

**CODE**  
**County of**  
**DEKALB, GEORGIA**  
**Looseleaf Supplement**

This Supplement contains all ordinances deemed advisable to be included at this time through:

**Ordinance of January 26, 2021.**

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## Checklist of Up-to-Date Pages

(This checklist will be updated with the  
printing of each Supplement)

From our experience in publishing Looseleaf Supplements on a page-for-page substitution basis, it has become evident that through usage and supplementation many pages can be inserted and removed in error.

The following listing is included in this Code as a ready guide for the user to determine whether the Code volume properly reflects the latest printing of each page.

In the first column all page numbers are listed in sequence. The second column reflects the latest printing of the pages as they should appear in an up-to-date volume. The letters "OC" indicate the pages have not been reprinted in the Supplement Service and appear as published for the original Code. When a page has been reprinted or printed in the Supplement Service, this column reflects the identification number or Supplement Number printed on the bottom of the page.

In addition to assisting existing holders of the Code, this list may be used in compiling an up-to-date copy from the original Code and subsequent Supplements.

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- (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings and titles;
- (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;
- (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections \_\_\_\_\_ to \_\_\_\_\_" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code); and
- (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code.

(d) In no case shall the person make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

**Sec. 1-9. Severability.**

It is hereby declared to be the intention of the board of commissioners that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code, since the same would have been enacted by the board of commissioners without the incorporation in this Code of any such unconstitutional phrase, clause, sentence, paragraph or section.

**Sec. 1-10. General penalty; continuing violations.**

(a) In this section "violation of this Code" means:

- (1) Doing an act that is prohibited or made or declared unlawful, an offense or a misdemeanor by ordinance or by rule or regulation authorized by ordinance;

- (2) Failure to perform an act that is required to be performed by ordinance or by rule or regulation authorized by ordinance; or
- (3) Failure to perform an act if the failure is declared a misdemeanor or an offense or unlawful by ordinance or by rule or regulation authorized by ordinance.

(b) In this section "violation of this Code" does not include the failure of a county officer or county employee to perform an official duty unless it is provided that failure to perform the duty is to be punished as provided in this section.

(c) Violations of this Code shall be handled as follows:

- (1) If a summons or citation is served by leaving a copy at the premises where an ordinance violation is alleged to have occurred, mailing a copy to the owner of the premises at the address of record maintained by the tax commissioner and tax assessor, and publishing notice as required by rule or regulation of the court of competent jurisdiction, a fine not exceeding five hundred dollars (\$500.00) may be imposed. Any fine imposed shall be subject to immediate execution.
- (2) If a summons, citation or accusation is personally served upon an accused, a fine not exceeding one thousand dollars (\$1,000.00), or imprisonment in the county jail not to exceed one hundred twenty (120) days, or a combination thereof may be imposed. Any fine imposed shall be subject to immediate execution.
- (3) The judge may probate [prorate] any part or all of any fine or jail time imposed pursuant to this section.
- (4) For violation of a pretreatment standard or requirement adopted pursuant to the Federal Clean Water Act, the maximum fine shall be one thousand dollars (\$1,000.00) per day for each violation by an industrial user.
- (5) With respect to violations of this Code that are continuous with respect to time,

each day the violation continues is a separate offense. Notwithstanding the foregoing, attorneys shall not be punished under this section for failure to comply with chapter 15 of this Code.

(d) **(Effective January 1, 2013)** The imposition of a fine pursuant to this section does not prevent revocation or suspension of any county-issued registration, business occupation tax certificate, license, permit or franchise. So long as a fine remains unpaid and outstanding, and not the subject of any appeal, an application for any county-issued registration, business occupation tax certificate, license, permit, franchise, variance, sketch plat, amendment to the comprehensive plan land use map, amendment to the official zoning map, rezoning, special administrative permit, or special land use permit may not be accepted by any county employee or issued by any county employee, official, board, commission or other county entity if such application relates to the person who owes the fine as reflected in the court of competent jurisdiction records or the land on which the violation(s) has been shown to exist.

(e) Violations of this Code that are continuous with respect to time may be abated by injunctive or other equitable relief. The imposition of a penalty does not prevent equitable relief. (Code 1976, § 1-1007; Ord. No. 90-17, § 1, 6-26-90; Ord. No. 92-11, § 1, 7-14-92; Ord. No. 98-10, 12-22-98; Ord. No. 11-03, Pt. I, 6-10-03; Ord. No. 11-16, Pt. I, 9-27-11; Ord. No. 11-18, Pt. I, 9-27-11; Memo. of 9-23-20)

**Organizational act reference**—Penalty for ordinance violations, § 10(c).

**State law reference**—Prosecution of county ordinances in magistrate court, O.C.G.A. § 15-10-60 et seq.

**Sec. 1-11. Provisions considered as continuations of existing ordinances.**

The provisions appearing in this Code, so far as they are the same as those of ordinances existing as of the effective date of this Code, shall be considered as continuations thereof and not as new enactments.

**Sec. 1-12. Matters not affected by Code.**

Nothing in this Code or the ordinance adopting this Code shall affect:

- (1) Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this Code.
- (2) Any ordinance promising or guaranteeing the payment of money for the county, or authorizing the issuance of any bonds for the county, or any evidence of the county's indebtedness, or any contract or obligation assumed by the county.
- (3) Any right or franchise granted by the county to any person.
- (4) Any ordinance dedicating, naming, defining, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way in the county.
- (5) Any appropriation or ordinance authorizing appropriations or gifts.
- (6) Any legislation providing for local improvements or assessing taxes therefor.
- (7) Any ordinance dedicating or accepting a plat or subdivision.
- (8) Any ordinance rezoning property.
- (9) Any ordinance establishing salaries or compensation of county officers or employees not in this Code.
- (10) Any ordinance approving the budget.
- (11) Any ordinance adopted for purposes that have been consummated.
- (12) Any ordinance that is temporary, although general in nature.
- (13) Any ordinance that is special, although permanent in nature.
- (14) Any ordinance levying or otherwise relating to taxes.
- (15) Any ordinance amending any act enacted by the General Assembly of the state.



**Sec. 1-13. Code does not affect prior offenses, rights, etc.**

(a) Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of this Code.

(b) The adoption of this Code shall not be interpreted as authorizing or permitting any use or the continuance of any use of a structure or premises in violation of any ordinance in effect on the date of adoption of this Code.



of-way. The provisions of this subsection shall not apply to any animal aiding the handicapped (e.g., guide dog) or to an animal used for law enforcement related activities.

(d) Owners may not allow any domesticated or other animals within their control to make any vocalizations in violation of the county noise ordinance.

(Ord. No. 15-09, Pt. I, 12-15-15)

**Sec. 5-3. Keeping animal under restraint while on owner's property.**

(a) It shall be the duty of every owner of an animal to ensure that the animal is kept under restraint, and that precautions are taken to prevent the animal from leaving, while unattended, the real property limits of its owner.

(b) It shall be the duty of every owner of an animal to ensure that the animal is securely and humanely enclosed within a proper enclosure as a means of primary restraint. Such enclosure must be securely locked at any time the animal is left unattended. When outside the proper enclosure but on the owner's property, it shall be the duty of every owner of an animal to ensure that the animal is humanely secured by a leash or lead and under the control of a responsible and competent person; or off leash but under the direct control of a responsible and competent person who is physically present with the animal, provided that such animal is obedient to that person's command.

(c) Any animal that is housed outside of its owner's house shall be housed in a proper enclosure that complies with the provisions of this Code. The owner shall also ensure that the proper enclosure contains at least one hundred (100) square feet of open space as that term is defined in chapter 27 of this Code.

(d) Tethering of an animal is prohibited.

(e) As a secondary means of restraint to a proper enclosure, an animal may be attached to a running cable line or trolley system providing that:

(1) A running cable line or trolley system is set inside a proper enclosure;

- (2) Only one (1) animal may be attached to each running cable line or trolley system;
- (3) No animal may be attached to a running cable line or trolley system for more than twelve (12) hours in a twenty-four-hour period;
- (4) No animal may be attached to a running cable line or trolley system between the hours of 10:00 p.m. and 6:00 a.m.;
- (5) Tethers and cables attaching the animal to the running cable line or trolley system must be made of a substance which cannot be chewed by the animal and shall not weigh more than five (5) percent of the body weight of the animal tethered;
- (6) A running cable line or trolley system must have a swivel installed at each end and be attached to a stationary object that cannot be moved by the animal;
- (7) The running cable line or trolley system must be at least ten (10) feet in length and mounted at least four (4) feet and no more than seven (7) feet above ground level;
- (8) The length of the tether from the running cable line or trolley system to the animal's collar should allow access to the maximum available exercise area and allow the animal free access to food, water, and shelter;
- (9) Be attached to a properly fitted harness or collar not used for the display of a current rabies tag and other identification; and with enough room between the collar and the dog's throat through which two (2) fingers may fit. Choke collars and pinch collars are prohibited for the purpose of tethering an animal to a running cable line or trolley system; and
- (10) Be tethered at sufficient distance from any other objects to prohibit the tangling of the cable, from extending over an object or an edge that could result in injury of strangulation of the animal and be of sufficient distance from any fence so as to prohibit the animal access to the fence.

(f) If an electronic animal confinement system is used to confine an animal, it shall:

- (1) Provide a properly fitted and working signal device that will be worn by the animal to be enclosed.
- (2) Contain permanent and prominently displayed signs at twenty-five (25) feet intervals around the entire perimeter of the electronic animal confinement system. The signs shall be no smaller than six (6) inches square, and shall read: "Caution—Electronic Animal Confinement System."

(Ord. No. 15-09, Pt. I, 12-15-15)

**Sec. 5-4. Duty to restrain while off owner's property.**

It shall be the duty of any person to keep an animal under restraint and control at all times while the animal is off the real property limits of the owner. Such areas shall not include county parks that are specifically designated as off leash areas.

(Ord. No. 15-09, Pt. I, 12-15-15)

**Sec. 5-5. Animals at large.**

It shall be unlawful for the owner of an animal to allow it to run at large unattended on or about the streets, rights-of-way, and highways of unincorporated DeKalb County; in any DeKalb County park, except in county parks that are specifically designated as off leash areas; unattended on or about the common property of any apartment complex or condominium community; or on the property of another person without permission of the owner of that property. This section shall not apply to dogs being used for hunting in accordance with state law, rules and regulations.

(Ord. No. 15-09, Pt. I, 12-15-15)

**Sec. 5-6. Abandonment.**

It shall be unlawful for anyone to knowingly abandon, or to aid in the abandonment of, any domesticated animal on any property located in unincorporated DeKalb County.

(Ord. No. 15-09, Pt. I, 12-15-15)

**Sec. 5-7. Neglect.**

It shall be unlawful for any owner to neglect an animal.

(Ord. No. 15-09, Pt. I, 12-15-15)

**Sec. 5-8. Cruelty to animals.**

(a) It shall be unlawful for any person to commit an act of cruelty towards any animal, except that a person may:

- (1) Defend his person or property, or the person or property of another, from injury or damage being caused by an animal; or
- (2) Kill any animal causing injury or damage to any livestock, poultry or pet animal.

(b) The method used for killing the animal shall be as humane as possible under the circumstances. A person who humanely kills an animal under the circumstances indicated in subsection (a) of this section shall incur no penalty for such death.

(c) This section shall not be construed to limit in any way the authority or duty of any law enforcement officer, dog or rabies control officer, humane society or veterinarian.

(Ord. No. 15-09, Pt. I, 12-15-15)

**Sec. 5-9. Required permanent identification.**

It shall be the duty of every animal owner who has been convicted, in a court of competent jurisdiction, of abandonment, cruelty or neglect of an animal, or who owns a classified animal, to have the animal permanently identified by insertion of a microchip by a licensed veterinarian. Said chip must be registered with the chip parent company and the police chief.

(Ord. No. 15-09, Pt. I, 12-15-15)

**Sec. 5-10. Dangerous and vicious animals.**

(a) Pursuant to 1979 Ga. Laws 516, if the police chief learns of the existence of a dangerous animal or vicious animal, the police chief shall then cause a summons to be issued within seventy-two (72) hours requiring the owner of the animal to appear before a judge of the DeKalb County court of competent jurisdiction

or magistrate court, as specified below, at a date and time certain no earlier than fifteen (15) days after service, to conduct a hearing as to the appropriate classification of the animal. The summons so issued shall be served on the owner personally. Prior to July 1, 2015, such actions shall be heard in DeKalb County court of competent jurisdiction and after July 1, 2015, such actions shall be heard in DeKalb County magistrate court. The police chief shall also immediately impound the animal believed to be dangerous or vicious.

(b) The court shall determine after a hearing if the animal is to be classified as a dangerous animal or vicious animal. In making its findings in this regard, the court shall enter a written order notifying the animal's owner and the police chief of its decision.

(c) The appeal of any order of the court concerning the classification of an animal as vicious or dangerous shall be by petition for writ of certiorari to the superior court of DeKalb County.

(d) If the court classifies the animal as dangerous or vicious, and no appeal is filed, the owner shall be required to obtain from the police chief an annual certificate of registration in compliance with the requirements of this chapter. No vicious or dangerous animal shall be released to its owners until such certificate is issued by the police chief.

(e) If the owner fails to obtain the certificate of registration within thirty (30) days of the issuance of the order classifying the animal as dangerous or vicious, the animal will be euthanized no earlier than thirty-five (35) days after the issuance of the order so classifying the animal. The animal shall not be euthanized if the owner appeals the court's classification order by petition for writ of certiorari to the superior court of DeKalb County within thirty (30) days after the order of classification. During the pendency of the appeal and any further appeals, the animal shall not be euthanized, provided that in the event the classification order is upheld at the conclusion of all appeals, the animal shall be euthanized no earlier than thirty-five (35) days after the final order upholding the classification if the owner does not obtain the

required certificate of registration within thirty (30) days after the date of the final order of court upholding the classification order. During the pendency of any such appeal by the owner, the animal shall not be released to its owner until the appeal is concluded and the certificate of registration is issued to the owner, if applicable. In such event, the animal will be housed at a licensed veterinarian's office or a licensed kennel and the cost of such detention shall be borne by the owner of the animal. In the event the county appeals the court's order, the animal shall not be released to its owner until the appeal is concluded and the certificate of registration is issued to the owner, if applicable. In the event of an appeal by the county, the animal will be housed in the animal service center and the cost of such detention shall be borne by the county.

(Ord. No. 15-09, Pt. I, 12-15-15; Memo. of 9-23-20)

**Sec. 5-11. Exemptions from classification as a dangerous or vicious animal.**

An animal shall not be classified as a dangerous animal or vicious animal:

- (1) When the animal bites, attacks or menaces anyone who assaults the animal's owner;
- (2) When the animal bites, attacks or menaces anyone who willfully trespasses, or commits another tort, upon the property of the owner;
- (3) When the animal bites, attacks or menaces anyone who is currently, or has in the past, tormented or abused the animal;
- (4) Where the animal is acting in defense of an attack from a person or other animal upon the owner or other person;
- (5) Where the animal is protecting or defending its young or another animal;
- (6) Where the animal is being used by a law enforcement or military officer to carry out official duties; or
- (7) When the animal bites, attacks or menaces anyone who is committing or attempting to commit an offense in violation of O.C.G.A. § 16-5-1 et seq.

(Ord. No. 15-09, Pt. I, 12-15-15)

**Sec. 5-12. Certificate of registration.**

(a) The owner of a classified animal must be eighteen (18) years old or older; annually obtain a certificate of registration for the animal from the county; and, pay an annual registration fee to be determined by the governing authority. At the time of renewal, the county shall verify that the owner is continuing to comply with all applicable provisions of this chapter. The requirements of this section apply to any classified animal living in DeKalb County.

(b) Certificates of registration are nontransferable and no more than one (1) certificate of registration shall be issued per domicile. The certificate of registration shall be issued to the owner upon receipt of all of the following:

- (1) Written evidence that the animal is permanently identified by insertion of a microchip by a licensed veterinarian. Said chip must be registered with the chip parent company and the police chief within thirty (30) days of an order classifying the animal as dangerous or vicious or within such later time as specified by a court of competent jurisdiction or within thirty (30) days of the conclusion of any appeal of a court's order that upholds the classification of an animal as dangerous or vicious;
- (2) A copy of a current policy of insurance in the minimum amount of fifty thousand dollars (\$50,000.00) issued by an insurer authorized to transact business in the State of Georgia, insuring the owner of a dangerous animal, and seventy-five thousand dollars (\$75,000.00) insuring the owner of a vicious animal, against liability for any personal injuries or property damage inflicted by the dangerous animal or vicious animal; or a copy of a current surety bond in the foregoing respective amounts issued by a surety company authorized to transact business in the State of Georgia, payable for property damage or personal injury caused by the dangerous or vicious animal;

(3) Written or photographic proof that the animal will be confined in a classified animal pen; and

(4) Written evidence that the animal has been sterilized by a licensed veterinarian.

(c) The owner of a classified animal shall notify the police chief within twenty-four (24) hours if the animal dies. If the animal dies, the body must be available for microchip scanning to provide positive identification of the dangerous animal or vicious animal. A vicious animal shall not be transferred, sold or donated to any other person unless it is relinquished to a governmental facility or a veterinarian to be euthanized. If a dangerous animal is sold or given to another person, the current owner listed on the most current certificate of registration must provide the police chief with the name, address, and telephone number of the new owner within thirty (30) days of the sale or transfer of such animal. New owners of dangerous animals are subject to all requirements of this Code upon transfer of such animal and such new owner must register the animal in his or her name within thirty (30) days of the sale or transfer of the animal to such new owner.

(d) The owner of a classified animal must notify the police chief in writing within fifteen (15) days after changing his/her address. Such written notice shall provide the owner's new address and telephone number. The owner shall promptly obtain a new certificate of registration reflecting the new address if such address is located within the county.

(e) The owner of a classified animal shall notify the police chief in writing within seventy-two (72) hours after moving a classified animal into the county. Such written notice shall provide the address and telephone number of the owner and the owner shall obtain a certificate of registration for the animal within seventy-two (72) hours after moving into the county.

(f) No certificate of registration shall be issued to any person who has been convicted of two (2) or more violations of this chapter. No person shall be the owner of more than one (1) vicious

authorized shall not be allowed access by the general public for business activity other than those allowed in subsections (1), (2), and (3) above.

- (5) Application for temporary service connections and meters shall be made on such forms as prescribed by the director.

(e) *Authority to disconnect utility services.* The building official shall have the authority to authorize disconnection of utility service to the building, structure or system regulated by this chapter in case of an emergency, where necessary, to eliminate an immediate danger to life or property. Where possible, the owner and occupant of the building, structure or service system shall be notified of the decision to disconnect utility service prior to taking such action. If not notified prior to disconnecting, the owner or occupant of the building, structure or service system shall be notified in writing, as soon as practical thereafter.

(f) *Connection after order to disconnect.* No person shall make connections from any energy, fuel, power supply or water distribution system or supply energy, fuel or water to any equipment regulated by this chapter that has been disconnected or ordered to be disconnected by the building official or the use of which has been ordered to be discontinued by the building official until the building official authorizes the reconnection and use of such equipment. (Ord. No. 04-09, Pt. I, 8-10-04; Ord. No. 05-09, Pt. I, 7-26-05)

#### **Sec. 7-37. Violations, remedies and penalties.**

(a) *Unlawful acts.* It shall be unlawful for any person, firm or corporation to erect, construct, alter, extend, repair, move, remove, demolish or occupy any building, structure, system or equipment regulated by this chapter, or cause same to be done, in conflict with or in violation of any of the provisions of this chapter or other applicable provisions of this Code.

(b) *Notice of violation.* The building official is authorized to serve a notice of violation or order on the person responsible for the erection, construction, alteration, extension, repair, moving, removing, demolition, or occupancy of a building

or structure, system or equipment in violation of the provisions of this chapter, or in violation of a permit or certificate of occupancy under the provisions of this chapter. Such notice or order shall direct the discontinuance or correction of the illegal action or condition and the abatement of the violation.

(c) *Penalties.* Any person failing to discontinue, correct or abate the violation of this chapter as ordered by the building official in the notice shall be subject to issuance of a court citation to appear in the court of competent jurisdiction of DeKalb County to answer a charge(s) of violation(s) of this chapter and upon conviction shall be subject to a fine and/or imprisonment in accordance to section 1-10 of the Code. Where any offense continues from day to day, each day's continuance thereof shall be deemed a separate offense. (Ord. No. 04-09, Pt. I, 8-10-04; Ord. No. 05-09, Pt. I, 7-26-05; Memo. of 9-23-20)

#### **Sec. 7-38. Stop work order.**

(a) *Authority.* Whenever the building official finds any work regulated by this chapter being performed in a manner contrary to the provisions of this chapter or in a dangerous or unsafe manner, the building official is authorized to issue a stop work order.

(b) *Issuance.* The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order, and the conditions under which the cited work will be permitted to resume.

(c) *Unlawful continuance.* Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to correct a violation or an unsafe condition, shall be subject to issuance of a court citation to appear in the court of competent jurisdiction of DeKalb County and upon conviction shall be subject to a fine and/or imprisonment in accordance with section 1-10 of

the Code. Where any offense continues from day to day, each day's continuance thereof shall be deemed a separate offense.

(Ord. No. 04-09, Pt. I, 8-10-04; Ord. No. 05-09, Pt. I, 7-26-05; Memo. of 9-23-20)

### **Sec. 7-39. Inspection warrants.**

(a) The building official, in addition to other procedures provided by law, may obtain an inspection warrant under the conditions specified in this section. The warrant shall authorize the building official to conduct a search or inspection of property without the consent of the person whose property is to be searched or inspected, under the conditions set out in this section.

(b) Inspection warrants may be issued by any judge of the court of competent jurisdiction when the issuing judge is satisfied that all of the following conditions are met:

- (1) The person seeking the warrant must establish under oath or affirmation that the property to be inspected is to be inspected as a part of a legally authorized program of inspection which includes that property, or that there is probable cause for believing that there is a condition, object, activity, or circumstance which legally justifies such an inspection of that property;
- (2) The issuing judge determines that the issuance of the warrant is authorized by this division and all other applicable law;
- (3) The warrant is attached to the affidavit required to be made in order to obtain the warrant;
- (4) The warrant describes, either directly or by reference to the affidavit, the property upon which the inspection is to occur and is sufficiently accurate that the executor of the warrant and the owner or possessor of the property can reasonably determine from it the property for which the warrant authorizes a search or inspection;

(5) The warrant indicates the conditions, objects, activities, or circumstances which the search or inspection is intended to check or reveal; and

(6) The warrant refers, in general terms, to the provisions of the Code or state law sought to be enforced.

(Ord. No. 04-09, Pt. I, 8-10-04; Ord. No. 05-09, Pt. I, 7-26-05; Memo. of 9-23-20)

### **Sec. 7-40. Unsafe conditions.**

(a) *Conditions.* Structures or existing equipment that are or hereafter become unsafe, uninhabitable, or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, shall be deemed an unsafe condition. Structures that are deemed an unsafe condition shall be taken down and removed or made safe, as the building official deems necessary unless the notice of an unsafe condition is appealed to the board in accordance with the requirements set forth in section 7-16.

(b) *Notice.* If an unsafe condition is found, the building official shall serve on the owner, agent or person in control of the building, structure or system found to be unsafe, a written notice that describes the condition deemed unsafe and specifies the required repairs or improvements to be made to abate the unsafe condition, or that requires the unsafe structure to be demolished within a stipulated time. Such notice shall require the person thus notified to declare immediately to the building official written acceptance or rejection of the terms of the notice.

(c) *Method of service.* Such notice shall be deemed properly served if a copy thereof is (a) delivered to the owner personally; (b) sent by certified or registered mail addressed to the owner at the owner's last known address with the return receipt requested. If the certified or registered letter is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place on or about the building or structure affected by such notice. Service of such notice in the foregoing manner upon the owner's agent or upon the person responsible for the building or structure shall constitute service of notice upon the owner.



(d) *Restoration.* The building, structure, system or equipment determined to be unsafe by the building official is permitted to be restored to a safe condition. To the extent that repairs, alter-



**Sec. 12-41. Inspections.**

(a) Employees of the bureau of fire prevention shall be authorized to conduct inspections on public and private property, from time to time for the purpose of enforcement of the provisions of this chapter. If the owner or tenant of such property does not give consent for such inspection(s), the employees of the bureau of fire prevention shall obtain a warrant from the DeKalb County Court of Competent Jurisdiction or any other court of competent jurisdiction for such inspection in accordance with the warrant requirements of state law.

