

ORDINANCE

AN ORDINANCE TO AMEND THE CODE OF DEKALB COUNTY, GEORGIA, CHAPTER 23, ARTICLE V, PERTAINING TO SIDEWALK DISTRICTS AND FOR OTHER PURPOSES.

WHEREAS, DeKalb County has increasingly become one of the most densely populated counties in the State of Georgia as reflected in the increase in population between the census of 1990 and the census of 2000, and the growth and development in the County has increased the volume of traffic; and

WHEREAS, DeKalb County has an interest in preserving and improving the health, safety and welfare of its citizens and seeks to preserve a better quality of life in residential neighborhoods by providing a program by which residents can have sidewalks installed throughout residential communities; and

WHEREAS, DeKalb County's rapid growth and development has resulted in a significant increase in vehicular and pedestrian traffic and, thus, has increased the demand for the installation of sidewalks; and

WHEREAS, neighborhood groups and county citizens have expressed a desire to have sidewalks installed in their neighborhood; and

WHEREAS, all new subdivisions in DeKalb County are required to have sidewalks installed to provide a safe place for residents to walk; and

WHEREAS, the DeKalb County Board of Commissioners finds that a program to allow neighbors to share the cost of installing sidewalks is necessary to allow this improvement to existing residential neighborhoods.

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 23, Article V, sections 23-90 through 23-93 be added to the Code of DeKalb County, Georgia, to read as follows:

PART I. ENACTMENT

Chapter 23 Article V entitled "Sidewalk Districts" is hereby created by adding new sections 23-90 through 23-93, to read as follows:

Article V. Sidewalk Districts.

Sec. 23-90. Program established.

There is established a residential sidewalk district program whereby eligible residential areas may petition the county to install sidewalks within their neighborhood.

Sec. 23-91. Sidewalk district requirements.

- (a) A sidewalk district can only be established in residentially zoned districts where the streets or roads within the proposed sidewalk district have been accepted by the county for perpetual maintenance.
- (b) Sidewalk construction must begin and end at existing sidewalks or public road intersections, or immediately across from public road intersections, but may extend past a public road intersection to complete the frontage adjoining the proposed sidewalk construction.

Sec. 23-92. Application and petition.

- (a) *Application.* Anyone who desires to have a sidewalk district created shall submit an application to the director of public works or designee. Said application shall be made on forms made available by the director of public works and shall at a minimum contain a plat showing the area of the proposed sidewalk district and the location of the proposed sidewalks.
- (b) *Estimate of costs.*
 - (1) Based upon the plat submitted with the application, the director of public works or designee shall prepare an estimate of the total project cost and pro rata cost per property owner for the creation of the proposed sidewalk district, including the costs for the design, contracting, acquisition of rights-of-way, and inspection for sidewalk construction funded by the sidewalk district. The director of public works' estimate may not establish a limit on the amount of the project costs and may not limit the amount that may be assessed against the property owners.

- (2) If the application is incomplete or does not contain information sufficient for the director of public works to prepare the estimate, then the director of public works shall return the application to the applicant within thirty (30) days of receipt indicating the additional information required. Otherwise, the director of public works shall prepare the estimate of costs and send the estimate to the applicant within ninety (90) days of receipt of a complete application.
- (c) *Petition.*
- (1) *Circulation.* The applicant shall be responsible for gaining the required signatures on a sidewalk district petition from property owners within the proposed sidewalk district.
 - (2) *Contents.* The petition shall contain the name, property address within the proposed sidewalk district, mailing address, and phone number of all property owners who sign the petition. If the property owner does not reside at the property within the sidewalk district, then the petition shall contain both the property address within the district and the property owner's actual address outside the district.
 - (3) *Plat.* The petition shall have attached to it a copy of the plat submitted to the director of public works showing the boundaries of the proposed sidewalk district and a copy of the director of public works' estimate of the total project cost and the pro rata cost per property owner.

Sec. 23-93. Procedure.

- (a) *Return of Petition.* The petition for creation of the proposed sidewalk district must be returned to the director of public works within ninety (90) days after the director of public works notifies the applicant that the preparation of the estimate of costs and pro rata costs for the project is complete; however, the director of public works has the discretion, for good cause shown, to extend the time for the return of the petition an additional thirty (30) days, for a total of one-hundred twenty (120) days, when a request for such extension is made by the applicant to the director of public works before the expiration of the original ninety (90)-day period.
- (b) *Signatures.* No assessment shall be made against abutting property, unless the same is consented to in writing by the owners of fifty-one percent (51%) of the property abutting such improvements. Said consent shall be deemed to have been given if the requisite number of signatures of such

abutting property owner(s) is included in the petition requesting the proposed sidewalks and the creation of the assessment district.

