. L. 1958, p. 269, § 10; Ga. L. 1961, p. 162, § 1; Ga. L. 1963, p. 73, § 1; Code 1933, § 34A-506, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1974, p. 82, § 4; Ga. L. 1979, p. 964, § 2; Ga. L. 1981, p. 1430, § 1.)

21-3-124. Designation of form of municipal registration.

The form of municipal registration shall be specified by the governing authority, except that, if the governing authority does not elect to use the county registration list, the form of the registration cards must comply with Code Section 21-2-217. (Ga. L. 1949, p. 1204, §§ 10, 11; Ga. L. 1958, p. 269, § 8; Code 1933, § 34A-505, enacted by Ga. L. 1974, p. 82, § 3.)

21-3-125. Qualification of voters generally; reregistration of voters purged from list of electors; determination by governing authority of method by which registration lists are to be maintained; manner of registration of electors in municipalities maintaining own registration lists generally.

(a) No person shall vote in any primary or election unless he shall be:

(1) Registered as an elector in the manner prescribed by law;

- (2) A citizen of this state and of the United States;
- (3) At least 18 years of age;
- (4) A resident of the municipality in which he seeks to vote, notwithstanding any provision of any municipal charter to the contrary; and
- (5) Possessed of all other qualifications prescribed by law.

(b) Any person who possesses the qualifications of an elector except those concerning age shall be permitted to register to vote if such person will acquire such qualifications within six months after the day of registration; provided, however, that such person shall not be permitted to vote in a primary or election until the acquisition of such qualifications.

(c) Notwithstanding any other provision of this article, any person who was qualified and registered to vote on September 1, 1968, shall not be required to reregister under the terms of this article unless such person shall have become or becomes disqualified to vote by reason of having been purged from the list of electors or for any other reason whatsoever; in which event, such person shall, in order to become registered to vote, reregister under the terms of this article.

(d) The governing authority of any municipality may by charter, ordinance, or resolution elect either to maintain its own registration or to provide for the city to use the county registration list, stating that any person who is a resident of the municipality and who is registered as an elector with the board of registrars of the county shall be eligible to vote in a municipal primary or election. If the municipality elects to maintain its own registration list, the municipality shall use the form of the registration card and the questions to be propounded to an applicant as prescribed in Code Section 21-2-217. The qualifications of a person seeking to vote in a municipal primary or election shall be determined by this chapter and the Constitution of Georgia. Provided, however, municipalities which are the county seats of counties having populations of not less than 32,500 and not more than 34,100 according to the United States decennial census of 1970 or any future such census shall not be authorized to maintain their own registration lists but shall use the registration list of the county and such county shall be required to furnish such list to the municipality. Provided, further, that any such counties shall be required to furnish a list of the registered voters residing within such municipalities to the governing authorities of the municipalities no later than seven days before any election or primary covered by this chapter is to be held in such municipalities.

(e) In a municipality maintaining its own registration list, any person desiring to register as an elector shall apply to a registrar or a deputy registrar and shall furnish such officer with proper identification and information which will enable him to fill in all blanks appearing on the registration card. For purposes of this Code section, proper identification may be made by exhibiting a valid driver's license, birth certificate, or any other document that will reasonably reflect the true identity of the applicant. On completion of the form, the officer shall administer the oath to the applicant and then have him sign it, and the officer shall attest it. Upon request of the applicant, the officer taking the application shall read or repeat the oath distinctly to the applicant; and, if the applicant cannot sign his name, the officer shall sign it for him, the applicant making his mark thereto. (Ga. L. 1958, p. 269, § 2; Code 1933, § 34A-501, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1971, p. 634, §

1; Ga. L. 1972, p. 836, § 1; Ga. L. 1973, p. 277, § 1; Ga. L. 1974, p. 82, § 1; Ga. L. 1974, p. 99, § 1; Ga. L. 1981, p. 545, § 1; Ga. L. 1981, p. 551, § 1; Ga. L. 1981, p. 1728, § 2; Ga. L. 1982, p. 2107, § 25.)

21-3-126. Deadline for receiving registration applications; purging and certification of voter registration lists.

(a) Registration for municipalities electing to use county registration lists shall be as follows:

(1) The county registrar shall cease taking applications for registration from persons desiring to vote in municipal primaries or elections 30 days prior to such primary or election;

(2) The county registrar shall cease taking applications for registration from persons desiring to vote in a special primary or election on the close of the registrars' business on the fifth day after the call of such special primary or election; and

(3) The municipal registrar shall, upon receipt of the county registration list, or as soon as practicable thereafter but in no event later than three days prior to such primary or election, purge such list of the names of all persons who will not be qualified to vote at such primary or election. The registrar shall certify the list and file with the city clerk a copy showing the names of electors entitled to vote at such primary or election. Any person whose name appears upon such list may vote at such primary or election, subject to the limitations prescribed in the proviso contained in the first sentence of Code Section 21-3-136.

(b) Registration for municipalities maintaining their own registration lists shall be as follows:

(1) If any person whose name is not on the municipal registration list desires to vote at any primary or election, he shall, at least 15 days prior to the primary or election at which he desires to vote, or at such other time as designated by charter or ordinance, apply to be registered as an elector. The registrars shall, at least 15 days but not more than 50 days prior to such primary or election, cease taking applications to qualify persons to vote in such primary or election.

(2) Any person who has registered for a general municipal primary or election, if otherwise qualified to vote at any special primary or election occurring before the next general election, shall be listed and entitled to vote at such special primary or election. At the close of the registrars' business on the fifth day (if a Sunday or a legal holiday, then on the next following business day) after the call of such special primary or election, the registrars shall cease taking applications from persons desiring to register to vote therein.

(3) The registrar shall, no later than three days prior to such primary or election, pass upon the electors' qualifications and file with the city clerk a certified list showing the names of those electors entitled to vote at such primary or election. Any person whose name appears upon such list may vote at such primary or election, subject to the limitations prescribed in the proviso contained in the first sentence of Code Section 21-3-136. Before filing such list, the registrars shall purge it of the names of all persons

who will not be qualified to vote at such primary or election. (Ga. L. 1949, p. 1204, § 14; Ga. L. 1958, p. 269, §§ 11, 12; Code 1933, § 34A-507, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1970, p. 341, § 2; Ga. L. 1974, p. 82, § 5.)

21-3-127. Administration of oath to applicant.

On completion of the application form, the officer shall administer the oath to the applicant and then have him sign it (either by signature or mark). The officer shall then attest it. (Ga. L. 1949, p. 1204, § 15; Code 1933, § 34A-508, enacted by Ga. L. 1968, p. 885, § 1.)

21-3-128. Rejection of application, etc., upon applicant's refusal to give information or giving of false information.

The failure on the part of the applicant to disclose information sought by a direct question of the registration officers in connection with the taking of the application or at subsequent proceedings, or the giving of false information, shall result in the application being rejected by the registration offices and shall also be a cause for challenge which, if sustained, shall result in the elector's name being removed from the list. (Ga. L. 1949, p. 1204, § 18; Ga. L. 1958, p. 269, § 15; Code 1933, § 34A-509, enacted by Ga. L. 1968, p. 885, § 1.)

21-3-129. Appeals from decisions denying or allowing registrations.

Any person to whom the right of registration is denied by the registration officers shall have the right to take an appeal to the superior court of the county; and any elector may enter an appeal to such court from the decision of the registration officers allowing any person to register. All appeals must be filed in writing with the chief registrar within ten days from the date of the decision complained of and shall be returned by the chief registrar to the office of the clerk of such court to be tried, de novo, as are appeals from the probate court. Pending an appeal and until the final judgement of the case, the decision of the registration officer shall remain in full force. (Ga. L. 1949, p. 1204, § 19; Ga. L. 1958, p. 269, § 16; Code 1933, § 34A-510, enacted by Ga. L. 1968, p. 885, § 1.)

21-3-130. Retention of registration records, etc., of rejected applicants.

In the event an applicant is refused registration by the registration officers, the application of such person and other material and records relative thereto shall be placed on file with the other registration records of the board of registrars for at least 24 months from the date of refusal. (Ga. L. 1960, p. 955, § 1; Code 1933, § 34A-511, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1978, p. 1025, § 2.)

21-3-131. Provision of absentee registration by municipalities electing to maintain own registration lists.

Municipalities that elect to maintain their own registration lists shall provide for absentee registration as follows;

- (1) A resident of the municipality who is qualified to vote by absentee ballot may register to vote by complying with this Code section, and this person shall be referred to as an absentee applicant;

(2) Any absentee applicant or, upon satisfactory proof of relationship, his mother, father, sister, brother, spouse, or daughter or son of the age 18 or over may at any time apply to the registrar for a registration card to be mailed to such applicant. The application shall be in writing and shall contain the name and address he desires to have the card mailed to and such other information as the board of registrars may require. When appropriate, the rank, branch of service, and serial number of the applicant shall be included in the application;

(3) The registrar, upon receipt of such application, shall enter thereon the date it is received and, upon finding such absentee applicant to be unregistered, shall immediately mail to him a blank registration card accompanied by a properly addressed envelope. The board shall employ air mail in cases where it will facilitate voting by such applicant;

(4) Upon the return of such registration card, properly completed and executed by the absentee applicant, the registrar shall place the name of such elector upon the electors list if the registrar finds the applicant qualified under Code Section 21-3-125; and such registration shall have the same effect as a registration consummated under other provisions of this article. The date a registration card is mailed or delivered to an applicant and the date it is returned shall be entered on the application therefor; and

(5) Any qualified person may apply for a registration card or an absentee ballot by the use of a standard form furnished by the federal government, which form contains the information required by this chapter. An envelope containing a registration card or absentee ballot for transmission to such person may be prepared in such a manner as to take advantage of the free mail delivery furnished by the federal government. (Code 1933, § 34A-513, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1978, p. 1025, § 3.)

21-3-132. Exemption of qualified electors from registration or further qualification thereafter; loss of qualification for failure to exercise vote; request for continuance; reregistration after cancellation.

Municipalities that elect to maintain their own registration lists shall require that:

(1) The electors who have qualified shall not thereafter be required to register or further qualify, except as provided by law;

(2) No person shall remain a qualified voter who does not vote in at least one general or special election or primary in a three-year period, unless he shall specifically request continuation of his registration as specified in subsection (b) of Code Section 21-3-133;

(3) Any elector whose registration has been canceled may reregister in the manner provided for original registration in this chapter; and

(4) No person shall remain an elector longer than he shall retain the qualifications under which he is registered. (Ga. L. 1913, p. 115, § 3; Code 1933, § 34-115; Ga. L. 1949, p. 1204, § 23; Ga. L. 1958, p. 269, § 20; Ga. L. 1959, p. 182, § 1; Ga. L. 1961, p. 56, § 1; Code 1933, § 34A-514, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1974, p. 82, § 6.)

21-3-133. Purging of list of electors by municipalities maintaining their own registration system; notice of disqualification; request for continuance.

(a) The registrar in municipalities maintaining their own registration system shall purge the list of electors as follows:

(1) At least every two years, the registrar shall examine the list of electors and remove therefrom any electors that have not voted in at least one general or special election or primary in the preceding three years or have not specifically requested a continuation of their registration. However, no elector shall be removed from the list of electors for failure to vote in the preceding three years unless the municipality has conducted at least two general elections during such preceding three-year period;

(2) At least 60 days before any general election, the registrar shall obtain from the clerk of the superior court of the county a list of persons residing in the county who appear to be disqualified from voting by reason of having been convicted of a crime since the last general election, the penalty of which is disfranchisement, unless such person has been pardoned and the right of suffrage restored to him; and any of these persons on the municipal electors list shall be removed;

(3) At least 60 days before any general election, the registrar shall obtain from the superintendent of the county a list of all persons residing in the county who appear to be disqualified from voting by reason of an adjudication of idiocy or insanity since the last general election; and any of these persons on the municipal list of electors shall be removed;

(4) At least 60 days before any general election, the registrar shall obtain from the local registrar of vital statistics of each county a list of those persons who have died since the last general election; and any of these persons listed on the municipal list of electors shall be removed.

(b) Voters disqualified by reason of paragraph (1) of subsection (a) of this Code section shall be given notice by first class mail at their last known address within ten days after removal of their names, such notice to state substantially as follows:

“You are hereby notified that according to state law, your registration as a qualified voter will be canceled for having failed to vote within the past three years, unless you request a continuance of your registration in writing by

_____”
(Month) (Date) (Year)

Registrars shall furnish each elector so notified a card with the name and address of the board of registrars printed on the face thereof which may be used by the elector in notifying the registrars of the elector’s desire to continue the elector’s registration. Electors shall be given 20 days from removal date to request in writing a continuance of their registration. The registrars shall remove those who do not so apply within the time allotted. In municipalities lying wholly within the boundaries of counties of this state having a population of not less than 400,000 nor more than 525,000 according to the United States decennial census of 1970 or any future such census and which maintain their own voting lists, registrars shall affix sufficient postage to such return card so as to ensure proper

delivery to the board of registrars. (Ga. L. 1949, p. 1204, § 24; Ga. L. 1958, p. 269, § 21; Ga. L. 1961, p. 162, § 1; Code 1933, § 34A-515, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1980, p. 1005, § 1; Ga. L. 1981, p. 1238, § 3; Ga. L. 1981, p. 1430, § 2; Ga. L. 1982, p. 2107, § 26.)

21-3-134. Preparation of list of electors in municipalities electing to maintain their own registration lists.

(a) The registrars in municipalities electing to maintain their own registration lists shall prepare for use in all primaries and elections true and correct lists of the electors of their municipality, placing thereon only those persons found to be qualified to vote.

(b) If the municipality elects to use the county registration list, the county board of registrars shall deliver, upon a basis mutually agreed upon between the governing authorities of the county and the municipality, a copy of the list of electors to be used in each primary or election to the designee of the governing authority of the municipality. Such list shall be delivered at least 14 days prior to each primary or election for the purpose of permitting the designee to check the accuracy of the list and to challenge the disqualified.

(c) On July 1, 1981, all registered electors of any county of this state having a population of not less than 400,000 nor more than 525,000 according to the United States decennial census of 1970 or any future such census who reside within the corporate boundaries of any municipality lying wholly within such county and who are not registered voters of such municipality shall be added to the voter registration list of such municipality. Such electors shall thereafter be subject to this article in the same manner as other electors of each such municipality. (Ga. L. 1949, p. 1204, § 26; Ga. L. 1958, p. 269, § 22; Code 1933, § 34A-516, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1981, p. 1238, § 2; Ga. L. 1982, p. 2107, § 27.)

21-3-135. Filing of certified list of qualified voters with city clerk; arrangement of list; appearance of name on list as a prerequisite to voting; furnishing of copies of such list.

(a) At least three days prior to the primary or election, the registrar shall file with the city clerk a certified copy of a list containing the names, address, and ZIP codes of all the electors found to be qualified. The list shall be alphabetically arranged by election districts or precincts, and it shall be the list of electors for the municipal election to be held in such year. No person whose name does not appear on such list shall vote at such municipal election, except as otherwise provided in this chapter. This list shall be accompanied by the registrar's certification of the number of electors by race in each election district. Such lists shall not be used by any person for commercial purposes.

(b) When requested, it shall be the duty of the registrar or the city clerk to furnish a certified copy of such list, or any part thereof, upon payment of a fee sufficient to cover the cost of preparing such list, but in no event shall the fee exceed an amount equal to 1¢ for the name of each elector appearing thereon. (Ga. L. 1949, p. 1204, § 28; Ga. L. 1958, p. 269, § 23; Code 1933, § 34A-517, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1974, p. 82, § 7; Ga. L. 1982, p. 1512, § 5; Ga. L. 1982, p. 1670, § 5.)

21-3-136. Entitlement of qualified electors named on certified registration list to vote in any election, etc., held after list filed; duty of registrars to consolidate lists.

Each elector whose name appears on the certified registration list and who is not found

to be disqualified subsequent to the filing of said list shall be entitled to vote in any primary or election held during the period subsequent to the filing of such certified list and before the filing of the next list; provided, however, that an elector, voting in the primary or primaries held by a single party for the nomination of candidates to seek municipal offices to be filled in an election, shall not vote in a primary held by any other party for the nomination of candidates to seek municipal offices to be filled in the same such election. It shall be the duty of the registrars to consolidate the certified list and any supplemental list for any primary or election and to make certain that no person is listed more than once. (Ga. L. 1908, p. 58, § 8; Civil Code 1910, § 59; Code 1933, § 34-405; Ga. L. 1943, p. 353, § 2; Ga. L. 1949, p. 1204, § 29; Ga. L. 1958, p. 269, § 24; Code 1933, § 34A-518, enacted by Ga. L. 1968, p. 885, § 1.)

21-3-137. Right of board of registrars to reexamine qualifications of electors listed; subpoenaing of documents and witnesses; swearing of witnesses; giving notice to person whose right to remain on list of electors is questioned; failure of elector to respond to notice.

(a) The board of registrars of each municipality shall have the right and shall be charged with the duty of examining, from time to time, the qualifications of each elector whose name is entered upon the list of electors; and the board shall not be limited or estopped by any action previously taken.

(b) For the purpose of determining the qualification or disqualification of applicants and electors, the board of registrars, upon at least five days' notice, may subpoena witnesses and require the production of books, papers, and other material. The board may swear any witness appearing before it.

(c) If the right of any person to remain on the list of electors is questioned by the registrars, the board of registrars shall give such person written notice by first-class mail, sent to the address on the elector's registration card, stating a time and place of hearing, not less than five nor more than 30 days from the date of notice, to determine the elector's eligibility to remain on the list of electors. Failure by the elector to respond to the notice either in person or by mail by the date set for the hearing shall constitute cause for removing the elector's name from the list of electors. (Ga. L. 1894, p. 115, § 8; Civil Code 1895, §§ 56, 58; Civil Code 1910, §§ 63, 65; Ga. L. 1913, p. 115, § 1; Code 1933, §§ 34-408, 34-602, 34-604; Ga. L. 1949, p. 1204, §§ 32, 34-36; Ga. L. 1958, p. 269, §§ 27, 28, 30; Code 1933, § 34A-519, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1981, p. 1801, § 1.)

21-3-138. Challenge of listed persons by other electors; procedure for deciding challenges.

(a) Any elector of the municipality shall be allowed to challenge the right of registration of any person whose name appears upon the electors list; and, upon a challenge as to the qualifications of the elector being filed, the registrars shall notify the elector and pass upon the challenge. Each challenge shall specify the grounds of the challenge; and, when notice is given the elector by the registrars, a copy of such challenge shall be furnished the challenged elector at least three days before passing upon the same. Any elector of the municipality shall also be allowed to challenge the qualifications of any applicant for registration. A challenge of a person's qualification to register or to vote shall be decided in

every case by the board of registrars with the right of appeal therefrom to the superior court.

(b) Any elector of the municipality shall be allowed to challenge the right to vote of any person whose name appears upon the electors list by making application to the board of registrars of the municipality at any time, including election day itself. Such challenge may be oral or written but shall distinctly set forth the grounds of challenge. The board of registrars shall immediately consider the same and unless they find probable cause to sustain such challenge shall deny it. If the registrars find probable cause to sustain such challenge, the poll officers of the challenged elector's district shall be notified; and, if practical, the challenged elector shall be notified and afforded an opportunity to answer. If the challenged elector presents himself at the polling place to vote, he shall be given an opportunity to appear before the registrar and answer the grounds of challenge; and, after hearing the challenger and the challenged elector, such registrars shall determine whether probable cause to sustain such challenge exists and shall:

(1) If no probable cause exists, permit the challenged elector to vote;

(2) If in doubt as to the merit of the challenge, permit the challenged elector to vote by having the word "challenged" written across the back of the challenged elector's ballot for later determination; or

(3) If it is determined that a challenged elector is not eligible to vote, refuse to allow the challenged elector to vote by having the words "ineligible to vote" written on the electors list next to the challenged elector's name. (Ga. L. 1908, p. 58, § 6; Civil Code 1910, § 66; Code 1933, § 34-605; Ga. L. 1949, p. 1204, § 33; Ga. L. 1958, p. 269, § 31; Code 1933, § 34A-520, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1982, p. 1670, § 6.)

21-3-139. (Effective January 1, 1983) Persons entitled to vote at each precinct.

Only persons whose names appear on the list of electors placed in the possession of the managers in each precinct shall be allowed to deposit their ballots, according to law, at the precinct, but not elsewhere, except as otherwise provided in this chapter. (Ga. L. 1894, p. 115, § 10; Civil Code 1895, § 60; Civil Code 1910, § 68; Code 1933, § 34-801; Ga. L. 1949, p. 1204, § 39; Ga. L. 1958, p. 269, § 33; Code 1933, § 34A-521, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1982, p. 1512, § 5.)

21-3-140. (Effective January 1, 1983) Procedure upon change of residence of elector.