(b) The fire marshal shall inspect or cause to be inspected all premises, except one- and two-family dwellings, on a periodic basis, and shall issue such directives as may be necessary for the enforcement of the laws and ordinances governing the same and for safeguarding of life and property.  
(Ord. No. 05-05, Pt. I, 4-12-05; Memo. of 9-23-20)

**Sec. 12-42. Removal of fire hazards, compliance.**

(a) Whenever any employee of the department of fire and rescue services shall find in any building, or upon any premises or other place, combustible or explosive matter or dangerous accumulation of rubbish or unnecessary accumulation of waste paper, boxes, shaving, or any highly flammable materials, and which is so situated as to endanger property or persons; or shall find obstructions to or on fire escapes, stairs, passageways, doors or windows, that interfere with the operations of the fire and rescue services or egress of persons in case of a fire or other hazardous condition, the fire marshal shall issue an order, that the same are to be removed or remedied, and such order shall forthwith be complied with by the owner or occupant of such premises or buildings.

(b) The service of orders for the correction of violations of this chapter shall be made upon the owner, occupant, or other person responsible for the conditions, either by delivering the same to or leaving it with any person in charge of the premises, or in case no such person is found upon

the premises, by affixing a copy thereof in a conspicuous place on the door to the entrance of said premises. Whenever it is necessary to serve such an order upon the owner of said premises, such order shall be served either by delivering to and leaving with the person a copy of said order, or, if such owner is absent from the jurisdiction of the officer making the order, by sending such copy by certified or registered mail to the owner's last known address as indicated in the records of the tax commissioner.

(c) Any person served with an order who shall fail to comply with such order within a reasonable period after the service of the said order shall be subject to the issuance of a citation as provided in this chapter.  
(Ord. No. 05-05, Pt. I, 4-12-05)

**Sec. 12-43. Service of citation.**

The service of any citation under this Code may be made by personal service upon the occupant of the premises to whom it is directed. A copy of the citation shall be filed with the recorder's court of DeKalb County.  
(Ord. No. 05-05, Pt. I, 4-12-05)

**Sec. 12-44. Penalties for violation.**

(a) Any person who violates any of the provisions of this chapter as hereby adopted or fails to comply therewith or who shall violate or fail to comply with any order made thereunder or who shall build in violation of any detailed statement or specifications of plans submitted and approved thereunder, or any certificate or permit issued thereunder, shall for each and every such violation or noncompliance, be guilty of an ordinance violation. Upon conviction of the violation in a court of competent jurisdiction, the individual shall be subject to fine and/or imprisonment in accordance with section 1-10 of this Code.

(b) The imposition of a penalty for any violation shall not excuse the violation nor shall the violation be permitted to continue. Any person convicted of a violation under this chapter shall be required to correct or remedy such violations or defects within a reasonable time, and when

not otherwise specified, the application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.  
(Ord. No. 05-05, Pt. I, 4-12-05)

**Secs. 12-45—12-59. Reserved.**

**ARTICLE VI. HAZARDOUS EXPLOSIVE  
CHEMICALS**

**Sec. 12-60. Improper storage prohibited.**

It shall be unlawful for any person or institution to keep hazardous explosive chemicals, which are used or stored for which the expiration date has passed.  
(Ord. No. 05-05, Pt. I, 4-12-05)

(b) By declaration of public policies for environmental protection, the board of commissioners expresses its intent to protect the public interest by seeking to assure, where appropriate, maintenance of the natural environment, prevention of its degradation and assuring high quality land development. The board further declares its intent that these policies shall constitute the public policy framework within which a comprehensive program for protection of the natural environment and implementation of a comprehensive drainage improvement program shall be accomplished.

(c) The development process, as established by this Chapter 14, is guided by the policies and provisions contained in the comprehensive plan of DeKalb County.  
(Ord. No. 85-00, Pt. I, 12-28-00)

**Sec. 14-28. Purposes.**

(a) It is the purpose of this article to establish public policies for the protection of the natural environment and to establish requirements, standards and procedures for land development. The public policy objective of protecting the natural environment is to be achieved by:

- (1) Regulating the alteration of land and topography.
- (2) Regulating the removal and requiring the replacement of certain vegetation.
- (3) Requiring erosion control and sedimentation control.
- (4) Protecting county streams and floodplains from substantial alteration of their natural functions and from sediment and debris accumulation.
- (5) Specifying standards for drainage system design.
- (6) Assuring the continuous and efficient operation of the drainage system.
- (7) Protecting the water quality within intermittent and perennial streams throughout DeKalb County.

(b) It is the board of commissioners' intent that land development be accomplished in conformity with the public policy statements. To

that end, the plans required under applicable provisions of this article shall be reviewed by the county to enable a full exchange of information between the county and the applicant as to the county's public policies for land development. However, these policies shall not be used as a control or regulatory mechanism nor be construed as land development standards enforceable under applicable provisions of this article.

(c) The board further declares its intent that these public policies be evaluated periodically so as to reflect the community's interests in protection of the natural environment and to give direction to county actions in matters affecting the natural environment and land development.  
(Ord. No. 85-00, Pt. I, 12-28-00)

**Sec. 14-29. Scope and applicability.**

(a) The provisions of this article shall apply to all development activity within the county.

(b) Sections 14-31, 14-32, 14-33, 14-34, 14-35, 14-36, 14-37, 14-38, 14-40, 14-41, 14-42, and 14-43, shall not apply to any portion of a property included within the limits of a valid and complete application for a land disturbance permit or for sketch plat approval which are received by the director prior to the effective date of this Article II of Chapter 14. Such applications will be subject to the provisions of Chapter 14 in effect prior to the effective date of this Article II.

(c) Before filing a land development application on a project for review and approval, the applicant shall meet with the department to discuss the procedure for approval of a land development permit and the requirements as to the general layout of streets, parking, open space/lot coverage, street improvements, drainage, sewage, fire protection and similar matters, as well as the availability of existing services, including schools. The department and the applicant shall review the applicant's stormwater management plans, inspection and maintenance requirements and water quality control requirements. The department may advise the applicant, when appropriate, to discuss the proposed project with those officials who must eventually approve those aspects of the project coming within their jurisdiction. This meeting

will also allow county officials to discuss with the applicant the necessary regulations that will properly accomplish the project.

(d) For purposes of this section, a valid and complete application for a land disturbance permit shall consist of the following:

- (1) Six (6) copies of complete civil plans, that include a site plan, a grading and drainage plan, a utility plan, a soil erosion and sedimentation control plan, a landscape plan, and a tree survey;
- (2) One (1) hydrology report and completed stormwater quality site development review tool documentation;
- (3) An application signed by the owner of the property, or a completed indemnification agreement signed by the owner of the property; and
- (4) Payment of the appropriate development review application fee.

(e) For purposes of this section, a valid and complete application for a sketch plat approval shall consist of the following:

- (1) Four (4) copies of the preliminary plat site plan that is in conformance with the zoning of the property in effect at the time of the application, and, a tree survey;
- (2) An application signed by the owner of the property, or if the application is not signed by the owner, a completed indemnification agreement signed by the owner of the property; and
- (3) Payment of the appropriate development review application fee.

(f) In no event shall any project excepted from the provisions of this article pursuant to section 14-29(b) above, be extended for a greater time period than eighteen (18) months from the effective date of this Article II of Chapter 14. (Ord. No. 85-00, Pt. I, 12-28-00; Ord. No. 05-17, Pt. I, 11-8-05)

**Sec. 14-30. Amendment procedure.**

This article may be amended by the board of commissioners after giving public notice and holding a public hearing thereon in accordance with all applicable procedural requirements. (Ord. No. 85-00, Pt. I, 12-28-00)

**Sec. 14-31. Administration and enforcement generally.**

The county shall administer and enforce the provisions of this article as follows:

- (a) The director is designated to administer and enforce the grading, vegetation, erosion control, sedimentation control, drainage and water quality provisions of this article for all development and construction projects with the following duties and responsibilities:
  - (1) Review all development permits to assure that the permit requirements of this article have been satisfied;
  - (2) Advise permittee when additional federal or state permits may be required, and if specific federal or state permits are known to be required, that copies of such permits be provided and maintained on file with the development permit; and
  - (3) Notify adjacent communities and the state department of natural resources prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
- (b) The director shall administer and enforce those provisions of this article that apply to developed and occupied areas and to property in an undeveloped state affecting county responsibility for maintenance of the storm drainage system. The director shall assure that maintenance is provided within any altered or relocated

portion of any watercourse so that the flood-carrying capacity is not diminished. (Ord. No. 85-00, Pt. I, 12-28-00; Ord. No. 05-17, Pt. I, 11-8-05)

**Sec. 14-32. Inspection; right of entry.**

(a) Upon presentation of county identification to the applicant, contractor, owner, owner's agent, operator or occupants, county employees may enter during all reasonable hours any property under proposed or existing development or construction. These employees may make inspections of the facilities for the purpose of determining plan requirements or compliance with all ordinance provisions.

(b) All new developments and redevelopments shall execute an inspection and maintenance agreement unless an on-site stormwater management facility or practice is dedicated to and accepted by the county. The applicant shall execute an easement and an inspection and maintenance agreement that will bind all subsequent owners of land served by an on-site stormwater management facility or practice.

(c) County employees may inspect any drainage system within or outside of an existing drainage easement. All stormwater management facilities located on private property, whether dedicated to the county or not, shall be accessible at all times for county inspection. Where stormwater management facilities are accepted by the county for maintenance, public access easements shall be provided. Reasonable access shall be provided to all drainage easements for inspection and maintenance functions.

(d) The department, in addition to other procedures provided, may obtain an inspection warrant under the conditions specified in this section. The warrant shall authorize the director to conduct a search or inspection of property without the consent of the person whose property is to be searched or inspected, under the conditions set out in this section.

- (1) Inspection warrants may be issued by court of competent jurisdiction when all of the following conditions are met:
  - (A) The person seeking the warrant must establish under oath or affirmation

that the property to be inspected is to be inspected as a part of a legally authorized program of inspection which includes that property or that there is probable cause for believing that there is a condition, object, activity, or circumstance which legally justifies such an inspection of that property; and

- (B) The issuing judge determines that the issuance of the warrant is authorized by law.
- (2) The inspection warrant shall be validly issued only if it meets all of the following requirements:
  - (A) The warrant is attached to the affidavit required to be made in order to obtain the warrant;
  - (B) The warrant describes, either directly or by reference to the affidavit, the property upon which the inspection is to occur and is sufficiently accurate that the executor of the warrant and the owner or possessor of the property can reasonably determine from it the property for which the warrant authorizes an inspection;
  - (C) The warrant indicates the conditions, objects, activities, or circumstances which the inspection is intended to check or reveal; and
  - (D) The warrant refers, in general terms, to the ordinance provisions sought to be enforced.

(Ord. No. 85-00, Pt. I, 12-28-00; Ord. No. 05-17, Pt. I, 11-8-05)

**Sec. 14-33. Emergency maintenance operations.**

(a) The director may conduct emergency maintenance operations on private land and on drainage systems where emergency conditions exist. Emergency maintenance shall constitute the removal of trees and other debris, which in the judgment of the roads and drainage director create a condition potentially injurious to life, property and the public road system.

(b) The provisions of section 14-39 of this chapter shall not apply in the case of tree trimming, removal or cutting necessitated by emergencies such as floods, windstorms, ice storms or other disasters.

(c) Emergency maintenance conducted on any drainage system shall not be construed as constituting a continuing maintenance obligation on the part of the county.

(Ord. No. 85-00, Pt. I, 12-28-00)

**Sec. 14-34. Issuance of notice of violation; variances; specification of time period for correction; appeals.**

(a) *Notice of violation.* Whenever the director determines that development activity or inactivity on a property does not comply with the approved development and construction plans, that approved and required erosion and sedimentation control facilities or devices have been altered, damaged or destroyed, or that any other activities violate the provisions of this article, the director shall issue a notice of violation. Whenever the director determines that the drainage system has been unlawfully altered, causing inadequate drainage, the director shall issue a notice of violation. The provisions of this section 14-34(a) shall be in addition to any other penalty provisions applicable to this article. The notice of violation of the provisions of this article or of any rule or regulation adopted pursuant hereto shall be addressed to the owner of the property or the owner's agent and to the person, tenant, firm, corporation, property owner or property owner's agent found to be violating the provisions of this article and shall:

- (1) Be in writing;
- (2) Include a description of the property sufficient for identification of where the violation has occurred;
- (3) List the specific provisions of this article which have been violated;
- (4) State that, if these repairs, construction or alterations are not completed within a reasonable time period specified by the inspector, summons shall be issued for the person, firm, corporation, owner, or

owner's agent to appear in court of competent jurisdiction. However, in the judgment of the director, where the violation is willful, in wanton disregard of the provisions of this article or constitutes a public health and safety hazard or endangers the ecosystem, the director may issue a court summons in lieu of a notice of violation.

(b) *Penalty.* It shall be unlawful for any person, firm or corporation to do anything prohibited or fail to do anything required by the provisions of this article, as they now exist or as they may hereafter be amended. Any person, firm or corporation that shall do anything prohibited or fail to do anything required by the provisions of this article, as they now exist or as they may hereafter be amended, upon conviction of a violation in court of competent jurisdiction shall be subject to a fine and/or imprisonment in accordance with section 1-10 of the Code. Where any offense or violation continues from day-to-day, each day's continuance thereof shall be deemed a separate offense. The owner of any buildings or premises or parts thereof, where anything in violation of this article exists, and any architect, builder, engineer, contractor, or any other agent of the owner, or any tenant, who commits, or assists in the commission of any violation, shall be guilty of a separate offense.

(c) *Variances.*

- (1) Except as further limited herein, an applicant may request a variance from the terms of the requirements of sections 14-37, 14-38, 14-40, and 14-42. The director shall have no power to consider or to grant variances which are the responsibility of the director of the EPD pursuant to O.C.G.A. § 12-2-8 and other relevant state statutes and regulations. Where variances involving the same project are requested from both the director of the EPD and the director, the director shall take no action on any such request for variance until the director of the EPD grants the variance or otherwise approves the request pending before the EPD. Receiving a variance from the director of the EPD does not obligate the director to



- permit the project to proceed if the project does not also meet all the other requirements of this article. No variance from the provisions of Chapter 14 shall be authorized except as specifically authorized in this section or specifically authorized in another section of chapter 14.
- (2) Applications for variances authorized in subsection (1) above shall be made in writing to the director and shall contain all of those materials and documents required by the director that are necessary to demonstrate that said request meets the criteria for granting variances.
  - (3) In considering a request for a variance to the terms of this article authorized in subsection (1) above, the director shall use all of the following criteria:
    - (A) The request, while not strictly meeting the requirements of Chapter 14, will in the judgment of the director be at least as protective of natural resources and the environment as would a plan which met the strict application of these requirements. In making such a judgment, the director shall examine whether the request will be at least as protective of the natural resources and the environment with regard to the following factors:
      - (i) Stream bank or soil stabilization;
      - (ii) Trapping of sediment in surface runoff;
      - (iii) Removal of nutrients, heavy metals, pesticides and other pollutants from surface runoff;
      - (iv) Terrestrial habitat, food chain, and migration corridor;
      - (v) Buffering of flood flows;
      - (vi) Infiltration of surface runoff;
      - (vii) Noise and visual buffers;
      - (viii) Downstream water quality; and
      - (ix) Impact on threatened and endangered species, as those species are designated by law or federal or state regulation.
    - (B) By reason of exceptional topographic or other relevant physical conditions of the subject property that were not created by the owner or applicant, there is no opportunity for any development under any design configuration unless a variance is granted.
    - (C) The request does not go beyond the minimum necessary to afford relief and does not constitute a grant of special privileges inconsistent with the limitations upon other properties that are similarly situated.
    - (D) The grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the area in which the property is located.
    - (E) The literal interpretation and strict application of the applicable provisions or requirements of Chapter 14 would cause an extreme hardship, provided the hardship was not created by the owner.
  - (4) The director's decision shall be in writing, shall state the basis for the decision, and shall be made no more than thirty (30) days following application.
  - (d) *Appeals.*
    - (1) *Appeals.* Appeals shall be made to the zoning board of appeals, as established in Chapter 27 of the Code, and shall be administered in accordance with the notice requirements, criteria and procedural requirements set forth therein, except as otherwise specified below.
    - (2) *Basis for appeal.* Whenever the director approves a variance pursuant to section 14-34(b) and it is alleged that said variance request did not meet the standards of said section, or where the director denies a variance request pursuant to

section 14-34(b) and it is alleged that said variance request did meet the standards of said section, or where it is alleged by the applicant that there is error in any final order, requirement, or final decision made by an administrative official based on or made in the interpretation or enforcement of this Chapter 14, the aggrieved person, or any DeKalb County official, department, board or agency affected by said order, requirement or decision, shall have the right to appeal said final order, requirement or decision to the zoning board of appeals.

- (3) *Initiation of appeal.* Appeals shall be made by filing with the secretary of the zoning board of appeals an application for appeal specifying the grounds thereof, within thirty (30) days after the action appealed from was taken.
- (4) *Appeal stays all legal proceedings.* An appeal shall stay all legal proceedings in furtherance of the action appealed from unless the official from whom the appeal is taken certifies to the zoning board of appeals, after notice of appeal has been filed, that by reasons of facts stated in the certificate, a stay would, in that official's opinion, cause imminent peril to life and property. In such a case, proceedings shall be stayed only by a restraining order granted by the Superior Court of DeKalb County on notice to the officer from whom the appeal is taken and on due cause shown.
- (5) *Time and notice of hearing.* The zoning board of appeals shall fix a reasonable time for hearing of the appeal and shall give notice thereof pursuant to the requirements of section 27-917 of the Code of DeKalb County as well as due notice to the parties in interest. Any party may appear at the hearing in person, by an agent, or by an attorney and may present oral and/or written documentation, testimony and evidence in accordance with the rules and procedures set by the zoning board of appeals.
- (6) *Decision of the zoning board of appeals.* Following the consideration of all testimony, documentary evidence, and matters of record, the zoning board of appeals shall make a determination on each appeal. The zoning board of appeals shall decide the appeal within a reasonable time but in no event more than sixty (60) days from the date of the final hearing. An appeal shall be sustained only upon an express finding by the zoning board of appeals that the administrative official's action was based on an erroneous finding of a material fact, or that the administrative official acted in an arbitrary manner. In exercising its powers, the zoning board of appeals may reserve or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and to that end shall have all the powers of the administrative official from whom the appeal was taken and may issue or direct the issuance of a permit provided all requirements imposed by all other applicable laws are met.
  - (e) All appeals of final decisions of the zoning board of appeals under the provisions of this article shall be as follows:
    - (1) Any person aggrieved by a final decision of the zoning board of appeals, or any officer, department, board or agency affected by such decision, may seek review of such decision by petitioning the Superior Court of DeKalb County for a writ of certiorari, setting forth plainly the alleged errors. Such petition shall be filed within thirty (30) days after the final decision of the zoning board of appeals is rendered.
    - (2) In any such petition filed, the zoning board of appeals shall be designated the respondent in certiorari and DeKalb County shall be designated the defendant in certiorari. The secretary of the zoning board of appeals shall be authorized to acknowledge service of a copy of the petition and writ for the zoning board of appeals as respondent. Service upon the

county as defendant shall be as otherwise provided by law. Within the time prescribed by law, the zoning board of appeals shall cause to be filed with the clerk of DeKalb County Superior Court a duly certified record of the proceedings had before the board, including a transcript of the evidence heard before it, if any, and the written decision of the board.

(f) This article is not intended to abrogate, annul or otherwise interfere with any easement, covenant or other private agreement or legal relationship provided that when the regulations of this article are more restrictive or impose higher standards or requirements than such easements, covenants, or other private agreements or legal relationships, the regulations of this article shall govern. Further, where there is a conflict between any standard or requirement within Chapter 14, or between the Chapter 14 standards and any other provision of the Code, the more restrictive standard or requirement shall apply.

(Ord. No. 85-00, Pt. I, 12-28-00; Mo. of 1-23-01; Ord. No. 05-17, Pt. I, 11-8-05; Ord. No. 09-05, Pt. I, 2-24-09; Memo. of 9-23-20)

**Sec. 14-35. Plan submission requirements.**

(a) All site plans submitted in accordance with applicable provisions of this article shall meet the requirements for their preparation and shall also provide information to enable a determination to be made by the director as to plan conformance with the public policy statements of this article.

(b) All persons proposing developments, redevelopments or construction shall submit site plans to the director illustrating the means by which conformance with policy provisions may be achieved and illustrating compliance with applicable development standards before issuance of a development or building permit.

(c) Electric, telephone and gas utilities shall submit plans and obtain a development permit only for major transmission installations located within rights-of-way or easements devoted exclusively to installations of utility facilities.

Individual single-family lots within approved subdivisions shall be exempt from these requirements for new residential construction with the exception that individual single-family lots where site plans for each are required by special designation on the recorded plat or such lots are located within the intermediate regional floodplain shall be submitted for review and approval in accordance with this article and other applicable provisions of the Code. Owners and developers of individual single-family lots shall be required to use best management practices to prevent sedimentation from leaving the site.

(d) Grading, erosion control, sedimentation control, water quality control and drainage plans shall be prepared under the supervision of a currently state-registered professional engineer, architect or landscape architect, or combination as may be appropriate for project planning and design. Tree protection plans may be prepared by and implemented under the supervision of a currently state-registered professional architect, forester, landscape architect or engineer as may be appropriate for project planning and design. When the hydrologic engineering analysis includes applications of the principles for flood routing, super critical flow, high energy dissipation or conversion, backwater curves, floodplain studies or other advanced hydrologic engineering techniques, the analysis shall be made by a currently state-registered professional engineer proficient in hydrology.

(e) Site plans and supporting documentation to show conformance with this article shall be submitted in accordance with the applicable provisions of Chapter 27 and all conditions of zoning and shall include the following:

- (1) Evidence of conformance with the requirements of this article for grading, vegetation alteration, erosion control, sedimentation control, water quality control and drainage system alteration or development. Grading plans shall illustrate existing and proposed contours to the two-foot interval at a minimum; golf courses and other open space areas shall be exempt from this requirement but general grading plans for golf courses and other open space areas shall be

submitted. Water quality plans shall include the identification of existing wetland areas within the development site and shall demonstrate use of the stormwater quality site development review tool. Related plans shall show locations of structures, roads, surface drainage, existing and proposed drainage conduits, buffer areas, stream buffers, state buffer zones, and proposed alterations to the existing site;

to the intermediate regional floodplain boundaries shall be shown; the same information shall be indicated by the seller to the purchaser of each property so affected. The elevation contours representing the intermediate regional

- (2) A hydrologic engineering analysis of stormwater runoff under pre-developed and post-developed site conditions and a detailed evaluation of the projected effects on upstream and downstream properties within the affected drainage basin. In determining downstream effects from stormwater management structures, BMPs, and the development, hydrologic-hydraulic engineering studies shall extend downstream to a point where the proposed development represents less than ten (10) percent of the total watershed. This analysis shall include a determination of the culvert, floodplain and channel cross-section area required to carry the affected runoff at the intermediate regional flood stage level. The requirement for a complete hydrologic study may be waived in writing by the director for any development where the site plan submitted illustrates predeveloped or proposed improvements sufficient to ensure compliance with applicable provisions of this article;
- (3) Delineation of the boundaries, contour elevations and floodways of the intermediate regional floodplain for streams draining in excess of one hundred (100) acres. Unless shown on the flood hazard map, the intermediate regional flood contour elevations and floodways shall be established by engineering field control surveys and then be added to the flood hazard map upon approval of the director and be clearly designated on each site plan, subdivision plat and construction plan. The actual building site in relation

(2) Periodic work schedules are to be submitted to the arborist showing the proposed location and extent of tree work to be performed.

- a. All tree trimming and pruning to be performed by public utilities, public agencies, and their subcontractors on trees growing on private or public rights-of-way shall be done according to the National Arborist Association Standards for Pruning of Shade Trees.
- b. The routing of public and private utility easements shall be subject to review and comment by the county arborist.

(p) *Enforcement.* It shall be the duty of the director to enforce this tree protection ordinance. The director shall have the authority to, and the county arborist may recommend that, the director revoke, suspend or void any land disturbance permit, development permit or building permit or suspend all work on a site or portion thereof in order to effect compliance with this section.

- (1) Violation and penalty. Any person, firm or corporation violating any of the provisions of this section, after having been first issued a warning, shall be deemed guilty of an offense and upon conviction in court of competent jurisdiction shall be punished as is provided in section 1-10 of the Code of DeKalb County. Each tree removed or killed in violation of this section 14-39 shall be considered a separate offense. The owner of any buildings or premises or parts thereof, where anything in violation of this section exists, and any architect, builder, contractor or any other agent of the owner, or any tenant, who commits or assists in the commission of any violation, shall be guilty of a separate offense.
- (2) Any trees eight (8) inches (DBH) and over which have been removed in violation of this section shall be replaced by the violator with four-inch caliper replacement trees equal to the unit value of the trees removed. However, any specimen

tree removed from a parcel shall be replaced with four-inch caliper trees one and five-tenths (1.5) times the equivalent inches (DBH) of replacement trees or existing trees in excess of the requirements of subsection (g), tree preservation and replacement requirements, using species with potentials for comparable size and quality at maturity.

