

February 5, 2008

A N O R D I N A N C E

AN ORDINANCE TO AMEND THE CODE OF DEKALB COUNTY, GEORGIA, CHAPTER 25 PERTAINING TO INEFFICIENT PLUMBING FIXTURES REPLACEMENT PLAN AND FOR OTHER PURPOSES.

The DeKalb County Governing Authority makes and adopts the following findings and conclusions in the adoption and approval of this ordinance:

WHEREAS, the Governing Authority of DeKalb County is authorized to adopt such ordinances or regulations for the governing and policing of the county for the purpose of protecting and preserving the health, safety, and welfare of the citizens of the county; and

WHEREAS, Article 9, Section 2, Paragraph 3(a) (7) of the Georgia Constitution gives the Governing Authority the authority to provide for distribution of water to its citizens and the Governing Authority believes that enactment of this Inefficient Plumbing Fixtures Replacement Plan will help to ensure that its citizens are provided with a continuous supply of potable water for domestic service and fire protection; and

WHEREAS, the Water Supply and Conservation Management Plan adopted by the Georgia General Assembly in 2003 requires the Governing Authority to speed up the conversion of older, inefficient plumbing fixtures to current lower flow models; and

WHEREAS, the water resources in the Metropolitan North Georgia Water Planning District and DeKalb County continue to diminish and the Governing Authority must take reasonable and effective measures to conserve DeKalb County's water resources; and

WHEREAS, water conservation is not only essential to meeting DeKalb County's water demands, it is also a cost-effective way to assure sufficient water supplies for DeKalb County's residents; and

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WHEREAS, the drought in the State of Georgia and in DeKalb County has reached epic proportions and the Governing Authority must take reasonable and effective measures to protect DeKalb County's water supply to its residents; and

WHEREAS, the availability of sufficient water is a fundamental necessity and a serious public health issue, thus it is the obligation of the Governing Authority to take the necessary steps to ensure that potable water remains available to its citizenry now and in future years; and

WHEREAS, buildings and homes constructed in DeKalb County after January 1, 1993 are required to be built with water conserving plumbing fixtures like ultra low flow toilets that use a maximum of 1.6 gallons per flush and showerheads that emit a maximum of 2.0 gallons per minute. Buildings and homes constructed prior to 1993 do not necessarily contain these water conserving plumbing fixtures and therefore vitally needed water is being wasted by the use of outdated plumbing fixtures that do not conserve this precious natural resource; and

WHEREAS, water resources may continue to decrease and droughts may continue to occur and the availability of a continuous adequate supply of water for domestic service and fire protection will be a serious issue in the coming years. The requirements set forth in this Inefficient Plumbing Fixtures Replacement Plan will conserve desperately needed water resources so that the citizens of DeKalb County continue to have adequate water for their use.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING AUTHORITY OF DEKALB COUNTY, GEORGIA, AND IT IS HEREBY ORDAINED BY THE AUTHORITY OF SAME, that Chapter 25 of the Code of DeKalb County, Georgia, is hereby amended to read as follows:

PART I. ENACTMENT

Chapter 25, Article II, of the Code of DeKalb County, Georgia, is hereby amended by amending Sections 25-45 through Section 25-60 as follows:

Sec. 25-45. Inefficient Plumbing Fixtures Replacement Plan.

Section 25-45 through Section 25-49 shall be known as the “DeKalb County Inefficient Plumbing Fixtures Replacement Plan”.

Sec. 25-46. Definitions.

For the purposes of sections 25-45 through 25-49, certain terms and words are hereby defined. Where words are not herein defined, but are defined in section 1-2, those words shall have the meaning as defined therein. Unless otherwise defined herein, words related to construction shall be as defined in this code and in the latest adopted applicable editions of the Georgia codes applicable to building construction adopted pursuant to state law. The following words, terms and phrases, when used in sections 25-45 through 25-49, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Apartment means one or more rooms intended for occupancy as a separate living quarter with cooking, sleeping and bathroom facilities provided within the dwelling where the occupants have no ownership interest in the dwelling but rather occupy the dwelling as tenants paying rental payments to a landlord.