In the event any elector moves to a residence within the municipality which has a different address from the address contained on such person's registration card, it shall be his duty to notify the board of registrars of such fact, and the board shall place such person's name on the proper list of electors. If the board, of its own knowledge, knows of such move, it may make the proper changes. Any elector who moves to a residence within the municipality but into a different precinct or who moves to a residence in the same precinct but at a different address and fails to notify the board of registrars of such fact prior to an election or primary shall vote in the precinct of his former residence for such election or primary and for any runoffs resulting therefrom. The superintendent of an election shall make available at each polling place forms which shall be completed by each such elector to reflect his present legal residence. Such forms may also be used to notify the

board of registrars of a change in an elector's name. The board of registrars shall thereafter place the elector in the proper precinct and correct the list of electors accordingly. If the elector is placed in a precinct other than the one in which he has previously been voting, he shall be notified of his new polling place by first-class mail. (Ga. L. 1908, p. 58, § 10; Civil Code 1910, § 71; Code 1933, § 34-804; Ga. L. 1949, p. 1204, § 42; Ga. L. 1958, p. 269, § 36; Code 1933, § 34A-522, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1979, p. 960, § 1; Ga. L. 1981, p. 1728, § 3; Ga. L. 1982, p. 1512, § 5.)

21-3-141. Rules for determining residence.

In determining the residence of a person desiring to register to vote, the rules as set forth in Code Section 21-2-241 shall be followed. (Ga. L. 1960, p. 257, § 1; Code 1933, § 34A-523, enacted by Ga. L. 1968, p. 885, § 1.)

21-3-142. Lists and registration cards open to public inspection; removal of lists, etc., from custody of officer in charge; public nature of hearings and performance of all duties by registrars.

The lists of electors and registration cards of electors shall be open at all times to the reasonable inspection of any citizen of the municipality but shall not be removed for such inspection from the custody of the officer in charge. All the duties required of the registrars and all hearing of evidence upon the qualifications of electors shall be discharged in public. (Ga. L. 1894, p. 115, §§ 12, 16; Civil Code 1895, §§ 64, 65; Civil Code 1910, §§ 74, 75; Code 1933, §§ 34-1101, 34-1102; Ga. L. 1949, p. 1204, § 45; Ga. L. 1958, p. 269, § 39; Code 1933, § 34A-524, enacted by Ga. L. 1968, p. 885, § 1.)

ARTICLE 7

PRECINCTS AND POLLING PLACES

21-3-160. (Effective January 1, 1983) Designation of precincts generally.

Each municipal election district existing as of December 31, 1982, shall constitute a separate precinct until and unless changed as provided in this article. Insofar as practicable, the precincts shall be the same as those for state and county elections. (Code 1933, § 34A-601, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1982, p. 1512, § 4.)

21-3-161. (Effective January 1, 1983) Change in bounds of precinct; creation of new precincts.

(a) The governing authority of the municipality in which precincts are located may divide or redivide any precinct into two or more precincts of compact and contiguous territory, or alter the bounds of any precinct, or form a precinct out of two or more adjoining precincts or parts of precincts, or consolidate adjoining precincts, so as to suit the convenience of the electors and to promote the public interests.

(b) The bounds of a precinct shall not be altered on a day in which a primary or election is held, or during the period of 60 days prior to any general primary or election, or during the period of 30 days prior to any special primary or election. The governing authority shall promptly notify the board of registrars of any change in the bounds of precincts.

(c) Any precinct established or altered on or after July 1, 1983, must conform with the requirements of subsection (a) of Code Section 21-3-161.1. (Code 1933, § 34A-602, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1982, p. 1512, § 4.)

21-3-161.1. (Effective January 1, 1983) Requirements for voting precincts established or altered on or after July 1, 1983.

(a) All voting precincts established or altered on or after July 1, 1983, shall consist of areas which are bounded on all sides only by:

(1) Visible features which are readily distinguishable upon the ground (such as streets, railroad tracks, streams, lakes, and ridges) and which are indicated upon official Department of Transportation maps; or

(2) The boundaries of counties and incorporated municipalities.

(b) No later than January 1, 1984, the governing authority shall move the boundaries of all precincts so that they conform to the requirements of subsection (a) of this Code section and continue to promote the convenience of electors and the public interests. The governing authority shall within 30 days prior to the establishment of any new boundaries required to conform with subsection (a) publish a notice of such changes once a week for two weeks in the county organ and post a conspicuous notice of such changes in at least five public and conspicuous places in each affected precinct. At least one such notice shall be posted at or in the immediate vicinity of the polling place in each affected precinct. Each notice shall state the date upon which adoption of such changes is proposed to be made and shall direct interested persons to address their comments or questions to the superintendent.

(c) The governing authority shall notify the board of registrars within ten days after such changes are adopted.

(d) Not later than February 1, 1984, each governing authority shall file with the Secretary of State a current copy of a map of all precincts in the municipality. Thereafter the governing authority shall file with the Secretary of State:

(1) A map reflecting any changes in precincts within 20 days after the changes are made;

(2) A copy of any communications to or from the United States Justice Department relating to any precincts within 20 days after such communication is sent or received.

(3) A copy of any pleading initiating a court action potentially affecting any precincts within 30 days after it is filed;

(4) A copy of any court order affecting any precincts within 20 days after it is entered; and

(5) Any other documentation necessary to allow the Secretary of State to maintain a current listing of all precincts in the state. (Code 1981, § 21-3-161.1, enacted by Ga. L. 1982, p. 1512, § 4.)

21-3-162. (Effective January 1, 1983) Payment by governing authority of costs of proceedings in cases of division, etc., of precincts; appropriation of funds to Secretary of State for municipalities required to comply with Code Section 21-3-161.1.

In all cases of the division, redivision, alteration, formation, or consolidation of precincts, the costs of the proceedings shall be paid by the governing authority. There may be appropriated to the Secretary of State funds to be granted to municipalities on the basis of population for purposes of meeting the requirements of Code Section 21-3-161.1. (Ga. L. 1941, p. 321, § 1; Code 1933, § 34A-603, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1982, p. 1512, § 4.)

21-3-163. (Effective January 1, 1983) Polling places — Duty of governing authority to fix polling places; use of same polling places used in state and county elections; change of polling place.

The governing authority shall select and fix the polling place within each precinct. Insofar as is practicable, the same polling places shall be used as are used in state and county elections. Except in case of an emergency or unavoidable event occurring within ten days of a primary or election, which event renders any polling place unavailable for use at such primary or election, the governing authority shall not change any polling place until at least ten days after notice of the proposed change shall have been posted on the existing polling place and at three other places in the immediate vicinity thereof. (Code 1933, § 34A-604, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1982, p. 1512, § 4.)

21-3-164. (Effective January 1, 1983) Same — Use of public buildings as polling places; use of portable or movable polling facilities.

(a) In selecting polling places, the governing authority shall, wherever practicable,

select schoolhouses, municipal buildings or rooms, or other public buildings for that purpose. School, county, municipal, or other governmental authorities shall, upon request of the municipal governing authority, make arrangements for the use of their property for polling places; provided, however, that such use shall not substantially interfere with the use of such property for the purposes for which it is primarily intended.

(b) The governing authority, in its discretion, may procure and provide portable or movable polling facilities of adequate size for any precinct. (Code 1933, § 34A-605, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1982, p. 1512, § 5.)

21-3-165. Same — Equipment for use in polling places; arrangement of guardrails, voting booths, etc., within room used as polling place.

(a) The governing authority shall provide and the superintendent shall cause all rooms used as polling places to be provided suitably with heat and light and, in districts in which ballots are used, with a sufficient number of voting compartments or booths with proper supplies, in which electors may conveniently mark their ballots, with a curtain, screen, or door in the upper part of the front of each compartment, or both, so that in the marking thereof they may be screened from the observation of others. A curtain, screen, or door shall not be required, however, for the self-contained units used as voting booths in which vote recorders are located.

(b) When practicable, every polling place shall consist of a single room, every part of which is within the unobstructed view of those present therein, and shall be furnished with a guardrail or barrier enclosing the inner portion of such room, which guardrail or barrier shall be so constructed and placed that only such persons as are inside such rail or barrier can approach within six feet of the ballot box and voting compartments, or booths, or voting machines, as the case may be.

(c) The ballot box and voting compartments or booths shall be so arranged in the voting room within the enclosed space as to be in full view of those persons in the room outside the said guardrail or barrier.

(d) The voting machine or machines shall be so placed in the voting rooms within the enclosed space that, unless its construction shall otherwise require, the ballot labels on the machine can be plainly seen by the poll officers when the machine is not occupied by an elector. (Code 1933, § 34A-606, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1978, p. 1025, § 4.)

21-3-166. Same — Compensation for rent, heat, light, and janitorial services.

The governing authority shall fix the compensation for rent, heat, light, and janitorial services to be paid for the use of polling places for primaries and elections; provided, however, that no compensation for rent, heat, or light shall be paid in the case of schoolhouses, municipal buildings or rooms, or other public buildings used as polling places. (Code 1933, § 34A-607, enacted by Ga. L. 1968, p. 885, § 1.)

ARTICLE 8

VOTING BY PAPER BALLOT

21-3-180. Requirement as to conduct of primaries and elections by ballot; requirement as to use of official ballots only.

All primaries and elections shall be conducted by ballot, except when voting machines or vote recorders are used as provided by law. All ballots used in any primary or election shall be provided by the superintendent in accordance with this article; and only official ballots furnished by the superintendent shall be cast or counted in any primary or election in any district in which ballots are used. (Ga. L. 1962, p. 618, § 1; Code 1933, § 34A-1001, enacted by Ga. L. 1968, p. 885, § 1.)

21-3-181. Voting by paper ballot when use of voting machine impracticable.

In any primary or election in which the use of voting machines is impracticable, the primary or election may be conducted by paper ballot as authorized by Code Section 21-3-234.

21-3-182. Voting by paper ballot when utilization of vote recorder is not practicable.

In any primary or election in which the use of vote recorders is impracticable, the primary or election may be conducted by paper ballot as authorized by Code Section 21-3-263.

21-3-183. (Effective January 1, 1983) Duty of superintendent to cause ballots to be printed; responsibility of superintendent for recording number of ballots, safekeeping, etc.

In any primary or election, the superintendent shall cause the ballots to be printed in the form prescribed by this chapter. He shall be responsible for the safekeeping of the same, while in his possession or that of his agent, and shall keep a record of the number of official ballots printed and furnished to each precinct at each primary and election, and the number of stubs, unused ballots, and canceled ballots subsequently returned therefrom. (Code 1933, § 34A-1005, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1982, p. 1512, § 5.)

21-3-184. (Effective January 1, 1983) Provision by superintendent of sufficient number of ballots for use in each precinct.

For each precinct in which a primary or election is to be held, the superintendent shall provide a sufficient number of ballots for use by the electors who are entitled to vote in the precinct. (Code 1933, § 34A-1009, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1982, p. 1512, § 5.)

21-3-185. (Effective January 1, 1983) Form of official primary ballot.

(a) In each primary, separate official ballots shall be prepared by the political party holding the primary. At the top of each ballot shall be printed in prominent type the words "OFFICIAL PRIMARY BALLOT OF _____ PARTY FOR" followed by the designation of the precinct for which it is prepared and the name and date of the primary.

(b) Immediately under this caption, the following directions shall be printed: "Place a cross (X) or check (✓) mark in the square opposite the name of each candidate for whom you choose to vote. If you spoil the ballot, do not erase, but ask for a new ballot. Use only pen or pencil."

(c) Immediately under the directions, the names of all candidates who have qualified in accordance with the rules of the party, except unopposed candidates in municipal primaries where the municipal charter or ordinance does not prohibit the omission of such candidates' names from the ballot, shall be printed on the ballots; and the names of the candidates shall in all cases be arranged under the title of the office for which they are candidates and shall be printed thereunder in alphabetical order. The incumbency of a candidate seeking party nomination for the public office he then holds shall be indicated on the ballots. Under the title of each office shall be placed a direction as to the number of candidates to be voted for.

(d) If at any primary a political party shall submit to its members any matter or question to be voted upon, the party shall also have printed on the ballots the necessary language to guide the elector in the expression of his choice as to such matter or question.

(e) The ballots shall vary in form only as the names of precincts, offices, or candidates may require or as otherwise required by this chapter. (Code 1933, § 34A-1002, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1982, p. 1512, § 5.)

21-3-186. Form of official nonpartisan primary ballot.

The form of the official nonpartisan primary ballot shall conform insofar as practicable to the form of the official primary ballot as detailed in Code Section 21-3-185, except that:

(1) The following shall be printed at the top of each ballot in prominent type: "OFFICIAL NONPARTISAN PRIMARY BALLOT OF _____"; and
(Name of Municipality)

(2) There shall be no name or designation of any political organization nor any words, designation, or emblems descriptive of a candidate's political affiliation printed under or after any candidate's name which is printed on the ballot. (Code 1933, § 34A-1003, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1982, p. 3, § 21.)

21-3-187. (Effective January 1, 1983) Form of official election ballot; procedure in the event candidates are unopposed.

(a) At the top of each ballot for an election shall be printed in prominent type the words "OFFICIAL BALLOT" followed by the designation of the precinct for which it is prepared and the name and date of the election.

(b) Immediately under this caption on a ballot presenting the names of candidates for election to office, the following directions shall be printed, insofar as the same may be appropriate for the election involved:

"To vote a straight party ticket, mark a cross (X) or check (✓) mark in the square in the party column opposite the name of the party of your choice. If you do not desire to

vote a party ticket, then place a cross (X) or check (✓) mark in the square opposite the name of each candidate for whom you choose to vote. To vote for a person whose name is not on the ballot, manually write his name, accompanied by the title of the office involved, in the write-in column. If you spoil your ballot, do not erase, but ask for a new ballot. Use only pen or pencil.”

The names of persons inserted on the ballot by the elector shall be manually written only within the write-in column; and the insertion of such name outside such column or by the use of a sticker, paster, stamp, or other printed or written matter is prohibited.

(c) Immediately under the directions, the names of all candidates who have been nominated in accordance with the requirements of this chapter shall be printed on the ballot; and the names of the candidates shall in all cases be arranged under the titles of the respective offices they are seeking. The names of candidates who are nominees of a political party shall be placed under the name of their party. The columns of political parties shall be printed on the ballot, beginning on the left side thereof, and shall be arranged from left to right in the descending order of the totals of votes cast for candidates of the political parties for Governor at the last gubernatorial election. The columns of parties having no candidates for Governor on the ballot at the last gubernatorial election shall be arranged alphabetically according to the party name, to the right of the columns of the parties so represented. The columns of political bodies shall be arranged alphabetically, according to the party name, to the right of the columns of the parties so represented. The columns of political bodies shall be arranged alphabetically, according to the body name, to the right of the party columns. The names of all independent candidates shall be printed on the ballot in a column or columns under the heading “Independent,” which shall be placed to the right of the political body columns. In the case of two or more independent candidates seeking the same office, their names shall be arranged under the title of the office in alphabetical order. The names of candidates seeking the same office shall be printed horizontally opposite one another in their respective columns, and such columns shall be of sufficient length to permit such an arrangement. To the right of the independent column or columns shall be printed a sufficient blank column for the insertion of write-in votes. At the left of the name heading every column on the ballot and at the left of the name of every candidate thereon shall be a square of sufficient size for the convenient insertion of a cross (X) or check (✓) mark.

(d) When proposed questions are submitted to a vote of the electors, each question so submitted may be printed upon the ballot to the right of or below the groups of candidates for the various offices. To the left of each question there shall be placed the words “Yes” and “No,” together with appropriate squares to the left of each for the convenient insertion of a cross (X) or check (✓) mark.

(e) The name of a candidate shall not be listed on the ballot under the name of a political party or political body column unless the candidate has accompanied his notice of candidacy by the certificate of nomination required by subsection (b) of Code Section 21-3-91.

(f) The ballots shall vary in form only as the names of precincts, offices, or candidates may require or as otherwise required by this chapter.

(g) Any other provision of law to the contrary notwithstanding, in the event there is no

opposed candidate, then no name shall appear on the general election or special election ballot unless a write-in candidate has qualified as provided by law. Further, if there are no opposed candidates, no eligible write-in candidates and no issues to be submitted to the electorate within a precinct, no election shall be conducted in that precinct.

(h) When, pursuant to this Code section, no election is to be conducted, the municipality shall provide notice reasonably calculated to inform the affected electorate that no election is to be conducted. Each such unopposed candidate shall be deemed to have voted for himself. The superintendent shall certify such unopposed candidate as elected in the same manner as he certifies other candidates as elected pursuant to Code Section 21-3-403.

(i) Each elector eligible to have voted in an election which, in accordance with this Code section, was not conducted shall be deemed to have voted in such election for the purposes set forth in Code Sections 21-3-132 and 21-3-133. When pursuant to this Code section, no election is to be conducted, either the municipal registrars or the county registrars shall prepare, certify, and deliver electors lists as would otherwise be required by Code Sections 21-3-134 and 21-3-135. (Code 1933, § 34-1914, enacted by Ga. L. 1941, p. 324, § 1; Ga. L. 1948, Ex. Sess., p. 3, § 1; Ga. L. 1962, p. 98, § 1; Ga. L. 1962, p. 618, § 1; Code 1933, § 34A-1004, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1969, p. 282, § 3; Ga. L. 1974, p. 82, § 9; Ga. L. 1978, p. 1024, § 1; Ga. L. 1979, p. 970, § 1; Ga. L. 1980, p. 1005, § 3; Ga. L. 1982, p. 3, § 21; Ga. L. 1982, p. 1512, § 5.)

21-3-188. (Effective January 1, 1983) Uniformity of ballots within precincts; printing specifications, numbering, binding, etc., of ballots; form for absentee ballots.

(a) All ballots for use in the same precinct at any primary or election shall be alike and shall contain only the names of the candidates and issues to be voted on in such precinct. Ballots shall be at least six inches long and four inches wide and shall have a margin extending beyond any printing thereon. They shall be printed with the same kind of type (which shall not be smaller than the size known as "brevier" or "eight point body"), upon white paper of uniform quality, without any impression or mark to distinguish one from another, and with sufficient thickness to prevent the printed matter from showing through, except that ballots being used in primaries held by more than one party may be of different colors if the parties so agree. Each ballot shall be attached to a name stub, and all the ballots for the same precinct shall be bound together in books of 50 or 100, in such manner that each ballot may be detached from its stub and removed separately. The ballots for each party to be used at a primary shall be bound separately. The name stubs of the ballots shall be consecutively numbered; and, in the case of primary ballots, the number shall be preceded by an initial or abbreviation designating the party name. The number and initial or abbreviation which appears upon the stub shall also be printed in the upper portion of the front of the ballot, separated from the remainder of the ballot by a horizontal, perforated line so as to constitute a number strip, and so prepared that the upper portion of the front of the ballot containing the number may be detached from the ballot before it is deposited in the ballot box. The number strip on the ballot shall also have the following words printed thereon: "Tear off before depositing ballot in ballot box."

(b) The form for the absentee ballot shall be in substantially the same form as the official ballots used in the precincts, except it shall be printed with only the name stub and without a number strip. (Code 1933, § 34-1914, enacted by Ga. L. 1941, p. 324, § 1; Code

1933, § 34A-1006, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1969, p. 355, § 11; Ga. L. 1974, p. 82, §§ 10, 11; Ga. L. 1982, p. 1512, § 5.)

21-3-189. Procedure as to printing of ballots when candidates for same nomination, etc., have same or similar names.

If two or more candidates for the same nomination of office shall have the same or similar names, the official with whom such candidates qualify shall print or cause to be printed the residences of all candidates for such nomination or office on the ballot under their names. Such official shall determine whether the names of the candidates are of such a similar nature as to warrant printing the residences of all candidates on the ballot; and the decision of such official shall be conclusive. (Code 1933, § 34A-1007, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1980, p. 1005, § 4.)

21-3-190. Printing on ballots of names of substitute candidates.

As soon as any substitute candidate shall have been duly nominated by his political party or body, at any time prior to the day on which the printing of ballots is started, his name shall be substituted in place of that of the candidate who has died, withdrawn, or been disqualified. (Ga. L. 1948, Ex. Sess., p. 3, § 1; Ga. L. 1962, p. 618, § 1; Code 1933, § 34A-1008, enacted by Ga. L. 1968, p. 885, § 1.)

21-3-191. Procedure for correction of mistakes and omissions on ballots.

When it is shown by affidavit that a mistake or omission has occurred in the printing of official ballots for any primary or election, the superior court of the proper county, upon the application of any elector of the municipality, may require the superintendent to correct the mistake or omission or to show cause why he should not do so. (Code 1933, § 34A-1011, enacted by Ga. L. 1968, p. 885, § 1.)

21-3-192. (Effective January 1, 1983) Duty of superintendent to have forms of ballots on file for public inspection three days prior to election.

At least three days prior to the day of holding each primary and election, the superintendent shall have on file in his office, open to public inspection, forms of the ballots, with the names and such statements and notations as may be required by this chapter printed thereon, which shall be used in each precinct within the municipality. (Code 1933, § 34A-1010, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1982, p. 1512, § 5.)

21-3-193. Proceedings in which write-in votes may be used; designing of write-in ballots so as to permit managers to detect unauthorized write-in votes; duty of Secretary of State and State Election Board to ensure ballot secrecy.