- (3) Additional legal remedies. In addition to all other actions and penalties authorized in this section, the department of law is hereby authorized to institute injunctive, abatement or any other appropriate judicial or administrative actions or proceedings to prevent, enjoin, abate, or remove any violations of this section.
- (4) Appeals; power and duty of the board to hear appeals of decisions of administrative officials. The zoning board of appeals shall have the power and duty to hear and decide appeals where it is alleged by an aggrieved party that there is error in any final order, requirement, or decision made by the director based on or made in the enforcement of the tree protection ordinance. all such appeals shall be heard and decided following the notice requirements, criteria and procedural requirements in Chapter 27 of the DeKalb County Code of Ordinances.
- (5) Administrative variances. Front, side and rear yard setbacks and parking requirements may be reduced by an amount not to exceed fifty (50) percent where it is determined by the county arborist to be necessary in order to preserve existing specimen or significant trees. Appropriate conditions to said administrative variances shall be imposed so as to ensure the continued health of said trees following the granting of such variances, including mandatory replacement requirements. Such administrative variances shall be considered and decided consistent with the procedures and criteria contained in Chapter 27 of the DeKalb County Code of Ordinances. Appeals of final decisions

regarding administrative variances may be taken as provided in subsection (p)(4) above.

- (6) Special exception. The zoning board of appeals is authorized to consider requests for special exception for the removal of an unauthorized specimen tree. All such requests shall be filed, notice given, and all procedures shall be as is required in the zoning ordinance. No such special exception for the unauthorized removal of a specimen tree shall be granted by the zoning board of appeals unless the applicant has demonstrated and the board has found that the property is not capable

of earning a reasonable economic return absent the grant of the special exception. In making this determination the board shall consider the following factors:

- a. Value of the trees in question, considering their age, size, health, and significance;
- b. The current level of economic return on the property;
- c. The marketability of the property; and the unfeasibility of alternate design or uses. Appeals from final decisions of the board shall be as provided for in Chapter 27 of the DeKalb County Code of Ordinances.

APPENDIX A

DeKalb County Overstory Trees Acceptable for Replanting Credits

<i>Scientific Name</i>	<i>Common Name</i>	<i>Recommended</i>	<i>Leaf Habit</i>
Acer rubrum	Red Maple	October Glory, Red Sunset	Deciduous
Betula nigra	Riverbirch	Duraheat	Deciduous
Carpinus betuls	European Hornbeam		Deciduous
Carya aquatica	Water Hickory	Availability	Deciduous
Carya cordiformis	Bittemut Hickory	Availability	Deciduous
Carya glabra	Pignut Hickory	Availability	Deciduous
Carya illinoensis	Pecan		Deciduous
Carya tomentosa	Mockernut Hickory	Availability	Deciduous
Cedrus atlantica	Atlas Cedar		Evergreen
Cedrus libani	Cedar of Lebanon		Evergreen
Cedrus deodara	Deodar Cedar		Evergreen
Cryptomeria japonica	Japanese Cryptomeria		Evergreen
Fagus grandifolia	American Beech		Deciduous
Fraxinus tomentosa	Pumpkin Ash		Deciduous
Gingko biloba	Gingko	Plant male only. Autumn Bold, Fairmont	Deciduous
Ilex opaca	American Holly		Evergreen
Juniperus virginiana	Red Cedar	Brodie	Evergreen
Liquidambar styraciflua	Sweetgum	Limited Use-Rotundi-loba (Avail.)	Deciduous
Liriodendron tulipifera	Tulip Poplar	Limited Use	Deciduous
Magnolia acuminata	Cucumbertree		Deciduous
Magnolia grandiflora	Southern Magnolia	Bracken's Brown Beauty, Greenback	Evergreen
Magnolia virginiana	Sweetbay Magnolia		Deciduous

<i>Scientific Name</i>	<i>Common Name</i>	<i>Recommended</i>	<i>Leaf Habit</i>
<i>Metasequoia glyptostroboides</i>	Dawn Redwood	Limited Use	Deciduous
<i>Nyssa sylvatica</i>	Black Gum		Deciduous
<i>Pinus echinata</i>	Shortleaf Pine		Evergreen
<i>Pinus taeda</i>	Loblolly Pine		Evergreen
<i>Platanus occidentalis</i>	Sycamore		Deciduous
<i>Quercus acutissima</i>	Sawtooth Oak		Deciduous
<i>Quercus alba</i>	White Oak		Deciduous
<i>Quercus bicolor</i>	Swamp White Oak		
<i>Quercus coccinea</i>	Scarlet Oak		Deciduous
<i>Quercus falcata</i>	Southern Red Oak		Deciduous
<i>Quercus georgiana</i>	Georgia Oak		Deciduous
<i>Quercus imbricaria</i>	Shingle Oak		Deciduous
<i>Quercus lyrata</i>	Overcup Oak		Deciduous
<i>Quercus laurifolia</i>	Laurel Oak		Deciduous
<i>Quercus michauxii</i>	Swamp Chestnut Oak		Deciduous
<i>Quercus macrocarpa</i>	Bur Oak		Deciduous
<i>Quercus nigra</i>	Water Oak		Deciduous
<i>Quercus nuttalli</i>	Nuttall Oak		Deciduous
<i>Quercus phellos</i>	Willow Oak		Deciduous
<i>Quercus prinus</i>	Chestnut Oak	Availability	Deciduous
<i>Quercus rubra</i>	Northern Red Oak		Deciduous
<i>Quercus shumardii</i>	Shumard Red Oak		Deciduous
<i>Quercus stellata</i>	Post Oak		Deciduous
<i>Quercus velutina</i>	Black Oak		Deciduous
<i>Taxodium distichum</i>	Bald Cypress	Shawnee Brave	Deciduous
<i>Tilia</i> spp.	Linden		Deciduous
<i>Thuja</i> × 'Green Giant'	Arborvitae	'Green Giant'	Evergreen
<i>Thuja plicata</i>	Giant (Western) Arborvitae		Evergreen
<i>Ulmus americana</i>	American Elm	Princeton and other resistant varieties	Deciduous
<i>Ulmus parviflora</i>	Lacebark Elm	Allee, Athena, Bosque	Deciduous
<i>Zelkova serrata</i>	Japanese Zelkova	Green Vase	Deciduous

## DeKalb County Understory and Other Small Trees Acceptable for Replanting Credits

<i>Scientific Name</i>	<i>Common Name</i>	<i>Recommended</i>	<i>Leaf Habit</i>
<i>Acer barbatum</i>	Florida Maple		Deciduous
<i>Acer buergerianum</i>	Trident Maple	Street Wise	Deciduous
<i>Acer campestre</i>	Hedge Maple		Deciduous
<i>Acer leucoderme</i>	Chalk Maple		Deciduous
<i>Acer palmatum</i>	Japanese Maple		Deciduous
<i>Acer saccharum</i>	Sugar Maple		Deciduous
<i>Aesculus pavia</i>	Red Buckeye		Deciduous
<i>Alnus serrulata</i>	Alder		Deciduous
<i>Amelanchier</i> × <i>grandiflora</i>	Serviceberry	Princess Diana, Autumn Brilliance	Deciduous

<i>Scientific Name</i>	<i>Common Name</i>	<i>Recommended</i>	<i>Leaf Habit</i>
<i>Aralia spinosa</i>	Devils Walking Stick		Deciduous
<i>Betula nigra</i>	River Birch	Little King	Deciduous
<i>Carpinus caroliniana</i>	American Hornbeam		Deciduous
<i>Castanea pumila</i>	Chinkapin		Deciduous
<i>Celtis tenulfolia</i>	Georgia Hackberry		Deciduous
<i>Celtis laevigata</i>	Sugarberry		Deciduous
<i>Cercidiphyllum japonicum</i>	Katsura Tree		Deciduous
<i>Cercis canadensis</i>	Eastern Redbud		Deciduous
<i>Cercis reniformis</i>	Redbud	Oklahoma	
<i>Chioanthus retusus</i>	Chinese Fringetree		Deciduous
<i>Chioanthus virginicus</i>	White Fringetree		Deciduous
<i>Cladrastis kentukea</i>	Yellowwood		Deciduous
<i>Cornus</i> spp.	Dogwood	Florida and Kousa crosses	Deciduous
<i>Cornus florida</i>	Flowering Dogwood	Aurora	Deciduous
<i>Cornus kousa</i>	Kousa Dogwood		Deciduous
<i>Crataegus</i> spp.	Hawthorn	Thornless cultivars	Deciduous
<i>Crataegus phaenopyrum</i>	Washington Hawthorn		Deciduous
<i>Diospyros virginiana</i>	Persimmon		Deciduous
<i>Halesia carolina</i>	Silverbell		Deciduous
<i>Halesia diptera</i>	Two Winged Silverbell		Deciduous
<i>Hamamelis virginiana</i>	Witch-hazel		Deciduous
<i>Ilex</i> spp.	Holly	Burford, Carolina #2, Foster, Neillie R. Stevens, Savannah, Yaupon	Evergreen
<i>Ilex decidua</i>	Possumhaw		Deciduous
<i>Juniperus virginiana</i>	Red Cedar		
<i>Koelreuteria paniculata</i>	Golden Raintree		Deciduous
<i>Lagerstromia indica</i> × <i>faurieri</i>	Crape Myrtle	Tree form cultivars disease resistant and hardy, eg. Choctaw, Natchez	Deciduous
<i>Magnolia grandiflora</i>	Southern Magnolia	Alta, Bracken's Brown Beauty, Greenback, Claudia Wannamaker	Evergreen
<i>Magnolia</i> × <i>loebneri</i>	Loebner Magnolia	Merrill	Deciduous
<i>Magnolia macrophylla</i>	Bigleaf Magnolia		Deciduous
<i>Magnolia soulangiana</i>	Saucer Magnolia		Deciduous
<i>Magnolia stellata</i>	Star Magnolia	Star Man	
<i>Magnolia tripetala</i>	Umbrella Magnolia		Deciduous
<i>Magnolia virginiana</i>	Sweetbay Magnolia		Evergreen
<i>Malnus floribunda</i>	Japanese Flowering Crabapple		Deciduous
<i>Myrica cerifera</i>	Waxmyrtle		Evergreen
<i>Osmanthus americanus</i>	Devilwood		Evergreen



<i>Scientific Name</i>	<i>Common Name</i>	<i>Recommended</i>	<i>Leaf Habit</i>
<i>Ostrya virginiana</i>	Eastern Hophombeam		Deciduous
<i>Oxydendrum arboreurn.</i>	Sourwood		Deciduous
<i>Pinus Virginiana</i>	Virginia Pine	Slopes, Screen	Evergreen
<i>Pistacia chinesis</i>	Chinese Pistache		Deciduous
<i>Prunus spp.</i>		Okame, Autumnalis	Deciduous
<i>Sassafras albidurn</i>	Sassafras		Deciduous
<i>Styrax americana</i>	Snowbell		Deciduous
<i>Ulmus alata</i>	Winged Elm		Deciduous
<i>Vaccinium arboreurn</i>	Sparkleberry		Evergreen

## DeKalb County Recommended Trees for Under Powerlines

<i>Scientific Name</i>	<i>Common Name</i>	<i>Recommended</i>
<i>Acer buergeranum</i>	Trident Maple	
<i>Acer palmatum</i>	Japanese Maple	
<i>Cercis candensis</i>	Redbud	
<i>Chionanthus retusus</i>	Chinese Fringetree	
<i>Chionanthus virginicus</i>	White Fringetree	
<i>Cornus spp.</i>	Dogwood	Florida and Kousa crosses
<i>Cornus florida</i>	Flowering Dogwood	Disease resistant varieties, Aurora
<i>Cornus kousa</i>	Kousa Dogwood	
<i>Crataegus phaenopyrum</i>	Washington Hawthorn	
<i>Ilex spp.</i>	Holly	Nellie R. Stevens, tree form Burford, Yaupon
<i>Koelreuteria paniculata</i>	Golden Raintree	
<i>Magnolia x loebneri</i>	Loebner Magnolia	Merrill
<i>Magnolia soulangiana</i>	Saucer Magnolia	
<i>Magnolia stellata</i>	Star Magnolia	Star Man
<i>Oxydendrum arboreum</i>	Sourwood	
<i>Prunus spp.</i>		Okame, Autumnalis

## Recommended Trees for Parking Lots

<i>Scientific Name</i>	<i>Common Name</i>	<i>Recommended</i>
<i>Acer buergeranum</i>	Trident Maple	Street Wise
<i>Acer rubrum</i>	Red Maple	October Glory, Red Sunset
<i>Betula nigra</i>	River Birch	Duraheat
<i>Chionanthus virginicus</i>	Fringetree	
<i>Cladrastis kentukea</i>	Yellowwood	
<i>Crataegus phaenopyrum</i>	Washington Hawthorn	
<i>Juniperus virginiana</i>	Red Cedar	Brodie
<i>Ilex spp.</i>		Tree form Yaupon, Burford, Carolina #2
<i>Lagerstromia indica x faurier</i>	Crape Myrtle	Tree form cultivars, disease resistant and hardy, eg. Natchez, Choctaw
<i>Nyssa sylvatica</i>	Black Gum	
<i>Pistacia chinesis</i>	Chinese Pistache	

<i>Scientific Name</i>	<i>Common Name</i>	<i>Recommended</i>
Quercus michauxii	Swamp Chestnut Oak	
Quercus nigra	Water Oak	
Quercus nuttalli	Nuttall Oak	
Quercus palustris	Pin Oak	
Quercus phellos	Willow Oak	
Quercus rubra	Northern Red Oak	
Taxodium distichum	Bald Cypress	Shawnee Brave
Ulmus parvifolia	Lacebark Elm	Athena
Zelkova serrata	Japanese Zelkova	Green Vase

(Ord. No. 85-00, Pt. I, 12-28-00; Mo. of 1-23-01; Ord. of 1-23-01, Pt. 1; Memo. of 9-23-20)

**Sec. 14-40. Stormwater management.**

(a) The governing authority believes the county's stream systems are a valuable natural resource that requires joint and cooperative action by the county and the development industry to resolve existing stormwater management and flooding problems, prevention of their worsening or recurrence while utilizing this resource for the good of the entire county.

The development industry and the county shall cooperate to control water quality and maintain the county's drainage and stream systems from stormwater runoff resulting from development activities.

(b) Standards.

(1) DeKalb County shall require all land development to comply with the criteria, technical specifications, and standards of the Georgia Stormwater Management Manual, as may be hereafter amended. The rainfall intensities used in hydrologic and hydraulic computations shall be those published in the Georgia Stormwater Management Manual.

(2) Applicability. A combination of storage and controlled release of stormwater runoff shall be required for all development and construction for the entire site which meets one (1) or more of the following criteria:

(A) Increases the peak rate of runoff from the site by more than one (1) cubic foot per second for a ten-year frequency storm;

- (B) Involves the creation of five thousand (5,000) square feet or more of impervious cover, or that involves other land development activities of one (1) acre or more;
  - (C) Includes the creation, addition or replacement in redevelopment of five thousand (5,000) square feet or more of impervious cover, or that involves other land development activity of one (1) acre or more;
  - (D) Any new development or redevelopment, regardless of size, that meets the definition of a stormwater hot-spot; or
  - (E) Land development activities that are smaller than the minimum applicability criteria set forth in items (A) and (B) above if such activities are part of a larger common plan of development, even though multiple, separate and distinct land development activities may take place at different times on different schedules.
- (3) Exemptions. The provisions of this article shall not apply to the following criteria:
- (A) Individual single-family or duplex residential lots that are not part of a subdivision or phased development project unless they meet one (1) of the criteria listed above in (b)(2);
  - (B) Additions or modifications to existing single-family or duplex

- residential structures unless it meets one (1) of the criteria listed above in (b)(2);
- (C) Agricultural or silvicultural land management activities within areas zoned for these activities; and,
  - (D) Repairs to any stormwater management facility or practice deemed necessary by the director.
  - (E) The director may exempt the owner from those provisions of this article where complete compliance with those specific provisions is physically impossible.
  - (F) Reserved.
  - (G) The requirements, or portions thereof, of subsections (2) and (3) above shall not be waived if the director determines that such waiver would increase known flooding problems, or exceed the capacity of the downstream drainage system.
  - (H) A waiver of these minimum runoff quantity control requirements may be granted only after a written request is submitted by the applicant containing descriptions, drawings, and any other information that is necessary to evaluate the proposed land disturbing activity. A separate written waiver request shall be required if there are subsequent additions, extensions, or modifications, to the development which would alter the approved stormwater runoff characteristics of a land disturbing activity receiving a waiver.
  - (I) Appeals from said waiver decisions may be taken to the zoning board of appeals pursuant to the provisions of section 14-34(c).
- (4) If forty (40) percent of a site is to be redeveloped, all stormwater requirements must be met for the redeveloped area only and the non-disturbed area will be treated as predeveloped prior to the redevelopment. But if more than forty (40) percent of the site is to be redeveloped, then the entire site must meet all stormwater requirements.
- (5) A downstream peak flow analysis will include the assumptions, results and supporting calculations to show safe passage of post-development design flows downstream. The analysis of downstream conditions in the report shall address each and every point or area along the project site's boundaries at which runoff will exit the property. The analysis shall focus on the portion of the drainage channel or watercourse immediately downstream from the project. This area shall extend downstream from the project to a point in the drainage basin where the project area is ten (10) percent of the total basin area. In calculating runoff volumes and discharge rates, consideration may need to be given to any planned future upstream land use changes. The analysis shall be in accordance with the Georgia Stormwater Management Manual.
  - (6) Detention designs may be rejected by the director if they incorporate structures and facilities that will demand considerable maintenance or will be difficult to maintain or will utilize numerous small structures if other alternatives are physically possible.
  - (7) Discharge velocities from detention facilities shall be reduced to provide a non-erosive velocity flow from a structure, channel, or other control measure as set forth in the approved Georgia Stormwater Management Manual.
  - (8) Stormwater management and flood control facilities may include both structural and nonstructural components. Natural or planted vegetation as well as other natural runoff conduits are examples of these non-structural components and shall be retained where practicable. In addition, these components must provide for

or enhance stormwater quantity and/or quality control or other stormwater benefits.

- (9) The drainage system being developed shall have adequate capacity to accommodate the flow from all upstream areas for a one hundred-year storm event.
- (10) The drainage system from a proposed development must discharge into an outfall that has adequate capacity to accommodate the runoff from the development. If the connecting downstream system is not able to accommodate the allowable design flows from the site, then the design engineer must design drainage facilities with the capacity to over-detain flows so they can be accommodated by the existing downstream conveyance structures whereby allowing the existing downstream system to operate correctly. If downstream easements are needed to extend the drainage system to an adequate outfall, the developer shall obtain these easements.
- (11) A landscaping plan shall be submitted for all detention and other storage facilities as part of the overall drainage plan.
- (12) Land uses within the intermediate regional floodplain shall not diminish or restrict the capacity of the channels or floodplains of the stream, its tributaries, drainage ditches or any other stormwater management facilities or systems and shall not increase the IRF elevation or velocity or concentration of flow in downstream areas. The development permit shall be denied if the required hydrologic studies reveal that a request for filling or grading within the intermediate regional floodplain would overload the capacity of the channel downstream or increase flood stages upstream, unless equivalent flow and storage capacity is replaced and maintained by the owner within the intermediate regional floodplain. Altered sections of the intermediate regional floodplain shall have a positive slope so as to provide positive drainage back to the stream flow line and this section must be maintained by the owners in perpetuity so as to prevent or remove silt buildup.
- (13) Excavation within floodplain areas shall not be permitted unless the excavation can be accomplished in such a manner that the existing low level drainage pattern through the floodplain shall be maintained. The area of compensation within the floodplain shall be considered as ineffective flow area for the purpose of calculating floodplain elevations to meet no-rise certification requirements. The amount of compensation shall be limited to one hundred fifty (150) cubic yards per acre of floodplain area.
- (14) The live detention storage to be provided shall be calculated on the basis of the one hundred-year frequency rainfall as published in the Georgia Stormwater Management Manual. The detention system required shall be necessary to handle the runoff of a one hundred-year rainfall, for any and all durations from the post-development, with a release rate that does not exceed the pre-development release rate during the same duration storm. Detention control structures and other drainage improvements shall be located and designed to prevent erosion damage to adjacent property owners.
- (15) When the applicant requests and the director determines that development and construction projects are too small, or that engineering and economic factors make combined detention or other stormwater management facilities more practical, the county may authorize the joint construction of these facilities to serve two (2) or more properties by two (2) or more applicants. This authorization shall be granted by the zoning board of appeals upon application for approval being submitted through the director. Where joint detention facilities serving two (2) or more properties are approved for construction, no use of land or occupancy of buildings within the properties served by these facilities shall be permitted

- (2) Increase the density allowed on the property; or
- (3) Vary the requirements set forth in sections 14-256 through 14-260.

(c) Applications for variances must be submitted in writing to the planning director along with the application for sketch plat approval or if a variance becomes necessary after the planning commission has approved the sketch plat, within thirty (30) days of discovery of the condition(s) requiring such a variance from the preliminary plat. Applications shall contain all those materials and documents required by the planning director or the development director that are necessary to demonstrate the necessity for the variance and compliance with the requirements of this Code. At a minimum, the variance application must contain a full explanation of the reasons for the variance and must include a plat that shows the proposed subdivision designed without the variance and a plat that shows the proposed subdivision designed with the variance.

(d) When the variance application is first considered by the planning commission, the development director and the planning director shall provide the planning commission with written findings of fact and a recommendation for approval or disapproval of the variance.

(e) Applications for variances that accompany the application for sketch plat approval shall be heard by the planning commission contemporaneously with the public hearing on the sketch plat.

(f) Applications for variances from the preliminary plat shall be heard at a public hearing by the planning commission at the next meeting of the planning commission held after the filing of a complete application for variance from the preliminary plat. All land development activity associated with a proposed variance from a preliminary plat shall cease until a final decision on the variance is made by the planning commission. Land development activity that is not related to the proposed variance may continue unabated.

(g) All decisions by the planning commission approving or disapproving a variance must be issued in writing and must provide the grounds for the decision of the planning commission. The planning commission shall issue a final decision on a variance submitted with the application for a sketch plat at the same time that it issues the final decision approving or disapproving the sketch plat. The planning commission shall issue a final decision on a variance from the preliminary plat within fifty (50) days after the first meeting at which the planning commission considers the variance. If a final decision is not made on a subdivision plat variance in accordance with the time constraints set forth in this section, the variance shall stand disapproved.

(h) Appeals of variances that accompany applications for sketch plat approval shall be made by writ of certiorari to the superior court of DeKalb County. Any person or entity (i.e., an owner, applicant, adjoining neighbor or a neighbor whose property line is within one thousand five hundred (1,500) feet of the nearest property line of the proposed subdivision) aggrieved by a variance decision of the planning commission affecting a preliminary plat, may appeal such decision by filing a petition for writ of certiorari to the superior court of DeKalb County. (Ord. No. 30-02, Pt. II, 7-9-02; Ord. No. 01-04, Pt. I, 4-13-04)

#### **Sec. 14-65. Enforcement, violations, and penalties.**

(a) *General.* It shall be the duty of the chief executive officer to enforce this chapter.

(b) *Violations and penalties.* Any person, firm or corporation violating any of the provisions of these regulations shall be deemed guilty of an offense and upon conviction in court of competent jurisdiction shall be punished as is provided in section 1-10 of the Code of DeKalb County. Each violation of these regulations shall be considered a separate offense. The owner of any structures, buildings, lots or parcels or parts thereof, where anything in violation of these regulations exists, and any architect, builder, contractor or any

other agent of the owner, or any tenant, who commits or assists in the commission of any violation, shall be guilty of a separate offense.

(c) *Enforcement.* Appropriate actions and proceedings, including the issuance of stop work orders and actions in a court of law, may be taken by DeKalb County in law or in equity to prevent any violation of these regulations, to prevent unlawful construction, to recover damages, to restrain, correct, or abate a violation and to prevent illegal occupancy of a building structure or premises. These remedies shall be in addition to the penalties described above.

(Ord. No. 30-02, Pt. II, 7-9-02; Memo. of 9-23-20)

**Secs. 14-66—14-86. Reserved.**

DIVISION 2. PLAT APPROVAL PROCEDURE

*Part A. Conference*

**Sec. 14-87. Conference with county officials.**

Before filing the sketch plat for a subdivision for review and approval, the applicant shall meet with the planning director to discuss the procedure for approval of a subdivision plat and the requirements as to general layout of streets, reservations of open space, street improvements, drainage, sewerage, fire protection, and similar matters, as well as the availability of existing services, including schools. The planning director may advise the applicant, when appropriate, to discuss the proposed subdivision with those officials who must eventually approve those aspects of the subdivision plat coming within their jurisdiction. This conference will allow early evaluation of the applicant's intentions and coordination with the comprehensive plan and the zoning ordinance. This conference will also allow county officials to discuss with the applicant the necessary regulations that will properly accomplish the project.