Architectural or Historic Restrictions means a building or structure that has been identified by this code, or a state or federal government entity as a historic site or is one hundred (100) years or older and has special historic or esthetic interest or value.

Certificate of Compliance means a written form in which a home inspector, Department of Watershed Management inspector, or a licensed plumber pursuant to the laws of the State of Georgia asserts under penalty of perjury, that all structures on the property only contain water conserving plumbing fixtures and that all other kinds of plumbing fixtures have been removed from all structures on the property.

Commercial Qualifying Property means all land except residential qualifying property in unincorporated DeKalb County containing a structure(s) constructed prior to 1993, including apartments.

Extreme Economic Hardship means a cost to comply with the requirements of this ordinance that exceeds one thousand (1000) dollars per toilet in a single family residential building or two thousand (2000) dollars per toilet for a commercial building.

Residential Qualifying Property means any land in unincorporated DeKalb County containing a structure(s) constructed prior to 1993 that is an attached or detached single family dwelling or

dwelling unit as those terms are defined by section 27-31. Residential qualifying property does not include apartments as that term is defined in this section..

Qualifying Property means any land in unincorporated DeKalb County containing a structure(s) constructed prior to 1993 and includes commercial and residential qualifying property.

Water Conserving Plumbing Fixtures means ultra low-flow toilets (ULFTs) that use a maximum of 1.6 gallons per flush; urinals that use a maximum of 1.0 gallon per flush; showerheads that emit a maximum of 2.5 gallons per minute; lavatory faucets that emit a maximum of 2.0 gallons per minute; kitchen faucets that emit a maximum of 2.2 gallons per minute.

Sec. 25-47. Purpose, Scope, and Policy.

- (a) The County is authorized to adopt ordinances for the purpose of protecting and preserving the health, safety, and welfare of the citizens of the County.
- (b) Article 9, Section 2, Paragraph 3(a)(7) of the Georgia Constitution gives the County the authority to provide for distribution of water to its citizens and the governing authority believes that enactment of this Inefficient Plumbing Fixtures Replacement Plan will help to ensure that its citizens are provided with a continuous supply of potable water for domestic service and fire protection.
- (c) The drought in the State of Georgia and in DeKalb County has reached epic proportions and this Inefficient Plumbing Fixtures Replacement Plan designed to ensure that the County takes reasonable and effective measures to protect DeKalb County's water supply to its residents.
- (d) The availability of sufficient water is a fundamental necessity and a serious public health issue and this Inefficient Plumbing Fixtures Replacement Plan designed to provide beneficial public regulations to ensure that potable water remains available to the citizens of DeKalb County now and in future years.
- (e) Buildings and homes constructed in DeKalb County after January 1, 1993 are required to be built with water conserving plumbing fixtures like ultra low flow toilets that use a maximum of 1.6 gallons per flush and showerheads that emit a maximum of 2.0 gallons per minute. Buildings and homes constructed prior to 1993 do not necessarily contain these water conserving plumbing fixtures and therefore the continued use of these outdated plumbing fixtures contravenes the Governing Authority of DeKalb County's obligation to protect DeKalb County's water supply to its residents; and
- (f) Droughts may very well continue to occur and the availability of an adequate supply of water for domestic service and fire protection will be a serious issue in the coming years.

- (g) The requirements set forth in this Inefficient Plumbing Fixtures Replacement Plan will conserve desperately needed water resources so that the citizens of DeKalb County continue to have adequate water for their use.

Sec. 25-48. Inefficient Plumbing Fixtures Replacement Plan Requirements.

- (a) *Disclosure requirements.* Any person selling qualifying property after the applicable effective date of this ordinance shall disclose the requirements of this ordinance to potential purchasers prior to the execution of any contract to purchase and sell such property.
- (b) *Forms.* The chief executive officer or designee shall promulgate all forms and administrative processes required by the enactment of the DeKalb County Inefficient Plumbing Fixtures Replacement Plan.
- (c) *Purchaser's Responsibility.* No person who purchases qualifying property after the applicable effective date of this ordinance shall be allowed to obtain water service from DeKalb County until such time as that person has attached a certificate of compliance to the application for water service.
- (d) *Effective date.* This ordinance shall become effective for sales of residential qualifying property on June 1, 2008 and shall become effective for sales of commercial qualifying property on January 1, 2009.
- (e) *Exemptions.* The following transactions or types of real property are exempt from compliance with the requirements set forth in sections 25-45 through 25-49:
 - (1) Any real property in unincorporated DeKalb County containing a structure that was constructed after January 1, 1993;
 - (2) Any real property that is being advertised for foreclosure; or
 - (3) Any qualifying property that will not be inhabited but instead will be demolished after sale provided that prior to demolition the purchaser shall not be allowed to obtain water service for the qualifying property unless such water service is solely for demolition or construction related purposes;
 - (4) Any qualifying property that is sold or conveyed between spouses, or between parents and their children, including conveyances during the administration of the estate of such spouse, parent or child; or