In elections, electors shall be permitted to cast write-in votes. No write-in votes may be cast in a primary, run-off primary, or run-off election. The design of the ballot card shall permit the managers counting the write-in votes to determine readily whether an elector has cast any write-in votes not authorized by law. The Secretary of State, in specifying the form of the ballot, and the State Election Board, in promulgating rules and regulations respecting the conduct of elections, shall provide for ballot secrecy in connection with

write-in votes. (Code 1933, § 34A-1124, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1974, p. 82, § 15.)

21-3-194. Sample ballots and ballot labels.

(a) As an aid to electors, sample ballots or ballot labels may be printed and published in any newspaper generally and regularly circulated within the municipality, so long as the facsimile is labeled "Sample Ballot" and is at least 25 percent larger or smaller than the official ballot. Reprints of such newspaper printings may be procured and distributed by any elector. Municipal election officials may also prepare and distribute sample ballots or ballot labels or portions thereof, provided they are labeled "Sample Ballot" and are of a different color and at least 25 percent larger or smaller than the official ballot or ballot label.

(b) In those municipalities which employ the use of vote recorders or voting machines, the superintendent shall prepare sample or facsimile ballot labels for each general election, which samples shall contain each question and the candidates who are offered for election for each office which will be voted upon in the municipality. The superintendent shall maintain such sample or facsimile ballot labels at the city hall for distribution upon request to interested electors. Such sample or facsimile ballot label shall comply with subsection (a) of this Code section. (Code 1933, § 34A-1012, enacted by Ga. L. 1969, p. 355, § 12; Ga. L. 1977, p. 1197, § 1.)

ARTICLE 9
VOTING MACHINES AND VOTE RECORDERS GENERALLY

Part 1

General Provisions

21-3-210. Definitions.

As used in this article, the term:

(1) "Candidate counters" and "question counters" means the counters which numerically register the votes cast for candidates and on questions, respectively.

(2) "Diagram" means an illustration of the official ballot showing the names of the parties, bodies, offices, and candidates, and statements of the questions in their proper places, together with the voting devices therefor.

(3) "Protective counter" means a counter or protective device or devices that will register each time the machine is operated and shall be constructed and so connected that it cannot be reset, altered, or operated, except by operating the machine.

(4) "Public counter" means a counter or other device which shall at all times publicly indicate how many times the machine has been voted on during an election.

(5) "Registering counter" shall not include a protective counter.

(6) "Vote indicators" means those devices which indicate votes for candidates or for or against questions. (Code 1933, § 34A-1101, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1982, p. 3, § 21.)

Part 2

Voting Machines

21-3-220. Power of governing authority to authorize use of and to purchase, lease, etc., voting machines.

The governing authority of any municipality, at any regular meeting or at a special meeting called for the purpose by a majority vote, may authorize and direct the use of voting machines for recording and computing the vote at all elections held in the municipality; and thereupon the governing authority shall purchase, lease, rent, or otherwise procure voting machines conforming to the requirements of this article. (Code 1933, § 34A-1102, enacted by Ga. L. 1968, p. 885, § 1.)

21-3-221. Referendum on question of use of voting machines.

(a) The governing authority of any municipality, upon its own motion or upon the receipt of a petition signed by at least 10 percent of the electors who voted in such municipality at the preceding general election, may submit to the electors of the municipality, at an election, the question: "Shall voting machines be used in the municipality of

?"

(b) The election on such question shall be conducted by the poll officers at the places, during the hours, and under the regulations provided by law for the holdings of general elections. Returns shall be computed and certified in the same manner as prescribed in this chapter for general elections.

(c) If necessary in order to provide funds for the purchase of such voting machines, the question of whether the indebtedness of the municipality shall be increased shall be submitted to a vote of the electors of the municipality at the same time as the question of whether voting machines shall be used.

(d) If a majority of the electors voting on such question or questions shall vote in the affirmative, the governing authority of such municipality shall purchase, lease, or rent voting machines, conforming to the requirements of this article, for recording and computing the vote at all elections held in such municipality. (Code 1933, § 34A-1103, enacted by Ga. L. 1968, p. 885, § 1.)

21-3-222. General requirements as to voting machines.

The general requirements as to voting machines prescribed in Code Section 21-2-322 shall apply to voting machines used pursuant to this article. (Code 1933, § 34A-1106, enacted by Ga. L. 1968, p. 885, § 1.)

21-3-223. (Effective January 1, 1983) Installation of voting machines; discontinuance of use of paper ballots; minimum number of machines required; use of different types of voting machines; requirements as to working order of voting machines and number of candidates which can be accommodated.

(a) When the use of voting machines has been authorized in the manner prescribed by either Code Section 21-3-220 or 21-3-221, such voting machines shall be installed, either simultaneously or gradually, within the municipality. Upon the installation of voting machines in any precinct, the use of paper ballots therein shall be discontinued, except as otherwise provided by this chapter.

(b) In each precinct in which voting machines are used, the governing authority shall provide at least one voting machine for each 500 electors, or fraction thereof, in such precinct.

(c) Voting machines of different kinds may be used for different districts in the same municipality.

(d) The governing authority shall provide voting machines in good working order and of sufficient capacity to accommodate the names of a reasonable number of candidates for all party offices and nominations and public offices which, under the provisions of existing laws and party rules, are likely to be voted for at any future primary or election. (Code 1933, § 34A-1104, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1969, p. 355, § 13; Ga. L. 1982, p. 1512, § 5.)

21-3-224. Examination and approval of voting machines by Secretary of State.

The examination and approval of voting machines by the Secretary of State shall apply

to municipalities as prescribed for counties in Code Section 21-2-324. (Code 1933, § 34A-1105, enacted by Ga. L. 1968, p. 885, § 1.)

21-3-225. (Effective January 1, 1983) Form of ballot labels generally.

(a) The ballot labels shall be printed in black ink upon clear white material of such size as will fit the ballot frame, and in plain, clear type so as to be easily readable by persons with normal vision.

(b) If the construction of the machine shall require it, the ballot label for each candidate, group of candidates, political party or body, or question to be voted on shall bear the designating letter or number of the counter on the voting machine which will register or record votes therefor. Each question to be voted on shall appear on the ballot labels, in brief form of not more than 75 words, to be determined by the governing authority in the case of questions to be voted on by the electors of the municipality.

(c) The ballot label for each candidate or group of candidates nominated by a party or body shall contain the name or designation of the party or body.

(d) The titles of offices may be arranged horizontally or vertically, with the names of candidates for an office arranged transversely under or opposite the title of the office.

(e) The names of all candidates nominated by a party or body shall appear in adjacent rows or columns containing generally the names of candidates nominated by such party or body.

(f) The form and arrangement of ballot labels shall be prepared by the superintendent.

(g) The names of all candidates of a party or body shall appear in the same row or column, and no other names shall appear in the same row or column, to the left or top of which shall be a straight party or body lever by means of which an elector may, in one operation, vote for all the candidates of that party or body for every office to be voted for. The names of such candidates and independent candidates shall be arranged under or opposite the title of the office for which they are candidates and shall appear in the order prescribed by subsection (c) of Code Section 21-3-187. The rows or columns occupied by the candidates of political parties and bodies shall be arranged according to the priority prescribed by subsection (c) of Code Section 21-3-187.

(h) In primaries, the ballot labels containing the names of candidates seeking nomination by a political party shall be segregated on the face of the machine in adjacent rows or columns by parties, the priority of such political parties on the ballot labels to be determined in the order prescribed by subsection (c) of Code Section 21-3-187.

(i) In primaries, if it shall be impracticable to place on the ballot labels of one machine the names of all candidates seeking nomination in all political parties, the municipal superintendent may arrange, for each precinct, the names of the candidates on separate voting machines; provided, however, that the names of all the candidates seeking nomination in any one political party shall appear on one machine.

(j) Any other provision of law to the contrary notwithstanding, in the event there is no opposed candidate, no name shall appear on the general election ballot labels unless a write-in candidate has qualified as provided by law. Further, if there are no opposed

candidates, no eligible write-in candidates, and no issues to be submitted to the electorate, no election shall be conducted. Each such unopposed candidate shall be deemed to have voted for himself. The superintendent shall certify such unopposed candidate as elected in the same manner as he certifies other candidates as elected pursuant to Code Section 21-3-403. (Code 1933, § 34A-1108, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1974, p. 82, §§ 12, 13; Ga. L. 1978, p. 1024, § 2; Ga. L. 1982, p. 1512, § 5.)

21-3-226. (Effective January 1, 1983) Unofficial ballot labels; use of paper ballots in cases of machine breakdown.

(a) If ballot labels for a precinct at which a voting machine is to be used shall not be delivered to the poll officers as required by this chapter, the chief manager of such precinct shall cause other labels to be prepared, printed, or written, as nearly in the form of official ballot labels as practicable, and the poll officers shall cause the labels, so substituted, to be used at the primary or election, in the same manner, as nearly as may be, as the official labels. Such labels, so substituted, shall be known as unofficial ballot labels.

(b) If any voting machine shall become out of order during a primary or election and repair or substitution cannot be made, paper ballots, either printed or written, and of any suitable form, may be used for the taking of votes. (Code 1933, § 34A-1115, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1982, p. 1512, § 5.)

21-3-227. (Effective January 1, 1983) Preparation of voting machines for voting; appointment, oath of office, duties, etc., of custodians of voting machines and their deputies; notice to parties of such preparation; inspection of voting machines by interested parties; affidavits as to preparation of machines.

(a) The municipal superintendent of each municipality shall cause the proper ballot labels to be placed on each voting machine which is to be used in any precinct within such municipality; shall cause each machine to be placed in proper order for voting; shall examine each machine before it is sent out to a polling place; shall see that each registering counter on each machine is set at zero; shall lock each machine so that the counting machinery cannot be operated; and shall seal each machine with a numbered seal. The municipal superintendent or his agent shall adjust each machine to be used at a primary, so that the poll officers may lock it on primary day in such a way that each elector can vote only for the candidates seeking nomination by the political party in whose primary he is then voting and so that no elector can vote for the candidates seeking nomination by any political party in whose primary he is not then voting.

(b) The governing authority shall appoint one custodian of voting machines and such deputy custodians as may be necessary, whose duty it shall be to prepare the machines to be used in the municipality at the primaries and elections to be held therein. Each custodian and deputy custodian shall receive from the municipality such compensation as shall be fixed by the governing authority of the municipality. Such custodian, under the direction of the municipal superintendent, shall have charge of and represent the municipal superintendent during the preparation of the voting machines as required by this chapter. Each custodian shall take an oath of office framed by the governing authority, which oath shall be filed with the city clerk. Each custodian and deputy custodian shall serve at the pleasure of the governing authority.

(c) On or before the twentieth day preceding a primary or election, the municipal superintendent shall mail to the chairman of the municipal or other appropriate executive committee of each political party having candidates in the primary or election, and to each candidate who shall be entitled to have his name placed on the the primary or election ballot, a written notice stating the times when and the place or places where preparation of the machines for use in the several precincts in the municipality will be started. Notice shall also be placed in a newspaper of general circulation in the municipality at least five days prior to the preparation of the machines. Interested parties may be present and shall be afforded every facility for the examination of all registering counters, protective counters, and public counters of each and every voting machine. However, such parties shall not interfere with the preparation of the machines, and the municipal superintendent may make reasonable rules and regulations governing the conduct of such interested parties.

(d) The custodian and deputy custodians of voting machines shall make an affidavit, which each shall sign, and each person present at the preparation shall have the opportunity to attest, and which shall be filed with the city clerk, stating:

(1) The identifying number or other designation of the voting machine;

(2) That each registering counter of the machine was set at zero;

(3) The number registered on the protective counter or other device of the machine;
and

(4) The number on the seal with which the machine is sealed. (Code 1933, § 34A-1109, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1974, p. 82, § 14; Ga. L. 1982, p. 1512, § 5.)

21-3-228. (Effective January 1, 1983) Delivery of properly furnished voting machines, etc., prior to primary or election; protection against molestation or injury of voting machines.

(a) The municipal superintendent shall deliver the proper voting machine or machines, properly furnished with ballot labels, to the polling places of the respective precincts at least one hour before the time set for opening the polls at each primary or election; and he shall cause each machine to be set up in the proper manner for use in voting. Each machine shall then remain sealed until the examination prescribed by Code Section 21-3-360 immediately preceding the opening of the polls.

(b) The municipal superintendent shall provide ample protection against molestation of or injury to the voting machine and, for that purpose, shall call upon any law enforcement officer to furnish such assistance as may be necessary; and it shall be the duty of the law enforcement officer to furnish such assistance when so requested by the municipal superintendent.

(c) The municipal superintendent shall furnish for each voting machine at least one hour before the opening of the polls:

(1) A lamp which shall give sufficient light to enable electors, while in the voting machine booth, to read the ballot labels, and which is suitable for the use of poll officers in examining the counters; and the lamp shall be prepared and in good order for use before the opening of the polls;

(2) Two diagrams of suitable size, representing such part of the face of such voting machine as will be in use in the primary or election and accompanied by directions for voting on the machine; and such diagrams shall be posted prominently outside the enclosed space within the polling place; and

(3) A seal for sealing the machine after the polls are closed; an envelope for the return of the keys, if the construction of the voting machine shall permit their separate return; and such other election materials and supplies as may be necessary or as may be required by law. (Code 1933, § 34A-1111, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1982, p. 1512, § 5.)

21-3-229. (Effective January 1, 1983) Delivery of voting machine keys to chief manager.

The municipal superintendent shall deliver the keys which unlock the operating mechanism and the registering counters or counter compartment of the voting machine to the chief manager, not later than one hour before the time set for the opening of the polls, and shall take his receipt therefor. The keys shall be enclosed in a sealed envelope on which shall be written or printed:

(1) The number of the voting machine;

(2) The designation of the precinct;

(3) The number of the seal; and

(4) The number registered on the protective counter or device as reported by the custodian.

However, if the type of voting machine used requires the simultaneous use of three keys to unlock the registering counters or counter compartment, only two of the keys shall be enclosed in such sealed envelope, the third key being retained by the custodian or the municipal superintendent. (Code 1933, § 34A-1112, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1982, p. 1512, § 5.)

21-3-230. Instruction of electors in use of voting machines before primary or election; posting, publication, etc., of diagrams of machines.

(a) During the five days preceding a general primary or election or during the three days preceding a special primary or election, the municipal superintendent shall place on public exhibition; in such public places and at such times as he may deem most suitable for the information and instruction of the electors, one or more voting machines containing the ballot labels showing the offices and questions to be voted upon, the names and arrangements of parties and bodies, and, so far as practicable, the names and arrangements of the candidates to be voted for. Such machine or machines shall be under the charge and care of a person competent as custodian and instructor. No voting machine which is to be assigned for use in a primary or election shall be used for such public exhibition and instruction after having been prepared and sealed for the primary or election.

(b) Prior to any primary or election, the municipal superintendent may cause copies of any diagram or diagrams required to be furnished with voting machines at polling places to be made, either in full size or in reduced size, and to be posted, published, advertised, or distributed among the electors in such manner as he may deem desirable. (Code 1933, § 34A-1113, enacted by Ga. L. 1968, p. 885, § 1.)

21-3-231. Designation and compensation of custodians of voting machines and keys; storage and care of machines and keys.

The governing authority shall designate a person or persons who shall have the custody of the voting machines of the municipality and the keys therefor, when the machines are not in use at a primary or election, and shall provide for his compensation and for the safe storage and care of the machines and keys. (Code 1933, § 34A-1116, enacted by Ga. L. 1968, p. 885, § 1.)

21-3-232. Responsibility of municipality to provide for payment for voting machines; issuance of bonds, etc., to meet cost of machines.

The governing authority of any municipality which adopts voting machines in a manner provided for by this article shall, upon the purchase thereof, provide for payment therefor by the municipality. Bonds or other evidence of indebtedness may be issued, in accordance with the provisions of law relating to the increase of indebtedness of municipalities, to meet all or any part of the cost of the voting machines. (Code 1933, § 34A-1107, enacted by Ga. L. 1968, p. 885, § 1.)

21-3-233. Furnishing of ballot labels, supplies, etc.

(a) In the case of an election, the governing authority shall furnish, at the expense of the municipality, all ballot labels, forms of certificates, and other papers and supplies required under this chapter.

(b) In the case of a primary, ballot labels and other materials necessary for the preparation of the voting machines shall be furnished free of charge to the municipal superintendent by the political party conducting such primary. (Code 1933, § 34A-1110, enacted by Ga. L. 1968, p. 885, § 1.)

21-3-234. Voting by paper ballot when use of voting machine impracticable.

If, for any reason, at any primary or election the use of voting machines wholly or in part is not practicable, the municipal superintendent may arrange to have the voting for such candidates or offices or for such questions conducted by paper ballot. (Code 1933, § 34A-1114, enacted by Ga. L. 1968, p. 885, § 1.)

PART 3
VOTE RECORDERS

21-3-250. Applicability of Code Section 21-2-350 to vote recorders used pursuant to this chapter.

The general requirements as to vote recorders prescribed in Code Section 21-2-350 shall apply to vote recorders used pursuant to this article. (Code 1933, § 34A-1120, enacted by Ga. L. 1968, p. 885, § 1.)

21-3-251. Power of governing authority to authorize and direct the use of and to purchase, lease, etc., vote recorders.

The governing authority of any municipality, at any regular meeting called for the purpose, by a majority vote, may authorize and direct the use of vote recorders for recording and computing the vote at elections held in the municipality; and thereupon the governing authority shall purchase, lease, rent, or otherwise procure vote recorders conforming to the requirements of this article. (Code 1933, § 34A-1117, enacted by Ga. L. 1968, p. 885, § 1.)

21-3-252. (Effective January 1, 1983) Installation of the vote recorders; discontinuance of use of paper ballots; minimum number of recorders required; use of different types of recorders; requirements as to working order of recorders and number of candidates which can be accommodated.

(a) When the use of vote recorders has been authorized in the manner prescribed in Code Section 21-3-251, such vote recorders shall be installed, either simultaneously or gradually, within the municipality. Upon the installation of vote recorders in any precinct, the use of paper ballots therein shall be discontinued, except as otherwise provided by this chapter.

(b) In each precinct in which vote recorders are used, the governing authority shall provide at least one vote recorder for each 200 electors, or fraction thereof, in such precinct.

(c) Vote recorders of different kinds may be used for different districts in the same municipality.

(d) The governing authority shall provide vote recorders in good working order and of sufficient capacity to accommodate the names of a reasonable number of candidates for all party offices and nominations and public offices which, under the provisions of existing laws and party rules, are likely to be voted for at any future primary or election. (Code 1933, § 34A-1118, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1969, p. 355, § 14; Ga. L. 1982, p. 1512, § 5.)

21-3-253. Examination and approval of vote recorders by Secretary of State.

The examination and approval of vote recorders by the Secretary of State shall apply to municipalities as prescribed for counties in Code Section 21-2-353. (Code 1933, § 34A-1119, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1970, p. 341, § 5.)

21-3-254. Form of ballot labels; use of separate vote recorders for each political party in primaries; designing of ballot cards to allow clear identification of candidates in cases where same vote recorder is used for two or more parties.

(a) The ballot labels shall be printed in black ink upon clear, white, or pastel colored material, of such size and arrangement as will suit the construction of the vote recorder, and in plain, clear type so as to be easily readable by persons with normal vision.

(b) The arrangement of offices, names of candidates, and questions upon the ballot labels shall conform as nearly as practicable to the provisions of this chapter for the arrangement of same on paper ballots; provided, however, that such form may be varied in order to present a clear presentation of candidates and questions to the electors. In the event that there are more candidates for any office than can be placed upon one page, the label shall be clearly marked to indicate that the names of candidates for the office are continued on the following page.

(c) The form and arrangements of ballot labels shall be prepared by the superintendent.

(d) In primaries, separate vote recorders may be used for each political party. If the same vote recorder is used for two or more political parties on the same day, the ballot cards of each party shall be clearly identified and so designed that only votes cast for candidates of that party will be counted by the tabulating machine. (Code 1933, § 34A-1122, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1978, p. 1025, § 7.)

21-3-255. (Effective January 1, 1983) Use of unofficial ballot labels; use of paper ballots in cases of recorder breakdown.

(a) If ballot labels for a precinct at which a vote recorder is to be used shall not be delivered to the poll officers as required by this chapter, the chief manager of such precinct shall cause other labels to be prepared, printed, or written, as nearly in the form of official ballot labels as practicable, and the poll officers shall cause the labels, so substituted, to be used at the primary or election, in the same manner, as nearly as may be, as the official labels. Such labels, so substituted, shall be known as unofficial ballot labels.

(b) If any vote recorder shall become out of order during such primary or election and repair or substitution cannot be made, paper ballots, printed or written, and of any suitable form, may be used for the taking of votes. (Code 1933, § 34A-1130, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1982, p. 1512, § 5.)

21-3-256. Form of ballot cards of vote recorders.

Ballot cards shall be of suitable design, size, and stick to permit processing by a tabulating machine. A serially numbered strip shall be attached to each ballot card in a manner and form similar to that prescribed in this chapter for paper ballots. (Code 1933, § 34A-1123, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1969, p. 355, § 15.)