(Ord. No. 30-02, Pt. II, 7-9-02)

*Part B. Sketch Plat*

**Sec. 14-88. Application and sketch plat required.**

The owner of the land where the proposed development is to occur, or his authorized agent,

shall file a sketch plat with the planning department along with an application for approval. The application shall:

- (1) Be made on forms prepared by the planning department;
- (2) Be accompanied by minimum of eighteen (18) copies of the sketch plat, which must be prepared by a registered civil engineer, surveyor, architect, or landscape architect, as described in these regulations and complying in all respects with these regulations;
- (3) Be accompanied by an application fee in the amount set by the board of commissioners; and
- (4) Include the name, address and telephone number of an agent who is authorized to receive all notices required by these regulations.

(Ord. No. 30-02, Pt. II, 7-9-02)

**Sec. 14-89. Required information.**

The following existing conditions shall be shown on a sketch plat:

- (1) *Boundary lines.* Perimeter boundary of the overall tract, bearings and distances, referred the legal point of beginning;
- (2) *Streets on or adjacent to tract.* Name, right-of-way width, and location of streets on and adjacent to the tract, and any existing railroad, sidewalk, trail, or bike lane;
- (3) *Contour data.* Topographic contour data at no more than two-foot elevation intervals. The source of this data shall be written on the plat. Existing contour data from the DeKalb County Geographic Information System Department may be used where available;
- (4) *Tree survey.* A tree survey in compliance with section 14-39 or tree sample calculations where allowed by the county arborist which may be submitted as a separate plan;
- (5) *Historic resources.* Any building, structure, site or district identified as historic

**Sec. 15-387. Suspension or revocation of permit.**

(a) *Suspension.* For reasons set forth below, a business license or a driver's permit issued under this article may be suspended until these conditions no longer exist:

- (1) Failure to maintain all of the general qualifications applicable to the initial issuance of a license or driver's permit.
- (2) Violation of any part of this article.
- (3) For driver's permits only: have not been convicted of four (4) or more moving traffic violations, or one (1) or more mandatory suspensions as defined by Georgia law, within the twelve-month period preceding the date of application or renewal of the application. Discharge without court adjudication of guilt pursuant to O.C.G.A. § 42-8-62 shall not disqualify an applicant.
- (4) Allowing the required insurance coverage to lapse, or allowing a vehicle to operate in the unincorporated area of the county without a county inspection sticker.

(b) *Suspension for six (6) months.* For reasons set forth below, a business license or a driver's permit issued under this article may be suspended for six (6) months:

- (1) Charging a fare in excess of those fares on file with the police department.
- (2) Refusing to accept a passenger solely on the basis of race, color, national origin, religious belief, sex or sexual orientation. Sexual orientation shall mean the state of being heterosexual, homosexual or bisexual. Operators shall not refuse to accept a passenger unless the passenger is obviously intoxicated or dangerous.

(c) *Revocation.* A business license or a driver's permit issued under this article may be revoked where the applicant furnishes fraudulent or untruthful information, or omits information, requested in the application.

(d) A taxicab company permit, driver's permit or business license may be revoked for a violation of this article. If any permit holder, or employee or independent contractor of a permit holder, is found to have violated this article on three (3) or more occasions in a twelve-month period, such permit may be revoked.

(e) A permit may be revoked if any driver affiliated in any way with such permit is found to have violated this article on five (5) or more occasions in a twelve-month period.

(f) In addition to any other remedies provided by law, the permit holder may also be cited for violating the provisions of this article, and such citation(s) shall be prosecuted in accordance with the requirements of this article in the Court of Competent Jurisdiction of DeKalb County.

(g) The requirements of this article shall be in addition to all other licensing, taxing, and regulatory provisions of local, state or federal law and shall not authorize violations of any other applicable laws. (Code 1976, § 7-3008; Ord. No. 88-11a, § 1, 10-11-88; Ord. No. 01-04, Pt. 1, 4-26-01; Ord. No. 05-02, Pt. 1, 10-9-01; Ord. No. 11-02, Pt. I, § 1, 11-27-01; Ord. No. 29-03, Pt. I, 10-28-03; Memo. of 9-23-20)

**Sec. 15-388. Vehicle condition and equipment; inspection and inspection sticker.**

(a) Drivers and company licensees are responsible for maintaining each vehicle for hire in a clean and mechanically safe condition. The interior and exterior shall meet the requirements set out under inspection requirements outlined in this section.

(b) Drivers are not to drive and company licensees are not to allow drivers to operate a vehicle without the required markings, a taximeter, top light and inspection sticker as outlined in this section. Required markings shall also include the name of the company painted or affixed by decal to the outside right and left front doors and the schedule of rates, including minimum fares, painted or affixed by decal to the outside right and left rear doors. Magnetic signs,

or non-permanent signs or markings, shall be prohibited. Limousines are excepted from having markings, top lights, two-way radios or taximeters; however, limousines are required to have a plate attached to their front or rear bumper indicating the company business name.

(c) All vehicles for hire to be used by a licensee in the county shall be inspected annually and approved by the police department. Once a vehicle meets the requirements of the inspection, a sticker will be affixed to the left side of the windshield. The requirements that each vehicle must meet are as follows:

- (1) Exterior inspection shall ensure that headlights, taillights, brake lights, directional signal lights, license plate lights, windshield wipers, all vehicle glass, window cranks or electric windows, doors and door locks, trunk lid, trunk, hood, door handles, exhaust system, bumpers, fenders, body, tires and other vehicle parts are in good condition and functioning properly. There shall be no tears or rust holes in the vehicle body and no loose pieces hanging from the vehicle body. There shall be no unrepaired body damage or any body condition which would create a safety problem or interfere with the operation of the vehicle.
- (2) Interior inspection shall include the rearview mirror, steering wheel, foot brakes, parking brakes, air conditioning and heating systems to ensure each item is in good operating condition. The upholstery, floor mats, headlining, door panels and the trunk compartment shall be inspected to insure there are no tears, that they are clean and have no offensive odors and that the trunk has sufficient space for passenger luggage.
- (3) The vehicle shall have a spare tire and jack, a functional two-way radio and a taximeter. The taximeter is to be positioned so that it is visible from the passenger compartment. Taximeter accuracy shall be verified according to the police department's published rules

and regulations for vehicles for hire. Limousines are excepted from having a two-way radio and a taximeter.

- (4) Vehicles shall be subject to random inspections at any time. Vehicles found to be substandard shall be removed from service immediately and shall be subject to immediate vehicle inspection sticker removal by the police department. Additional inspection requirements will be outlined in the police department's vehicle rules and regulations governing passenger-carrying vehicles.

(d) The inspection sticker is proof that the company met the licensing and insurance requirements at the time of license issuance and that the vehicle passed the last vehicle inspection. Each vehicle operator must have in the vehicle proof of current insurance coverage. Any company or vehicle letting insurance coverage lapse shall have the inspection sticker or stickers removed by the police department and the business license suspended or revoked by the finance department. Business operations shall not be resumed until proof of insurance is provided to the finance department, the license reinstated and the vehicle or vehicles reinspected and new inspection stickers issued by the police department.

(e) No business licensed for operating vehicles for hire shall use any vehicle that has not been inspected and had the county inspection sticker affixed.

(f) Inspection sticker are not transferable from vehicle to vehicle and are nonrefundable if the vehicle is wrecked or taken out of service for any reason. The finance department and police department must be notified within ten (10) days of any vehicle being taken out of service; stickers from vehicles taken out of service must be turned in to the police department. Stickers for replacement vehicles or additional vehicles are issued under the same procedures as original inspection stickers.

(g) The maximum number of inspection stickers issued in any calendar year shall not exceed one thousand (1,000).



(h) Inspection stickers shall expire on the date the Georgia motor vehicle license tag expires. (Code 1976, §§ 7-3002, 7-3005(D), (E), 7-3006; Ord. No. 88-11a, § 1, 10-11-88; Ord. No. 01-04, Pt. 1, 4-26-01; Ord. No. 11-02, Pt. I, § 1, 11-27-01)

**Sec. 15-389. Miscellaneous requirements and regulations.**

(a) All taxicab drivers shall maintain in each taxicab a suitable map or street guide of the metropolitan Atlanta area.

(b) All taxicab drivers shall make a reasonable search of their vehicle immediately following each trip, and upon discovery of any personal property left by a passenger in the taxicab, shall immediately notify the dispatcher so that the dispatcher can attempt to locate the owner to return the property. If the owner cannot be located within twenty-four (24) hours, the dispatcher shall forward the property to the police department. The county shall reflect the initial receipt of the property in a log that shall be maintained and available for inspection by the police chief or designee for one (1) year.

(c) All taxicab drivers shall take the most direct route to a passenger's destination unless otherwise authorized or directed by the passenger.

(d) No taxicab driver shall refuse to accept a passenger, unless the passenger is obviously intoxicated or dangerous. All employees and independent contractors of companies permitted pursuant to this article shall be courteous and respectful to members of the public.

(e) No taxicab driver shall refuse to accept a passenger solely on the basis of that passenger's race, color, gender, religion, sex, national origin, sexual orientation, age or disability.

(f) All taxicab drivers shall provide receipts upon request of a passenger, showing the amount of fare paid, the name of the company, the taxicab identification number, the number of passengers, and origin and termination location of trip.

(g) No taxicab driver shall refuse to transport a blind or disabled person or that person's guide or service dog. No taxicab driver shall charge any extra fee for the guide or service dog to accompany said blind or disabled person.

(h) All taxicab drivers shall practice good personal hygiene, and wear proper dress while operating a taxicab. Proper dress shall mean shoes (not sandals), ankle length pants, and a shirt or blouse with sleeves and a collar. Hats must be of the baseball style or a chauffeur's cap. Clothing must be clean and not visibly soiled.

(i) Taxicab company permit holders are responsible for ensuring that any driver who is affiliated in any way with such permit complies with the requirements of this article. In addition to being cited for a violation of this article, violation(s) of this section may be grounds for suspension or revocation of the permit issued pursuant to this article.

(j) Failure of a taxicab driver to comply with this article shall result in the issuance of a citation and/or the driver's arrest and the impoundment of the taxicab.

(k) No taxicab driver's permit shall be issued to a driver not affiliated with a taxicab company properly permitted pursuant to this article. (Code 1976, § 7-3005(A); Ord. No. 88-11a, § 1, 10-11-88; Ord. No. 29-03, Pt. I, 10-28-03)

**Sec. 15-390. Trip sheets or logs.**

Drivers must maintain daily trip sheets or logs of all passengers, the time, place of entry, the destination of each passenger, the amount charged and an itemization of any personal property left in the vehicle for hire. Trip sheets must be maintained in the vehicle for forty-eight (48) hours and, thereafter, transferred to and maintained at the licensed business premises for a period of time to be specified by the police department in that department's published rules and regulations for vehicles for hire. (Code 1976, § 7-3005(B); Ord. No. 88-11a, § 1, 10-11-88; Ord. No. 11-02, Pt. I, § 1, 11-27-01)

**Sec. 15-391. Drivers smoking, playing radios, etc.**

A driver while operating a vehicle for hire is not to smoke or play a radio or tape player if objected to by a passenger. (Code 1976, § 7-3005(C); Ord. No. 88-11a, § 1, 10-11-88)

**Sec. 15-392. Cruising and use of vehicle stands.**

Licenseses under this article are responsible for ensuring that no driver participates in cruising. Cruising is defined as moving about the streets of the unincorporated area for the purpose of picking up and transporting passengers who have not previously requested such service by telephone or by personal command. Licenseses shall ensure that their drivers use open stands on a nonexclusive, first-come-first-served basis. (Code 1976, § 7-3005(G); Ord. No. 88-11a, § 1, 10-11-88)

**Cross reference**—Parking of taxicabs, § 17-146.

**Sec. 15-393. Call jumping.**

Licenseses under this article shall not participate in nor allow their drivers to practice call jumping or the act of intercepting a passenger who has requested service from another company. (Code 1976, § 7-3005(H); Ord. No. 88-11a, § 1, 10-11-88)

**Sec. 15-394. Age of vehicles for hire, taxicabs and limousines.**

(a) As of December 31, 2004, no vehicle having a vehicle age greater than fifteen (15) years may be operated as a taxicab, vehicle for hire or limousine in the unincorporated area of the county. For the purposes of this section, the term vehicle age shall be the vehicle's model year.

(b) As of December 31, 2006, no vehicle having a vehicle age greater than eight (8) years may be operated as a taxicab, vehicle for hire or limousine in the unincorporated area of the county. For the purposes of this section, the term vehicle age shall be the vehicle's model year. (Ord. No. 29-03, Pt. I, 10-28-03)

**Sec. 15-395. Schedule of fares.**

(a) All permitted taxicab drivers shall charge the following schedule of fares:

- (1) To the first one-eighth (1/8) of a mile—Two dollars twenty-five cents (\$2.25);
- (2) Each additional one-eighth mile(1/8)—Twenty-five cents (\$.25);
- (3) Waiting time—Twenty-one dollars (\$21.00) per hour; and
- (4) For each additional passenger in excess of one riding in the vehicle on the same trip—One dollar (\$1.00) per extra person. Children under five (5) years of age shall not be charged the extra person fee, and only one (1) child over the age of five (5) in the company of an adult may be charged the extra person fee.

(b) All taxicab drivers permitted under this article shall have the right to charge a six dollar (\$6.00) charge if the meter is not utilized.

(c) Taximeters shall be calibrated by the permitted taxicab driver or taxicab company to calculate the fares in accordance with the schedule set forth in this section. The permit holder shall install lead and wire seals to the taximeter once it is calibrated so that no adjustments, alterations or replacements may be made to the taximeter that affects in any way its accuracy or indications. (Ord. No. 29-03, Pt. I, 10-28-03; Ord. No. 05-15, Pt. I, 9-13-05)

**Sec. 15-396. Temporary fuel surcharge.**

(a) The police chief or designee shall assess fuel prices in the county every three (3) months, the first assessment to occur immediately after approval of this section and again thereafter on November 1, February 1, May 1, and August 1 of each calendar year and repeating every November 1, February 1, May 1, August 1 and/or an assessment may be needed based on a sudden increase in gasoline prices between those dates.

(b) At the time of the assessment, if the police chief or designee finds that the price of fuel in the county exceeds by twenty (20) percent the average price of fuel in the Atlanta metropolitan

area in the preceding year, as published by the American Automobile Association, the police chief or designee shall be authorized to institute temporary fuel surcharges as set forth in this article.

(c) Within ten (10) days of the assessment of fuel prices, if the price exceeds the standards of subsection (b) above, the police chief or designee shall notify all taxicab companies, taxicab drivers, taxicab trade associations, and all other affected persons or entities operating in the taxicab industry within the county of temporary fuel surcharges that may be imposed on customers.

(d) If the police chief or designee authorizes the assessment of temporary fuel surcharges, all taxicab companies and drivers shall charge, in addition to the schedule of fares set forth in section 15-395 of the Code of DeKalb County, the following fuel surcharges:

- (1) A two-dollar fuel surcharge per metered taxicab trip;
- (2) For each additional passenger in excess of one riding in the vehicle on the same trip, an additional two-dollar fuel surcharge per extra person. Children under five (5) years of age shall not be charged the extra two-dollar per-person fee, and only one (1) child over the age of five (5) in the company of an adult may be charged the extra two-dollar per-person fee.

(e) No other temporary fuel charges may be assessed against customers and the temporary fuel surcharges applied only remains in effect until the time of the next periodic fuel price assessment by the police chief or designee.

(f) All taxicab drivers must and shall conspicuously display a printed passenger notice on the taxicab dashboard describing the temporary fuel surcharge.

(g) The printed notice shall advise passengers that a temporary fuel surcharge will be added to the metered fare or to the flat rate fare due to

increases in gasoline prices in the county and shall advise passengers of the amount of the fee as described in [sub]section (d).  
(Ord. No. 08-21, Pt. I, 11-18-08)

**Secs. 15-397—15-399. Reserved.**

## **ARTICLE XII. ADULT ENTERTAINMENT ESTABLISHMENTS**

**Sec. 15-400. Findings; public purpose.**

(a) Based on evidence concerning the adverse secondary effects of adult entertainment establishments on the community in the findings incorporated in the cases of *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, 426 U.S. 50 (1976); and *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991), studies in other communities including, but not limited to, Phoenix, Arizona; Minneapolis, Minnesota; Houston, Texas; Indianapolis, Indiana; Amarillo, Texas; Los Angeles, California; Austin, Texas; Seattle, Washington; Oklahoma City, Oklahoma; and Cleveland, Ohio; findings from the Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses, (June 6, 1989, State of Minnesota), the evidence and testimony of the citizens and experts who appeared before the DeKalb County Board of Commissioners at a hearing conducted in 1991, and public hearing on the Revised Alcoholic Beverage Ordinance held on March 10, 1998 and April 14, 1998, the DeKalb County Board of Commissioners takes note of the notorious and self-evident conditions attendant to the commercial exploitation of human sexuality, which do not vary greatly among generally comparable communities within our country. Moreover, it is the finding of the DeKalb County Board of Commissioners that adult entertainment establishments, as defined herein, are often associated with criminal behavior and tend to contribute to undesirable community conditions. Among the acts of criminal behavior identified with adult entertainment establishments are disorderly conduct, prostitution, drug trafficking, and drug use. Among the undesirable community condi-

tions identified with adult entertainment establishments are depression of property values in the surrounding neigh-

## Chapter 16

### MISCELLANEOUS PROVISIONS AND OFFENSES\*

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\*State law references—General constitutional grant of home rule powers, Ga. Const. art. IX, § II, ¶ I.

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## ARTICLE I. IN GENERAL

### Sec. 16-1. Operation of motorized vehicles on school property.

The operation of motorized vehicles of any nature in or on any yard, campus, playing field or open area of any public school, college or institution in the unincorporated area of the county, except on those areas designated by school authorities for use of motorized vehicles, is prohibited.

(Code 1976, § 10-1006)

### Sec. 16-2. Fortunetelling.

It shall be unlawful for any person to engage in or participate in the practice of fortunetelling, phrenology, clairvoyance, palmistry or other kindred practices, businesses or professions where a charge is made or a donation accepted for such services. This section does not apply to astrology. (Code 1976, § 10-5002)

**State law reference**—Authority to prohibit fortunetelling, O.C.G.A. § 36-1-15.

### Sec. 16-3. Selling, soliciting on public rights-of-way; exceptions.

(a) It shall be unlawful to sell, offer for sale or solicit for sale any food or beverage for human consumption from any pushcart, bicycle cart, motorized cart or other type of motor vehicle on the public streets, sidewalks or in the public rights-of-way of unincorporated areas of the county unless specifically allowed as set forth in this section.

(b) Pushcarts, bicycle carts, motorized carts or other type of motor vehicles are permitted to sell their products on the public streets, sidewalks or in the public rights-of-way of unincorporated areas of the county between the hours of noon and 8:00 p.m. only if they limit their inventory to the following categories: ice cream, popsicles, frozen desserts, candies, confections, chips, crackers, cookies, popcorn, pastries, and/or canned/bottled drinks for the purpose of retail sale. All items must be pre-packaged for sale. None of these vehicles may operate on the rights-of-way, streets, or sidewalks adjacent to any properties where "no solicitation" or similar signs are posted.

(c) A license from the Georgia Department of Agriculture must be prominently displayed for view on each vehicle and available for inspection upon request by a county employee. Each vehicle shall contain a copy of the current valid business occupation tax certificate issued for the business (not for the vehicle itself) by DeKalb County, another jurisdiction in Georgia, or another state, and such business occupation tax certificate must also be prominently displayed for view on the vehicle and available for inspection upon request by a county employee.

(d) All vehicles operating under this section shall comply with all applicable provisions of the Code and federal and state law, rules and regulations. Each vehicle must exhibit exterior signage showing it as a slow-moving vehicle. The placement, size and wording of such signage shall be determined by the police chief. No vehicle shall be allowed to remain stationary on any public street, sidewalk or right-of-way for longer than fifteen (15) minutes at a time. After the expiration of that time, the vehicle must move to a different location. Vehicles must be operated in a way that allows for unobstructed pedestrian and vehicular access to public streets, sidewalks and rights-of-way. No vehicle shall be operated within ten (10) feet of any fire hydrant, driveway, bus stop, subway entrance or exit, crosswalk, or intersection.

(Code 1976, § 10-5003; Ord. No. 12-11, Pt. I, 7-24-12)

**Editor's note**—Ord. No. 12-11, Pt. I, adopted July 24, 2012, changed the title of § 16-3 from "Selling, soliciting on public rights-of-way" to "Selling, soliciting on public rights-of-way; exceptions."

### Sec. 16-4. Single-family residential real estate signs.

(a) Real estate signs on single-family residential properties shall be removed within ten (10) days of the signing of an agreement for the sale, rental or lease of the property advertised. In addition, the use of a "sold" attachment to these signs on single-family residential properties shall not be permitted except as provided in Acts 1975, p. 4533 [App. B, § 701].

(b) This section shall be administered and enforced by designated employees of the public works department who may issue a citation requiring the appearance of any person violating its provisions before a court.  
(Code 1976, § 10-5004)

**Sec. 16-5. Bird sanctuary designated; exceptions.**

(a) The entire portion of the unincorporated county lying between Interstate Highway 285 and the west boundary of the county and all that tract or parcel of land bounded on the north by Rainbow Drive, bounded on the east by Wesley Chapel Road, bounded on the south by Interstate Highway 285 are designated as a bird sanctuary. No person shall trap, hunt, shoot or attempt to shoot any bird or wildfowl, or rob or molest in any manner bird or wildfowl nests in this area.

(b) If starlings, feral pigeons or other birds are found in such situations in a particular locality that they constitute a nuisance or a menace to health or property in the opinion of the board of commissioners, the board shall direct the corrective action necessary to reduce or eliminate the problem, to be taken by the proper department of county administration.

(c) This action shall not restrict the activities of persons duly authorized by state or federal wildlife agencies to trap birds for banding, scientific or propagating purposes.  
(Code 1976, § 10-6001)

**Sec. 16-6. Court of competent jurisdiction's express jurisdiction.**

The jurisdiction of the DeKalb County Court of Competent Jurisdiction listed in 1959 Ga. Laws p. 3093, section 2 and section 31 is hereby affirmed. Said court of competent jurisdiction is hereby granted all the general powers heretofore or hereafter granted by any Act of the General Assembly of Georgia to any police or court of competent jurisdiction in this state, municipal or otherwise, including but not limited to exercising the same subject matter jurisdiction as the general

assembly grants to municipal courts to adjudicate alleged violations of state law, except for offenses involving violations of O.C.G.A. § 40-6-391.  
(Ord. No. 14-07, Pt. I, 12-16-14; Memo. of 9-23-20)

**Editor's note**—At the request of the county, the title of § 16-6 has been changed from "Recorder's court's express jurisdiction" to read as herein set out.

**Sec. 16-7. Prosecution by the solicitor general of DeKalb County.**

The solicitor general of DeKalb County shall be the prosecuting attorney of the court of competent jurisdiction and may assign other members of his or her staff to prosecute cases in said court of competent jurisdiction.

(Ord. No. 14-07, Pt. I, 12-16-14; Memo. of 9-23-20)

**Secs. 16-8—16-25. Reserved.**

**ARTICLE II. OFFENSES INVOLVING PROPERTY RIGHTS**

**Sec. 16-26. Transporting building materials at night.**

It shall be unlawful for any person to haul or transport any building materials by means of any vehicle between the hours of 8:00 p.m. and 7:00 a.m. unless the driver of the vehicle has in possession documents establishing the ownership of the building materials or the vehicle is owned by a governmental entity or public utility and is operated by an authorized employee of such governmental entity or utility, or the vehicle is subject to regulations of the state public service commission or the interstate commerce commission. In this section, "building materials" includes any new materials customarily used in building or construction work and which have a reasonable fair market value in excess of one hundred dollars (\$100.00).

(Code 1976, § 10-1012)

**Sec. 16-27. Evasion of MARTA fares.**

It shall be unlawful for any person to obstruct, hinder, interfere with or otherwise disrupt or disturb the operation of a public transit bus or

rapid rail car by evasion of or attempted evasion of payment of the fare. Any person violating the provisions of this section shall be punished as provided in O.C.G.A. § 16-12-120(b). As used in this section, "evasion of payment of the fare" includes the following acts, activities or conduct:

- (1) Entry into or upon a rapid rail car or public transit bus without payment of the fare charged for transportation service.
- (2) Misuse of a transfer, TransCard, pass, ticket or other evidence of payment of or prepayment of a fare issued by the Metropolitan Atlanta Rapid Transit Authority (MARTA) with the intent to avoid or to assist another in avoiding payment of the fare charged for transportation service.
- (3) Use or attempted use of an unsigned MARTA TransCard for the payment of the fare charged for transportation service or refusal to sign such card upon request of an authorized agent or employee of MARTA.
- (4) Use or attempted use of a signed MARTA TransCard by a person who is not the person whose name is signed or whose signature appears on the surface of the TransCard for the payment of the fare charged for transportation service, or refusal or failure to provide proof, upon request, that the person so using the



## ARTICLE I. IN GENERAL

### Sec. 17-1. Adoption of State of Georgia Motor Vehicles Regulations.

(a) The following provisions are adopted by reference as if set out at length in this chapter:

- (1) O.C.G.A. § 40-1-1.
- (2) O.C.G.A. title 40, chapter 6 [§ 40-6-1 et seq.].
- (3) O.C.G.A. title 46, chapter 7 [§ 46-7-1 et seq.].

