

DEKALB COUNTY

ITEM NO. **E 12**

BOARD OF COMMISSIONERS

HEARING TYPE
PRELIMINARY

BUSINESS AGENDA / MINUTES
MEETING DATE: November 13, 2007

ACTION TYPE
ORDINANCE

SUBJECT: Amending Chapter 25, Article II of the Code of DeKalb County, Georgia to set consequences for multiple convictions of violating the emergency restriction service provisions set forth in Section 25-31.

DEPARTMENT: Watershed Management

PUBLIC HEARING: YES NO X

ATTACHMENT: X YES NO pp 4

INFORMATION CONTACT: Dr. Francis Kung'u
PHONE NUMBER (770) 621-7274

PURPOSE: To set penalties for single or multiple convictions of violating the emergency restriction service provisions of Section 25-31 of the Code of DeKalb County, Georgia

NEED/IMPACT: The Georgia Constitution grants the Governing Authority of DeKalb County the authority to provide for the distribution of water to its citizens. 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. The Governing Authority believes that these enhanced penalties for violations of the emergency restriction service provisions of Section 25-31 of the Code of DeKalb County, Georgia will help ensure that its citizens are provided with a continuous supply of potable water for domestic service and fire protection.

RECOMMENDATION(S): Adopt the ordinance.

November 6, 2007

AN ORDINANCE

AN ORDINANCE TO AMEND THE CODE OF DEKALB COUNTY, GEORGIA, CHAPTER 25 PERTAINING TO A WATERING BAN 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, the Article 9, Section 2, Paragraph 3(a)(7) of the Georgia Constitution gives the Governing Authority the authority to provide for the distribution of water to its citizens and the Governing Authority believes that these enhanced penalties for violations of the emergency restriction service provisions of Section 25-31 of the Code of DeKalb County, Georgia will help ensure that its citizens are provided with a continuous supply of potable water for domestic service and fire protection; and

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.

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 Section 25-31 as follows:

November 6, 2007

Sec. 25-31. Emergency restriction of service.

* * *

- (c) Any person who does anything prohibited or fails to do anything required either by this section or by an order of the chief executive officer, upon citation and conviction of the violation in a court of competent jurisdiction, shall be subject to the penalties in accordance with this section and section 1-10. Where any offense or violation continues from day to day, each day's continuance thereof shall be deemed a separate offense.
- (d) For a first violation of the provisions of this section or of an order entered by the chief executive officer pursuant to this section, the director of watershed management or designee shall issue a written warning of the violation and if the violation is not corrected immediately, a notice of violation shall be issued. If the first violation presents an imminent threat to public health or safety, the director of watershed management or designee shall issue an immediate citation in lieu of a written warning.
- (e) Upon conviction of any violation of this section or of an order entered by the chief executive officer pursuant to this section, 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.
- (f) Upon a second and subsequent conviction within a twelve (12) month period measured from the date of the first conviction of any violation of this section or of an order entered by the chief executive officer pursuant to this section, 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.
- (g) Upon a third and subsequent conviction within a twelve (12) month period measured from the date of the first conviction of any violation of this section or of an order entered by the chief executive officer pursuant to this section, the court shall terminate water service to the property where the violation occurred for a period of time to be determined in the discretion of the court, impose a fine of not less than one thousand (1000.00) dollars and impose a minimum jail sentence of twenty four hours in the DeKalb County jail.
- (h) 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.

November 6, 2007

PART II. EFFECTIVE DATE

This ordinance shall be effective 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 13 day of November, 2007.

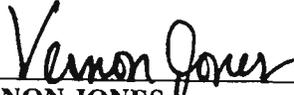


BURRELL ELLIS
Presiding Officer
Board of Commissioners
DeKalb County, Georgia

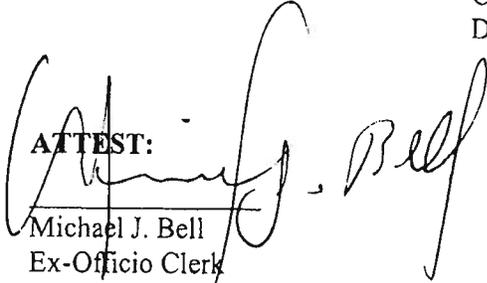
[Signatures continued on next page]

November 6, 2007

APPROVED by the Chief Executive Officer of DeKalb County, this 15 day of November, 2007.



VERNON JONES
Chief Executive Officer
DeKalb County, Georgia



ATTEST:

Michael J. Bell
Ex-Officio Clerk
Board of Commissioners and
Chief Executive Officer

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