21-3-257. (Effective January 1, 1983) Preparation of vote recorders for voting; public tests of counting mechanisms; correction of errors before approval; appointment, duties, and compensation of custodians of vote recorders and their deputies; free access to and examination of recorders.

(a) The municipal superintendent of each municipality shall cause the proper ballot

labels to be placed on each vote recorder which is to be used in any precinct within such municipality and shall cause each vote recorder to be placed in proper order for voting.

(b) On or before the third day preceding a primary or election, the municipal superintendent shall have the tabulating machines tested to ascertain that they will correctly count the votes cast for all offices and on all questions. Public notice of the time and place of the test shall be made at least five days prior thereto. Representatives of political parties and bodies, candidates, news media, and the public shall be permitted to observe such tests. The test shall be conducted by processing a preaudited group of ballot cards so punched or marked as to record a predetermined number of valid votes for each candidate and on each question and shall include for each office one or more ballot cards which have votes in excess of the number allowed by law in order to test the ability of the tabulating machine to reject such votes. The tabulating machine shall not be approved unless it produces an errorless count. If any error is detected, the cause therefor shall be ascertained and corrected, and an errorless count shall be made before the machine is approved. The same test shall be repeated immediately before the start of the official count of the ballot cards and at the conclusion of such count. The municipal superintendent or custodian shall also prepare the vote recorders for voting at the various polling places to be used in the primary or elections. In preparing the vote recorders, he shall arrange the recorders and the ballot labels so that they meet all requirements of voting and counting at such primary or election, thoroughly inspect and test the vote recorders, and file a certificate in the office of the city clerk that the recorders are in proper order with correct ballot labels.

(c) The governing authority shall appoint one custodian of vote recorders and such deputy custodians as may be necessary, whose duty it shall be to prepare the vote recorders to be used in the municipality at the primaries and elections to be held therein. Each custodian and deputy custodian shall receive from the municipality such compensation as shall be fixed by the governing authority. Such custodian, under the direction of the municipal superintendent, shall have charge of and represent the superintendent during the preparation of the vote recorders as required by this chapter. Each custodian shall take an oath of office framed by the governing authority, which oath shall be filed with the city clerk. No write-in votes may be cast in a primary, run-off primary, or run-off election.

(d) No municipal superintendent, nor custodian, nor other employee of the municipal superintendent shall in any way prevent free access to and examination of all vote recorders, which are to be used at the primary or election, by any interested persons. (Code 1933, § 34A-1125, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1974, p. 82, § 16; Ga. L. 1982, p. 3, § 21; Ga. L. 1982, p. 1512, § 5.)

21-3-258. Delivery of properly furnished vote recorders, etc., prior to primary or election; protection against molestation or injury of recorders.

(a) The municipal superintendent shall deliver the proper vote recorder or recorders, properly furnished with ballot labels, to the polling places at least one hour before the time set for opening the polls at each primary or election; and he shall cause each vote recorder to be set up in the proper manner for use in voting. The municipal superintendent shall place each vote recorder in a voting booth so that the ballot labels on the recorder can be plainly seen by the poll officers when not being voted on.

(b) The municipal superintendent shall provide ample protection against molestation of and injury to the vote recorder and, for that purpose, shall call upon any law enforcement officer to furnish such assistance as may be necessary; and it shall be the duty of the law enforcement officer to furnish such assistance when so requested by the municipal superintendent.

(c) The municipal superintendent shall furnish for each vote recorder at least one hour before the opening of the polls:

(1) A lamp which shall give sufficient light to enable electors, while in the voting booth, to read the ballot labels, and which is suitable for the use of poll officers in examining the vote recorder; and the lamp shall be prepared and in good order for use before the opening of the polls;

(2) Two sample ballots printed on a single sheet of white paper or a number of sheets stapled together, which shall be a reasonable facsimile of the ballot labels as will be in use in the primary or election, and accompanied by directions for voting on the vote recorder; and such sample ballots shall be posted prominently outside the enclosed space within the polling place; and

(3) A seal for sealing the vote recorder after the polls are closed and such other materials and supplies as may be necessary or as may be required by law. (Code 1933, § 34A-1127, enacted by Ga. L. 1968, p. 885, § 1.)

21-3-259. Instruction of electors as to use of vote recorders before primary or election.

During the five days preceding a general primary or election or during the three days preceding a special primary or election, the municipal superintendent shall place on public exhibition, in such public places and at such times as he may deem most suitable for the information and instruction of the electors, one or more vote recorders containing the ballot labels showing the office and questions to be voted upon, the names and arrangements of parties and bodies, and, so far as practicable, the names and arrangements of the candidates to be voted for. Such recorder or recorders shall be under the charge and care of a person competent as custodian and instructor. (Code 1933, § 34A-1128, enacted by Ga. L. 1968, p. 885, § 1.)

21-3-260. Designation and compensation of custodians of vote recorders; storage and care of recorders.

The governing authority shall designate a person or persons who shall have the custody of the vote recorders of the municipality when they are not in use at a primary or election and shall provide for his compensation and for the safe storage and care of the vote recorders. (Code 1933, § 34A-1131, enacted by Ga. L. 1968, p. 885, § 1.)

21-3-261. Responsibility of municipality to provide for payment for vote recorders; issuance of bonds, etc., to meet cost of vote recorders.

The governing authority of any municipality which adopts vote recorders in the manner provided for by this article shall, upon the purchase thereof, provide for payment therefor by the municipality. Bonds or other evidence of indebtedness may be issued, in accordance

with the provisions of law relating to the increase of indebtedness of municipalities, to meet all or any part of the cost of the vote recorders. (Code 1933, § 34A-1121, enacted by Ga. L. 1968, p. 885, § 1.)

21-3-262. Furnishing of ballot labels, supplies, etc.

(a) In the case of an election, the municipal superintendent shall furnish, at the expense of the municipality, all ballot labels, forms of certificates, and other papers and supplies required under this chapter.

(b) In the case of a primary, ballot labels and other materials necessary for the preparation of the vote recorders shall be furnished free of charge to the municipal superintendent by the political party conducting such primary. (Code 1933, § 34A-1126, enacted by Ga. L. 1968, p. 885, § 1.)

21-3-263. Voting by paper ballot when utilization of vote recorder is not practicable.

If, for any reason, at any primary or election the use of vote recorders wholly or in part is not practicable, the municipal superintendent may arrange to have the voting for such candidates or offices or for such questions conducted by paper ballots. (Code 1933, § 34A-1129, enacted by Ga. L. 1968, p. 885, § 1.)

ARTICLE 10
ABSENTEE VOTING

21-3-280. "Absentee elector" defined.

The term "absentee elector," as used in this article, means an elector of the municipality who is required to be absent from said municipality during the time of the primary or election in which he desires to vote, or who will perform any of the official acts or duties set forth in this chapter in connection with the primary or election in which he desires to vote, or who because of physical disability will be unable to be present at the polls on the day of such primary or election, or who, because of the election or primary falls upon a religious holiday observed by such elector, will be unable to be present at the polls on the day of such primary or election. (Code 1933, § 34A-1302, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1969, p. 355, § 1; Ga. L. 1979, p. 968, § 3.)

21-3-281. Applicability of article.

This article shall apply to municipal primaries, elections, and bond elections. (Code 1933, § 34A-1301, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1975, p. 888, § 1.)

21-3-282. Appointment of absentee ballot clerk.

The governing authority shall appoint an absentee ballot clerk who may be the county registrar, municipal registrar, or any other designated official and who shall perform the duties set forth in this article. (Code 1933, § 34A-1303, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1975, p. 888, § 2.)

21-3-283. Making of application for absentee ballot; determination of eligibility by ballot clerk.

(a) Any absentee elector may make an application either by mail or in person in the absentee ballot clerk's office to the absentee ballot clerk for an official ballot of the elector's district to be voted at such primary or election. In the case of an elector residing temporarily out of the municipality and the county in which the absentee elector permanently resides, the application for the elector's absentee ballot may, upon satisfactory proof of relationship, be made by his mother, father, aunt, uncle, sister, brother, spouse, son, daughter, mother-in-law, father-in-law, brother-in-law, or sister-in-law of the age of 18 or over. The application shall be in writing and shall contain sufficient information for proper identification of the elector; the permanent or temporary address of the elector to which the absentee ballot shall be mailed; the identity of the primary, election, or runoff in which the elector wishes to vote; the reason for requesting the absentee ballot; and the name and relationship of the person requesting the ballot if other than the elector. No absentee ballot shall be mailed to an address other than the permanent or temporary address of the elector. Relatives applying for absentee ballots for electors must also sign an oath stating that facts in the application are true. If the elector is unable to fill out or sign his own application because of illiteracy or physical disability, the elector shall make his mark, and the person filling in the rest of the application shall sign his name below it as a witness.

(b) One timely and proper application for an absentee ballot for use in a primary shall be sufficient to require the sending or delivery, to an eligible absentee elector who lives outside the county in which the election is held and is also a member of the armed forces of the United States, a member of the merchant marine of the United States or a spouse or dependent of a member of the armed forces or the merchant marine residing with or accompanying said member, of a absentee ballot for such primary as well as for any runoffs resulting therefrom and for the election for which such primary shall nominate candidates. Further, such application for an absentee ballot to be used in any election shall be sufficient to require the sending and delivery of an absentee ballot for any runoffs resulting from such an election. In any event, a separate and distinct application for an absentee ballot shall be required for any special election or special primary.

(c) Upon receipt of a timely application, the absentee ballot clerk shall enter thereon the date received and shall determine if the applicant is eligible to vote in the primary or election involved. If found eligible, the absentee ballot clerk shall certify by signing in the proper place on the application and either mail the ballot, as provided in Code Section 21-3-284, deliver the ballot to the elector within the confines of the absentee ballot clerk's office, or deliver the ballot in person to the elector if he is confined to a hospital. If found ineligible, the clerk shall deny the application by writing the reason for the rejection in the proper space on the application and shall promptly notify the applicant in writing of the ground of his ineligibility, a copy of which should be retained on file in the office of the absentee ballot clerk. If the absentee ballot clerk is unable to determine the identity of the elector from information given on the application, he should promptly write to request additional information. (Ga. L. 1924, p. 186, §§ 3, 6; Code 1933, §§ 34-3302, 34-3305; Ga. L. 1943, p. 228, § 1; Ga. L. 1955, p. 204, §§ 1, 2; § 3; Ga. L. 1977, p. 550, § 2; Ga. L. 1979, p. 631, § 1; Ga. L. 1981, p. 1728, § 7; Ga. L. 1982, p. 3, § 21.)

21-3-284. (Effective January 1, 1983) Form of ballots; preparation and delivery of ballots, envelopes, etc.; mailing of ballots; oath of absentee electors and persons assisting absentee electors; list of ballots sent.

(a) The ballots shall be marked "Official Absentee Ballot" and shall be in substantially the form for ballots required by Article 8 of this chapter, except that in municipalities using voting machines or vote recorders the ballots may be in substantially the form for ballot labels required by Article 9 of this chapter or in such form as will allow the ballots to be machine tabulated. The form for absentee ballots shall be determined and prescribed by the superintendent, except that the Secretary of State shall determine and prescribe the form for ballots not following the paper ballot format.

(b) The superintendent shall, as soon as practicable prior to each primary or election, prepare or obtain and deliver to the absentee ballot clerk an adequate supply of official absentee ballots, envelopes, and other supplies, as required by this article, for use in the primary or election. The absentee ballot clerk shall deliver or mail official absentee ballots to all eligible applicants within two days after the receipt of such supplies; and as additional applicants are determined to be eligible, the clerk shall deliver or mail official absentee ballots to such additional applicants immediately upon determining their eligibility; provided, however, that a ballot shall not be mailed to an applicant whose application is received within a period of five days prior to the primary or election and whose mailing

address is located over 300 miles from the main office of the absentee ballot clerk; and, provided, further, that no absentee ballot shall be mailed by the clerk on the day prior to a primary or election. The date a ballot is mailed or delivered to an elector and the date it is returned shall be entered on the application therefor.

(c) In addition to the mailing envelope, the superintendent shall provide two envelopes for each official absentee ballot, the smaller of which shall have printed thereon the words "Official Absentee Ballot" and nothing else. On the back of the larger envelope shall be printed the form of the oath of the elector, the oath for persons assisting electors, and the penalties prescribed in Code Section 21-3-17 for violation of this chapter; and on the face of the envelope shall be printed the name and address of the absentee ballot clerk. The mailing envelope addressed to the elector shall contain the two envelopes, the official absentee ballot, uniform instructions for the manner of preparing and returning the ballot, in form and substance as provided by the Secretary of State, and nothing else.

(d) The oaths referred to in subsection (c) of this Code section shall be in substantially the following form:

I, the undersigned, do swear (or affirm) that I am a citizen of the United States and of the State of Georgia; that my residence address is _____ City, _____ County, Georgia; that I possess the qualifications of an elector required by the laws of the State of Georgia; that I am entitled to vote in the precinct containing my residence in the primary or election in which this ballot is to be cast; that I am eligible to vote by absentee ballot; that I have not marked or mailed any other absentee ballot; nor will I mark or mail another absentee ballot for voting in such primary or election, nor shall I vote there in person; and that I have read and understand the instructions accompanying this ballot and that I have carefully complied with such instructions in completing this ballot.

Elector's Residence
Address

Month and Day of
Elector's Birth

Elector's Place of
Birth

Maiden Name of
Mother of Elector

Signature of Mark
of Elector

Oath of Person Assisting Elector (if any):

I, the undersigned, do swear (or affirm) that I assisted the above-named elector in marking his absentee ballot, that I am satisfied that he presently possesses the disability noted below, and that by reason of such disability such elector is entitled to receive assistance in voting under provisions of subsection (a) of Code Section 21-3-318.

This, the _____ day of _____, 19 _____.

Signature of Person
Assisting Elector —
Relationship

Reason for assistance (check appropriate square):

- Elector is unable to read the English language.
- Elector has the following physical disability _____.

The forms upon which such oath are printed shall contain the following language:

Georgia law provides that no person shall assist more than ten electors in any primary or election. (Subsection (c) of Code Section 21-3-318).

Georgia law further provides that any person violating this chapter shall be guilty of a misdemeanor.

(e) Each absentee ballot clerk shall maintain for public inspection a master list, arranged by precincts, setting forth the name and residence of every elector to whom an official absentee ballot has been sent. (Code 1933, § § 34A-1305, 34A-1306, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1969, p. 355, § 35; Ga. L. 1975, p. 888, §§ 4, 5; Ga. L. 1982, p. 1512, § 5.)

21-3-285. Procedure for voting by absentee ballot.

(a) At any time after receiving an official absentee ballot, but before the date of the primary or election, the elector shall vote his absentee ballot, then fold the ballot and close and securely seal the same in the envelope on which is printed "Official Absentee Ballot." This envelope shall then be placed in the second one, on which is printed the form of the oath of the elector, the name, relationship, and oath of the person assisting (if any), and other required identifying information. The elector shall then fill out, subscribe, and swear to the oath printed on such envelope. Such envelope shall then be securely sealed, and the elector shall then mail or personally deliver the same to the absentee ballot clerk.

(b) A physically disabled or illiterate elector may receive assistance in preparing his ballot from one of the following: any elector selected by such elector who is qualified to vote in the same municipality as the disabled elector or the father, mother, brother, sister, spouse, son, daughter, mother-in-law, father-in-law, brother-in-law, or sister-in-law of the disabled elector. If the disabled elector is sojourning outside his own municipality, a notary public of the jurisdiction may give such assistance and shall then sign the oath printed on

the same envelope as the oath to be signed by the elector. No person shall assist more than five such electors in any primary, election, or runoff.

(c) When an elector applies in person for an absentee ballot, after the absentee ballots have been printed, the absentee ballot shall be delivered to the elector within the confines of the registrar's office at the time of the application; and the elector shall then and there vote and deliver the absentee ballot as provided in subsections (a) and (b) of this Code section. The board of registrars shall furnish accommodations to the elector to ensure the privacy of the elector while voting his absentee ballot. (Ga. L. 1924, p. 186, § 4; Code 1933, § 34-3303; Ga. L. 1953, Jan.-Feb. Sess., p. 579, § 1; Ga. L. 1955, p. 204, § 3; Ga. L. 1955, p. 732, § 3; Ga. L. 1956, p. 682, §§ 3, 4; Code 1933, § 34A-1307, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1969, p. 355, § 36; Ga. L. 1975, p. 888, § 6; Ga. L. 1979, p. 964, § 1; Ga. L. 1981, p. 1728, § 8; Ga. L. 1982, p. 3, § 21.)

21-3-286. (Effective January 1, 1983) Safekeeping, certification, etc., of absentee ballots received from electors; procedure upon rejection of ballot; delivery of ballots to manager.

(a) The absentee ballot clerk shall keep safely and unopened all official absentee ballots received from absentee electors prior to the closing of the polls on the day of the primary or election. Upon receipt of each ballot, the absentee ballot clerk shall write the day and hour of the receipt of the ballot on its envelope. The clerk shall then compare the identifying information on the oath with the information on file in his office and shall, if the information and signature appear to be valid, so certify by signing his name below the elector's oath. Each elector's name so certified shall be listed by the absentee ballot clerk on a numbered list of absentee voters prepared for his precinct. If the elector has failed to sign the oath, or if his signature does not appear to be valid, or if the information so furnished does not comply with that on file in the registrar's office, or if the elector is otherwise found disqualified to vote, the absentee ballot clerk shall write across the face of the envelope "Rejected," giving the reason therefor. The absentee ballot clerk shall promptly notify the elector of such rejection; and a special set of numbered lists of voters shall also be prepared for rejected absentee electors, giving the name of the elector and the reason for the rejection in each case. Four copies of the numbered list of certified absentee electors and the numbered list of rejected absentee electors for each precinct shall be turned over to the poll manager in charge of counting the absentee ballots and shall be distributed as required by law for the numbered lists of voters. All absentee ballots received by the absentee ballot clerk after the closing of the polls on the day of the primary or election shall not be certified or counted; shall be kept safely unopened by the clerk for the period of time required for the preservation of ballots used at the primary or election; and they shall then, without being opened, be destroyed in like manner as the used ballots of the primary or election.

(b) After the close of the polls on the date of the primary or election, the absentee ballot clerk shall deliver the official absentee ballots of each certified absentee elector, as well as the copies of the numbered lists of certified and rejected absentee electors, to the managers in charge of the polling place designated by the superintendent. (Ga. L. 1924, p. 186, §§ 11, 12, 14; Code 1933, §§ 34-3311, 34-3312, 34-3314; Ga. L. 1955, p. 204, § 5; Code 1933, § 34A-1308, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1975, p. 888, § 7; Ga. L. 1982, p. 1512, § 5.)

21-3-287. Procedure as to ballots of deceased electors.

Whenever it shall be made to appear by due proof to the managers that an absentee elector who has marked and forwarded or delivered his ballot as provided in this article has died prior to the opening of the polls on the day of the primary or election, then the ballot of such deceased elector shall be returned by the managers in the same manner as provided for rejected ballots. (Code 1933, § 34A-1310, enacted by Ga. L. 1968, p. 885, § 1.)

21-3-288. (Effective January 1, 1983) Cancellation of absentee ballots of electors who are present in precinct during primaries and elections.

When an absentee ballot which has been voted shall be returned to the board of registrars, it shall be deemed to have been voted then and there; and no other absentee ballot shall be issued to the same elector. However, if an elector, other than one whose physical disability, official election duties, or observance of a religious holiday prevents his attendance at the polls, is present in the precinct of his residence during the time the polls are open in any primary, election, or runoff for which he has requested an absentee ballot, such elector shall have the absentee ballot canceled in one of the following ways:

(1) By surrendering his absentee ballot to the poll manager of the precinct in which his name appears on the electors list and then being permitted to vote the regular ballot. The poll manager shall mark "Canceled" and the date and time across the face of the absentee ballot and shall initial the same. He shall also make appropriate notations beside the name of the elector on the list of electors. All such canceled absentee ballots shall be returned with other ballots to the superintendent;

(2) By appearing in person before the absentee ballot clerk and requesting in writing that the envelope containing his absentee ballot be marked "Canceled." After having satisfied himself as to the identity of such elector, the absentee ballot clerk shall grant the request and shall notify the managers of the elector's precinct as to such action so as to permit him to vote in person in his precinct. If the absentee ballot is in the possession of the absentee ballot clerk, it shall be promptly marked "Canceled" and the date and time written across the face of the envelope. If the absentee ballot is in the mail or its exact location is unknown, the clerk shall write "Canceled" beside the elector's name on the master list of absentee voters and shall cancel the ballot itself as soon as it is received. Canceled absentee ballots shall be disposed of in the same manner as subsection (a) of Code Section 21-3-286 provides for absentee ballots returned too late to be cast. (Code 1933, § 34A-1311, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1969, p. 355, § 38; Ga. L. 1975, p. 888, § 9; Ga. L. 1981, p. 1728, § 10; Ga. L. 1982, p. 1512, § 5.)

21-3-289. Payment of postage for mailing absentee ballots; use of special delivery.