(b) Unless another penalty is expressly provided by law, every person convicted of a violation of any provision of this chapter shall be punished as provided in section 1-10.

(Code 1976, § 8-1000; Ord. No. 01-06, Pt. I, 4-26-01)

**State law reference**—Adoption of rules of the road by reference, O.C.G.A. § 40-6-372 et seq.

### Sec. 17-2. Chapter does not affect property rights.

Nothing in this chapter shall be construed to prevent the owner of real property used by the public for purposes of vehicular travel by permission of the owner, and not as matter of right, from prohibiting such use, or from requiring other or different or additional conditions than those specified herein, or otherwise regulating such use as may seem best to such owner.

(Code 1976, § 8-1011)

**State law reference**—Similar provisions, O.C.G.A. § 40-6-8.

### Sec. 17-3. Applicability to public officers and employees.

The provisions of this chapter applicable to the drivers of vehicles upon the streets and highways shall apply to the drivers of all vehicles owned or operated by the United States, any state or any county, city, town, district or any other political subdivision of the state, except as otherwise provided.

(Code 1976, § 8-1008)

### Sec. 17-4. Owners or persons directing drivers of vehicles not to permit violation.

It is unlawful for the owner or any other person employing or otherwise directing the driver of any vehicle to require or knowingly permit the operation of that vehicle upon a street or highway in any manner contrary to this chapter.

(Code 1976, § 8-1002.1)

### Sec. 17-5. Use of vehicle without consent of the owner.

It shall be unlawful for any person to take, use or operate any motor vehicle or motorcycle upon the public streets and highways of the county without the permission of the owner thereof.

(Code 1976, § 8-1002.2)

### Sec. 17-6. Obstructions to right-of-way.

(a) *Prohibited.* It shall be unlawful for any person to obstruct the right-of-way of any public road, street or other easement in the unincorporated area of the county by placing or maintaining thereon any obstruction, whether it is in the nature of shrubbery, signs, fences or whatever, which interferes with the clear view of motorists or the free passage of pedestrians thereon.

(b) *Notice to remove.* Wherever any obstruction prohibited by subsection (a) has been placed and is being maintained, the police department shall notify in writing the owner of the obstruction and the owner of the land abutting the right-of-way where the obstruction is found and also the person in possession of the property. Such notice shall state the nature of the obstruction and the fact that the obstruction is an interference with the clear view of motorists or the free passage of pedestrians and that it shall be removed within ten (10) days from the date of the notice.

(c) *Issuance of summons upon failure to remove.* Whenever the person so notified as provided by subsection (b) of this section fails or refuses to remove the obstruction within the time allowed in the written notice, the police department shall

issue a summons to this person to appear in court of competent jurisdiction on a day certain to stand trial for the violation.

(d) *Continued violations; issuance of summons without notice.* If upon conviction for the first offense the person continues to refuse to remove the obstruction, each day that it remains intact shall constitute a new violation of subsection (a) of this section for which the police department shall issue a summons, without first issuing the written notice.

(Code 1976, §§ 8-2005.1—8-2005.4; Ord. No. 11-02, Pt. I, § 1, 11-27-01; Memo. of 9-23-20)

**Cross reference**—Corner visibility clearance, § 27-669.

**Secs. 17-7—17-25. Reserved.**

**ARTICLE II. ADMINISTRATION AND ENFORCEMENT**

DIVISION 1. GENERALLY

**Sec. 17-26. Authority of chief of police to delegate powers.**

The chief of police may delegate to any other officer in the department the duties and responsibilities conveyed to the chief of police by this chapter.

(Code 1976, § 8-1010; Ord. No. 11-02, Pt. I, § 4, 11-27-01)

**Sec. 17-27. Authority of police and fire officers.**

(a) It shall be the duty of police officers or such officers as are assigned by the chief of police to enforce this chapter and all other traffic laws of the county and all of the state vehicle laws applicable to street traffic in the county.

(b) Police officers or such officers as are assigned by the director may direct all traffic by voice, hand or signal in conformity with traffic laws; provided, that in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, police officers may direct traffic as conditions may require notwithstanding the provisions of the traffic laws.

(c) Fire officers, when at the scene of a fire, may direct or assist the police in directing traffic thereat or in the immediate vicinity.

(Code 1976, § 8-1009; Ord. No. 11-02, Pt. I, § 4, 11-27-01)

**State law reference**—Authority to regulate traffic by means of police officers, O.C.G.A. § 40-6-371(a)(2).

**Sec. 17-28. Issuance of special permits for operation otherwise prohibited.**

The county may issue special permits authorizing the operation upon a street or highway of traction engines or tractors having movable tracks with transverse corrugations upon the periphery of these movable tracks, the operation of which would otherwise be prohibited.

(Code 1976, § 8-16020)

**Secs. 17-29—17-40. Reserved.**

DIVISION 2. TRAFFIC SIGNS, SIGNALS AND MARKINGS

**Sec. 17-41. Removal of signs from public rights-of-way.**

The public works department may remove any signs located in public rights-of-way.

(Code 1976, § 8-2005.5)

**Sec. 17-42. Installation.**

The public works department shall cause to be placed and maintained traffic-control signs, signals and devices when and as required under this chapter and other traffic ordinances of the county to make effective the provisions of this chapter and those ordinances. The public works department may cause to be placed and maintained such additional traffic-control devices as deemed necessary to regulate traffic under this chapter and other traffic ordinances of the county or under state law, or to guide or warn traffic.

(Code 1976, § 8-2007)

**State law reference**—Authority to regulate traffic by means of official traffic-control devices, O.C.G.A. § 40-6-371(a)(2).

**Sec. 17-43. Designation of crosswalks; establishment of safety zones; marking of traffic lanes.**

The public works department may, upon approval of the board of commissioners:

- (1) Designate and maintain, by appropriate devices, marks or lines upon the surface of the roadway, crosswalks at intersections where there is particular danger to pedestrians crossing the roadway and at such other places as deemed necessary. The county shall make proper studies of all existing crosswalks not at roadway intersections and shall abolish those which are unnecessary.
- (2) Establish safety zones of such kind and character and at such places as necessary for the protection of pedestrians.
- (3) Mark lanes for traffic on street pavements at places consistent with this chapter and other traffic ordinances of the county.

(Code 1976, § 8-2008)

**Sec. 17-44. Specifications for traffic-control devices.**

All traffic-control signs, signals and devices shall conform to specifications in the Manual on Uniform Traffic-Control Devices adopted by the state transportation board. All signs and signals required hereunder for a particular purpose shall so far as practicable be uniform as to type and location throughout the county. All traffic-control devices so erected and not inconsistent with the provisions of state law or this chapter shall be official traffic-control devices.

(Code 1976, § 8-2009)

**State law reference**—Uniform regulations governing erection of traffic-control devices, O.C.G.A. § 32-6-50.

**Sec. 17-45. One-way streets and alleys.**

Whenever this chapter or any ordinance of the county designates any one-way street or alley, the public works department shall place and maintain signs giving notice thereof, and no regulation shall be effective unless these signs are in place. Signs indicating the direction of

lawful traffic movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited.

(Code 1976, § 8-2010)

**State law references**—Authority to designate one-way streets, O.C.G.A. § 40-6-371(a)(4); one-way streets generally, O.C.G.A. § 40-6-47.

**Sec. 17-46. Stop signs or yield signs—Generally.**

Whenever any ordinance of the public works department designates and describes a through street, it shall be the duty of the county to place and maintain a stop sign or yield right-of-way sign on each street intersecting that portion thereof so described and designated by this chapter or any ordinance of this county.

(Code 1976, § 8-4003.1)

**State law reference**—Authority to establish yield streets and yield signs, stop streets and stop signs, O.C.G.A. § 40-6-371(a)(6), (a)(8).

**Sec. 17-47. Same—Specifications.**

Every sign erected pursuant to section 17-46 shall at nighttime be rendered luminous by steady or flashing internal illumination, by a fixed floodlight projected on the face of the sign or by efficient reflecting elements on the face of the sign. This sign shall be located as near as practicable to the nearest line of the crosswalk on the near side of the intersection or in conformity with the recommendation of the Manual on Uniform Traffic-Control Devices. Every stop sign shall be in letters not less than six (6) inches in height.

(Code 1976, § 8-4003.2)

**Sec. 17-48. Through streets.**

(a) Those streets and parts of streets as are designated by this chapter or by ordinance and marked as provided in this chapter are hereby declared to be through streets.

(b) In accordance with the foregoing, and when signs are erected giving notice thereof, drivers of vehicles shall stop at every intersection before entering any of the streets or parts of streets listed in 17-351.

(Code 1976, § 8-4011)

**State law reference**—Authority to designate through highways, O.C.G.A. § 40-6-371(a)(6).

**Sec. 17-49. Stop signs at grade level crossings.**

The county shall erect and maintain stop signs in accordance with state standards at all grade level crossings where the need for these signs is determined by an engineering study. (Code 1976, § 8-7002.1(b))

**State law reference**—Authority to designate hazardous grade crossings and erect stop signs at same, O.C.G.A. §§ 40-6-371(a)(15), 40-6-141.

**Sec. 17-50. Restricted turn signs.**

The public works department, upon the approval of the board of commissioners, may determine those intersections at which drivers of vehicles shall not make a right or left or U-turn, and shall place proper signs at these intersections. The making of these turns may be prohibited between certain hours of any day and permitted at other hours, in which event the hours shall be plainly indicated on the signs or they may be removed when these turns are permitted.

(Code 1976, § 8-6007(a))

**State law reference**—Authority to regulate or prohibit turns, O.C.G.A. § 40-6-371(a)(9).

**Secs. 17-51—17-60. Reserved.**

DIVISION 3. IMPOUNDMENT OF VEHICLES\*

**Sec. 17-61. Establishment of vehicle pounds.**

The chief of police may create a vehicle pound or pounds to which automobiles and other vehicles may be removed by police officers. The pound may be located at such place as may be designated by the county.

(Code 1976, § 8-17001; Ord. No. 11-02, Pt. I, §§ 1, 4, 11-27-01)

**Sec. 17-62. Reasons for impoundment.**

Whenever any vehicle is found parked in any place within the county where parking is not permitted at that time, or whenever any vehicle

\***State law references**—Abandoned vehicles, O.C.G.A. § 40-11-1 et seq.; authority to remove junked vehicles, O.C.G.A. § 36-60-4.

is found parked in violation of the terms of this chapter or any other ordinance relating to traffic, such vehicle may be removed and conveyed by the police department to a vehicle pound.

(Code 1976, § 8-17002; Ord. No. 11-02, Pt. I, § 1, 11-27-01)

**Sec. 17-63. Report of impoundment.**

It shall be the duty of the person impounding a vehicle pursuant to this division immediately to report the fact of this impounding, together with any other information which will definitely identify the vehicle, to the police department, which shall cause a permanent record to be made thereof.

(Code 1976, § 8-17003; Ord. No. 11-02, Pt. I, § 1, 11-27-01)

**Sec. 17-64. Pound records; disposition of fees collected.**

It shall be the duty of the police department to keep a permanent record of all vehicles committed to the pound, the names and addresses of the owners of the vehicles, the number of the state license tags and the nature and circumstances of each violation, as well as the disposition of each case, and to account for all fees collected under this division and pay them to the finance director or clerk of the court of competent jurisdiction, taking a receipt therefor.

(Code 1976, § 8-17004; Ord. No. 11-02, Pt. I, § 1, 11-27-01; Memo. of 9-23-20)

**Sec. 17-65. Fees.**

A fee to cover the cost of removal, plus a storage fee for each day or fraction of a day the impounded vehicle is stored in excess of the first twenty-four (24) hours the vehicle is impounded under this division, shall be assessed against the owner or other person having the right to the possession of the impounded vehicle. The specific amounts of such fees shall be established by action of the board of commissioners, a copy of which is on file in the office of the clerk of the board of commissioners.

(Code 1976, § 8-17005)



*Clerk* means the Clerk of the DeKalb County Superior Court.

*County official* means county employee designated by the chief executive officer.

*Days* means consecutive calendar days.

*Director* means the director of the department of planning and sustainability.

*Enforcement officer* means any law enforcement officer, building official, fire inspector or code enforcement officer employed by or working on behalf of the county.

*Foreclosed real property* means improved or unimproved real property for which a land disturbance permit has been issued by the county and held pursuant to a judicial or nonjudicial foreclosure of a mortgage, deed of trust, security deed, deed to secure debt, or other security instrument securing a debt or obligation owed to a creditor or a deed in lieu of foreclosure in full or partial satisfaction of a debt or obligation owed to a creditor, where said real property is within the unincorporated area of the county, but shall not include property within the boundaries of any municipal corporation, unless otherwise allowed by intergovernmental agreement between the county and said municipal corporation.

*Street address* means the street or route address. Such term shall not mean or include a post office box.  
(Ord. No. 12-09, Pt. I, 5-22-12; Ord. No. 14-04, Pt. I, 6-10-14)

**Sec. 18-102. Registry of foreclosed real property.**

(a) Any person who holds foreclosed real property shall, no sooner than sixty (60) days but no later than ninety (90) days after the effective date of the real property's foreclosure transfer to said person, register with the county official the following information for each foreclosed real property, as identified by its tax parcel number:

- (1) The real property owner's name, street address, mailing address, phone number, facsimile number, and e-mail address;

- (2) The agent's name, street address, mailing address, phone number, facsimile number, and e-mail address;
- (3) The real property's street address and tax parcel number;
- (4) The transfer date of the instrument conveying the real property to the owner; and
- (5) At such time as it becomes available, recording information, including deed book and page numbers, of the instrument conveying the real property to the owner.

(b) Any persons who holds foreclosed real property shall pay to the county official, for each registered foreclosed real property, as identified by its tax parcel number, a fee of one hundred dollars (\$100.00).

(c) A person shall be exempt from registering foreclosed real property if it is acquired by foreclosure under power of sale pursuant to O.C.G.A. § 44-14-160 or acquired pursuant to a deed in lieu of foreclosure, and the deed under power of sale or deed in lieu of foreclosure contains:

- (1) The information specified in subsection (a) of this section;
- (2) The deed is filed with the clerk within sixty (60) days of the transfer; and
- (3) Proof of the following is provided to the director:
  - a. A filing date stamp or a receipt showing payment of the applicable filing fees; and
  - b. The entire deed under power of sale or entire deed in lieu of foreclosure.

(Ord. No. 12-09, Pt. I, 5-22-12; Ord. No. 14-04, Pt. I, 6-10-14)

**Sec. 18-103. Registry of transferred foreclosed real property.**

(a) Any person who holds foreclosed real property and then transfers said foreclosed real property to a different person shall, no sooner than ninety (90) days but no later than one hundred twenty (120) days after the effective

date of the transfer, register with the county official the following information for each transferred foreclosed real property, as identified by its tax parcel number:

- (1) The real property transferee's name, street address, mailing address, phone number, facsimile number, and e-mail address;
- (2) The transferee's agent's name, street address, mailing address, phone number, facsimile number, and e-mail address;
- (3) The transferred real property's street address and tax parcel number;
- (4) The transfer date of the instrument conveying the real property to the transferee; and
- (5) At such time as it becomes available, the recording information, including deed book and page numbers, of the instrument conveying the real property to the transferee.

(b) Any person who has foreclosed on real property and then transfers said foreclosed real property to a different person shall pay to the county official, for each registered transferred foreclosed real property, as identified by its tax parcel number, a fee of one hundred dollars (\$100.00).

(c) No person who holds foreclosed real property and then transfers said foreclosed real property to a different person is exempt from registering or paying fees because the information provided to the county is in a deed under power of sale or deed in lieu of foreclosure.  
(Ord. No. 12-09, Pt. I, 5-22-12; Ord. No. 14-04, Pt. I, 6-10-14)

**Sec. 18-104. Updating change in registry information.**

(a) Any person registered pursuant to section 18-102 shall update any change in information required to be submitted by that section to the county official within thirty (30) days of the change.

(b) Any transferee registered pursuant to section 18-103 shall update any change in information required to be submitted by that section to the county official within thirty (30) days of the change.

(Ord. No. 12-09, Pt. I, 5-22-12; Ord. No. 14-04, Pt. I, 6-10-14)

**Sec. 18-105. Enforcement, violations and penalties.**

(a) Registration information shall be deemed prima facie proof of the statements contained therein in any court proceeding or administrative enforcement proceeding in connection with the enforcement of applicable provisions of state and federal law and the Code.

(b) It shall be a violation of this article to:

- (1) Fail to register or pay the registration fee in accordance with applicable provisions of this article; or
- (2) Fail to update a change in registry information.

(c) Any person who is required but fails to register, pay the registration fee or update a change in registry information as required by this article, upon citation or summons by an authorized county employee, and judgment or conviction of the violation in a court of competent jurisdiction, which includes the court of competent jurisdiction, shall be subject to penalties not to exceed one thousand dollars (\$1,000.00).

(Ord. No. 12-09, Pt. I, 5-22-12; Memo. of 9-23-20)

**Sec. 18-106. Deregistration.**

(a) An owner may apply to remove foreclosed real property from the foreclosure registry at such time as the foreclosed real property:

- (1) Is conveyed to a third party in a bona-fide, arms-length sale;
- (2) The owner has provided the director with a copy of the recorded deed, together with a Form PT-61 filed in connection therewith, showing conveyance of the foreclosed real property to a third party in a bona-fide, arms-length sale; and

(3) The foreclosed real property does not have any outstanding warnings or citations for a violation of any requirements under state or federal law or the Code.

(b) The director shall grant or deny an owner's application to remove foreclosed real property from the foreclosure registry within thirty (30) days of receipt of a complete application. An application is complete when it contains all of the information required by subsection (a) of this section. The director's decision shall be in writing, dated, signed and mailed to the owner at its agent's address. If no decision is made within thirty (30) days, the application shall be deemed granted.

(Ord. No. 12-09, Pt. I, 5-22-12)

**Sec. 18-107. Administrative procedures.**

(a) A citation, issued pursuant to section 18-105, is not a determination as that term is set forth in O.C.G.A. § 44-14-14, but a matter involving a violation of the Code subject to the original jurisdiction of the court of competent jurisdiction pursuant to 1959 Ga. Laws p. 3093, section 2 codified as section 653 of appendix B to the Code.

(b) As required by O.C.G.A § 44-14-14(j), any determination made by the director pursuant to the remaining provisions of this article shall be in writing, dated, signed and mailed to the owner or transferee at an agent's address.

(c) Any determination made pursuant to this article may be appealed by an owner or transferee to the county executive assistant. The appeal must be in writing and received by the county executive assistant within fourteen (14) days of the date of determination. To be considered complete, the appeal shall include:

- (1) A description of the determination being challenged;
- (2) The date the determination was made; and
- (3) All the reasons that the owner or transferee believes that the determination represents an error in a material fact or a material misapplication of the requirements of this article.

(d) An appeal shall be deemed received by the county executive assistant if postmarked prior to midnight on or before the day it is due.

(e) The county executive assistant may only reverse a determination of the director if he or she finds that the determination was based on an error in a material fact or a material misapplication of the requirements of this article.

(f) The county executive assistant shall, within thirty (30) days after a complete appeal is received, issue a written decision affirming, reversing or modifying the determination of the director.

(g) As required by O.C.G.A. § 44-14-14(j), an owner or transferee may appeal the written decision of the county executive assistant to court of competent jurisdiction. Said appeal shall be filed within fourteen (14) days after the date of the issuance of the written decision.

(h) The director may develop guidelines and forms, make recommendations and take such other steps as may be necessary to enforce the provisions of this article.

(Ord. No. 12-09, Pt. I, 5-22-12; Memo. of 9-23-20)

**Secs. 18-108—18-115. Reserved.**

**ARTICLE V. VACANT PROPERTY REGISTRY**

**Sec. 18-116. Purpose and findings.**

(a) The governing authority finds that there is a need to establish a vacant property registry as a mechanism to protect neighborhoods from becoming blighted through the lack of adequate maintenance and security of properties that are vacant.

(b) Improperly maintained and unsecure vacant properties can become a hazard to the health and safety of persons who may come on or near the property and can adversely affect the aesthetic and economic attributes of communities. Difficulties also often arise in locating the person responsible for the condition of vacant real property. The governing authority finds that there is a substantial need directly related to the

public health, safety and welfare to comprehensively address these concerns through the adoption of the provisions in this article.

(c) This vacant property registry will require the owner to provide the county with official information for contacting a party responsible for bringing vacant real property into compliance with applicable provisions of state and federal law, and the Code.

(d) If there is a conflict between the provisions and requirements in this article and state law, as it exists now or may be amended hereafter, then state law shall govern.  
(Ord. No. 13-18, Pt. I, 11-19-13)

**Sec. 18-117. Definitions.**

For purposes of this article, certain phrases and words are defined below. Words or phrases not defined in this article but defined in applicable state law or the Code shall be given that meaning. All other words or phrases shall be given their common ordinary meaning unless the context requires otherwise. The following words, terms and phrases, when used in this article, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

*Agent* means an individual with a place of business in this state at which he or she is authorized on behalf of a vacant real property owner, with respect to vacant real property, to:

- (1) Accept inquiries, notices, and service of process;
- (2) Ensure security and maintenance;
- (3) Comply with code enforcement orders issued by the county;
- (4) Provide a trespass authorization upon request of an enforcement officer;
- (5) Conduct inspections; and
- (6) Accept rental payments from tenants, if no management company is otherwise employed.

*Chapter* means chapter 18 of the Code.

*County official* means county employee designated by the chief executive officer.

*Days* means consecutive calendar days.

*Director* means the director of the department of planning and sustainability or designee.

*Enforcement officer* means any law enforcement officer, building official, fire inspector or code enforcement officer employed by or working on behalf of the county.

*Evidence of utility usage* means a bill or invoice from a supplier of water, electricity or gas showing at a minimum the base charge charged by the supplier for usage at the real property.

*Lawfully inhabited* means that the building or structure is occupied by the owner or tenant or pursuant to the express consent of the owner or tenant.

*Partially constructed or incomplete* means real property for which a land disturbance permit has been issued by the county, but no valid building permit.

*Street address* means the street or route address. Such term shall not mean or include a post office box.

*Vacant real property* means real property that:

- (1) Is intended for habitation, has not been lawfully inhabited for at least sixty (60) days and has no evidence of utility usage within the past sixty (60) days; or
- (2) Is partially constructed or incomplete, without a valid building permit.

The term "vacant real property" shall not include a building or structure containing multiple units with common ownership that has at least one (1) unit occupied with evidence of utility usage.

(Ord. No. 13-18, Pt. I, 11-19-13; Ord. No. 14-05, Pt. I, 6-10-14)

**Sec. 18-118. Registry of vacant real property.**

(a) Any person who owns vacant real property shall no later than (90) days after it becomes vacant real property, register with the county

official the following information for each vacant real property, as identified by its tax parcel number:

- (1) The real property owner's name, street address, mailing address, phone number, facsimile number, and e-mail address;
- (2) The agent's name, street address, mailing address, phone number, facsimile number, and e-mail address;
- (3) The real property's street address and tax parcel number.

(b) Any person who owns vacant real property shall pay to the county official, for each registered vacant real property, as identified by its tax parcel number, a fee of one hundred dollars (\$100.00).  
(Ord. No. 13-18, Pt. I, 11-19-13; Ord. No. 14-05, Pt. I, 6-10-14)

**Sec. 18-119. Updating change in registry information.**

Any person registered pursuant to section 18-118 shall update any change in information required to be submitted by that section to the county official within thirty (30) days of the change.  
(Ord. No. 13-18, Pt. I, 11-19-13; Ord. No. 14-05, Pt. I, 6-10-14)

**Sec. 18-120. Enforcement, violations and penalties.**

(a) Registration information shall be deemed prima facie proof of the statements contained therein in any court proceeding or administrative enforcement proceeding in connection with the enforcement of applicable provisions of state and federal law and the Code.

- (b) It shall be a violation of this article to:
  - (1) Fail to register or pay the registration fee in accordance with applicable provisions of this article; or
  - (2) Fail to update a change in registry information.

(c) Any person who is required, but fails to register, pay the registration fee or update a change in registry information as required by this article, upon citation or summons by an authorized county employee, and judgment, or conviction of the violation in a court of competent jurisdiction, which includes the court of competent jurisdiction, shall be subject to penalties not to exceed one thousand dollars (\$1,000.00).  
(Ord. No. 13-18, Pt. I, 11-19-13; Memo. of 9-23-20)

**Sec. 18-121. Deregistration.**

(a) An owner may apply to remove vacant real property from the vacant property registry at such time as the vacant real property:

- (1) Is lawfully inhabited;
- (2) There is evidence of utility usage; and
- (3) It does not have any outstanding warnings or citations for a violation of any requirements under state or federal law or the Code.