- (5) Any qualifying property that, because of its architectural or historic restrictions, plumbing configurations, and/or drainage system configurations, would cause the owner to suffer extreme economic hardship.
- (f) *Duty.* Nothing in this ordinance is intended to or shall be construed to create any duty upon the agent of any transferee of any qualifying property; unless otherwise mutually agreed to in writing.

Sec. 25-49. Criminal Penalties.

- (a) Any person who does anything prohibited or fails to do anything required by the DeKalb County Inefficient Plumbing Fixtures Replacement Plan set forth in sections 25-45 through 25-49, upon citation and conviction of the violation in a court of competent jurisdiction, shall be subject to the penalties in accordance with section 1-10.
- (b) Upon a second and subsequent conviction within a twelve (12) month period measured from the date of the first conviction of any violation of the DeKalb County Inefficient Plumbing Fixtures Replacement Plan set forth in sections 25-45 through 25-49, the court shall impose a fine of not less than two hundred and fifty (250.00) dollars in addition to any other penalty or punishment imposed by the court.
- (c) Upon a third and subsequent conviction within a twelve (12) month period measured from the date of the first conviction of any violation of the DeKalb County Inefficient Plumbing Fixtures Replacement Plan set forth in sections 25-45 through 25-49, the court shall impose a fine of not less than five hundred (500.00) dollars in addition to any other penalty or punishment imposed by the court.
- (d) The penalties provided in this section are not cumulative and shall not prohibit DeKalb County from pursuing any other civil or criminal remedies authorized by this code, state, or federal law.

Sec. 25-50 – 25-60. Reserved.

PART II. EFFECTIVE DATE


This ordinance shall become effective as set forth in section 25-48 after adoption by the Board of Commissioners and approval by the Chief Executive Officer.

February 5, 2008

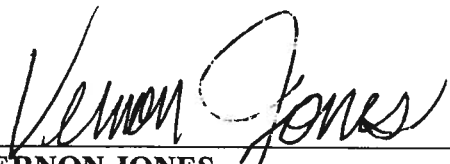
PART III. SEVERABILITY

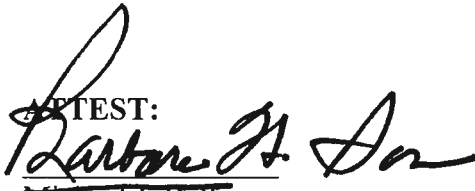

Should any section or provision of this ordinance be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the ordinance as a whole nor any part thereof other than the part so declared to be invalid or unconstitutional. All ordinances or resolutions, or parts thereof, in conflict with this ordinance are repealed.

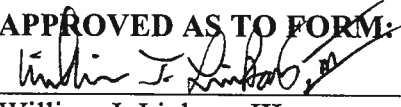
ADOPTED by the DeKalb County Board of Commissioners, this 26th day of February, 2008.

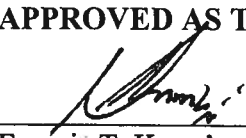

KATHIE GANNON
Presiding Officer
Board of Commissioners
DeKalb County, Georgia

APPROVED by the Chief Executive Officer of DeKalb County, this 29th day of February, 2008.


VERNON JONES
Chief Executive Officer
DeKalb County, Georgia

ATTEST:

Michael J. Bell
Ex-Officio Clerk


APPROVED AS TO FORM:

William J. Linkous III
County Attorney

APPROVED AS TO SUBSTANCE:

Francis T. Kung'u
Director of Watershed Management