The postage required for mailing ballots to absentee electors, as provided in this article, shall be paid by the municipality, except in cases where free mail delivery is furnished by the federal government. The absentee ballot clerk shall employ special delivery in cases where it will facilitate voting by absentee electors. (Code 1933, § 34A-1312, enacted by Ga. L. 1968, p. 885, § 1.)

21-3-290. Delivery of official absentee ballots, applications, etc., to city clerk after primary or election for safekeeping; destruction of ballots, etc.; transmittal of accounting of ballots, etc., by absentee ballot clerk.

All official absentee ballots, applications for such ballots, and envelopes on which the forms of affidavits and jurats appear shall be delivered to the city clerk upon the conclusion of the primary or election and safely kept by him for at least 24 months; and then they may be destroyed. On the day following the primary or election, the absentee ballot clerk shall transmit all canceled, spoiled, and unused absentee ballots and copies of requests for cancellation of absentee ballots to the city clerk to be held with other election materials as provided in Code Section 21-3-409. The absentee ballot clerk shall also transmit an accounting of all absentee ballots, including the number furnished by the superintendent, the number issued to electors, the number spoiled, and the number unused. (Code 1933, § 34A-1313, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1975, p. 888, § 10; Ga. L. 1978, p. 1025, § 12.)

21-3-291. Challenge of absentee electors; duty of poll managers to open envelopes and deposit absentee ballots in ballot box; marking of challenged ballots; notification of challenged elector.

(a) Absentee electors whose names appear on the master list provided for in subsection (e) of Code Section 21-3-284 may be challenged by any elector prior to the closing of the polls on the day of the primary or election; and such challenge shall be noted on the master list and the numbered list of voters.

(b) After the absentee ballots have been delivered to the poll managers as provided in subsection (b) of Code Section 21-3-286, the managers shall open the envelope of each absentee ballot in such manner as not to destroy the oath printed thereon and shall deposit the inner envelope marked "Official Absentee Ballot" in a ballot box reserved for absentee ballots.

(c) If an absentee elector's right to vote has been challenged for cause, a poll officer shall open the envelope and write "Challenged," the elector's name, and the alleged cause of challenge on the back of the ballot without disclosing the markings on the face thereof and shall deposit the ballot in the ballot box; and it shall be counted as other challenged ballots are counted. The absentee ballot clerk shall promptly notify the elector of such challenge. (Code 1933, § 34A-1309, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1969, p. 355, § 37; Ga. L. 1975, p. 888, § 8; Ga. L. 1978, p. 1025, § 11; Ga. L. 1981, p. 1728, § 9.)

ARTICLE 11
PREPARATION FOR AND CONDUCT OF PRIMARIES AND
ELECTIONS

Part 1

General Provisions

21-3-310. (Effective January 1, 1983) Duty of superintendent to have instruction cards, etc., printed, packed, and delivered to precincts; decision of parties as to use of common ballot boxes.

(a) Prior to each primary and election, the superintendent shall have printed instruction cards which shall contain full instructions for the guidance of electors. The superintendent shall also have printed and furnish blank forms of oaths of poll officers, tally sheets, return sheets, and other forms and supplies required by this chapter for use in each precinct of the municipality. All such forms shall have printed thereon appropriate instructions.

(b) The cards of instruction, return sheets, tally sheets, oaths of poll officers, and other forms and supplies required for use in each precinct and, in precincts in which ballots are used, the official ballots prepared for use therein, shall be packed by the superintendent in separate, sealed packages for each precinct, marked on the outside so as to designate clearly the precincts for which they are intended and, in the case of precincts in which ballots are used, the number of ballots enclosed. They shall then be delivered by the superintendent, together with the ballot box which shall bear the designation of the precinct, to the managers in the several precincts prior to the hour appointed for opening the polls. In primaries, the parties shall decide whether to use the same ballot box or to use separate ballot boxes. The managers of the respective precincts shall, on delivery to them of such packages, return receipts therefor to the superintendent, who shall keep a record of the time when and the manner in which the several packages are delivered. The superintendent may, in his discretion, require the managers of the respective precincts to call at his office to obtain such packages. (Ga. L. 1922, p. 97, § 5; Code 1933, § 34-1906; Ga. L. 1946, p. 75, §§ 2, 3; Code 1933, §§ 34A-1201, 34A-1203, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1969, p. 355, § 16; Ga. L. 1970, p. 341, § 6; Ga. L. 1982, p. 1512, § 5.)

21-3-311. (Effective January 1, 1983) Preparation of voter's certificates by superintendents; form of certificates; binders for certificates.

(a) At each primary and election, each superintendent shall prepare a suitable number of voter's certificates, which shall be in substantially the following form:

VOTER'S CERTIFICATE

I hereby certify that I am qualified to vote at the (primary or election) held on _____, 19 _____, and that I have not and will not vote elsewhere in this (primary or election).

Signature _____

Name or initials of poll officer receiving voter's certificate:

In case of physical disability or illiteracy, fill out the following:

I hereby certify that the voter is unable to sign his or her name by reason of the following: _____

Signature of poll officer

Number of stub of ballot or number of admission to voting machine _____.

(b) The voter's certificates shall be so prepared as to be capable of being inserted by the poll officers in a suitable binder. The binder shall have written thereon the words "Voter's Certificates" and shall have a space for filling in the designation of the precinct and the date of the primary or election. (Code 1933, § 34A-1202, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1974, p. 82, § 17; Ga. L. 1982, p. 1512, § 5.)

21-3-312. (Effective January 1, 1983) Distribution by registrars of copy of certified electors list to managers in each precinct; contents of list; authentication of lists; return receipts for delivered lists.

The registrars shall, prior to the hour appointed for opening the polls, place in the possession of the managers in each precinct one copy of the certified electors list for such precinct, such list to contain all the information required by law. The list shall indicate the name of any elector who has been mailed or delivered an absentee ballot. The list for a given precinct may be divided into as many alphabetical sections as is deemed necessary. Such list of electors shall be authenticated by the signature of the chief registrar and at least one other registrar if more than one registrar has been appointed by the governing authority. In a primary, where the parties do not agree to have only one set of managers for a precinct, the electors list shall be delivered to the chief manager of the political party which polled the highest number of votes in the precinct in the immediately preceding election of the presiding officer of the governing authority. The managers of the respective precincts shall, on delivery to them of such electors lists, return receipts therefor to the registrars, who shall keep a record of the time when and the manner in which the electors lists are delivered. The registrars may, in their discretion, require the managers of the respective precincts to call at their office to obtain such lists. (Ga. L. 1894, p. 115, § 9; Civil

Code 1895, § 59; Civil Code 1910, § 67; Code 1933, § 34-701; Ga. L. 1949, p. 1204, § 38; Ga. L. 1958, p. 269, § 32; Code 1933, § 34A-1203, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1969, p. 355, § 17; Ga. L. 1970, p. 341, § 7; Ga. L. 1974, p. 82, § 18; Ga. L. 1982, p. 1512, § 5.)

21-3-313. Time for opening and closing polls.

At all primaries and elections the polls shall be opened at 7:00 A.M. eastern standard time or eastern daylight time, whichever is applicable, and shall remain open continuously until 7:00 P.M. eastern standard time or eastern daylight time, whichever is applicable, at which time they shall be closed; provided, however, that, in all cities having a population of 300,000 or more according to the United States decennial census of 1970 or any future such census, the polls shall remain open continuously until 8:00 P.M. eastern standard time or eastern daylight time, whichever is applicable, during the cities' general elections, at which time they shall be closed. (Orig. Code 1863, § 1232; Ga. L. 1865-66, p. 24, § 1; Code 1868, § 1313; Code 1873, § 1286; Code 1882, § 1286; Civil Code 1895, § 70; Ga. L. 1898, p. 93, § 1; Civil Code 1910, § 80; Code 1933, § 34-1302; Ga. L. 1941, p. 321, § 1; Ga. L. 1957, p. 71, § 1; Code 1933, § 34A-1204, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1975, p. 769, § 1; Ga. L. 1979, p. 1010, § 1.)

21-3-314. (Effective January 1, 1983) Meeting of poll officers at place of primary or election; oaths of poll officers; procedure upon failure of poll officer to appear on day of primary or election; assignment of duties by chief manager.

(a) The required poll officers shall meet in the respective places appointed for holding the primary or election in each precinct at least 30 minutes before the hour for opening the polls on the day of each primary or election. Before entering upon their duties at any primary or election, all poll officers shall take and subscribe in duplicate the oaths required by this chapter.

(b) If any chief manager shall not appear at the polling place by 7:00 A.M. on the day of any primary or election, the assistant managers shall appoint a chief manager who is qualified under this chapter. If any assistant manager shall not appear at such hour, the chief manager shall appoint an assistant manager who is qualified under this chapter. If for any reason any vacancy in the office of manager shall not have been filled, as aforesaid, by 7:30 A.M., the electors of the district, present at such time, shall elect a qualified person to fill such vacancy. If any clerk shall not appear by 7:00 A.M., the chief manager shall fill such vacancy by appointing a qualified person therefor. Any person thus appointed or elected to fill a vacancy shall take and subscribe in duplicate to the appropriate oath required by this chapter.

(c) After the poll officers of a precinct have been organized, the chief manager shall assign duties to the assistant managers and clerks. In primaries being held with separate precinct managers, the chief managers appointed by each party shall jointly appoint the person or persons to be in charge of the electors list. (Code 1933, § 34A-1207, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1969, p. 355, §§ 18, 19; Ga. L. 1982, p. 1512, § 5.)

21-3-315. Public performance of duties by superintendents, poll officers, etc.

The superintendent, poll officers, and other officials engaged in the conducting of primaries and elections held under this chapter shall perform their duties in public. (Code 1933, § 34A-1208, enacted by Ga. L. 1968, p. 885, § 1.)

21-3-316. Duty of registrars to review qualifications of electors who may have been erroneously omitted from list of electors; authority to place such electors on the list.

The registrars shall meet at their main office during each primary or election for the purpose of considering the qualification of electors whose names may have been omitted by inadvertence or mistake from the list of electors. The registrars shall be authorized to place the names of such electors on the registration list. (Ga. L. 1943, p. 353, § 3; Ga. L. 1949, p. 1204, § 52; Ga. L. 1958, p. 269, § 42; Code 1933, § 34A-1205, enacted by Ga. L. 1968, p. 885, § 1.)

21-3-317. (Effective January 1, 1983) Designation of poll watchers; authority of poll watchers to observe conduct of election; removal of poll watchers who interfere with conduct of election; reports by poll watchers of infractions, etc.; ineligibility of candidates to serve as poll watchers.

(a) In a primary or run-off primary, each candidate entitled to have his name placed on the primary or run-off primary ballot may submit the name of one poll watcher for each precinct in which he wishes an observer, to the chairman or secretary of the municipal or other appropriate party executive committee at least 21 days prior to such primary or 14 days prior to such run-off primary. The municipal or other appropriate party executive committee shall designate, at least seven days prior to such primary or run-off primary, no more than two poll watchers for each precinct, such poll watchers to be selected by the committee from the lists as submitted by party candidates. Official poll watchers will be given a letter signed by the party chairman and secretary containing the following information: name of official poll watcher, address, precinct in which he shall serve, and name and date of primary or run-off primary.

(b) In an election or run-off election, each political party and political body shall each be entitled to designate, at least seven days prior to such election or run-off election, no more than two official poll watchers, to be selected by the appropriate party or body executive committee. Each independent candidate shall be entitled to designate one poll watcher in each precinct. Each poll watcher shall be given a letter signed by the appropriate political party or body chairman and secretary, if a party or body designates same, or by the independent candidate, if named by him. Such letter shall contain the following information: name of official poll watcher, address, precinct in which he shall serve, and date of election or run-off election.

(c) Notwithstanding any other provisions of this chapter, a poll watcher may be permitted behind the enclosed space for the purpose of observing the conduct of the election and the counting and recording of votes. Such poll watcher shall in no way interfere with the conduct of the election, and the poll manager may make reasonable regulations to avoid such interference. Without in any way limiting the authority of poll

managers, poll watchers are prohibited from talking to voters, checking lists of electors, or participating in any other form of campaigning while they are behind the enclosed space. If a poll watcher persists in interfering with the conduct of the election or in violating any of the provisions of this Code section after being duly warned by the poll manager or superintendent, he may be removed by such official. Any infractions or irregularities observed by poll watchers shall be reported directly to the superintendent, not to the poll manager.

(d) No person shall be appointed or be eligible to serve as a poll watcher in any primary or election in which such person is a candidate. (Code 1933, § 34A-1209, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1977, p. 303, § 3; Ga. L. 1979, p. 964, § 3; Ga. L. 1979, p. 968, § 2; Ga. L. 1981, p. 1728, § 5; Ga. L. 1982, p. 3, § 21; Ga. L. 1982, p. 1512, § 5.)

21-3-318. (Effective January 1, 1983) Assisting of electors who cannot read English, who have physical disabilities, etc.

(a) No elector shall receive any assistance in voting at any primary or election unless he is unable to read the English language or can prove to the satisfaction of the poll officers that he has a physical disability which renders him unable to see or mark the ballot or operate the voting machine or vote recorder or to enter the voting compartment or booth without assistance. Before an elector shall be permitted to receive assistance, he shall take an oath, which shall be administered to him and placed in writing by a manager, giving the reason why he requires assistance. The name of each person assisting the elector shall be endorsed on the oath.

(b) The oaths of assisted electors shall be returned by the chief manager to the superintendent, who shall cause the same to be duplicated and deliver the original oaths to the superintendent of the county within which the municipality is located and the duplicates to the registrars. If such physical disability was acquired after the time of registration and if it appears to be permanent, the registrars shall record the need for voting assistance on subsequent lists of electors for as long as the disability shall continue. The oaths of assisted electors shall be available in the superintendent's office for public inspection.

(c) Any elector who is entitled to receive assistance in voting under this Code section shall be permitted by the managers to select (1) any elector, except a poll officer or poll watcher, who is a resident of the precinct in which the elector requiring assistance is attempting to vote, or (2) the mother, father, sister, brother, spouse, or child of the elector entitled to receive assistance, to enter the voting compartment or booth with him to assist him in voting, such assistance to be rendered inside the voting compartment or booth. No person shall assist more than five such electors in any primary, election, or runoff. (Code 1933, § 34A-1211, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1969, p. 285, §§ 8, 9; Ga. L. 1974, p. 82, § 20; Ga. L. 1981, p. 1728, § 6; Ga. L. 1982, p. 1512, § 5.)

21-3-319. Poll officers authorized to give instructions to electors upon request.

If any elector, before or after entering the voting booth, shall ask for instructions concerning the manner of voting, a poll officer may give him such instructions; but no person giving an elector such instructions shall in any manner request, suggest, or seek to persuade or induce any such elector to vote any particular ticket or for any particular

candidate or for or against any particular question. After giving such instructions and before the elector closes the booth or votes, the poll officer shall retire and the elector shall immediately vote. (Code 1933, § 34A-1210, enacted by Ga. L. 1968, p. 885, § 1.)

21-3-320. Requirements as to conduct of voters, campaigners, etc., at polling places generally.

(a) No elector shall be allowed to occupy a voting compartment or voting machine booth already occupied by another, except when giving assistance as permitted by this chapter.

(b) No elector shall remain in a voting compartment or voting machine booth an unreasonable length of time; and, if he shall refuse to leave after a reasonable period, he shall be removed by the poll officers.

(c) No elector, except a poll officer, shall reenter the enclosed space after he has once left it, except to give assistance as provided by this chapter.

(d) No person, when within the polling place, shall electioneer or solicit votes for any political party or body or candidate or question, nor shall any written or printed matter be posted, except as required by this chapter. The prohibitions contained within Code Section 21-3-321 shall be equally applicable within the polling place, and no elector shall violate said provisions.

(e) All persons, except poll officers, persons in the course of voting, poll watchers, persons lawfully giving assistance to electors, and peace officers, when necessary for the preservation of order, must remain outside the enclosed space during the progress of the voting.

(f) When the hour for closing the polls shall arrive, all electors who have already qualified and are inside the enclosed space shall be permitted to vote; and, in addition thereto, all electors who are then in the polling place outside the enclosed space, or then in line outside the polling place, waiting to vote, shall be permitted to do so, if found qualified, but no other persons shall be permitted to vote.

(g) It shall be the duty of the chief manager to secure the observance of this Code section, to keep order in the polling place, and to see that no more persons are admitted within the enclosed space than are permitted by this article. (Code 1933, § 34A-1212, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1978, p. 1039, § 2.)

21-3-321. Restrictions on campaign activities within the vicinity of a polling place.

(a) No persons shall solicit votes in any manner or by any means or method, nor shall any person distribute any campaign literature, newspaper, booklet, pamphlet, card, sign, or any other written or printed matter of any kind on any primary or election day within 250 feet of any polling place or of the outer edge of any building within which such polling place is established, whichever distance is greater.

(b) No person shall solicit signatures for any petition on any primary or election day within 250 feet of any polling place or of the outer edge of any building within which such polling place is established, whichever distance is greater.

(c) This Code section shall not be construed to prohibit a poll officer from distributing materials, as required by law, which are necessary for the purpose of instructing electors. (Ga. L. 1956, p. 333, § 1; Ga. L. 1961, p. 557, § 1; Code 1933, § 34A-1206, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1970, p. 341, § 8; Ga. L. 1977, p. 173, § 1; Ga. L. 1978, p. 1042, § 1.)

21-3-322. Requirements as to identification of literature which is distributed, etc., in connection with campaign for public office; unauthorized use of another's name for purposes of endorsing, etc., campaign material.

(a) No person shall distribute, circulate, disseminate, publish, or cause to be distributed, circulated, disseminated, or published any literature in connection with any political campaign for any public office or question, unless such literature shall bear the name and address of the person or organization distributing, circulating, disseminating, publishing, or causing the same to be distributed, circulated, disseminated, or published. To be in compliance with this Code section, when an organization rather than a natural person commits any of the above acts, the names and addresses of at least three of the highest officials thereof shall also appear thereon. Campaign literature published and disseminated by the candidate himself, bearing his name and the office for which he is a candidate, shall be considered as in compliance with this Code section.

(b) No person shall use the name, or any colorable imitation of the name, of an existing person or organization for the purposes of endorsing, circulating, or publishing campaign material, without the authorization of such person or organization. For the purposes of this Code section, the term "any colorable imitation" shall mean any name purposefully used with the intention of the user that a person reading such name will be misled into believing that such campaign material is being endorsed, circulated, or published by a person or organization other than the true endorser, circulator, or publisher. (Code 1933, § 34A-1206.1, enacted by Ga. L. 1974, p. 82, § 19.)

21-3-323. (Effective January 1, 1983) Voting in polling place outside precinct of residence; registration as a prerequisite to voting.

Except as provided in Code Section 21-3-140 and Article 10 of this chapter, no person shall vote at any primary or election in any polling place outside the precinct in which he resides, nor shall he vote in the precinct in which he resides unless he has been registered as an elector and his name appears on the electors list of such precinct. (Code 1933, § 34A-1214, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1979, p. 960, § 2; Ga. L. 1982, p. 1512, § 5.)

21-3-324. Manner of conduct of special elections generally.

Every special election for the purpose of electing municipal officials or on a question, to be voted on by the electors of the municipality at large or by the electors of any political subdivision, shall be held and conducted in all respects in accordance with the provisions of this chapter relating to general elections; and the provisions of this chapter relating to general elections shall also apply to special elections, insofar as practicable and not inconsistent with any other provisions of this chapter. All such special elections shall be conducted by the poll officers, using the same equipment and facilities, so far as practicable, as are used for such general elections. Candidates in special elections shall not be listed

on the ballot according to party affiliation unless a candidate has been nominated in a special primary, in which event such a candidate shall have his party affiliation appear on the ballot beside his name. (Code 1933, § 34A-1213, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1969, p. 355, § 20.)

21-3-325. Methods of casting ballots in elections utilizing paper ballots or vote recorders.

Notwithstanding any other provisions of this chapter to the contrary, an elector voting by paper ballots or by vote recorder may cast his vote in elections in any one of the following ways, and his vote shall be counted as provided in this Code section:

- (1) He may vote for each candidate individually, as provided in this chapter;
- (2) He may vote a straight political party or body ticket, as provided in this chapter; or
- (3) He may vote a "modified straight party ticket" by casting in combination a straight party vote, in the manner provided in paragraph (2) of this Code section, and a vote or votes for individual candidates, in the manner provided in paragraph (1) of this Code section, which shall constitute a valid vote for every candidate of the political party or body designated, except those offices as to which he has indicated a choice for individuals other than the straight party nominees, which choice shall be valid only as votes for such individuals so designated. (Code 1933, § 34A-1213.1, enacted by Ga. L. 1969, p. 355, § 21; Ga. L. 1974, p. 82, § 21.)

21-3-326. Preservation of voter's certificates and electors list; availability for public inspection.

The voter's certificates shall constitute the official list of electors voting at a primary or election. All voter's certificates prepared by persons applying to vote whose applications to vote are refused by the poll officers shall be separately preserved and returned to the superintendent with the other election papers. After their return by the superintendent to the registrars, the voter's certificates shall be retained for 24 months, electors list shall be preserved for ten years, and both shall be available for public inspection. (Code 1933, § 34A-1215, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1978, p. 1025, § 8.)