(b) The director shall grant or deny an owner's application to remove vacant real property from the vacant property registry within thirty (30) days of receipt of a complete application. An application is complete when it contains all of the information required by subsection (a) of this section. The director's decision shall be in writing, dated, signed and mailed to the owner at its agent's address. If no decision is made within thirty (30) days, the application shall be deemed granted.  
(Ord. No. 13-18, Pt. I, 11-19-13)

**Sec. 18-122. Administrative procedures.**

(a) A citation, issued pursuant to section 18-120, is not a determination as that term is set forth in O.C.G.A. § 44-14-14, but a matter involving a violation of the Code subject to the original jurisdiction of the court of competent jurisdiction pursuant to 1959 Ga. Laws p. 3093, section 2 codified as section 653 of appendix B to the Code.

(b) As required by O.C.G.A § 44-14-14(j), any determination made by the director pursuant to the remaining provisions of this article shall be in writing, dated, signed and mailed to the owner at an agent's address.

(c) Any determination made pursuant to this article may be appealed by an owner or transferee to the county executive assistant. The appeal must be in writing and received by the county executive assistant within fourteen (14) days of the date of determination. To be considered complete, the appeal shall include:

- (1) A description of the determination being challenged;
- (2) The date the determination was made; and
- (3) All the reasons that the owner or transferee believes that the determination represents an error in a material fact or a material misapplication of the requirements of this article.

(d) An appeal shall be deemed received by the county executive assistant if postmarked prior to midnight on or before the day it is due.

(e) The county executive assistant may only reverse a determination of the director if he or she finds that the determination was based on an error in a material fact or a material misapplication of the requirements of this article.

(f) The county executive assistant shall, within thirty (30) days after a complete appeal is received, issue a written decision affirming, reversing or modifying the determination of the director.

(g) As required by O.C.G.A. § 44-14-14(j), an owner or transferee may appeal the written decision of the county executive assistant to court of competent jurisdiction. Said appeal shall be filed within fourteen (14) days after the date of the issuance of the written decision.

(h) The director may develop guidelines and forms, make recommendations and take such other steps as may be necessary to enforce the provisions of this article.  
(Ord. No. 13-18, Pt. I, 11-19-13; Memo. of 9-23-20)

**Secs. 18-123—18-130. Reserved.**

## **ARTICLE VI. HOTELS, MOTELS AND EXTENDED STAY HOTELS**

**Sec. 18-131. Purpose.**

(a) The purpose of this article is to ensure the continued availability of quality transient lodging within the county, proper maintenance of hotels, motels, and extended-stay hotels and to protect the health, safety and welfare of hotel, motel, and extended-stay hotel inhabitants.

(b) Unless otherwise stated in this article, the requirements of this article apply to those who occupy, visit, patronize, frequent, operate, keep, conduct, or own a hotel, motel, or extended-stay hotel within the county, regardless of the date of the hotel, motel, or extended-stay hotel's construction.

(c) This article is essential to the public's interest, safety, health, and welfare, and this article shall be liberally construed to effectuate its purposes.

(ord. No. 17-04, pt. I, 11-14-17)

**Sec. 18-132. Definitions.**

[The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:]

*Bona fide employee* shall mean a person who works in the service of the hotel, motel, or extended stay hotel (i.e. The employer) under a contract of hire, whether express or implied, where the employer has the power or right to control or direct the details of what work is to be performed and the manner in which that work is to be performed.

*Electronic records* shall mean the identifying information for all patrons and their guests contained in the electronic guest registration system as listed in section 18-136 of this article, which is recorded at the time of registration and

maintained for a period of no less than one hundred eighty (180) days after the rental agreement's termination.

*Extended-stay hotel* shall, for the purpose of this article, mean any structure consisting of one (1) or more buildings, with more than five (5) dwelling units with provisions for living, sanitation, and sleeping, that is specifically constructed, kept, used, maintained, advertised, and held out to the public to be a place where temporary residence is offered for pay (a) to persons for non-transient extended-stays and/or stays longer than thirty (30) days; or (b) for stays longer than fifteen (15) days in rooms equipped with kitchen facilities.





*Time-limited appointment* means employment to fill a position for a period of time designated by programs authorized by Congress or the state legislature.

*Transfer* means the filling of a vacancy by assigning a permanent or working test employee from another position of the same or a comparable class.

*Vacancy* means an unoccupied position that has been established through a job analysis and official delegation of duties, which has been properly allocated and adopted as part of the classification and pay plans, and for which funds are available.

*Waiting time* means that period of inactivity while on duty spent waiting for weather conditions to improve or contingency assignments to be made.

(Code 1976, § 2-3002; Ord. No. 00-75, § 1, 7-25-00; Ord. No. 11-08, Pt. I, 6-28-11)

**Cross reference**—Definitions and rules of construction generally, § 1-2.

### **Sec. 20-2. Penalties for violation.**

Any employee under the merit system who willfully violates any of the provisions of this chapter may be disciplined hereunder or may be required to forfeit the employee's position, subject to the appeals guidelines as set forth in article IX of this chapter.

(Code 1976, § 2-3009)

### **Sec. 20-3. Applicability.**

All positions, other than those exempt positions under this chapter or law, shall be filled only in accordance with this chapter. All departments under the merit system, as provided herein, shall administer their personnel in accordance with this chapter. All positions, except those listed as exempt, shall be collectively known as the classified service. Nothing in this chapter shall be construed to conflict with any state law or regulation that provides additional qualifications, duties or compensation levels of any employee who is also subject to the provisions of this chapter.

(Code 1976, § 2-3003; Ord. No. 93-02, § 2, 1-26-93)

### **Sec. 20-4. Exempt positions designated.**

The provisions of this chapter shall not apply to any exempt position. The exempt positions are the following:

#### (1) *Generally.*

- a. Chief executive and board of commissioners and the employees of the office of the chief executive and the board of commissioners.
- b. District attorney and employees of the office.
- c. Probate court judge and employees of the office.
- d. Sheriff and employees of the office.
- e. Solicitor of the state court and employees of the office.
- f. State court judges, clerks and employees of the offices.
- g. Superior court clerk and employees of the office.
- h. Superior court judges and employees of the office.
- i. Surveyor and employees of the office.
- j. Tax commissioner and employees of the office.
- k. All employees of the police department, including the police chief, who hold positions or classifications above the rank of captain. All positions above the rank of captain serve at the pleasure of the chief of police. If the chief of police removes an employee above the rank of captain for a reason other than for cause, the employee shall revert to the position of captain, or to the position previously held if less than captain, with equivalent changes in salary and benefits.
- l. All employees of the department of fire and rescue services who hold positions or classifications above the rank of captain. All positions above the rank of captain serve at the pleasure of the director of the depart-

ment of fire and rescue services. If the director removes an employee above the rank of captain for a reason other than for cause, the employee shall revert to the position of captain, or to the rank previously held if less than captain, with equivalent change in salary and benefits.

- m. The head of the following departments: airport (Peachtree-DeKalb Airport); development; economic development; police services; fire and rescue services; geographical information systems; parks and recreation; physical plant management (facilities management); public works, including the assistant directors and associate directors of roads and drainage, water and sewer, sanitation, and fleet maintenance; purchasing and contracting; and workforce development.

(2) *Appointed official.*

- a. County attorney and employees of the office.
- b. Elections supervisor.
- c. Executive assistant.
- d. Juvenile court judges and employees of the juvenile court office.
- e. Library director.
- f. Magistrate court judges.
- g. Public defender and employees of the office.
- h. Court of competent jurisdiction judges, clerk, deputy clerks, and employees of the office (except marshals of the court of competent jurisdiction appointed by the chief recorder).
- i. Tax assessor board and chief appraiser.
- j. Medical examiner.

- k. Members of other appointed county agencies, boards, commissions and councils and the employees of the offices.

(3) *Employees of state or other governmental agencies.*

- a. Extension service.
- b. Family and children services.
- c. Board of health.
- d. Participants in special, time-limited programs; participants or beneficiaries of programs such as the Comprehensive Employment and Training Act, or similar programs authorized by Congress or the state legislature, whose employment is primarily for the purpose of training, or rehabilitation, and is time-limited in nature.

(Code 1976, § 2-3004; Ord. No. 93-02, § 1, 1-26-93; Ord. No. 12-02, § 1, 12-11-01; Ord. No. 09-12, Pt. I, 7-14-09; Ord. No. 12-13, Pt. I, 9-11-12; Ord. of 4-9-19(1), Pt. I; Memo. of 9-23-20)

**Sec. 20-5. Reserved.**

**Sec. 20-6. Duties of merit system and personnel administration director.**

The duties of the merit system director shall be to:

- (1) Attend all meetings of the merit system council and act as secretary to the council.
- (2) Establish and maintain a listing of all employees of the board of commissioners, including merit and nonmerit, which will set forth the names of employees, their class titles, their pay grades, their salaries or pay statuses, their employment statuses and other appropriate data deemed pertinent by the director.
- (3) Select a staff of assistants in accordance with this chapter and to assign and direct their work.

- (4) Advise and consult with the department heads in the development of a variety of training programs to improve performance of employees at all levels as needed and to coordinate the planning and scheduling of such training programs for efficient administration.
- (5) Assist the department heads in the development of a system of periodic performance appraisal of employees under the merit system to be administered by the department heads.
- (6) Make annual reports and such special reports as deemed advisable regarding personnel administration under the merit system, and to make recommendations for improvement therein.
- (7) Be responsible for the preparation and maintenance of the classification and compensation plans and, after consultation with department heads, to prepare and present to the board for adoption, class specifications and amendments thereto.
- (8) Recommend amendments to this chapter and to cause all rules and regulations to be published and copies thereof to be given to the department heads and the board, and to maintain copies in the office of the merit system department.
- (9) Prepare for review and approval by the chief executive, job classification and compensation, administrative procedures to be followed by employees, department heads and other officials in processing appeals and in carrying out other assigned responsibilities under this chapter.
- (10) Prepare annual budgets covering all the costs of operating the merit system, for adoption by the board.
- (11) Maintain all registers of eligible persons for appointment and to make certification from such registers.
- (12) Act as custodian of all records and properties in the office of the merit system director.
- (13) Make such regulations and other administrative memoranda as deemed necessary, not inconsistent with this chapter, relative to matters involved in the administration of this chapter.
- (14) Be responsible for overseeing an equitable and uniform system of discipline, administering the internal grievance and appeal procedure and maintaining the centralized records and coordinating the activities associated with appeals.

(Code 1976, § 2-3018)



act or occupy any structure that contradicts the director's revocation or denial decision in this regard.

(c) An appeal shall be sustained only upon the express written finding by the technical board of appeals that the director's action was based on an erroneous finding of a material fact, or that the director acted in an arbitrary manner. In exercising its powers, the board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and to that end shall have all the powers of the director from whom the appeal was taken and may issue or direct the issuance of an exemption provided all requirements imposed by all applicable laws are met. The board may also remand any appeal for the receipt of additional information.

(d) The fact that a person has appealed the determination of the director shall not delay or otherwise hinder any notice of violation, citation or other enforcement action or proceeding brought by the director to enforce the provisions of this chapter after notice of the determination. (Ord. No. 95-09, § 3, 6-27-95; Ord. No. 04-12, Pt. I, 11-9-04)

**Sec. 22.5-28. Reporting, remediation and corrective action requirement.**

(a) In the event of an illicit discharge or illegal connection to the DeKalb County Municipal Separate Storm Sewer System, the discharger shall inform the director, within twenty-four (24) hours, of the nature, quantity and time of occurrence of the illicit discharge or illegal connection. The initial report may be oral but the discharger shall provide a subsequent written report to the director, describing the exact location, nature and events of the illicit discharge or illegal connection, as well as describing any detailed corrective procedures which have been taken or scheduled to prevent recurrence of the illicit discharge or illegal connection. This written report shall be submitted to the director within three (3) business days after the initial report. The failure to report an illicit discharge or illegal connection as required by this section shall constitute a violation of this chapter.

(b) The discharger shall take immediate action to remediate, correct, contain, treat, and minimize the effects of the illicit discharge or illegal connection to the DeKalb County Municipal Separate Storm Sewer System and state waters and to ensure no recurrence of the illicit discharge or illegal connection, including corrective and preventive procedures, and implementation of best management practices, where necessary to prevent recurrence. The failure to remediate the effects of an illicit discharge or illegal connection as required by this section shall constitute a violation of this chapter. (Ord. No. 95-09, § 3, 6-27-95; Ord. No. 04-12, Pt. I, 11-9-04)

**Secs. 22.5-29—22.5-40. Reserved.**

**ARTICLE IV. MAINTENANCE**

**Sec. 22.5-41. Maintenance.**

(a) All stormwater conveyances shall be privately owned and maintained, unless accepted for public ownership and maintenance by the county.

(b) The county may require dedication of privately owned stormwater conveyances which discharge to the DeKalb County Municipal Separate Storm Sewer System.

(c) Owners of stormwater conveyances that discharge to the DeKalb County Municipal Separate Storm Sewer System shall maintain a perpetual non-exclusive easement that allows for monitoring, inspection and emergency maintenance by DeKalb County.

(d) Where stormwater conveyances are accepted by the county for maintenance, public access easements shall be provided by the property owner to the county and recorded in the real property records of DeKalb County, Georgia. (Ord. No. 95-09, § 4, 6-27-95; Ord. No. 04-12, Pt. I, 11-9-04)

**Secs. 22.5-42—22.5-50. Reserved.**

**ARTICLE V. INVESTIGATION AND INSPECTION**

**Sec. 22.5-51. Investigation.**

The department shall have authority to investigate any apparent violation of any provision of this chapter and to take any action authorized by this chapter which it deems necessary to enforce the provisions of this chapter. (Ord. No. 95-09, § 5, 6-27-95)

**Sec. 22.5-52. Inspection and right of entry.**

(a) The department may inspect any stormwater conveyance within or outside of an existing drainage easement.

(b) The department, bearing proper credentials and identification, and in accordance with state and federal law, shall be permitted to enter private or public property at reasonable times to inspect or investigate conditions relating to the enforcement of this chapter, the investigation of any apparent violation of any provision of this chapter, compliance with the terms of the permit, observation, measurement, sampling or testing with respect to the DeKalb County Stormwater Management Program or compliance with the permit, and periodic investigations in accordance with provisions of this chapter. The department shall notify the owner of said property or the representative on-site, except in the case of an emergency.

(c) The department, bearing proper credentials and identification, and in accordance with state and federal law, shall be permitted to enter private or public property at reasonable times for repairs, maintenance and other similar purposes related to any portion of the DeKalb County Municipal Separate Storm Sewer System. The department shall notify the owner of said property or the representative on-site, except in the case of an emergency.

(d) The department, in addition to other procedures provided, may obtain an inspection warrant for the purpose of inspection or investigation of conditions relating to the enforcement of this chapter, compliance with the terms of the permit, or observation, measurement, sampling

or testing with respect to the DeKalb County Stormwater Management Program or the permit, and periodic investigations in accordance with the provisions of this chapter.

- (1) Inspection warrants may be issued by the court of competent jurisdiction when the issuing judge is satisfied that the department has established by oath or affirmation that the property to be inspected is to be inspected as a part of a legally authorized program of inspection that includes the property or that there is probable cause for believing that there is a condition, object, activity, or circumstance which legally justifies such an inspection of the property.
- (2) An inspection warrant will be validly issued only if it meets the following requirements:
  - a. The warrant is attached to the affidavit required to be made in order to obtain the warrant.
  - b. The warrant describes, either directly or by reference to the affidavit, the property upon which the inspection is to occur and is sufficiently accurate that the executor of the warrant and the owner or occupant of the property or discharger can reasonably determine from it the property for which the warrant authorizes an inspection.
  - c. The warrant indicates the conditions, objects, activities or circumstances which the inspection is intended to check or reveal.
  - d. The warrant refers, in general terms, to the code provisions sought to be enforced.
  - e. Measurements, samples, tests and analyses performed by DeKalb County or required of any discharger to the DeKalb County Municipal Separate Storm Sewer System shall be in accordance with 40 Code of

Federal Regulations Part 136, unless another method is approved by the director.

(Ord. No. 95-09, § 5, 6-27-95; Memo. of 9-23-20)

**Sec. 22.5-53. Emergency powers.**

(a) If, after inspection, the condition of a stormwater conveyance presents an immediate danger to the public health, safety or general welfare because of unsafe conditions or improper maintenance, DeKalb County shall have the right to take action as may be necessary to protect the public health, safety and general welfare and make the stormwater conveyance safe.

(b) The department may conduct emergency maintenance or remediation operations on private property and on private stormwater conveyances. Emergency maintenance or remediation operations shall constitute actions to remedy conditions that in the opinion of the director create a condition potentially injurious to life, property or the DeKalb County Municipal Separate Storm Sewer System.

(c) Emergency maintenance conducted on any stormwater conveyance shall not be construed as constituting a continuing maintenance obligation on the part of DeKalb County.  
(Ord. No. 95-09, § 5, 6-27-95)

**Sec. 22.5-54. Authority to require person to cooperate with department.**

Whenever required to carry out the objectives of this chapter, including but not limited to obtaining information regarding permit compliance, implementing the DeKalb County Stormwater Management Program, or determining whether any person is in violation of any provision of this chapter, the director may in writing require a discharger to the DeKalb County Municipal Separate Storm Sewer System to:

- (1) Establish and maintain records;
- (2) Make reports;
- (3) Install, use, and maintain monitoring equipment or methods, including where appropriate, biological monitoring methods;

(4) Sample such discharges, in accordance with such methods, at such locations, at such intervals, and in such manner as the director shall prescribe; and

(5) Provide such other information as he or she may reasonably require.

(Ord. No. 95-09, § 5, 6-27-95)

**Secs. 22.5-55—22.5-60. Reserved.**

**ARTICLE VI. PENALTIES AND ENFORCEMENT**

**Sec. 22.5-61. Notice of violation and summons.**

(a) Whenever the department determines that a violation of this chapter or regulations and procedures adopted thereto has occurred, the department shall serve upon the discharger a notice of violation. The notice of violation shall be in writing, include a description of the property sufficient for identification of where the violation has occurred, list the provisions of this chapter which have been violated, and state that, if the violation is not remedied within a specified reasonable time to be determined by the department, a summons shall be issued for the discharger to appear in court of competent jurisdiction. The notice of violation shall set forth the potential penalty involved and the fact that each day the violation continues shall constitute a new and separate violation.

(b) Notwithstanding the foregoing, the department may issue a summons to appear in court of competent jurisdiction without first issuing a notice of violation if, in the judgment of the director, the illicit discharge or illicit connection was not an accidental discharge or if the violation constitutes a threat to the public health, safety, general welfare, or the DeKalb County Municipal Separate Storm Sewer System.

(c) If the violation has not been remedied within the time specified in the notice of violation, the department shall issue a summons' to the discharger to appear in court of competent jurisdiction. The summons shall be in writing, include a description of the property sufficient

for identification of where the violation has occurred, list the provisions of this chapter which have been violated, set forth the penalty if the discharger is convicted of the violation, and state that each day the violation continues shall constitute a new and separate violation.

(d) Nothing in this Code section shall limit the authority of the department to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

(Ord. No. 95-09, § 6, 6-27-95; Memo. of 9-23-20)

**Sec. 22.5-62. Submission of a corrective plan.**

(a) Within ten (10) business days of conviction by court of competent jurisdiction or resolution of any appeal, the discharger shall submit to the director a plan for the satisfactory correction of the violation, including corrective and preventive procedures, and implementation of best management practices, where necessary to prevent recurrence.

(b) Submission of this plan in no way relieves the discharger of liability for any violations occurring after conviction of the violation. The failure to submit this plan as required by this Code section shall constitute a separate violation of this chapter.

(Ord. No. 95-09, § 6, 6-27-95; Ord. No. 04-12, Pt. I, 11-9-04; Memo. of 9-23-20)

**Sec. 22.5-63. Cease and desist order.**

When the director finds that a discharger has violated, or continues to violate, any provision of this chapter or that the discharger's past violations are likely to recur; the director may issue an order to the discharger directing the discharger to cease and desist all such violations and to:

- (1) Immediately comply with the provisions of this chapter; and
- (2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation and to prevent recurrence of the violation.

- (3) Each day of violation of a cease and desist order, after notice thereof, shall constitute a separate violation of this chapter.

(Ord. No. 95-09, § 6, 6-27-95)

**Sec. 22.5-64. Penalties.**

(a) Any discharger who does anything prohibited or fails to do anything required by the provisions of this chapter shall be guilty of a violation of this chapter and, upon conviction in court of competent jurisdiction, shall be subject to a fine or imprisonment in the county jail or both. Violation of the provisions of this chapter constitutes an infraction subject to a penalty not to exceed one thousand dollars (\$1,000.00) or one hundred twenty (120) days imprisonment in the county jail or both per violation for each day of violation.

(b) Nothing in this section shall prevent DeKalb County from taking such other lawful action as is necessary to prevent or remedy any violation. (Ord. No. 95-09, § 6, 6-27-95; Ord. No. 04-12, Pt. I, 11-9-04; Memo. of 9-23-20)

**Sec. 22.5-65. Injunctive proceedings.**

(a) The director may institute appropriate action or proceedings at law or equity for the enforcement of this chapter or to correct violations of this chapter. Any court of competent jurisdiction may have the right to issue restraining orders, temporary or permanent injunctions, and other appropriate forms of remedy or relief which restrains the violation or compels the requirements imposed by this chapter on activities of the discharger. The director may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the discharger to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a discharger.

(b) The director may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, environmental impacts assessments, geotechnical work, and the



costs of any actual damages incurred by the county, including, but not limited to, costs of containment and cleanup.  
(Ord. No. 95-09, § 6, 6-27-95)

tion of pollutants and between any municipal system and the DeKalb County Municipal Separate Storm Sewer System.  
(Ord. No. 95-09, § 7, 6-27-95)

**Sec. 22.5-66. Civil damages and violations.**

(a) If a discharger has violated, or continues to violate, any provision of this chapter, the county may file a civil damage action against the discharger, through the county attorney, seeking such damages, fees and costs as are permitted by law.

(b) In addition to the enforcement processes and penalties provided herein, any condition caused or permitted to exist in violation of any of the provisions of this chapter is a threat to public health, safety, welfare, and environment and is declared and deemed a nuisance, the violation may be abated by injunctive or other equitable relief as provided by law.

(c) The remedies listed in this chapter are not exclusive of any other remedies available under any applicable federal, state or local law and DeKalb County may pursue cumulative remedies.  
(Ord. No. 95-09, § 6, 6-27-95; Ord. No. 04-12, Pt. I, 11-9-04)

**Secs. 22.5-67—22.5-70. Reserved.**

**ARTICLE VII. COOPERATION WITH  
OTHER GOVERNMENTS**

**Sec. 22.5-71. Cooperation with other governments.**

DeKalb County may enter into agreements with other local governments to carry out the purposes of this chapter, comply with the provisions of the permit, and to implement the DeKalb County Stormwater Management Program. These agreements may include, but are not limited to, agreements regarding enforcement of provisions, resolution of disputes cooperative stormwater management programs and cooperative monitoring, maintenance, enforcement and management of municipal separate storm sewer systems, or other action may be needed to control the contribu-



offense is presumed. Thereafter, the county may issue citations by certified letter for each day of violation now presumed only after issuing a second due notice for violation as outlined above.

(d) Any person or user of the system who has been found to be in violation of mandatory water restrictions or mandatory water conservation policies as imposed by the director shall first be issued a notice of violation. If the violation is not remedied within a specified reasonable time to be determined by the director, a summons shall be issued for the violator to appear in court of competent jurisdiction. If the person or user of the system continues to be in violation of mandatory water restrictions or mandatory water conservation policies thereafter, the continuing violation shall be cause for immediate termination of service. Restoration of service after rectification shall be treated as a reconnection. (Code 1976, § 6-1060; Ord. No. 00-74, 6-27-00; Memo. of 9-23-20)

#### **Sec. 25-91. Violations and penalties.**

(a) Whenever the director determines that a violation of this article has occurred, the director shall serve upon the violator a notice of violation. The notice of violation shall be in writing, include a description of the property sufficient for identification of where the violation has occurred, list the provisions of this article which have been violated, and state that, if the violation is not remedied within a specified reasonable time to be determined by the director, a summons shall be issued for the violator to appear in court of competent jurisdiction. The notice of violation shall set forth the potential penalty involved and the fact that each day the violation continues shall constitute a new and separate violation.

(b) If the violation has not been remedied within the time specified in the notice of violation, the director shall issue a summons to the violator to appear in court of competent jurisdiction. The summons shall be in writing, include a description of the property sufficient for identification of where the violation has occurred, list the provisions of this article which have been violated, set forth the penalty if the violator is convicted of

the violation, and state that each day the violation continues shall constitute a new and separate violation.

