

DEKALB COUNTY

ITEM
NO.

BOARD OF COMMISSIONERS

BUSINESS AGENDA / MINUTES

MEETING DATE: November 27, 2007

HEARING TYPE

Action

ACTION TYPE

ORDINANCE

Substitute

SUBJECT: Amending Chapter 25, Article II to enact the "Inefficient Plumbing Fixtures Replacement Plan."

DEPARTMENT: Watershed Management

PUBLIC HEARING: YES NO X

ATTACHMENT: X YES NO pp 7

INFORMATION CONTACT: Dr. Francis Kung'u

PHONE NUMBER (770) 621-7274

PURPOSE: To require buildings and homes constructed in DeKalb County before January 1, 1993 to be retrofitted 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 before ownership of the building or home is transferred by sale.

NEED/IMPACT: The Georgia Constitution gives the Governing Authority the authority to provide for distribution of water to its citizens. In 2003, the Georgia General Assembly adopted the Water Supply and Conservation Management Plan requiring the Governing Authority to rapidly convert older, inefficient plumbing fixtures to current lower flow models. Enacting this Inefficient Plumbing Fixtures Replacement Plan will help to ensure that DeKalb County citizens are provided with a continuous supply of potable water for domestic service and fire protection. 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. Given that the drought in the State of Georgia and in DeKalb County has reached epic proportions, the Governing Authority must take reasonable and effective measures to protect DeKalb County's water supply to its residents by taking the necessary steps to ensure that potable water remains available to its citizenry now and in future years.

RECOMMENDATION(S): Adopt the ordinance.

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:

Certificate of Compliance means a written form in which a plumber or inspector licensed 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.

Qualifying Property means any land in unincorporated DeKalb County containing a structure(s) constructed prior to 1993.

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) *Retrofit requirements.* It shall be unlawful for any person to sell any qualifying property after December 31, 2007 unless it has been retrofitted by the seller prior to the closing of the sale with water conserving plumbing fixtures. At the closing of the sale of such qualifying property or within 48 hours of the same, the seller of the real property shall provide a certificate of compliance to the purchaser of such qualifying 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.* It shall be unlawful for any person who purchases qualifying property after December 31, 2007, to occupy such qualifying property if any of the plumbing fixtures in a structure on the property are not water conserving plumbing fixtures. No person who purchases qualifying property after December 31, 2007 shall be allowed to apply for or 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) *Closing attorneys.* At the closing of the sale of qualifying property after December 31, 2007, the closing attorney shall present a certificate of compliance to the parties. The purchaser of said qualifying property shall comply with the requirements set forth in subsection (c) of this section.
- (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 sold as a result of legally valid foreclosure proceedings; or
 - (3) Any qualifying property that is sold or conveyed between spouses, or between parents and their children.

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. Where any offense or violation continues from day to day, each day's continuance thereof shall be deemed a separate offense.
- (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 five hundred (500.00) 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 one thousand (1000.00) 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 on January 1, 2008 after adoption by the Board of Commissioners and approval by the Chief Executive Officer.

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 ____ day of _____, 2007.

BURRELL ELLIS
Presiding Officer
Board of Commissioners
DeKalb County, Georgia

APPROVED by the Chief Executive Officer of DeKalb County, this ____ day of _____, 2007.

VERNON JONES
Chief Executive Officer
DeKalb County, Georgia

November 26, 2007

ATTEST:

Michael J. Bell
Ex-Officio Clerk to the
Board of Commissioners and
Chief Executive Office

APPROVED AS TO FORM:

William J. Linkous III,
County Attorney

APPROVED AS TO SUBSTANCE:

Francis T. Kung'u
Director of Watershed Management
DeKalb County, Georgia