21-3-327. Voter's certificate binder as constituting official list of electors; separate preservation and disposition of refused applications.

After each elector has been admitted to vote, his voter's certificate shall be inserted in the binder provided therefor, known as the "Voter's Certificate Binder"; and such voter's certificates so bound shall constitute the official list of electors voting at such primary or election. All voter's certificates prepared by persons applying to vote whose applications to vote are refused by the poll officers shall be separately preserved and returned to the superintendent with the other papers. (Ga. L. 1941, p. 429, § 1; Code 1933, § 34A-1217.1, enacted by Ga. L. 1974, p. 82, § 22.)

Part 2

Districts Using Paper Ballots

21-3-340. Opening of ballot boxes; destruction of ballots, etc., not intended for use in primary or election; locking of ballot box before opening of polls; public breaking of seals of packages furnished by superintendent; posting of instruction cards and notices of penalties.

In districts in which ballots are used, the poll officers shall, after taking the oath, publicly open the ballot boxes which have been furnished to them and shall, prior to opening of the polls, totally destroy any ballots and other papers which they may find in such ballot boxes which are not intended for use in such primary or election. When the polling place is opened, the ballot box shall be securely locked and shall not be opened until the close of the polls, as provided in Code Section 21-3-346. At the opening of the polls, the seals of the packages furnished by the superintendent shall be publicly broken, and such packages shall be opened. The cards of instruction shall be immediately posted in each voting compartment; and not less than three such cards and notices of penalties shall be immediately posted in or about the voting room outside the enclosed space. (Code 1933, § 34A-1216, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1969, p. 355, § 22; Ga. L. 1970, p. 341, § 9.)

21-3-341. Execution of voter's certificate; procedure upon qualification of elector; procedure as to elector unable to sign name due to illiteracy or physical disability.

(a) At every primary and election, each elector who desires to vote shall first execute a voter's certificate and hand the same to the poll officer in charge of the electors list. When an elector has been found entitled to vote, the poll officer who examined his voter's certificate shall sign his name or initials on the voter's certificate and shall, if the voter's signature is not readily legible, print such voter's name under his signature. As each elector is found to be qualified and votes, the poll officers shall check off the elector's name from the electors list and shall enter on his voter's certificate the number of the stub of the ballot issued to him. As each elector votes, his name in the order of voting shall be recorded in the numbered list of voters provided for that purpose.

(b) Any elector who for reason of illiteracy or physical disability is unable to sign his name shall not be required to sign a voter's certificate; but a certificate shall be prepared for him by a poll officer, upon which the facts as to such disability shall be noted and attested by the signature of such poll officer. (Code 1933, § 34A-1217, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1969, p. 355, § 23.)

21-3-342. Admission of electors to enclosed space; detachment of ballots from stubs and distribution of ballots to electors; return of canceled ballots to superintendent.

(a) No elector shall enter the enclosed space behind the guardrail as provided for in Code Section 21-3-165 until he is found entitled to vote.

(b) As soon as an elector has been admitted within the enclosed space, the poll officer having charge of the ballots shall detach a ballot from the stub and give it to the elector,

first holding it so that the words and figures printed on the face shall not be visible; and no ballots shall be deposited in the ballot box unless folded in the same manner. If an elector's right to vote has been challenged for cause under Code Section 21-3-138, the poll officer shall write the word "Challenged" and the alleged cause of challenge on the back of the ballot. Not more than one ballot shall be detached from its stub in any book of ballots at any one time. Not more than one ballot shall be given to an elector; but, if an elector inadvertently spoils a ballot, he may obtain another upon returning the spoiled one. The ballots thus returned shall be immediately canceled and at the close of the polls shall be enclosed in an envelope which shall be sealed and returned to the superintendent. (Ga. L. 1922, p. 97, § 4; Code 1933, § 34-1905; Ga. L. 1943, p. 290, § 1; Code 1933, § 34A-1218, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1969, p. 355, § 24.)

21-3-343. Exclusivity of poll officers' privilege and duty to detach and distribute ballots; removal of individual ballot from polling place for purpose of voting the ballot; depositing and counting only of official ballots; disposition of ballots appearing not to be official.

No official ballot shall be taken or detached from its stub in any book of ballots, except by a poll officer when a person desiring to vote has been found to be an elector entitled to vote. No ballot shall be taken or removed from inside the polling place on the day of the primary or election for the purpose of voting said ballot. Only official ballots shall be deposited in the ballot box and counted, except as otherwise provided in this part. If any ballot appears to have been obtained otherwise than from the superintendent, as provided by this article, the same shall not be counted; and the chief manager shall transmit such ballot to the district attorney without delay, together with whatever information he may have regarding the same. (Code 1933, § 34A-1220, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1974, p. 82, § 23.)

21-3-344. Procedure as to marking and depositing of ballots.

(a) The elector, after receiving his ballot, shall retire to one of the voting compartments, draw the curtain or shut the screen or door, and then prepare his ballot.

(b) At primaries, the elector shall prepare his ballot in the following manner: He shall vote for the candidates of his choice for nomination or election, according to the number of persons to be voted for by him for each office, by making a cross (X) or Check (✓) mark in the square opposite the name of each candidate. No elector shall be permitted to cast a write-in ballot in a primary.

(c) At elections, the elector shall prepare his ballot in the following manner: He may vote for the candidates of his choice for each office to be filled, according to the number of persons to be voted for by him for each office, by making a cross (X) or check (✓) mark in the square opposite the name of the candidate; or he may write, in the blank space provided therefor, any name not already printed on the ballot; and such insertion shall count as a vote without the marking of a cross (X) or check (✓) mark. If he desires to vote for every candidate of a political party or body, he may make a cross (X) or check (✓) mark in the square opposite the name of the party or body of his choice in the party or body column on the left of the ballot; and every such cross (X) or (✓) mark shall be equivalent to and be counted as a vote for every candidate of a party or body so marked. In

case of a question submitted to the vote of the electors, he may make a cross (X) or check (✓) mark in the appropriate square opposite the answer which he desires to give.

(d) Before leaving the voting compartment, the elector shall fold his ballot, without displaying the markings thereon, in the same way it was folded when received by him; and he shall then leave the compartment and exhibit the numbered strip to a poll officer, who shall ascertain by an inspection of the number appearing thereon whether the ballot so exhibited to him is the same ballot which the elector received before entering the voting compartment. If it is the same, the poll officer shall direct the elector, without unfolding the ballot, to remove the perforated portion containing the number; and the elector shall immediately deposit the ballot in the ballot box. The number strip shall be deposited in the stub box provided for such purpose; and the number strips shall be retained with the ballots and other stubs. If the ballot is marked "Challenged," the numbered, perforated portion shall not be removed, and the ballot shall be deposited with it attached. Other than one marked "Challenged," any ballot deposited in a ballot box at any primary or election without having such number removed shall be void and shall not be counted. (Ga. L. 1941, p. 324, § 2; Code 1933, § 34A-1219, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1969, p. 355, § 25.)

21-3-345. Duties of poll officers after the close of the polls.

After the polls are closed and the last elector has voted, the poll officers shall remain within the enclosed space. Before the ballot box is opened, the number of ballots issued to electors, as shown by the stubs, and the number of ballots, if any, spoiled and returned by electors and canceled shall be announced to all present in the voting room and entered on the returns of votes cast at such primary or election. The poll officers shall then compare the number of electors voting, as shown by the stubs, with the number of names shown as voting by the electors list, voter's certificates, and the numbered list of voters; and the poll officers shall announce the result and shall enter on the returns the number or electors who have voted, as shown by the voter's certificate. If any differences exist, they shall be reconciled, if possible; otherwise they shall be noted on the returns. (Code 1933, § 34A-1221, enacted by Ga. L. 1968, p. 885, § 1.)

21-3-346. Procedure as to count and return of votes generally; marks, mutilations, etc., which will render ballots void; disposition of unmarked, improperly marked, etc., ballots; effect of ballots which are improperly marked but which clearly indicate candidate being selected; placement of crosses or checks for straight-party or write-in votes; certification of vote and preparation of returns by poll officers.

(a) After the polls close at 7:00 P.M. and as soon as all the ballots have been properly accounted for and all void and unused ballots sealed in separate envelopes, the poll officers shall count the ballots in such manner as to assure that all ballots are tallied by at least two persons. In primaries in which more than one ballot box is used, if any ballots or stubs belonging to another party holding its primary in the same polling place are found in the ballot or stub box, they shall be returned to the proper election officials of the party for whom the ballots were issued. Where the same ballot box is being used by one or more parties, the ballots and stubs shall first be divided by party before being tallied and

counted. After being removed from the box, all ballots shall be kept within the unobstructed view of all persons in the voting room until replaced in the box and shall not be removed from the polling place until the counting is completed and the returns made.

(b) Any ballot marked so as to identify the voter shall be void and not counted, except a ballot cast by a challenged elector whose name appears on the electors list; such challenged vote shall be counted as prima facie valid but may be voided in the event of an election contest. Any ballot marked by anything but pen or pencil shall be void and not counted. Any erasure, mutilation, or defect in the vote for any candidate shall render void the vote for such candidate but shall not invalidate the votes cast on the remainder of the ballot, if otherwise properly marked. If an elector shall mark his ballot for more persons for any nomination or office than there are candidates to be voted for such nomination or office or if for any reason it may be impossible to determine his choice for any nomination or office, his ballot shall not be counted for such nomination or office; but the ballot shall be counted for all nominations or offices for which it is properly marked. Unmarked ballots, or ballots improperly or defectively marked so that the whole ballot is void shall be set aside and shall be preserved with other ballots.

(c) Any ballot marked by any other mark than a cross (X) or check (✓) mark in the spaces provided for that purpose shall be void and not counted; provided, however, that no vote recorded thereon shall be declared void because a cross (X) or check (✓) mark thereon is irregular in form. Notwithstanding any other provisions of this chapter to the contrary, if the voter has marked his ballot in such a manner that he has indicated clearly and without question the candidate which he desires to receive his vote, his ballot shall be counted and such candidate shall receive his vote.

(d) At elections, a cross (X) or check (✓) mark in the square opposite the name of a political party or body in the party or body column shall be counted as a vote for every candidate of that party or body so marked. Any erasure, mutilation, or defective marking of the straight party or body column at general elections shall render the entire ballot void, unless the elector has properly indicated his choice for candidates in any other column, in which case the vote or votes for such candidates only shall be counted. At elections, a ballot indicating a write-in vote for any person whose name is not printed on the ballot shall be counted as a vote for such person, if written in the proper space or spaces provided for that purpose, whether or not a cross (X) or check (✓) mark is placed before the name of such person.

(e) When all the ballots shall have been counted and tallied, the poll officers shall certify to the number of votes cast for each person and question and shall prepare in ink three copies of a return showing the official count as to all offices and questions, the total number of ballots received from the superintendent, the number of ballots cast, the number of ballots declared void, the number of ballots spoiled and canceled, and any blank ballots cast.

(f) In returning any votes cast for any person whose name is not printed on the ballot, the poll officers shall record any such names exactly as they were written on the ballot. (Ga. L. 1952, p. 304, § 1; Code 1933, § § 34A-1222, 34A-1223, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1969, p. 355, § 26.)

21-3-347. Duty of assistant managers and chief managers to determine whether mutilated, etc., ballots should be counted.

Decisions concerning questionable marks on ballots or concerning the defacing or mutilation of ballots, and the count to be recorded thereon, shall be made by the assistant managers and, if they disagree, the chief manager shall make the decision. (Code 1933, § 34A-1223.1, enacted by Ga. L. 1974, p. 82, § 24.)

21-3-348. Duty of poll officers to sign returns; posting of copy of returns and filing of copy with superintendent; delivery of copies of returns, ballots, tally papers, etc., to superintendent; delivery of voter's certificates, oaths of assisted voters, etc., to superintendent.

(a) Immediately after the vote has been counted, the returns shall be signed by the poll officers. If any poll officer shall refuse to sign or certify the returns, he shall write his reason therefor upon the return sheets.

(b) For the information of the public, one copy of such returns shall be immediately posted outside of the polling place or place of tabulation. This copy shall be removed on the afternoon of the following day and filed in the office of the superintendent.

(c) A second copy of such returns, together with the used, unused, and void ballots, the stubs of all ballots used, the tally papers, the oaths of poll officers, and the number list of voters shall be sealed in a separate envelope addressed to the city clerk and bearing a list of its contents on the outside. The electors list shall be sealed in a separate envelope addressed to the registrars. These envelopes, together with the unsealed third copy of such returns, the ballot boxes, and other election supplies, shall be immediately delivered by the managers into the custody of the superintendent.

(d) The voter's certificates, rejected voter's certificates, and oaths of assisted voters shall be sealed in a separate envelope addressed to the registrars and bearing a list of its contents on the outside. This envelope shall be immediately delivered by the managers into the custody of the superintendent. (Code 1933, § 34A-1224, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1978, p. 1025, § 9.)

Part 3

Precincts Using Voting Machines

21-3-360. Procedure as to opening of polls, posting cards of instruction, examination of voting machines, etc.

(a) In districts in which voting machines are used, the seals of the package furnished by the superintendent shall be publicly broken at the opening of the polls and such package shall be opened by the chief manager. Not less than three cards of instruction and notices of penalties and not less than two diagrams of the face of the machine shall be immediately posted in or about the voting room, outside the enclosed space. Thereupon the managers, before opening the envelope containing the keys which unlock the operating mechanism and registering counters or counter compartment of the voting machine, shall examine the number of the seal on the machine and the number registered on the protective counter or device and shall see whether they are the same as the numbers written on the envelope containing the keys. If either number shall be found not to agree, the envelope shall remain unopened until the poll officers shall have notified the proper custodian of voting machines or until the superintendent shall have presented himself at the polling place for the purpose of reexamining the machine and shall have certified that it is properly arranged. But if the numbers on the seal and the protective counter or device shall both be found to agree with the numbers on the envelope, the envelope shall be opened; and where the voting machine provided is not equipped with mechanism for printing paper proof sheets, the poll officers shall examine the registering counters. For that purpose they shall open the doors concealing such counters if the construction of the voting machine shall so require; and before the polls are opened, each manager shall carefully examine every counter and shall see that it registers zero. When the voting machine provided is equipped with mechanism for printing paper proof sheets and requires the simultaneous use of three keys to unlock the registering counters or counter compartment, the chief manager shall deliver one of the two keys to an assistant manager, to be retained by him as provided in this subsection, and shall then print at least two proof sheets, one of which each manager shall carefully examine to ascertain whether every counter registers zero. The chief manager shall then preserve such proof sheets, to be signed by each manager and returned to the superintendent with the return sheet, and shall sign and post the other proof sheet upon the wall of the polling place, where it shall remain until the polls are closed. The key delivered by the chief manager to such assistant manager shall be retained by him until the polls have been closed and the voting and counting mechanism of the machine shall have been locked and sealed against voting; and the key shall then be returned to the chief manager for return by him to the superintendent as provided in subsection (c) of this Code section.

(b) If the ballot labels containing the names of officers, political parties and bodies, candidates, and questions shall not be in their proper places on the voting machine, the poll officers shall immediately notify the proper custodian of voting machines or the superintendent and the machine shall not be used until the custodian or some other person authorized by the superintendent shall have supplied ballot labels as prescribed in this chapter. If the ballot labels for a voting machine shall not be delivered at the time required or if they shall be lost, destroyed, or stolen after delivery, the superintendent or custodian

shall cause other ballot labels to be prepared, printed or written, as nearly as practicable in the form of the official ballot labels, and shall cause such ballot labels to be used in the same manner, as nearly as may be practicable, as the official ballot labels would have been used.

(c) The managers shall sign a certificate showing:

- (1) The identifying number or other designation of the voting machine;
- (2) The delivery of the keys in a sealed envelope;
- (3) The number on the seal upon the machine;
- (4) The number registered on the protective counter or device;
- (5) That all of the counters were set at zero; and
- (6) That the ballot labels are properly placed in the machine.

The certificate shall be returned by the chief manager to the superintendent with the other certificates, as provided in Code Section 21-3-366.

(d) The machine shall remain locked against voting until the polls are opened and shall not be operated except by electors in voting. If any counter is found not to register zero, the poll officers shall immediately notify the custodian or the superintendent who shall, if practicable, adjust or cause the counters to be adjusted at zero. If it shall be found impracticable for the custodian or other person authorized by the superintendent to arrive in time to adjust such counters before the time set for opening the polls, the poll officers shall immediately make a written record of the designation or designating letter or number of such counter, together with the number registered thereon, herein below called the initial number, and shall sign and post the same upon the wall of the polling place where it shall remain until the polls are closed; provided, however, that if the voting machine used is equipped with mechanism for printing paper proof sheets, in any case in which any counter is shown by such proof sheet not to register zero, if it shall be found impracticable to have such counter adjusted before the time set for opening the polls, the poll officers shall sign such printed proof sheet and post the same upon the wall of the polling place, where it shall remain until the polls are closed; and in filling out the returns of the election, if the final number of such counter is greater than the initial number, the poll officers shall subtract the initial number from the final number and enter the difference on the returns as the vote for the candidate or on the question represented by such counter; if the final number of such counter is less than the initial number, the poll officers shall add one thousand to the final number, shall subtract the initial number from the sum so ascertained, and shall enter the result of such subtraction upon the returns as the vote for the candidate or on the question represented by such counter.

(e) The exterior of the voting machine and every part of the polling place shall be in plain view of the poll officers. The voting machine shall be located at the polling place at least six feet back of the guardrail or barrier in such a position that, unless its construction shall require otherwise, the ballot labels on the face of the machine can be seen plainly by the poll officers when the machine is not occupied by an elector.

(f) The poll officers shall not themselves be, nor allow any other person to be, in any position that will permit anyone to see or ascertain how an elector votes or how he has

voted. A poll officer shall inspect the face of the machine at least once every hour during the time when the polls are open to see that the ballot labels are in their proper places and that the machine has not been damaged or tampered with.

(g) If during a primary or election, a voting machine becomes inoperative in such manner that it cannot be readily repaired without exposing the count on the candidates' counters, the poll officers shall immediately lock and seal the operating lever or mechanism of the machine so that the voting and counting mechanism will be prevented from operation. Upon the close of the polls, the poll officers shall perform their duties set forth in Code Sections 21-3-364 through 21-3-367 with respect to such machine. If necessary because of the lack of another machine or machines for use by the electors, after a voting machine becomes inoperative paper ballots shall be used. (Code 1933, § 34A-1225, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1977, p. 303, § 4; Ga. L. 1979, p. 964, § 4.)

21-3-361. Registration and execution of voter's certificate as prerequisites to voting; procedure as to elector unable to sign name at time of registration.

(a) At every primary and election, each elector who desires to vote shall first execute a voter's certificate and hand the same to the poll officer in charge of the electors list. When an elector has been found entitled to vote, the poll officer who examined his voter's certificate shall sign his name or initials on the voter's certificate and shall, if the voter's signature is not readily legible, print such voter's name under his signature. As each elector is found to be qualified and votes, the poll officers shall check off the elector's name on the electors list and shall enter his number in the order of admission to the voting machines on the voter's certificate of such elector. As each elector votes, his name in the order of voting shall be recorded in the numbered list of voters provided for that purpose.

(b) An elector who for reason of illiteracy or physical disability is unable to sign his name shall not be required to sign a voter's certificate, but a certificate shall be prepared for him by a poll officer, upon which the facts as to such disability shall be noted and attested by the signature of such poll officer. (Code 1933, § 34A-1226, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1969, p. 355, § 27.)

21-3-362. Admission of electors to enclosed space; voting by electors whose right to vote is challenged; voting procedure generally; procedure as to write-in votes.

(a) No elector shall enter the enclosed space until he is found entitled to vote, at which time he shall be admitted to the voting machine booth as soon as it is vacant and shall be permitted to vote.

(b) If an elector's right to vote has been challenged pursuant to Code Section 21-3-138, the elector shall not be permitted to vote on the voting machine, but shall vote by ballot in the manner prescribed by this chapter.

(c) At primaries, before an elector is admitted to the voting machine, it shall be adjusted by the poll officer in charge thereof so that such elector will only be able to vote for the candidates of the party in whose primary he is then participating.

(d) At primaries, an elector shall vote for each candidate individually by operating the key, handle, pointer, or knob upon or adjacent to which the names of candidates of his

choice are placed. At election, he may vote for each candidate individually by operating the key, handle, pointer, or knob upon or adjacent to which the names of candidates of his choice are placed; or he may vote a straight political party or body ticket in one operation by operating the straight political party or body lever of the political party or body of his choice. He may also, after having operated the straight party or body lever and before recording his vote, cancel the vote for any candidate of such political party or body by replacing the individual key, handle, pointer, or knob of such candidate and may vote for a candidate of another party or body for the same office by operating the key, handle, pointer, or knob upon or adjacent to which the name of such candidate appears. In the case of a question submitted to the vote of the electors, the elector shall operate the key, handle, pointer, or knob corresponding to the answer which he desires to give.