(c) Notwithstanding the foregoing, the director may issue a summons to appear in court of competent jurisdiction or terminate connection to the water system without first issuing a notice of violation if, in the judgment of the director, the violation constitutes a threat to the public health, safety, general welfare, or to the water system. Nothing in this code section shall limit the authority of the director to take any action, including emergency action to terminate connection to the water system or any other enforcement action, without first issuing a notice of violation.

(d) Any person who shall do anything prohibited or fail to do anything required by the provisions of this article shall be guilty of a violation of this article and upon conviction in court of competent jurisdiction shall be subject to the maximum fine or imprisonment or both as set forth in section 1-10 of this Code. Each day of violation is considered a separate offense and is subject to the maximum fine or imprisonment or both as set forth in section 1-10 of this Code. (Ord. No. 00-74, 6-27-00; Memo. of 9-23-20)

#### **Sec. 25-92. Authority to write summons.**

The director may designate authorized personnel of the department to write summons to appear before a court pertaining to violations of this article.

(Ord. No. 00-74, 6-27-00)

#### **Secs. 25-93—25-100. Reserved.**

### **DIVISION 4. RATES AND CHARGES**

#### **Sec. 25-101. Generally.**

(a) All water system rates and charges shall be as established by action of the board of commissioners, a copy of which is on file in the office of the clerk of the board of commissioners, upon recommendation by the director.

(b) Procedures for revenue collection shall be established by the finance director.

**Sec. 25-102. Classification of users.**

The following list of system users establishes classifications of service as a basis of charges:

- (1) *Single.* All dwelling, commercial and industrial customers are in this classification who use all of the water supplied through a connection for any use besides fire protection.
- (2) *Fire line.* A customer shall only use the connection applied for under this classification for fire protection.
- (3) *Combined potable and fire line.* Any shopping center and/or other development served by a combination potable and fire line located outside the public right-of-way shall be classified as a combined potable and fire line user, where either of the following exists:
  - a. A fire line main is served through a master meter with potable water service taken from that fire line main within the development.
  - b. Potable water is taken from the fire line through multiple meters.
- (4) *Multiple.* No multiple dwelling, commercial or industrial customers shall be on one (1) meter, except in case of apartments, shopping centers and office parks, where in the judgment of the director multiple meters are impractical. Approved multiple category customers shall have one (1) meter per premises and shall be charged as single category users.
- (5) *Temporary.* Temporary use permits shall be granted for periods not exceeding thirty (30) days. After permit expiration the county may, at its option, renew the permit or assign the customer to a permanent classification. This service shall not be used for permanent installation.
- (6) *Flat rate.* Any existing flat rate customers shall be changed to single or fire line as appropriate. There shall be no unme-

tered or flat rate customers except as provided under temporary and fire line classifications.

- (7) *Contract.* Contract users shall include only counties and incorporated municipalities with separate water systems. The service is provided by agreement.
  - (8) *Illegal.* Any user who has not made application for service and received a service connection or whose service has been terminated or who uses a connection for purposes other than as provided in the user's assigned classification is an illegal user.
- (Code 1976, § 6-1072)

**Sec. 25-103. Recurring charges.**

The following charges are set by the board of commissioners and shall be billed on a recurring basis as continuing charges:

- (1) *Service.* All classifications of users except fire line shall be billed a base charge for service availability, whether service is used or not. This charge shall be fixed on the basis of meter size. For combined potable and fire line users who provide a specific means of determining the requirements of the development, such as by the installation of private meters by the owner, the service charge shall be based on the number and size of private meters installed.
- (2) *Commodity.* All classifications of users except fire line shall be billed a commodity charge in addition to a service charge on the basis of actual volume of water delivered at the single unit volume rate set by the board of commissioners.
- (3) *Fire line.* Fire line customers shall be billed for service availability on the basis of diameter of connection to system mains and number of fire hydrants on premises. If a building complex has establishments each with different owners, then the fire line charges will be prorated by the

**Sec. 25-147. Certain agreements unaffected.**

Nothing in this Code or the ordinance adopting this Code affects the validity of:

- (1) The Standards of Acceptability for Sewage Discharged into the Metropolitan Sewer System being annex C to the Metropolitan Sewer Agreement between the City of Atlanta and DeKalb County, dated July 16, 1968.
- (2) The Sewer Agreement between DeKalb County and Gwinnett County, dated May, 1971.
- (3) The DeKalb-Clayton Conley Creek Drainage Area Sewer Agreement, dated November 13, 1973.

(Code 1976, § 6-2142)

**Sec. 25-148. Violations and penalties.**

(a) Whenever the director determines that a violation of this article has occurred, the director shall serve upon the violator a notice of violation. The notice of violation shall be in writing, include a description of the property sufficient for identification of where the violation has occurred, list the provisions of this article which have been violated, and state that, if the violation is not remedied within a specified reasonable time to be determined by the director, a summons shall be issued for the violator to appear in court of competent jurisdiction. The notice of violation shall set forth the potential penalty involved and the fact that each day the violation continues shall constitute a new and separate violation.

(b) Notwithstanding the foregoing, the director may issue a summons to appear in court of competent jurisdiction without first issuing a notice of violation if, in the judgment of the director, the violation constitutes a threat to the public health, safety, general welfare, or to the sewer system.

(c) If the violation has not been remedied within the time specified in the notice of violation, the director shall issue a summons to the violator to appear in court of competent jurisdiction. The summons shall be in writing, include a description of the property sufficient for identification of where the violation has occurred, list the

provisions of this article which have been violated, set forth the penalty if the violator is convicted of the violation, and state that each day the violation continues shall constitute a new and separate violation.

(d) Nothing in this code section shall limit the authority of the director to take any action, including emergency action or any other enforcement action, without first issuing a notice of violation.

(e) Any person who shall do anything prohibited or fail to do anything required by the provisions of this article shall be guilty of a violation of this article and upon conviction in court of competent jurisdiction shall be subject to the maximum fine or imprisonment or both as set forth in section 1-10 of this Code. Each day of violation is considered a separate offense and is subject to the maximum fine or imprisonment or both as set forth in section 1-10 of this Code.

(Code 1976, § 6-2141; Ord. No. 97-05, § 1, 3-11-97; Memo. of 9-23-20)

**Sec. 25-149. Authority to write summons.**

The director may designate authorized personnel of the department to write summons to appear before a court to answer questions pertaining to violations of this article.

(Code 1976, § 6-2131)

**Sec. 25-150. Right of entry: inspection and sampling of industrial or commercial properties.**

The director and other employees designated by the director, bearing proper credentials and identification, shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this ordinance and any wastewater discharge permit or order issued hereunder. Users shall allow the director or his designees ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying and the performance of any additional duties.

- (1) Where the user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary

arrangements with its security guards so that, upon presentation of suitable identification, the director or his designees will be permitted to enter without delay for the purposes of performing specific responsibilities.

- (2) The director or his designees shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operation.
- (3) The director may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated quarterly to ensure their accuracy.
- (4) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the director or his designees and shall not be replaced. The costs of clearing such access shall be borne by the user.
- (5) Unreasonable delays in allowing the director or his designees access to the user's premises shall be a violation of this ordinance.
- (6) If the director or his designees has been refused access to a building, structure or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as a part of a routine inspection and sampling program of the county designed to verify compliance with this ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the director may

seek issuance of an inspection warrant through the county attorney from court of competent jurisdiction.

(Code 1976, § 6-2132; Ord. No. 97-05, § 1, 3-11-97; Memo. of 9-23-20)

**Sec. 25-151. Right of entry to inspect private properties.**

The director and the director's designated agents, bearing proper credentials and identification, shall be permitted to enter during reasonable working hours, except in the event of an emergency, all private properties through which the county holds a duly negotiated easement for the purposes of, but not limited to, measurement, maintenance, observation, repair and sampling any portion of the sewage system lying within the easement. All entry and subsequent work on the easement shall be done in full accordance with the terms of the specific easement pertaining to the property involved. Specific permission is granted the director and the director's designated agents, upon proper notification, to enter all private properties for the purpose of surveying or inspecting the premises, or sampling or monitoring of wastewater. While working on private properties referred to in this section, all county employees shall observe all safety rules applicable to the premises. The owner of the private properties shall not be held liable for injury to county employees while on the owner's properties.

The county and its authorized agents and employees may enter upon any lands in the county for the purpose of making such surveys, soundings, drillings, and examinations as the county may deem necessary or desirable to accomplish the purposes of planning and engineering sewer system improvements; and such entry shall not be deemed a trespass nor shall it be deemed an entry which would constitute a taking in a condemnation proceeding, providing that reasonable notice of such entry shall be done in a reasonable manner with as little inconvenience as possible to the owner or occupant of the property, and the county shall make reimbursement for any actual damages resulting from such entry.

(Code 1976, § 6-2133; Ord. No. 91-25, 10-8-91)

**Sec. 25-152. Inspection warrants.**

The director, in addition to other procedures provided, may obtain an inspection warrant for the purpose of inspection or investigation of conditions relating to the enforcement of this article, compliance with the terms of any permit, or observation, measurement, sampling or testing with respect to any federal or state regulation, and periodic investigations in accordance with the provisions of this article.

- (1) Inspection warrants may be issued by the court of competent jurisdiction when the issuing judge is satisfied that the director has established by oath or affirmation that the property to be inspected is to be inspected as a part of a legally authorized program of inspection that includes the property or that there is a condition, object, activity, or circumstance which legally justifies such an inspection of the property.
- (2) An inspection warrant will be validly issued only if it meets the following requirements:
  - a. The warrant is attached to the affidavit required to be made in order to obtain the warrant.
  - b. The warrant describes, either directly or by reference to the affidavit, the property upon which the inspection is to occur and is sufficiently accurate that the executor of the warrant and the owner or occupant of the property can reasonably determine from it the property for which the warrant authorizes an inspection.
  - c. The warrant indicates the conditions, objects, activities or circumstances which the inspection is intended to check or reveal.
  - d. The warrant refers, in general terms, to the Code provisions sought to be enforced.

(Code 1976, § 6-2143; Ord. No. 97-05, § 1, 3-11-97; Memo. of 9-23-20)

**Sec. 25-153. Discontinuance of water service for nonpayment of sewer bill.**

(a) This section only applies to owner-occupied property. The policy of discontinuing the furnishing of water at any meter service where there is a delinquent sewer bill after the occupant of the premises has been notified of the delinquency and has failed to remove the delinquency by payment of the bill is continued in full force and effect.

(b) Where there remains a delinquent sewer bill at any meter service after the occupant of the premises thereof has been notified by the inclusion of the amount of the past due bill in a current water bill or a separate bill and given an opportunity to pay the bill and refuses to promptly pay it, water service to this meter service shall be discontinued regardless of whether the bill remaining delinquent was incurred by a prior owner or occupant of the premises, and the county shall not again supply water to this building, place or premises until the arrears are fully paid.

(c) Upon the failure or refusal of the owner or occupant to pay the delinquent sewer bill, the department shall remove the meter serving the premises, and service shall not be restored to the premises until a fee for installation of a new meter has been paid in advance. Such fee shall be a fee in the amount established by action of the board of commissioners, a copy of which is on file in the office of the clerk of the board of commissioners.

(Code 1976, § 6-2003; Ord. No. 97-05, § 1, 3-11-97)

**Sec. 25-154. Mandatory connections to public sanitary sewer.**

(a) The owner of all houses, buildings or properties used for human occupancy, employment, recreation and other such purposes, located within the jurisdiction of the board of commissioners and abutting on any street, alley or right-of-way in which there is now located a public sanitary sewer, is required to install, at the owner's expense, suitable toilet facilities, and to connect such facilities directly to the

public sanitary sewer. In accordance with the provisions of this article, the owner has twenty-four (24) months after the date of official notice to accomplish this, provided that the public sanitary sewer is within one hundred (100) feet of the property line.

(b) Exceptions to the provisions of subsection (a) of this section may be granted by the county upon application.

(Code 1976, § 6-2031; Ord. No. 97-05, § 1, 3-11-97)

**Sec. 25-155. Private sewage disposal facilities generally.**

Except as specifically permitted by this article or by the board of health, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other similar facility intended or used for the disposal of sewage.

(Code 1976, § 6-2032; Ord. No. 97-05, § 1, 3-11-97)

**Sec. 25-156. Discharge of untreated sewage or polluted waters.**

It shall be unlawful to discharge to any outlet or to any portion of the public storm drain system, or to any natural stream within the jurisdiction of the board, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with provisions of this article. Nothing in this section shall be construed to require the county to treat the outflow from the public storm drain system.

(Code 1976, § 6-2033; Ord. No. 97-05, § 1, 3-11-97)

**Sec. 25-157. Deposit of objectionable wastes on public or private property.**

It shall be unlawful for any person to place, deposit or permit the deposit of, in any unsanitary manner, human or animal excrement, garbage or objectionable wastes on any public or private property within the jurisdiction of the board of commissioners.

(Code 1976, § 6-2034; Ord. No. 97-05, § 1, 3-11-97)

**Sec. 25-158. Nonavailability of public sanitary sewer.**

Where a public sanitary sewer is not available, the building sewer shall be connected to another means of sewage disposal. The private sewage disposal system must comply with all applicable regulations of the department, the county board of health, and the Georgia Department of Human Resources. Unless specific exceptions are made, a private sewage disposal facility in the county shall consist of an approved septic tank.

(Code 1976, § 62035; Ord. No. 97-05, § 1, 3-11-97)

**Sec. 25-159. General prohibition.**

It shall be a violation of this article for any person to maliciously or negligently break, damage, destroy, deface or tamper with any part of the sewer system.

(Ord. No. 97-05, § 1, 3-11-97)

**Sec. 25-160. Severability.**

If any term, requirement or provision of this division or application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this division or the application of such terms, requirements and provisions to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby and each term, requirement or provision of this division shall be valid and be enforced to the fullest extent permitted by law.

(Ord. No. 97-05, § 1, 3-11-97)

**Secs. 25-161—25-175. Reserved.**

**DIVISION 2. SEWER CONSTRUCTION AND ASSESSMENTS FOR NEW DEVELOPMENTS\***

**Sec. 25-176. Compliance with agreements.**

\***Editor's note**—Ord. No. 17-05, Pt. I, adopted Nov. 14, 2017, repealed Div. 2 in its entirety to read as herein set out. Former Div. 2, §§ 25-176—25-193 pertained to sewer construction and assessments, and derived from the 1976 Code,



The operation of the sanitary sewer system shall remain in compliance with all sanitary

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§§ 6-2092—6-2109; Ord. No. 89-16, § 2, adopted April 11, 1989; Ord. No. 91-27, adopted Nov. 12, 1991; and Ord. No. 92-20, adopted July 28, 1992.



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	<i>Ground Sign</i>	<i>Canopy or Wall Sign</i>	<i>Directional Sign</i>	<i>Entrance Sign</i>	<i>Window Sign</i>
Maximum sq. ft.	200 sq. ft.	30 sq. ft. or 2 sq. ft. per linear foot of the wall or canopy, whichever is greater, up to a maximum of 150 sq. ft. for buildings 12 stories or more	16 sq. ft.	60 sq. ft.	30% of the window space for buildings under 50,000 sq. ft.; 10% of the window area for buildings 50,000 sq. ft. or over
Maximum number allowed	One per façade (See Note 1)	1/primary façade and 1/secondary façade	2/authorized curb cut	1/entrance	N/A
Required setback from electrical transmission lines	10 ft.	N/A	0 ft.	10 ft.	N/A

3. Property zoned for non-residential use may have only one (1) ground sign per street that is oriented towards travelers along that same street.
4. The district is exempt from total aggregate sign area requirements in chapter 21 of this Code.
5. Wood and flexible plastic are prohibited for use in permanent signs in non-residential zoning districts.

F. *Special event signage.* All special event signs are subject to the requirements of chapter 21 of the Code, including section 21-21, except that the maximum number of special even sign permits to be issued to a single site or location shall be one (1) per year for a period of time not to exceed thirty (30) days for each permit issued.

(Ord. No. 15-06, 8-25-2015)

27-3.41 DIVISION 41. COVINGTON AND INDIAN CREEK DISTRICTS\*

**Sec. 3.41.1. The scope of regulations.**

These standards and procedures shall apply to any development, use, alteration, or redevelopment on any lot or portion thereof which is, in whole or in part, contained within the boundaries of the Covington District or the Indian Creek District ("Districts"). These Districts shall take precedence over the underlying zoning district regulations. However, where not in conflict with these District regulations, the regulations of the underlying zoning districts shall continue to function the same.

(Ord. No. 17-02, Pt. I, 9-26-2017; Ord. of 5-28-2020, Pt. I)

**Sec. 3.41.2. Applicability of regulations.**

These regulations shall apply to each application for any permit which involves the development, use, construction, exterior alteration or modification of any structure where the subject property is, in whole or in part, contained within the boundaries of the Districts. The procedures, standards, and criteria herein apply only to the portion of the subject property within the boundaries of the Districts. Design criteria shall meet the design requirements herein and shall be consistent with article 5 of the zoning ordinance. The director of planning is authorized to interpret these regulations, and to approve construction, uses, design and landscaping not in conflict with these regulations or the zoning ordinance.

(Ord. No. 17-02, Pt. I, 9-26-2017; Ord. of 5-28-2020, Pt. I)

\***Editor's note**—An ordinance adopted May 28, 2020, Pt. I, changed the title of Div. 41 from "Kensington-Memorial Drive Overlay District" to read as herein set out.

**Sec. 3.41.3. Statement of purpose and intent.**

The purpose and intent of the board of commissioners in adopting these two (2) Districts are as follows:

- A. Covington District - The intent of the Covington District is to implement the recommendation of Covington Highway Corridor Study from the DeKalb County Board of Health Master Active Living Plan (MALP). The goal for this area is to revitalize underutilized commercial and multifamily properties into a mix of employment, housing, retail, civic and open spaces, and to make Covington Highway a multimodal transportation corridor that promotes healthy living.
  - B. Indian Creek District - The intent of the Indian Creek District is to implement the recommendations of the Indian Creek Master Active Plan (MALP), while developing a multimodal, transit-oriented area that integrates physical activity by enhancing connectivity to trails, parks and open space (both internally and near developed areas). These areas will also connect with mixed use, recreational, residential, and senior facilities. This District is envisioned to be a premier regional recreation destination with accessory restaurant, retail and office space. Transit oriented development (TOD) is encouraged in this area to increase MARTA ridership and mixed-use development around the Indian Creek MARTA station.
- (Ord. No. 17-02, Pt. I, 9-26-2017; Ord. of 5-28-2020, Pt. I)

**Sec. 3.41.4. District boundaries and maps.**

The Covington and Indian Creek Districts shall be read in conjunction with the DeKalb County 2035 Comprehensive Plan Future Land Use Map. The boundaries of the Covington and Indian Creek Districts shall be unchanged from the boundaries previously established in the zoning map for Tier I (now the Covington District) and Tier III (now the Indian Creek District), respectively, of the former Kensington Memorial Drive Overlay District. A depiction of this name change is set forth on Exhibit A. These boundaries of the Covington and Indian Creek Districts, and any future amendments, will be maintained by the planning director. Any future changes to the boundaries of the Covington and Indian Creek Districts will require a zoning map amendment.

(Ord. No. 17-02, Pt. I, 9-26-2017; Ord. of 5-28-2020, Pt. I)

**Sec. 3.41.5. Definitions.**

The following definitions shall only apply to the Covington and Indian Creek Districts, as amended:

- A. Motel: A building or a group of buildings used primarily for providing lodging to long-term or temporary guests or travelers, the individual rooms of which are accessed through exterior doors, corridors, or hallways.
- B. Stand-alone multi-family housing: One (1) or more residential buildings, each containing four (4) or more dwelling units, that are not located in a mixed-use development as defined herein and pursuant to chapter 27 of the zoning ordinance.
- C. Mixed-use development: A development consisting of two (2) or more different types of land uses such as residential, office, retail, services or recreational uses, which are planned as a unified, complementary whole with shared inter-parcel access. All mixed-use developments shall also be governed by chapter 27, article 2 of the zoning ordinance.
- D. Outdoor recreational facility: An outdoor area used for activities such as organized games and sports, which may consist of fitness training courses, challenge trails, tennis courts, basketball courts, soccer fields, baseball fields, and similar facilities.
- E. Sports complex: An indoor facility with seating for spectators, and providing accommodation for a variety of individual, organized, or franchised sports. Such facilities may also provide other

regular organized or franchised events, health and fitness clubs, swimming pools, snack bars, restaurants, lounges, retail sales of sporting goods, health or fitness items, conference centers, exhibit halls, movie or performance theatres, and arcades. At the discretion of the director of planning, outdoor fields or courts may be permitted when part of an overall development plan which includes indoor facilities as part of a mixed-use development.  
(Ord. No. 17-02, Pt. I, 9-26-2017; Ord. of 5-28-2020, Pt. I)

**Sec. 3.41.6. Principal uses and structures.**

The principal uses of land and structures which are allowed in the Covington and Indian Creek Districts are as is provided by the applicable underlying zoning district regulations, subject to the superseding and additional regulations and standards contained in this division as follows:

- A. *Permitted uses.* The following additional principal uses of land and structures shall be expressly authorized within the Covington and Indian Creek Districts:
1. Sports complexes (Indian Creek District only).
  2. Film, Movie, and Television Production Studios (Indian Creek District only), only if the following conditions are met:
    - a. Studios may be located south of Redan Road only.
    - b. Studios must comply with all provisions of Chapter 15, Article XIV. - Film Production. All other operations, including but not limited to, set construction and fabrication must take place indoors on soundproof stages.
    - c. A 50-foot vegetated buffer from residentially zoned parcels must be provided. An undisturbed buffer, a planted buffer, or an existing vegetated buffer supplemented with additional plantings may be utilized. Whichever buffer type is utilized, the buffer must be opaque outside of the winter months.
    - d. No use of outside generators except in the event of a power failure.
  3. Automotive rental and leasing (both Districts), only if the site design includes the following:
    - a. A landscape strip that shall meet the perimeter landscape strip standards contained in Section 5.4.4.(c) of this Chapter, except that the minimum width of the perimeter landscape strip for automotive rental or leasing shall be ten (10) feet around the perimeter of any area used to store automobiles for rental or leasing.
    - b. Car preparation and maintenance areas that are not located inside a structure shall be attached to the primary building and be screened from view from adjacent streets, from public sidewalks and sidewalks internal to the development, and from the parking lot. Screening shall be accomplished by use of opaque fencing and gates, walls that match building materials, or a combination of berms and a minimum of 30 feet of landscaped area which may serve as a transitional buffer. Fencing and walls must be at least six feet in height.
    - c. Dumpster enclosures shall be placed in the least visible location from public streets and shall be enclosed with a wall and metal gates that are at least one foot taller than what is contained in the interior. The dumpster enclosure shall be constructed of the same material as the primary structure. Dumpster enclosure doors or gates must be metal and painted to match exterior building materials.
- B. *Prohibited uses.* The following principal uses of land and structures shall be expressly prohibited within both the Covington and Indian Creek Districts:
1. Breeding kennels, commercial or breeding (grooming and pet daycare permitted);

2. Non-commercial kennels;
  3. Multi-family housing, unless part of a mixed-use development;
  4. Drive-through restaurants, except when vehicular access is provided from the interior of mixed-use or commercial development;
  5. Storage yards;
  6. Used tire dealers and tire repair establishments;
  7. Adult entertainment establishments;
  8. Adult service facilities/retail;
  9. Outdoor storage;
  10. Outdoor displays;
  11. Outdoor recreational facility, unless part of a sports complex;
  12. Thrift or second-hand retailers;
  13. Appliance and equipment repair shops;
  14. Motels and extended stay motels;
  15. Used motor vehicles dealers, unless located on a parcel not less than three (3) acres and including a building that is six thousand (6,000) square feet or greater;
  16. Temporary and seasonal outdoor sales;
  17. Pawn shops;
  18. Liquor stores;
  19. Salvage yards and junk yards;
  20. Self-storage facilities;
  21. Fuel pumps (unless within one thousand (1,000) feet of an intersection with an interstate);
  22. Major and minor automobile repair and maintenance shops (except as an accessory use to a film or production studio);
  23. Commercial parking lots;
  24. Carwashes and detail shops;
  25. Check cashing establishments;
  26. Automobile emission testing facilities; and
  27. Drive-through restaurants where vehicular access is not provided from the interior of a mixed-use or commercial development.
- C. *Accessory uses and structures.* The following accessory uses of land and structures shall be expressly authorized within the Covington and Indian Creek Districts:
1. Accessory uses and structures incidental to any authorized use;
  2. Structures and uses incidental to new or used motor vehicle dealers (major and minor automobile repair, new tire sales, emissions testing, non-public fuel pumps and car washes, outdoor storage and automobile display);
  3. Parking lots and parking garages;
  4. Club houses, including meeting rooms or recreation rooms;
  5. Community gardens; and



6. Swimming pools, tennis courts, and other recreation areas and similar amenities.  
(Ord. No. 17-02, Pt. I, 9-26-2017; Ord. of 5-28-2020, Pt. I)

**Sec. 3.41.7. Design standards.**

All design and building standards required under article 5, chapter 27 of the DeKalb County Code of Ordinances, shall apply to all properties located within the Covington and Indian Creek Districts, except where otherwise noted in this division:

A. *Site design requirements.*

1. Buildings shall be set back from the property line adjoining a public street, or private drive not more than twenty (20) feet. For nonresidential uses, there shall be a functioning, pedestrian-accessible entrance from the public street.
2. All loading and service areas shall be screened from view from the street and residential uses with buildings, landscaping, or decorative fencing.
3. Fencing that is visible from any public plaza, open space, ground level or sidewalk level outdoor dining area, internal main private drive, or public street or right-of-way shall be made only of brick, stone, brick or stone veneer, hard-coat or synthetic stucco, wrought iron, wood, or materials simulating wrought iron or wood, subject to the approval of the planning director. Fencing in the front yard of any property along a public right-of-way shall not be higher than four (4) feet. Fencing to the rear or side of a building shall not be higher than six (6) feet.
4. No barbed wire, razor wire, chain-link fence or similar elements shall be visible from any public plaza, open space, ground level or sidewalk level outdoor dining area, internal main private drive or public street or right-of-way. Fencing materials for a detention area must be approved prior to installation by the planning director.
5. The minimum interior side yard setback from property line may be zero (0) feet, but if the property is adjacent to an existing building with windows facing the property line, the setback shall be a minimum of twenty (20) feet from the face of the existing building. In mixed-use developments, there shall be a minimum of ten (10) feet between buildings less than three (3) stories in height and a minimum of fifteen (15) feet between buildings when one (1) is three (3) stories or greater in height.
6. The minimum rear yard setback is ten (10) feet.