- (c) *Notice.* Upon the timely receipt of a petition containing the required number of signatures, the director of public works shall cause the matter to be placed upon the board of commissioners' public hearing agenda for a hearing on the creation of the proposed sidewalk district. The director of public works or designee shall cause a notice to be published in the County's legal organ or a newspaper of general circulation in which the sheriff's advertisements are published at least once ten days prior to the date of said hearing, which notice shall give a brief description of the subdivision in which the work is to be done, the nature of the improvements to be made and the beginning and terminus of the road or street upon which such improvements are to be made and such notice shall set forth the time and place of the hearing.
- (d) *Notification of decision.* Within sixty (60) days of a final decision on the petition by the board of commissioners, the director of public works or designee shall notify by certified mail, return receipt requested, each affected property owner of the decision of the Board of Commissioners. If the final decision is an approval of the petition, then the Public Works Director shall notify each affected property owner by certified mail, return receipt requested, of a good faith estimate of the individual assessment. A final decision means the approval or denial of the petition by the Board of Commissioners.

Sec. 23-94. Funding.

- (a) *Assessment.* Each owner of property abutting the sidewalks shall be assessed a share of the cost to be funded by the district, which cost shall be added to the ad valorem property taxes for each owner as provided in this section. No assessment shall be made against abutting property, unless the same is consented to in writing by the owners of fifty-one percent (51%) of the property abutting such improvements. Abutting shall mean adjacent to, contiguous with, or adjoining.
- (b) *Pro rata costs.* Each property owner's share of the cost shall be determined as follows: The total cost of the project shall be calculated by the county, and the figure so derived shall be known as the total project cost. The county shall next determine the linear feet of sidewalk that was constructed. The total cost shall then be divided by the total linear feet of sidewalk to derive the cost per foot. Each property owner abutting the sidewalks shall then be assessed an amount that equals the linear feet of street frontage the property owner has multiplied by the cost per foot.

- (c) *Payment.* The sidewalk tax assessment shall be paid by one of two options, as follows:
- (1) *Option one.* The assessment may be paid in cash by the property owner within ninety (90) days of the mailing of the assessment by the county. If paid under this option, the assessment will not bear an administrative fee and no lien shall be recorded against the property. Payment shall be made to "DeKalb County" and delivered to the public works department. If payment is not made in full within ninety (90) days of the county's initial billing of the assessment, then payment option two shall automatically take effect. Once option two is in effect, the payment via option two shall be the property owner's sole option until all assessment payments are satisfied.
 - (2) *Option two.* The assessment shall be paid in five equal annual installments. Payment of each such assessment shall be due and payable within sixty (60) days from the mailing by regular mail of a bill from the tax commissioner. In the event option two is selected, the cost of processing, administration, recording the lien, and satisfaction of such lien shall be added to the assessment.
- (d) The property owner shall advise any purchaser of its property within the sidewalk district of the assessment. The property owner may conduct a proration of the assessment with the purchaser. The county shall not be responsible for the proration of the assessments between sellers and purchasers nor shall the county be under any duty to notify any purchaser of the existence or liability for the assessment.
- (e) If the assessment is not paid when due, the assessment shall be collected in the same manner as delinquent ad valorem taxes and shall be subject to the same interest and penalties.
- (f) The assessment shall constitute a lien against the property and shall be recorded by the tax commissioner in the lien records of the clerk of the county superior court.
- (g) The fee for processing and administration of this option shall be established by the tax commissioner and approved by the board of commissioners.

PART II. EFFECTIVE DATE

This ordinance shall become effective upon adoption by the Board of Commissioners and approval by the Chief Executive Officer.

PART III. SEVERABILITY

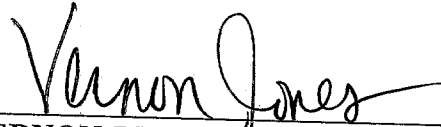
Should any part, portion or paragraph of this ordinance be declared by a court of competent jurisdiction to be invalid or unconditional, such decision shall not affect the validity of the ordinance as a whole nor any part thereof other than the part so declared to be invalid or unconstitutional. All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

ADOPTED by the DeKalb County Board of Commissioners, this 25th day of November, 2003.



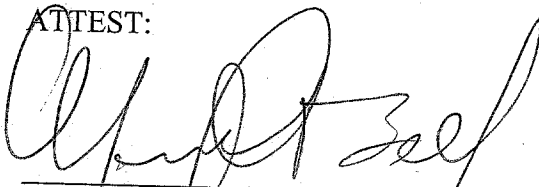
BURRELL ELLIS
Presiding Officer
Board of Commissioners
DeKalb County, Georgia

APPROVED by the Chief Executive Officer of DeKalb County, this 25th day of November, 2003.



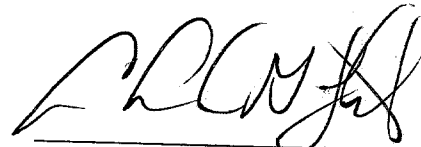
VERNON JONES
Chief Executive Officer
DeKalb County, Georgia

ATTEST:



MICHAEL J. BELL
Ex-Officio Clerk
Board of Commissioners and
Chief Executive Officer
DeKalb County, Georgia

APPROVED AS TO FORM:



CHARLES G. HICKS
County Attorney
DeKalb County, Georgia