(e) An elector may at any election vote for any person whose name does not appear upon the voting machine as a candidate for any office, by manually writing in the name of such person, together with the title of the office involved, in or upon the appropriate receptacle or device provided in or on the machine for that purpose. The use of a sticker or poster is prohibited. Where two or more persons are to be elected to the same office and the name of each candidate is placed upon or adjacent to a separate key, handle, pointer, or knob and the voting machine requires that all write-in ballots voted for that office be deposited, written, or affixed in or upon a single receptacle or device, an elector may vote in or by such receptacle or device for one or more persons whose names do not appear upon the machine, with or without the name of one or more persons whose names do so appear. With these exceptions, no write-in ballot shall be cast on a voting machine for any person for any office whose name appears on the machine as a candidate for that office; and any ballot so cast shall be void and not counted. No elector shall be permitted to cast a write-in ballot in a primary.

(f) As soon as the elector has adjusted the voting machine so that it will record his choice for the various candidates to be voted for and his answers to the various questions submitted, he shall operate the recording mechanism and immediately leave the voting machine booth. (Code 1933, § 34A-1227, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1970, p. 341, § 10; Ga. L. 1974, p. 82, § 26.)

21-3-363. Voter's certificate binder as constituting official list; separate preservation and return of refused applications.

After each elector has been admitted to vote, his voter's certificate shall be inserted in the binder provided therefor, known as the "Voter's Certificate Binder"; and such voter's certificates so bound shall constitute the official list of electors voting at such primary or election. All voter's certificates prepared by persons applying to vote whose applications to vote are refused by the poll officers shall be separately preserved and returned to the superintendent with the other papers. (Ga. L. 1941, p. 429, § 1; Code 1933, § 34A-1226.1, enacted by Ga. L. 1974, p. 82, § 25.)

21-3-364. Duties of poll officers after the close of the polls.

As soon as the polls are closed and the last elector has voted, the poll officers shall immediately lock and seal the operating lever or mechanism of the machine so that the

voting and counting mechanism will be prevented from operation. They shall then sign a certificate stating:

- (1) That the machine has been locked against voting and sealed;
- (2) The number as shown on the public counter;
- (3) The number on the seal which they have placed upon the machine;
- (4) The number registered on the protective counter or device; and
- (5) The number or other designation of the voting machine,

which certificate shall be returned by the chief manager to the superintendent with the other certificates as provided in Code Section 21-3-366. The poll officers shall then compare the number as shown by the public counter of the machine with the number of names appearing on the numbered list of voters, the electors list, and the voter's certificates. (Code 1933, § 34A-1228, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1982, p. 3, § 21.)

21-3-365. (Effective January 1, 1983) Canvass and return of votes.

(a) If the type of voting machine provided shall require the counters to be seen in order to enable the poll officers to canvass the vote, the poll officers in the presence of all persons within the polling place shall unlock the doors or other covering and make visible the registering counters. If the voting machine is equipped with mechanism for printing proof sheets, the poll officers shall immediately print not less than four proof sheets. The chief manager and an assistant manager shall then under the scrutiny of the other assistant manager and in the order of the offices as their titles are arranged on the machine read from the counters or from one of the proof sheets, as the case may be, and announce in distinct tones the designation or designating number and letter on each counter for each candidate's name, the result as shown by the counter numbers, the votes recorded for each office for persons other than nominated candidates, the designation or designating numbers and letters on each counter, and the results as shown by the counter numbers for and against each question voted on.

(b) The official count for all offices and all questions shall be entered by the poll officers, in ink, in triplicate, on return sheets. There shall also be entered on the return sheets the number of electors who have voted as shown by the numbered list of voters, electors list, and voter's certificates, the number on each machine as shown by the public counters, and also the number registered on the protective counter or device on each machine immediately prior to the opening of the polls and immediately after the closing thereof and sealing of the machine. The number or other designation of each machine used shall also be entered thereon. In the case of primaries, return sheets shall be prepared as for other elections. The registering counters of the voting machine or the paper proof sheets, as the case may be, shall remain exposed to view until the said returns and all other reports have been fully completed and checked by the poll officers. During such time, any candidate or his representative who may desire to be present shall be admitted to the polling place.

(c) The proclamation of the result of the votes cast shall be announced distinctly and audibly by a poll officer who shall read the name of each candidate, the designation or designating number and letters of his counters, the vote registered on each counter, and the

vote cast for and against each question submitted. After any necessary corrections shall have been made by poll officers, the doors or other cover of the voting machine shall be closed and locked. The chief manager shall promptly deliver to the superintendent or his representative the keys of the voting machine, enclosed in a sealed envelope, if the construction of the voting machine shall permit their separate return. Such envelope shall have endorsed thereon a certificate of the poll officers stating the number of the machine, the precinct where it has been used, the number on the seal, and the number on the protective counter or device at the close of the polls.

(d) The poll officers on the foregoing returns shall record any votes which have been cast by means of a write-in ballot for a person whose name is not printed on the ballot labels, such names to be recorded exactly as written.

(e) After the canvass is completed, the return sheets shall be signed by the poll officers. If any poll officer shall refuse to sign or certify the return sheets, he shall write his reason therefor upon such sheets. (Code 1933, § 34A-1229, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1982, p. 1512, § 5.)

21-3-366. Form of return sheets; posting of copy of returns; delivery of copies of returns, write-in ballots, proof sheets, etc., to superintendent; delivery of voter's certificates, oaths of assisted voters, etc., to superintendent.

(a) The return sheets shall be printed to conform with the type of voting machine used and in the form approved by the governing authority. The designating number and letter, if any, on the counter for each candidate shall be printed opposite the candidate's name.

(b) For the information of the public one copy of the district returns shall be immediately posted outside of the polling place. If the type of voting machine used in the district is equipped with mechanism for printing paper proof sheets, one of such proof sheets shall also be posted outside of the polling place. This copy of the returns and the paper proof sheet, if any, shall be removed on the afternoon of the day following the election and filed in the office of the superintendent.

(c) A second copy of the district returns, together with the write-in ballots, one or more of the paper proof sheets if the type of voting machine used is equipped with mechanism for printing them, the oaths and certificates of poll officers, and the numbered list of voters shall be sealed in a separate envelope addressed to the city clerk and bearing a list of its contents on the outside. The envelope, together with an unsealed third copy of such returns and other election supplies, shall be immediately delivered by the managers into the custody of the superintendent. The electors list shall be sealed in a separate envelope addressed to the registrar and shall be delivered to the superintendent with the other required records.

(d) The voter's certificates, rejected voter's certificates, and oaths of assisted voters shall be sealed in a separate envelope addressed to the board of registrars and bearing a list of its contents on the outside. This envelope shall be immediately delivered by the managers into the custody of the superintendent. (Code 1933, § 34A-1230, enacted by Ga. L. 1968, p. 885, § 1.)

21-3-367. Removal, storage, etc., of voting machines after completion of vote count.

As soon as possible after the completion of the count in districts in which voting machines are used, the superintendent shall have the voting machines removed to the place of storage. The voting machines shall remain locked against voting for the period of ten days next following each primary and election, and as much longer as may be necessary or advisable because of any existing or threatened contest over the result of the primary or election, with due regard for the date of the next following primary or election; provided, however, that they may be opened and all the data and figures therein examined under the provisions of this chapter by order of any superior court of competent jurisdiction; and such data and such figures shall be examined by such committee in the presence of the officer having the custody of such machines. (Ga. L. 1959, p. 413, § 1; Code 1933, § 34A-1231, enacted by Ga. L. 1968, p. 885, § 1.)

Part 4

Precincts Using Vote Recorders

21-3-380. Conformance of procedures for obtaining ballot cards, for recording votes thereon, etc., to similar procedures prescribed for paper ballots; disposition of ballot cards, etc., spoiled or defaced by voters; removal of numbered strip and deposit of ballot card; disposition of number strips; inspection of vote recorders, etc., by poll officers; repair of damaged machines.

(a) In districts in which vote recorders are used, the procedure for opening the polls and for an elector to obtain a ballot card, to record his vote thereon, and to deposit his ballot card in the ballot box shall conform to the procedure prescribed in this chapter for paper ballots insofar as practicable.

(b) If an elector spoils or defaces a ballot card or write-in ballot, he shall return it to the managers and receive another. A manager shall immediately cancel the spoiled ballot by writing the word "Spoiled" across said ballot and shall place it in the container for spoiled ballots.

(c) After marking the ballot card, the elector shall leave the compartment and exhibit his ballot card number strip to a poll officer. Unless his vote is challenged, the elector shall remove the number strip in the presence of a poll officer before depositing the ballot card in the ballot box. If the vote is challenged, the ballot card with the number strip attached shall be placed in an envelope provided for that purpose, which envelope shall be marked "Challenged."

(d) The number strip shall either be deposited in the stub box or placed upon a spindle file maintained by the poll officer for such purpose; and the number strips shall be retained with the ballots and other stubs.

(e) The poll officers shall inspect the face of the vote recorder and the ballot labels at least once every hour during the time when the polls are open in order to determine that the recorder and the ballot labels have not been damaged or tampered with.

(f) If any vote recorder becomes damaged so as to render it inoperative in whole or in part, the chief manager shall promptly notify the superintendent or custodian, who shall have such vote recorder repaired or replaced. (Code 1933, § 34A-1232, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1969, p. 355, § 28; Ga. L. 1977, p. 303, § 5.)

21-3-381. Preparation and signing of returns; posting of copy of returns; delivery of copies of returns, ballot cards, tally papers, etc., to tabulating machine center, etc.; responsibility of superintendent to return vote recorders to custodian; delivery of voters' certificates, oaths of assisted voters, etc., to superintendent.

(a) Upon completion of the count of write-in votes, the managers shall prepare and sign a return, in triplicate, showing:

- (1) The number of valid ballot cards including any that are damaged;
- (2) The number of write-in ballots voted and the tally of the write-in votes;

(3) The number of spoiled and invalid ballot cards; and

(4) The number of unused ballot cards.

(b) For the information of the public, one copy of such returns shall be immediately posted outside of the polling place. This copy shall be removed on the afternoon of the following day and filed in the office of the superintendent.

(c) A second copy of the district returns together with the used, unused, and invalid ballot cards and the stubs of all ballot cards used, the write-in ballots, tally papers, oaths of poll officers, the electors list, and the numbered list of voters, each enclosed in separate envelopes, except that the tally papers, oaths, and lists may be enclosed in the same envelope, shall be placed in the ballot card container which shall be sealed and signed by the managers so that it cannot be opened without breaking the seal. The managers shall immediately deliver the ballot card container and other election supplies to the tabulating machine center or other place designated by the superintendent and shall receive a receipt therefor. The superintendent shall be responsible for the return of the vote recorders to the custodian as soon as practicable.

(d) The voter's certificates, rejected voter's certificates, and oaths of assisted voters shall be sealed in a separate envelope addressed to the board of registrars and bearing a list of its contents on the outside. This envelope shall be immediately delivered by the managers into the custody of the superintendent. (Code 1933, § 34A-1234, enacted by Ga. L. 1968, p. 885, § 1.)

21-3-382. (Effective January 1, 1983) Duties of poll officers after the close of the polls.

As soon as the polls are closed and the last elector has voted in precincts in which vote recorders are used, the poll officers shall:

(1) Place the vote recorders under lock or seal;

(2) Count and record on return sheets, in ink, in triplicate, the number of persons voting as shown on the numbered list of voters; the number of ballots unused; the number of ballots issued to electors as shown by the stubs; and the number of ballots spoiled and returned by electors and canceled; and if any differences exist they shall be reconciled, if possible; otherwise they shall be noted on the returns;

(3) As soon as all votes are accounted for, seal the unused and void, spoiled, or canceled ballots in separate envelopes with the number noted on the outside;

(4) Open each ballot box and count the number of ballots casts;

(5) Examine the ballot cards and separate the write-in ballots for later counting;

(6) Place ballot cards in the ballot container to be taken to the tabulating machine center or centers as designated by the superintendent;

(7) Record in ink the designation of the polling place and a serial number on all write-in ballots, starting with the number one, and place the same number on the ballot card voted by the same elector so that write-in ballots may be identified with the corresponding ballot cards;

(8) Examine each write-in vote to ascertain whether it is valid by checking with the vote cast on the ballot card by the same elector; and if any vote cast on the write-in ballot, in combination with the vote cast for the same office on the ballot card, exceeds the allowed number for the office, the entire vote cast for that office shall be marked void and shall not be counted; and the ballot card of such elector shall be kept with the write-in ballot on which shall be written a notation that the vote or votes cast for the office concerned are invalid because they exceed the number allowed by law; and the write-in ballot and the ballot card of such elector shall be returned with the defective ballot cards to the tabulating center, where, in the discretion of the superintendent, either:

(A) A duplicate ballot card shall be made on which any invalid vote shall be omitted; or

(B) The write-in ballot and the ballot card shall be counted in such manner as may be prescribed by State Election Board rules, omitting the invalid vote;

(9) After the write-in ballots have been counted and the returns prepared, place the write-in ballots in an envelope marked "Write-in Ballots" and designate the polling place and the number of write-in ballots contained therein on such envelope, which shall be sealed and signed by the managers and placed in the ballot container with the other ballot cards;

(10) Place any ballot card that is so torn, bent, or mutilated that it may not be counted by the tabulating machine in an envelope marked "Defective Ballots" and place the envelope in the container with other ballot cards; and

(11) In the event that paper ballots are used in conjunction with ballot cards, conduct the counting of the paper ballots as provided by this chapter. (Code 1933, § 34A-1233, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1969, p. 355, § 29; Ga. L. 1982, p. 1512, § 5.)

21-3-383. Counting of ballot cards, write-in ballots, absentee ballots, etc., at tabulating machine centers.

(a) In primaries and elections in which vote recorders have been used, the ballot cards shall be counted at one or more tabulating machine centers under the direction of the superintendent. All persons who perform any duties at the tabulating machine center shall be deputized by the superintendent; and only persons so deputized shall touch any ballot card, container, paper, or machine utilized in the conduct of the count or be permitted to be inside the area designated for officers deputized to conduct the count. All proceedings at a tabulating machine center shall be open to the view of the public, but no person except one employed and designated for the purpose by the superintendent or his authorized deputy shall touch any ballot cards or ballot card container.

(b) At the tabulating machine center the seal on each container of ballot cards shall be inspected and certified as not having been broken before the container is opened. The ballot cards and other contents of the container shall then be removed and the ballot cards shall be prepared for processing by the tabulating machine. The ballot cards of each polling place shall be plainly identified and not commingled with the ballot cards of other polling places.

(c) If it appears that a ballot card is so torn, bent, or otherwise defective that it cannot be processed by the tabulating machine, the superintendent, in his discretion, may either order that the ballot card be counted in the same manner as paper ballots are counted or order the proper election official at the tabulating center to prepare a true duplicate copy for processing with the ballot cards of the same polling place, which shall be verified in the presence of a witness. All duplicate cards, including those prepared pursuant to paragraph (8) of Code Section 21-3-382, shall be red in color, shall be clearly labeled by the word "Duplicate," shall bear the designation of the polling place, and shall be given the same serial number as the defective card. The defective ballot card shall be attached to the duplicate and shall remain therewith at all times except for that period of time during which it is being processed by the tabulating machine. Any ballot card returned by the managers with the notation that the votes cast for a particular office are invalid shall after inspection be processed by either of the methods prescribed in paragraph (8) of Code Section 21-3-382.

(d) The official returns of the votes cast on ballot cards at each polling place shall be printed by the tabulating machine, to which shall be added the votes of absentee electors and write-in votes. The returns thus prepared shall be certified and promptly posted as provided by this chapter for paper ballots. The official returns for the primary or election may be printed by the tabulating machine, to which are added the tally of write-in and absentee votes, and shall be canvassed and certified as provided by this chapter. The ballot cards, write-in ballots, spoiled, defective, and invalid ballot cards, and returns shall be filed and retained in the same manner as provided by this chapter for paper ballots. (Code 1933, § 34A-1235, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1969, p. 355, § 30; Ga. L. 1974, p. 99, § 2; Ga. L. 1982, p. 3, § 21.)

ARTICLE 12

RETURNS

21-3-400. Office of superintendent to remain open during primaries and elections until all ballot boxes and returns received.

Each superintendent shall cause his office to remain open during the entire duration of each primary and election and after the close of the polls, until all the ballot boxes and returns have been received in the office of the superintendent or received in such other place as has been designated by him. (Code 1933, § 34A-1401, enacted by Ga. L. 1968, p. 885, § 1.)

21-3-401. Public inspection of unsealed returns at office of superintendent; opening of sealed envelopes upon order of superintendent or court.

The returns from the various districts which have been returned unsealed shall be open to public inspection at the office of the superintendent as soon as they are received from the chief managers. None of the envelopes sealed by poll officers and entrusted to the chief manager for delivery to the superintendent shall be opened by any person, except by the order of the superintendent or of a court of competent jurisdiction. (Code 1933, § 34A-1402, enacted by Ga. L. 1968, p. 885, § 1.)

21-3-402. (Effective January 1, 1983) Superintendent to arrange for computation, etc., of returns; notice of when and where returns will be computed, etc.; swearing of individuals assisting in computation, etc., of returns.

The superintendent shall arrange for the computation and canvassing of the returns of votes cast at each primary and election at his office or at some other convenient public place in the municipality. An interested candidate or his representative shall be permitted to keep or check his own computation of the votes cast in the several precincts as the returns from the same are read. The superintendent shall give at least one week's notice prior to the primary or election by posting in a conspicuous place in the city hall a notice giving the time and place when and where he will commence and hold his sessions for the computation and canvassing of the returns; and he shall keep copies of such notice posted in his office during such period. Any persons assisting the superintendent in the computation and canvassing of the votes shall be first sworn by the superintendent to perform their duties impartially and not to read, write, count, or certify any return or vote in a false or fraudulent manner. (Code 1933, § 34A-1403, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1982, p. 1512, § 5.)

21-3-403. (Effective January 1, 1983) Computation, tabulation, etc., of returns by superintendent; investigation of validity of votes cast; recount procedure; certification of returns.

(a) At or before 12:00 Noon on the day following the primary or election, the superintendent shall publicly commence the computation and canvassing of the returns and shall continue the same from day to day until completed, in the manner provided for in this Code section. Upon the completion of such computation and canvassing, the superintendent-

ent shall tabulate the figures for the entire municipality and shall sign, announce, and attest the same.

(b) Before computing the votes cast in any precinct, the superintendent shall compare the registration figure with the certificates returned by the poll officers showing the number of persons who voted in each precinct or the number of ballots cast. It shall be the responsibility of the superintendent to record the number of votes cast, unused ballots, spoiled ballots, canceled ballots, and ballot stubs. If there is any dispute or error, it shall also be his responsibility to investigate and to make a determination as to the validity of the votes cast. Such investigation shall be made in the presence of a representative of each party, body, and candidate interested. The superintendent shall make a report of the facts of the case to the district attorney where such action appears to be warranted.

(c) If discrepancies are discovered in any precinct and they cannot be corrected by investigation of the return sheets, tally sheets, voting machine proof sheets, computer tabulation sheets, or other papers of the precinct, the superintendent may order a recount of the votes cast for that precinct. Such recount shall be in the presence of interested candidates or their representatives; and if the recount shall not be sufficient to correct the error, the superintendent may summon the poll officers to appear immediately with all election papers in their possession. In precincts using voting machines, such recount or recanvass shall comply with the procedures set forth in Code Section 21-2-493.

(d) When the returns from the various precincts which are entitled to be counted shall have been duly recorded, they shall be added together and the absentee votes and write-in votes shall be added to that sum. The results shall then be announced and attested by the assistants who made and computed the entries, respectively, and shall be signed by the superintendent. Immediately after the completion of the computation of votes, the superintendent shall certify the returns so computed in the manner required by this chapter. (Ga. L. 1943, p. 347, § 1; Ga. L. 1962, p. 678, § 1; Code 1933, § 34A-1404, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1982, p. 1512, § 5.)

21-3-404. Manner of computing and certifying write-in votes.

The superintendent in computing the votes cast at any election shall compute and certify write-in votes exactly as such names were written by the elector. (Code 1933, § 34A-1405, enacted by Ga. L. 1968, p. 885, § 1.)

21-3-405. Losing candidate's right to a recount.

Whenever the difference between the number of votes received by a candidate who has been declared nominated for an office in a primary election or who has been declared elected to an office in a general election and the number of votes received by any other candidate or candidates not declared so nominated or elected shall be not more than 2 percent of the total votes which were cast for such office, the losing candidate within a period of five days following certification of the election results to the governing authority shall have the right to a recount of the votes cast if he makes a written request for a recount. After such request, the superintendent shall order an immediate recount of such votes to be made. (Code 1933, § 34A-1408, enacted by Ga. L. 1968, p. 885, § 1.)

21-3-406. Filing of certified returns by superintendent.

(a) After the certification of the returns of any primary or election as provided by Code Section 21-3-403, the superintendent shall retain in his office one copy of the returns so certified.

(b) In the case of a primary, each party superintendent shall make the return required by the rules of his party.

(c) In the case of an election, the superintendent shall make the return of the election to the governing authority of the municipality. (Code 1933, § 34A-1406, enacted by Ga. L. 1968, p. 885, § 1.)

21-3-407. Determination by municipal charters and ordinances of vote required for nomination or election; holding of run-off primary or election in which majority vote required and no candidate receives majority vote.

(a) If the municipal charter or ordinances as now existing or as amended subsequent to September 1, 1968, provide that a candidate may be nominated or elected by a plurality of the votes cast to fill such nomination or public office, such provision shall prevail. Otherwise, no candidate shall be nominated for public office in any primary or elected to public office in any election unless such candidate shall have received a majority of the votes cast to fill such nomination or public office.

(b) In instances in which no candidate receives a majority of the votes cast and the municipal charter or ordinances do not provide for nomination or election by a plurality vote, a run-off primary or election shall be held between the candidates receiving the two highest numbers of votes. Such runoff shall be held not earlier than the fourteenth day and not later than the twenty-first day after the day of holding the first primary or election, on a date specified by ordinance or resolution, unless such run-off date is postponed by court order. Only the electors entitled to vote in the first primary or election shall be entitled to vote in any run-off primary or election resulting therefrom; provided, however, that no elector shall vote in a run-off primary in violation of Code Section 21-3-136. The run-off primary or election shall be a continuation of the first primary or election, and only those votes cast for the candidates receiving the two highest numbers of votes in the first primary or election shall be counted. No write-in votes may be cast in a primary, run-off primary, or run-off election. If any candidate eligible to be in runoff withdraws, dies, or is found to be ineligible, the remaining candidates receiving the two highest numbers of votes shall be the candidates in such runoff. The candidate receiving the highest number of the votes cast in such run-off primary or election to fill the nomination or public office he seeks shall be declared the winner.

(c) The name of a write-in candidate eligible for election in a runoff shall be printed on the run-off election ballot in the independent column.

(d) In all cities having a population in excess of 100,000 according to the United States decennial census of 1980 or any future such census, in order for a candidate to be nominated for public office in any primary or elected to public office in any election, he must receive a majority of the votes cast. (Code 1933, § 34A-1407, enacted by Ga. L. 1968,

p. 885, § 1; Ga. L. 1970, p. 341, § 11; Ga. L. 1974, p. 82, § 27; Ga. L. 1978, p. 1025, § 13; Ga. L. 1981, p. 1728, § 11.)

21-3-408. Special primary or election upon failure to nominate or elect a candidate, upon death or withdrawal of officer elect, etc.; special election to fill vacancy in office when municipal charter fails to provide method for filling of vacancy.

(a) Whenever any primary or election shall fail to fill a particular nomination of office and such failure cannot be cured by a run-off primary or election, or whenever any person elected to public office shall die or withdraw prior to taking office, or whenever any person elected to public office shall fail validly to take that office, the authority with whom the candidates for such nomination or office filed their notice of candidacy shall thereupon call a special primary or election to fill such position.

(b) Whenever any person elected to public office shall, after taking office, die, withdraw, or for any other reason create a vacancy in his office and the municipal charter fails to provide a method for the filling of such vacancy, the governing authority shall thereupon call a special election to fill such vacancy. (Code 1933, § 34A-1409, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1980, p. 684, § 1; Ga. L. 1981, p. 1430, § 3.)

21-3-409. Delivery of ballots, lists of voters, etc., to city clerk; preservation and destruction of ballots, lists of voters, etc.

Immediately upon completing the returns required by this article, the superintendent shall deliver in sealed containers to the city clerk the used, unused, and void ballots and the stubs of all ballots used; the oaths of poll officers; and one copy of each numbered list of voters, tally papers, voting machine paper proof sheets, and return involved in the primary or election. Such ballots and other documents shall be preserved under seal in the office of the city clerk for at least 24 months; and then they may be destroyed unless otherwise provided by order of the mayor and council if a contest has been filed or by court order, provided that the electors list, voter's certificates, and duplicate oaths of assisted electors shall be immediately returned by the superintendent to the county or municipal registrar as appropriate. (Code 1933, § 34A-1410, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1978, p. 1025, § 14.)

ARTICLE 13
CONTESTED ELECTIONS AND PRIMARIES

21-3-420. Filing of petition to contest results of primary or election; hearing; finality of decision of governing authority.

A petition to contest the results of a primary or election shall be filed in writing with the city clerk within five days after the results of the election are declared by the governing authority. Upon the filing of the contest petition, a hearing shall be set before the governing authority of the municipality. Reasonable notice of the hearing shall be either personally delivered or forwarded by mail to all parties involved. The notice shall include a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing is to be held; and a short and plain statement of the grounds for contest. Opportunity shall be afforded all parties to be represented by legal counsel and to respond and present evidence on all issues involved. The hearing shall be presided over by the mayor or such other individual as the governing authority may appoint. Any member of the governing authority involved in the contest shall disqualify himself from judging the contest. The governing authority shall render its decision in writing within a reasonable time after such hearing and a copy of the decision shall be provided to all parties involved. The decision of the governing authority shall be considered a final determination of the contest unless appealed as provided in Code Section 21-3-421. If all members of the governing authority must disqualify themselves from judging the contest, the contestant may, within ten days of official notice of their disqualification, file an action in superior court as set forth in Code Section 21-3-421 without exhausting any other administrative remedies. (Code 1933, § 34A-1501, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1970, p. 341, §12; Ga. L. 1982, p. 1670, § 7.)

21-3-421. Appeals from governing authority's decision on contest petition.

The decision of the governing authority entered pursuant to Code Section 21-3-420 may be appealed to the superior court in the manner of appeal from a probate court, except that appeals shall be made within ten days after determination of the contest by the governing authority. The appeal of the decision of the governing authority shall be tried and determined in the county in which the city hall is located. The case shall be presided over by the judge of the superior court who has the greatest number of years of service in the judicial circuit or circuits adjoining the judicial circuit containing the municipality in which the contest is instituted. If such judge is disqualified or unable to serve, the clerk shall immediately notify the Governor of such fact; and the Governor shall thereupon appoint a disinterested judge of the superior court who resides outside of the judicial circuit in which the contest is pending, or a senior judge of the superior court to serve in the place of such judge. Such judge or senior judge shall promptly begin presiding over such proceedings in such court and shall determine the same as soon as practicable. He shall be reimbursed for his actual expenses for food and lodging, and he shall receive the same mileage allowance as other state officials and employees. (Code 1933, § 34A-1501, enacted by Ga. L. 1968, p. 885, § 1; Ga. L. 1970, p. 341, § 12.)

21-3-422. Primaries, elections, etc., which are subject to contest; grounds for contest.

The nomination of any person who is declared nominated at a primary, or the election of any person who is declared elected to any municipal office, or the eligibility of any person declared eligible to seek nomination or office in a run-off primary or election, or the approval or disapproval of any question submitted to electors at an election may be contested on one or more of the following grounds:

- (1) Malconduct, fraud, or irregularity by any primary or election official or officials sufficient to change or place in doubt the result of the primary or election;
- (2) That the candidate elected is ineligible for the nomination or office in dispute;
- (3) That illegal votes have been received or legal votes rejected at the polls sufficient to change or place in doubt the result of the primary or election;
- (4) An error in counting the votes or declaring the result of the primary or election if such error would change the result; or
- (5) Any other cause which shows that another was the person legally nominated, elected, or eligible to compete in a run-off primary or election. (Code 1981, § 21-3-422, enacted by Ga. L. 1982, p. 1670, § 8.)

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**CHAPTER 183-2-4
POLL OFFICERS**

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183-2-4-.01 Oaths of Poll Officers

183-2-4-.01 Oaths of Poll Officers.

All managers and clerks shall, before entering upon their duties at any primary or election, be duly sworn in the presence of each other. The chief manager shall first be sworn by an assistant manager and the assistant managers and clerks shall then be sworn by the chief manager. Each of them shall forthwith sign in duplicate the oath taken by him upon forms to be furnished by the superintendent, and the same shall be attested by the officer who administered the oath. The oaths for managers and clerks shall be in the following form:

(a) Oath of Managers

I, _____, do swear (of affirm) that I will as manager duly attend the ensuing election (or primary) during the continuance thereof, that I will not admit any person to vote, except such as I shall firmly believe to be registered and entitled to vote at such election (or primary), according to the laws of this State, that I will not vexatiously delay or refuse to permit any person to vote whom I shall believe to be entitled to vote as aforesaid, that I will use my best endeavors to prevent any fraud, deceit or abuse in carrying on the same, that I will make a true and perfect return of the said election (or primary), and that I will at all times truly, impartially and faithfully perform my duties therein to the best of my judgment and ability.

(b) Oath of Clerks

I, _____, do swear (or affirm) that I will as a clerk attend the ensuing election (or primary) during the continuance thereof, that I will use my best endeavors to prevent any fraud, deceit or abuse in carrying on the same, and that I will at all times truly, impartially and faithfully perform my duties therein to the best of my judgment and ability.

Authority Ga. Municipal Election Code 1968, as amended. **Administrative History.** Original Rule was filed on August 30, 1973; effective September 19, 1973.

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183-2-5-.01 Oath of Registration Officers.

Before entering upon his duties, each registrar and deputy registrar shall take the following oath before some officer authorized to administer oaths under the laws of this State, to wit:

“I do solemnly swear that I will faithfully and impartially discharge, to the best of my ability, the duties imposed upon me by law as (deputy) registrar.”

Authority Ga. Municipal Election Code 1968, as amended. **Administrative History.** Original Rule was filed on August 30, 1973; effective September 19, 1973.

November 9, 1975

183-2-5-.02 Proper Identification for Registration. Amended.

When any person who seeks to register as an elector is asked to provide proper identification by the registrar or a deputy, as required by law, it shall be sufficient for the applicant to exhibit his or her valid driver's license; birth certificate; credit card; food stamp card; social security card; check cashing card; passport; school record; work identification record; utility bill; school identification; medicaid, medicare, or welfare identification.

Authority Ga. L. 1964, Extra Sess., pp. 26, 35, as amended (Ga. Code Ann. Sec. 34-202)

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AND POLLING PLACES**

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183-2-6-.01 Election Districts, Change in Boundaries, Notification of Electors.

When the boundary lines of an election district are altered, all affected electors shall be notified of the change at least thirty (30) days before the next primary or election. Such notice shall be in writing and mailed to the last known address of the elector by the Registrar.

Authority Ga. Municipal Election Code 1968, as amended. **Administrative History.** Original Rule was filed on August 30, 1973; effective September 19, 1973.

November 9, 1975

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183-2-7-.01 Calls for Primaries and Elections.

All calls for primaries and elections shall bear the date of first publication in a newspaper of the notice of such call, and all computations of time as required by the Georgia Municipal Election Code shall be based upon such date. This provision shall not alter in any manner the publication requirements relative to notice as set forth in the said Code.

Authority Ga. Municipal Election Code 1968, as amended. **Administrative History.** Original Rule was filed on August 30, 1973; effective September 19, 1973.

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- 183-2-11-.07 Ballot Cards Sealed After Tabulation
- 183-2-11-.08 Defective and Duplicated Ballot Cards, Sealed After Tabulation
- 183-2-11-.09 Write-In Ballots, Sealed After Tabulation

183-2-11-.01 Voting Machines.

No rules applicable to voting machines have been adopted.

Authority Ga. Municipal Election Code 1968, as amended. **Administrative History.** Original Rule was filed on August 30, 1973; effective September 19, 1973.

183-2-11-.02 Vote Recorders.

Rules applicable to vote recorders are numbered 183-2-11-.03 through 183-2-11-.09.

Authority Ga. Municipal Election Code 1968, as amended. **Administrative History.** Original Rule was filed on August 30, 1973; effective September 19, 1973.

183-2-11-.03 Tabulating Center Personnel, Trained and Certified.

All tabulating center personnel must be trained in their respective duties and certified as required by Section 21-3-36 of the Georgia Municipal Election Code for poll officers. All programmers, operators, and data center personnel in vote recorder districts shall be sworn as provided in Code Section 21-3-35 for poll officers.

Authority Ga. Municipal Election Code 1968, as amended. **Administrative History.** Original Rule was filed on August 30, 1973; effective September 19, 1973.

183-2-11-.04 Certification of Program Instructions.

During the official computer certification, all program test decks, program instructions, and print out sheets become property of the superintendent. All program instructions must be certified by the programmers who programmed them, and such instructions shall be kept with the test decks and filed with the City Clerk following consolidation and certification of the election returns.

Authority Ga. Municipal Election Code 1968, as amended. **Administrative History.** Original Rule was filed on August 30, 1973; effective September 19, 1973.

November 9, 1975

183-2-11-.05 Ballot Envelopes and Fold Over Ballot Cards.

In vote recorder districts, in order to insure secrecy of the ballot in primaries and elections and to provide for write-in space in elections, the Superintendent shall authorize the use of one of the following types of ballot cards:

(a) **Ballot card with envelope, as specified in 1. below:**

1. Ballot Card and Envelope

(i) **Use in Primaries.** The ballot card must be inserted by the voter into a ballot envelope in order to preserve the secrecy of the ballot. After the polls close and the ballot box is opened, poll officers shall separate ballot cards from ballot envelopes and the envelopes shall be returned to the Superintendent with other election supplies.

(ii) **Use in General and Special Elections.** The ballot card must be inserted by the voter into a ballot envelope in order to preserve the secrecy of the ballot. In elections, the ballot card and the ballot envelope must remain together in the ballot box in order to constitute a valid vote. Separated ballots shall be classified as invalid ballots and shall not be counted. In elections, after the polls close, the poll officers shall review the ballot card and the ballot envelope to ascertain whether the elector has cast write-in votes. If no write-in vote is recorded on the ballot envelope, such envelope shall be returned to the Superintendent with the other election supplies. If a write-in vote has been recorded on the ballot envelope, the poll officer shall follow the provisions of Georgia Municipal Election Code Sections 21-3-193; 21-3-382; 21-3-325.

2. Fold Over Ballot Card

(i) **Use in Primaries.** After the polls close and the ballot box is opened, poll officers shall separate the punched portion of the card from the fold over portion and that portion shall be returned to the Superintendent with other election supplies.

(ii) **Use in General and Special Elections.** In elections, the punched portion of the card and the write-in fold over portion of the card must remain together in the ballot box in order to constitute a valid vote. Separated ballots shall be classified as invalid ballots and shall not be counted. In elections, after the polls close, the poll officers shall review the fold over ballot card to ascertain whether the elector has cast any write-in votes. If no write-in vote is recorded on the write-in portion of the ballot, then that portion of the ballot card shall be returned to the Superintendent with the other election supplies. If a write-in vote has been recorded on that portion of the fold over ballot card, the poll officers shall follow the provisions of Code Sections 21-3-193; 21-3-382; 21-3-325.

Authority Ga. Municipal Election Code 1968, as amended. **Administrative History.** Original Rule was filed on August 30, 1973; effective September 19, 1973.

November 9, 1975

183-2-11-.06 Defective Ballot Cards, Duplication and Tabulation.

Defective ballot cards in vote recorder districts may be separated from other ballot cards, duplicated according to Section 21-3-383 (a) (iii) of the Georgia Municipal Election Code, tabulated and added to the official election district returns. When a defective ballot is duplicated, one election official shall read the defective ballot to a second election official who shall punch the duplicate card. Such punched duplicate card and the original card shall be reviewed by one other election official in order to be sure a true and accurate duplicate of the original ballot has been made.

Authority Ga. Municipal Election Code 1968, as amended. **Administrative History.** Original Rule was filed on August 30, 1973; effective September 19, 1973.

183-2-11-.07 Ballot Cards, Sealed After Tabulation.

In vote recorder districts, as soon as the ballot cards for an election district have been run through the computer, the ballot cards, together with a copy of the election district return and the election district header cards shall be placed in a container plainly marked by the election district, sealed with paper seals signed by at least two election officials, and retained as specified in Section 21-3-409 of the Georgia Municipal Election Code.

Authority Ga. Municipal Election Code 1968, as amended. **Administrative History.** Original Rule was filed on August 30, 1973; effective September 19, 1973.

183-2-11-.08 Defective and Duplicated Ballot Cards, Sealed After Tabulation.

In vote recorder districts, duplicated defective ballots shall be tabulated by election district and kept along with the original defective ballots, by election district, in a container clearly marked "Defective Ballots for _____ Election District (or districts)," sealed with paper seals signed by at least two election officials, and retained as specified in Section 21-3-409 of the Georgia Municipal Election Code.

Authority Ga. Municipal Election Code 1968, as amended. **Administrative History.** Original Rule was filed on August 30, 1973; effective September 19, 1973.

183-2-11-.09 Write-In Ballots. Sealed After Tabulation.

After tabulation, the ballot envelopes or the fold over write-in portion shall be placed in a container clearly marked by election district, sealed with paper seals, signed by at least two election officials, and delivered to the City Clerk as specified in Section 21-3-409 of the Georgia Municipal Election Code.

Authority Ga. Municipal Election Code 1968, as amended. **Administrative History.** Original Rule was filed on August 30, 1973; effective September 1, 1973.

November 9, 1975

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**CHAPTER 183-2-12
PREPARATION FOR AND CONDUCT OF PRIMARIES
AND ELECTIONS**

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183-2-12-.01 Reserved.

183-2-12-.02 Ballots, Paper, Validity of Marking.

Where the elector has marked his paper ballot in such a manner that he has indicated clearly and without question the candidate for whom he desires to cast his vote, his ballot shall not be deemed to have been improperly marked and shall be counted and such candidate shall receive his vote, notwithstanding the fact that the elector in indicating his choice may have marked his ballot in a manner other than as prescribed by the Georgia Municipal Election Code. At primaries, a ballot upon which a voter has marked out or struck through the name of a candidate for whom the voter does not intend to cast his vote may be counted if the ballot clearly indicates that candidate for whom the voter desired to cast his vote.

Authority Ga. Municipal Election Code 1968, as amended. **Administrative History.** Original Rule was filed on August 30, 1973; effective September 19, 1973.

183-2-12-03 Poll Watchers, Notification to Superintendent.

At least three days prior to the primary or election, a copy of the designating letter issued by the political party or independent candidate as specified in Section 21-3-317 shall be sent by the appropriate authority to the Superintendent of the Primary or Election in which the poll watcher is to serve.

Authority Ga. Municipal Election Code 1968, as amended. **Administrative History.** Original Rule was filed on August 30, 1973; effective September 19, 1973.

Note: This deadline has been changed from three days to seven days in accordance with 1978 Amendment to Section 21-3-317.

November 9, 1975

183-2-12-.04 Poll Watchers Required to Wear Badge.

The Superintendent shall furnish a badge to each poll watcher containing the words "Official Poll Watcher," his name, the primary or election in which he shall serve, and each election district or tabulating center in which he is to serve. The poll watcher shall wear his badge at all times while he is serving as a poll watcher.

Authority Ga. Municipal Election Code 1968, as amended. **Administrative History.** Original Rule was filed on August 30, 1973; effective September 19, 1973.

183-2-12-.06 Poll Watchers for Tabulating Center.

In vote recorder districts, the Superintendent shall allow each political party to appoint two poll watchers for each primary or election, and each independent candidate to appoint one poll watcher for each election, to serve in each of the locations designated by the Superintendent within the tabulating center. Such designated places shall include the check-in area, the computer room, the duplication area, and such other areas as the Superintendent may deem necessary to the assurance of fair and honest procedures in the tabulating center. Poll watchers designated for the tabulating center shall be appointed and serve in the same manner as other poll watchers.

Authority Ga. Municipal Election Code 1968, as amended. **Administrative History.** Original Rule was filed on August 30, 1973; effective September 19, 1973.

November 9, 1975

**RULES
OF
STATE ELECTION BOARD
GEORGIA MUNICIPAL ELECTION CODE**

**CHAPTER 183-2-13 Amended
ABSENTEE VOTING**

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183-2-13-.01 Repealed

183-2-13-.02 Absentee Ballot Envelope, Use of Symbols. Amended

183-2-13-.01 Repealed.

Authority Ga. Municipal Election Code 1968, as amended. **Administrative History.** Original Rule was filed on August 30, 1973; effective September 19, 1973. **Amended:** Original Rule entitled "Absentee Voting, Jurat Validity" repealed and no new Rule adopted. Filed October 20, 1975; effective November 9, 1975.

183-2-13-.02 Absentee Ballot Envelope, Use of Symbols. Amended.

Registrars shall either by use of color or symbols on the return absentee ballot envelope (the one on which the oath appears) designate under which category an absentee elector applied for his ballot. Suggested symbols: OM (out of municipality on election day); D (sick or disabled); EO (any person performing any of the official acts or duties set forth in the Georgia Municipal Election Code in connection with the primary or election in which he desires to vote, including officially designated poll watchers). To facilitate counting, a symbol designating the absentee elector's election district and, in the case of a primary, a symbol designating the party in whose primary the elector is voting, shall also be noted on the envelope containing the oath.

Authority Ga. Municipal Election Code 1968, as amended. **Administrative History.** Original Rule was filed on August 30, 1973; effective September 19, 1973. **Amended:** Filed October 20, 1975; effective November 9, 1975.

November 9, 1975

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