B. *Height of building and structures.* Buildings in the Covington and Indian Creek Districts may exceed the height limitations specified in this section by obtaining a special land use permit from the board of commissioners. However, a parking deck may not exceed the height of the principal building, either as a separate deck structure or as part of the building. The maximum allowable height for buildings in both Districts, in the absence of a special land use permit, is six (6) stories or ninety (90) feet in height.

C. *Density.* Density is as permitted by the 2035 DeKalb County Comprehensive Plan, as amended. Density may be increased based on the density bonuses reflected in Table 2.6 of chapter 27 of the Code.

D. *Development standards for live-work units.*

1. All off-street parking shall be behind or within individual units. Individual garages for units may not face a primary street.
2. The front entrance to each unit shall be open directly onto the public sidewalk or a publicly accessible open space.

E. *Development standards for commercial and mixed-use buildings.*

1. Ground-floor commercial and retail uses shall have entrances at grade opening directly onto a public sidewalk or publicly accessible open space adjacent to the public sidewalk.
2. Canopies over retail and commercial entrances and/or windows shall be required.
3. A minimum of seventy-five (75) percent of the ground-floor facade of nonresidential windows shall be clear or tinted so that at least seventy (70) percent of light filters through the window. At least twenty-five (25) percent of the ground floor of a single tenant building shall consist of clear or tinted windows, so that at least seventy (70) percent of light filters through the window.
4. Pedestrian access shall be provided from any parking area directly to a public sidewalk through the ground floor of the building or via sidewalks between buildings.

F. *Development standards for residential buildings.*

1. Ground-floor residential units that adjoin a street shall have entrances with a stoop or porch between the sidewalk and the building facade no less than two (2) feet above grade. A sidewalk shall connect the ground floor front entrance to the public sidewalk.
2. Residential buildings shall be set back between five (5) and fifteen (15) feet from the property line along primary and secondary streets. The area between the public sidewalk and the building facade shall contain only steps, front porches or stoops, balconies, or landscaping. Mechanical equipment and other building service items located within the setback area between the public sidewalk and the building facade must be screened from public view.

G. *Complete streets.* The Covington and Indian Creek Districts shall comply with the 2014 Transportation Plan Appendix 2. Appendix Document 8 Complete Streets Policy, in maintaining a safe and efficient transportation system for motorists, bicyclists, pedestrians, and transit users. This includes both new and retrofit/reconstruction projects to incorporate bicycle, pedestrian and transit facilities, street lights, pedestrian sidewalks/trails.

(Ord. No. 17-02, Pt. I, 9-26-2017; Ord. of 5-28-2020, Pt. I)

**Sec. 3.41.8. Architectural regulations.**

The following architectural regulations shall apply to all uses and structures within the Covington and Indian Creek Districts:

A. Building exteriors shall be limited solely to the following materials:

1. Brick or brick veneers;
2. Stone or stone veneers of natural stone such as granite, limestone and marble. Terra Cotta and cast stone, which simulate natural stone, are also allowed. Painted stone is not allowed;
3. Pre-cast concrete;
4. Painted concrete block, which may only be used on a side or rear facade that does not face a public right-of-way;
5. Split-face block/concrete masonry unit; and
6. Hard coat stucco and synthetic stucco.

B. Architectural accents, where utilized, shall consist of metal, non-reflective glass, glass block, natural stone, pre-cast concrete, brick, or terra cotta. Architectural accents shall only cover ten

(10) percent of the surface area of each exterior wall. When calculating the ten (10) percent limitation on architectural accents, the surface area covered by any window(s) shall not be used in the calculation. Secondary building materials may be used per section 5.7.4.3.

- C. Service bays for automobile service and repair uses shall be designed or screened so that the openings of service bays are not visible from a public right-of-way.
  - D. Only vinyl coated chain-link fences that are screened from the public right-of-way may be used.
  - E. Within a front or exterior side yard, the keeping of goods, materials, merchandise, or inoperable vehicles in the same place for more than twenty-four (24) consecutive hours is prohibited.
  - F. The keeping of goods, materials, and other merchandise for sale, or inoperable vehicles in the same place for more than twenty-four (24) consecutive hours is only permitted when the side yard is fenced, screened, or otherwise screened from view from the public right-of-way.
  - G. Any linear lighting around windows, rooflines, doors, signs or building structures is prohibited. Linear lighting may include, but is not limited to, neon tubes, rope lighting, and other similar lighting devices. Linear lighting devices that contain letters or words shall be considered signs, and are not prohibited as linear lighting under this subsection.
- (Ord. No. 17-02, Pt. I, 9-26-2017; Ord. of 5-28-2020, Pt. I)

### **Sec. 3.41.9. Signs.**

All signs in the Covington and Indian Creek Districts shall comply with all requirements of chapter 21, subject to the following additional regulations:

- A. All ground signs shall be monument style signs with a base and framework made of brick or stone;
- B. The sign area of ground signs shall not exceed thirty-two (32) square feet, unless the lot contains a shopping center, as defined in chapter 27 of the Code, in which case ground signs are limited to sixty-four (64) square feet.
- C. Ground signs shall not exceed a height of six (6) feet, unless the lot contains a shopping center, as defined in chapter 27 of the Code, in which case ground signs shall not exceed a height of fifteen (15) feet;
- D. Each separate store front may have a maximum of two (2) wall signs, each of which shall not exceed ten (10) percent of the square footage of the façade on the ground floor of the building, or seventy-five (75) square feet, whichever is less;
- E. Wall signs for newly constructed buildings shall be located on the primary building façade;
- F. Window signs are prohibited;
- G. Banners are prohibited;
- H. Wall mounted signs shall be composed of channel cut letters applied directly to the building façade. Flashing, animated, marquee, sound emitting, fluorescent, rotating or otherwise moving signs are prohibited; and
- I. Sign shape and lettering shall be limited as follows:
  - 1. Signs with more than two (2) faces are prohibited;
  - 2. Sign facing shall be flat in profile and shall not exceed a thickness of eight (8) inches;
  - 3. Sign faces shall be parallel;

4. Sign lettering shall consist of block lettering in which individual letters are proportional in size to the overall size of the sign, but in no event shall individual letters exceed eighteen (18) inches in height; and

5. Sign lettering shall be of an opaque material.

(Ord. No. 17-02, Pt. I, 9-26-2017; Ord. of 5-28-2020, Pt. I)

**Sec. 3.41.10. Transitional buffer zone requirements.**

Developments shall provide a transitional buffer when adjacent to single-family attached and detached land uses as follows:

1. Non-residential and multi-family developments within the district shall provide a minimum fifty-foot transitional buffer; and

2. All other residential developments within the district shall provide a minimum twenty-foot buffer.

(Ord. No. 17-02, Pt. I, 9-26-2017)

**Sec. 3.41.11. Street standards.**

Private streets are permitted within both Districts. Such streets shall comply with requirements found in chapter 14 and all other applicable sections of the DeKalb County Code, with the following exceptions:

A. Streets shall be constructed with travel lanes a minimum of eleven (11) feet wide, measured inside curb and gutter.

B. Alleys shall be permitted, providing secondary or service access within developments consisting of at least four (4) occupied structures. An alley shall provide a continuous connection between two (2) streets. Alleys shall be paved and constructed to the same standards as the connecting streets, except that:

1. No alley shall be longer than four hundred (400) feet in length;

2. No alley shall have a slope greater than seven (7) percent;

3. The paved width of an alley shall not be less than twelve (12) feet;

4. Alleys shall be constructed with flush curbs;

5. Alleys shall be bordered on both sides by unobstructed seven-foot wide shoulders constructed of grass sod or gravel; and

6. Buildings shall be set back at least ten (10) feet from the back curb of an alley.

C. All properties located in the Covington and Indian Creek Districts shall comply with the 2014 Transportation Plan Appendix 2. Appendix Document B - Complete Streets Policy, in maintaining a safe and efficient transportation system for motorists, bicyclists, pedestrians, and transit users. This includes both new and retrofit/reconstruction projects to incorporate bicycle, pedestrian and transit facilities, street lights, pedestrian sidewalks/trails.

(Ord. No. 17-02, Pt. I, 9-26-2017; Ord. of 5-28-2020, Pt. I)

**Sec. 3.41.12. Underground utilities.**

All utilities except for major electric transmission lines and substations are required to be placed underground except where the director of development determines that underground utilities are not feasible due to pre-existing physical conditions. Examples of such conditions include but are not

limited to: conflicting underground structures or utilities, shallow rock, high water table, or other similar geologic or hydrologic conditions. This regulation only applies to newly constructed roads within a proposed development (new development).  
(Ord. No. 17-02, Pt. I, 9-26-2017)

**Sec. 3.41.13. Interparcel access.**

To the maximum extent possible, sidewalks and parking lots serving adjacent lots within the Covington and Indian Creek Districts shall be interconnected to provide continuous driveway and pedestrian connections between adjoining lots and streets. However, this requirement shall not apply to lots zoned for single-family or two-family residential units. Where necessary, DeKalb County may require that access easements be provided to ensure continuous access and egress routes connecting community, commercial, office, mixed use and multi-family developments.  
(Ord. No. 17-02, Pt. I, 9-26-2017; Ord. of 5-28-2020, Pt. I)

**Sec. 3.41.14. Multi-modal access plans required.**

Each new application for a development permit within the Covington or Indian Creek Districts shall be accompanied by a multi-modal access plan prepared at a scale not greater than one (1) inch equals one hundred (100) feet (1" - 100'). The multi-modal access plan shall cover the full extent of the proposed development along with public rights-of-way of adjoining streets and any other property lying between the subject property and the nearest public streets on all sides. The purpose of the multi-modal access plan is to demonstrate a unified plan of continuous access to and between all buildings in the proposed development and adjacent properties. Connections to available transportation modes, such as driveways, sidewalks, and bike paths shall be shown along adjacent streets and those entering adjoining properties. Safe and convenient pedestrian ways shall be provided from sidewalks along streets to each building entrance, including pedestrian access routes across parking lots and between adjacent buildings within the same development. Where an existing or planned public transportation station or stop is within one thousand two hundred fifty (1,250) feet (straight line distance) from any boundary of the subject property, the access plan shall show how pedestrians may safely travel from such station or stop to the subject property. Where an existing or planned bike path is located within one thousand five hundred (1,500) feet of the subject property, the access plan shall show how safe, continuous and convenient bicycle access shall be provided to the subject property.  
(Ord. No. 17-02, Pt. I, 9-26-2017; Ord. of 5-28-2020, Pt. I)

**Sec. 3.41.15. Conceptual plan package review.**

A. The conceptual plan package shall consist of the following:

1. A narrative addressing the proposed development explaining how it meets the purpose, intent, and standards of the District in which it is located. The narrative shall include a tabulation of the approximate number of acres in each land use, the approximate number of dwelling units by type, the approximate gross residential density, the approximate commercial density, the approximate public space acreage, the anticipated number, type and size of recreational facilities and other public amenities; the legal mechanism for protecting and maintaining public space;
2. A site location map showing the proposed development, abutting property, the relationship of the proposed development to surrounding and existing development, and transitional buffer zones, if required; and
3. A multimodal access plan meeting the requirements of section 3.41.14.

B. Ten (10) copies of a site plan drawn to a designated scale of not less than one (1) inch equals one hundred (100) feet, certified by a professional engineer or land surveyor licensed by the State of Georgia, presented on a sheet having a maximum size of twenty-four (24) inches by thirty-six (36) inches, and one (1), eight and one-half-inch reduction of the plan. If presented on more than one (1) sheet, match lines shall clearly indicate where the several sheets join. Such plan shall contain the following information:

1. All proposed buildings, parking and greenspace.
2. Surveyed boundaries of the entire property proposed to be included in the development, with bearings and distances of the perimeter property lines.
3. Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat and on all supporting graphics.
4. Location and approximate dimensions in length and width, for landscape strips and required transitional buffers, if any.
5. Existing topography with a maximum contour interval of five (5) feet and a statement indicating whether it is an air survey or field run.
6. Approximate delineation of any stream or floodplain designated by the Federal Emergency Management Agency, United States Geological Survey, or DeKalb County.
7. The delineation of any jurisdictional wetlands as defined by section 404 of the Federal Clean Water Act.
8. Approximate delineation of any significant historic or archaeological feature, grave, object or structure marking a place of burial if known, and a statement indicating how the proposed development will impact it.
9. A delineation of all existing structures and whether they will be retained or demolished.
10. General location, in conceptual form, of proposed uses, lots, buildings, building types and building entrances.
11. Height and setback of all buildings and structures.
12. Approximate areas and development density for each type of proposed use.
13. Location, size and number of all on-street and off-street parking spaces, including a shared parking analysis, if shared parking is proposed.
14. Identification of site access points and layout, width of right-of-way and paved sections of all internal streets.
15. Conceptual plans for drainage with approximate location and estimated size of all proposed storm water management facilities and a statement as to the type of facility proposed.
16. Development density and lot sizes for each type of use.
17. Areas to be held in joint ownership, common ownership or control.
18. Location of proposed sidewalks and bicycle facilities trails recreation areas, parks, and other public or community uses, facilities, or structures on the site.
19. Conceptual layout of utilities and location of all existing or proposed utility easements having a width often (10) feet or more.
20. Standard details of signs, sidewalks, streetlights, driveways, medians, curbs and gutters, landscaped areas, fencing, grating, street furniture, bicycle lanes, streets, alleys, and other public improvements demonstrating compliance with article 5, section 4.

21. Conceptual layout of building designs including elevations showing architectural details of proposed buildings, exterior materials, all of which shall demonstrate that the proposed design complies with all the requirements of these regulations.
22. Seal and signature of professional preparing the site plan.
23. Proposed plan for compliance with the Americans with Disabilities Act (ADA).  
(Ord. No. 17-02, Pt. I, 9-26-2017; Ord. of 5-28-2020, Pt. I)

**Sec. 3.41.16. Final design package review and approval process.**

A. *Submission of final design package.* Upon receiving comments on the conceptual design package, the applicant will submit the final design package for review and approval. The final design package must include full architectural and landscape architectural plans and specifications, in addition to the requirements found under article V of the zoning ordinance. The submitted plans must include a site plan, architectural elevations and sections; renderings depicting the building design including elevations and architectural details of proposed buildings, exterior materials and colors, and plans and elevations of all hardscape, landscape and signage, all of which shall demonstrate that the proposed design is in compliance with all requirements of the Covington or Indian Creek District and the underlying zoning regulations. The final design package must be signed and sealed by a professional engineer/architect. The final design package must contain all plans, elevations, sections and specifications necessary for obtaining development and building permits. The applicant may submit the final design package simultaneously with the submission for permitting.

B. *Review.* The planning director shall provide all new development proposals to the chairperson of the affected community council via electronic mail. The chair shall host a community meeting within three (3) weeks of notification of the development proposal. The developer representative shall present the project to the community council. Community council may submit a report summarizing any community meeting to the planning department, district commissioner and super district commissioner. This provision shall be applicable to all proposed developments within the Districts.

C. *Decision and notice of approval or denial.* The director of planning shall review each application for compliance with all requirements of the Covington or Indian Creek District and the underlying zoning regulations and development regulations. Where the director determines that the plans comply with all such requirements, a certificate of compliance shall be issued in the form of the director or the director's designee signing the plans and drawings after which the applicant may then apply for a land disturbance, building or sign permit. Where the director determines that said plans do not comply with all such requirements, then the director shall notify the applicant in writing identifying the manner in which the applicant fails to comply. All applications shall be considered and decided by the director of planning within thirty (30) days of receipt of a complete application. Any appeal of the director of planning's decision under this ordinance shall be made to the zoning board of appeals pursuant to the DeKalb Code of Ordinances, section 27-7.5.2, and shall be subject to the appeal procedures therein.  
(Ord. No. 17-02, Pt. I, 9-26-2017; Ord. of 5-28-2020, Pt. I)

**ARTICLE 4. USE REGULATIONS**

**27-4.1 DIVISION 1. OVERVIEW OF USE CATEGORIES AND USE TABLE**

**Sec. 4.1.1. Overview, findings, purpose.**

A. *General overview.* The regulations contained within this article IV shall apply to all zoning districts within DeKalb County except as otherwise specified herein. Dimensions, site location and architectural requirements shall be indicated on required site development plans.

B. *General findings and purpose.* Certain land uses require the imposition of additional regulations to mitigate a range of negative impacts on the public health, safety, welfare as well as environmental, aesthetic, and infrastructure impacts.

C. *Findings and purpose for certain land uses.* National studies show that a concentration of certain land uses—including alcohol outlets, automobile gas stations, check cashing establishments, convenience stores, drive-through restaurants, and pawn shops—negatively impact the public health, safety, welfare, property values, economic development and social vitality of communities and neighborhoods. Local governments across the country recognize the negative impacts of such uses and impose additional regulations and distance requirements to mitigate such impacts. Local studies, including the report "The Relationship Between SLUP6 Businesses and Negative Outcomes in DeKalb County" by Dean Dabney, Ph.D., presented to the board of commissioners on May 9, 2017, confirm that these land uses within unincorporated DeKalb County are associated with increased crime, automobile accidents, lower property values, and other negative impacts to the public health and welfare. (Ord. No. 15-06, 8-25-2015; Ord. No. 17-01, Pt. I, 5-23-2017)

**Editor's note**—Ord. No. 17-01, Pt. I, adopted May 23, 2017, changed the title of § 4.1.1 from "Overview" to read as herein set out.

#### **Sec. 4.1.2. Interpretation of unlisted uses.**

Where a particular use is not specifically listed in Table 4.1 Use Table, the director of planning shall have the authority to permit the use if the use is similar to uses permitted by this article. The director of planning shall give due consideration to the purpose and intent statements contained in this zoning chapter concerning the base zoning districts involved, the character of the uses specifically identified and the character of the uses in question.

(Ord. No. 15-06, 8-25-2015)

#### **Sec. 4.1.3. Use table.**

Table 4.1 indicates the permitted uses within the base zoning districts. Even though a use is listed as an allowable use within a particular base zoning district, additional use restrictions may apply based on the applicable overlay zoning district requirements specified in article 3, overlay districts.

- A. The uses listed in Table 4.1 shall be permitted only within the zoning districts identified, and no use shall be established and no structure associated with such use shall be erected, structurally altered or enlarged unless the use is permitted as:
1. A permitted use (P);
  2. A special use (SP) subject to the special land use permit application procedures specified in article 7;
  3. An administratively approved use (SA) subject to the special administrative permit procedures specified in article 7;
  4. An accessory use (Pa) as regulated by this article 4. Table 4.1 does not list all accessory uses but clarifies uses acceptable as accessory, though not typically considered principal uses for the zoning classification.
  5. Uses lawfully established prior to the effective date of this zoning ordinance.
- B. Any use not listed in Table 4.1 below or interpreted to be allowed by the director of planning pursuant to section 4.1.2 is prohibited. Any applicant denied a permit to allow a use of property in a zoning district other than as provided in this section may file an appeal before the zoning board of appeals as provided in article 7.
- C. If there is a conflict between Table 4.1 and the text of this chapter, the text shall prevail.



- B. Making field inspections to determine that the building or structure being constructed, reconstructed or structurally altered or used is being constructed or modified in accordance with the site plan for which a development permit and building permit have been issued. When a violation is found to exist, the director of planning shall immediately initiate appropriate legal action to ensure compliance.
  - C. Ensuring that all construction has been completed in accordance with all applicable requirements of the Code of DeKalb County prior to allowing occupancy.
- (Ord. No. 15-06, 8-25-2015)

**Sec. 7.7.9. Records.**

The director of planning shall maintain records of all official administrative actions taken by their department pursuant to their duties as set forth in this division. The director of planning shall further maintain records of all complaints filed with their department pursuant to the requirements of this chapter and of all actions taken with regard to such complaints, and of all violations discovered by whatever means, with remedial action taken and disposition of cases. All such records shall be public records and shall be retained in accord with Georgia's Records Act, O.C.G.A. § 50-18-90 et seq., and pertinent record retention schedules.

(Ord. No. 15-06, 8-25-2015)

**Sec. 7.7.10. Inspection; right of entry.**

Upon presentation of county identification to the developer, contractor, owner, owner's agent, operator or occupant, county employees authorized by the director of planning may enter during all reasonable hours any property for the purpose of making inspections to determine compliance with the provisions of this chapter. Should access to the property be denied, an inspection warrant may be obtained as authorized in section 7.7.11 below.

(Ord. No. 15-06, 8-25-2015)

**Sec. 7.7.11. Inspection; warrants.**

The director of planning, in addition to other procedures provided, may obtain an inspection warrant under the conditions specified in this division. The warrant shall authorize the director of planning or the director of public works to conduct a search or inspection of property, either with or without the consent of the person whose property is to be searched or inspected, under the conditions set out in this section.

- A. Inspection warrants may be issued by the court of competent jurisdiction when the issuing judge is satisfied that all of the following conditions are met:
  - 1. The person seeking the warrant must establish under oath or affirmation that the property to be inspected is to be inspected as a part of a legally authorized program of inspection which includes that property or that there is probable cause for believing that there is a condition, object, activity, or circumstance which legally justifies such an inspection of that property.
  - 2. The issuing judge determines that the issuance of the warrant is authorized by this section and applicable state and federal law.
- B. An inspection warrant shall be validly issued only if it meets all of the following requirements:
  - 1. The warrant is attached to the affidavit required to be made in order to obtain the warrant.

2. The warrant describes, either directly or by reference to the affidavit, the property upon which the inspection is to occur and is sufficiently accurate that the executor of the warrant and the owner or possessor of the property can reasonably determine from it the property for which the warrant authorizes an inspection.
3. The warrant indicates the conditions, objects, activities, or circumstances which the inspection is intended to check or reveal.
4. The warrant refers, in general terms, to the ordinance provisions sought to be enforced. (Ord. No. 15-06, 8-25-2015; Memo. of 9-23-2020)

**Sec. 7.7.12. Remedies.**

In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered, converted or maintained, or any building, structure or land is or is proposed to be used in violation of any provision of this chapter, the county may, in addition to other remedies, and after due notice to the owner of the violation, issue a citation for violation of this chapter requiring the presence of the violator in the court of competent jurisdiction. The county may also in such cases institute injunction or other appropriate action or proceeding to prevent an unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use or to correct or abate the violation or to prevent the occupancy of the building, structure or land. Where a violation of this chapter exists with respect to a structure or land, the director of planning may, in addition to other remedies, require that public utility service be withheld therefrom until such time as the structure or premises is no longer in violation of this chapter.

(Ord. No. 15-06, 8-25-2015; Memo. of 9-23-2020)

**Sec. 7.7.13. Notice in writing order to stop work; revocation of permits.**

Whenever any building or premises is being constructed, used, or occupied contrary to the provisions of this chapter or chapter 7, the director of planning may order the work stopped in accordance with the provisions of chapter 7. The director of planning may revoke any building permit or certificate of occupancy for any land, building or this chapter in order to protect the health, safety and general structure being constructed, used or occupied in violation of welfare of the residents of the county.

(Ord. No. 15-06, 8-25-2015)

**Sec. 7.7.14. Fees.**

Fees and charges for permits and inspections shall be as established by official action of the governing authority.

(Ord. No. 15-06, 8-25-2015)

**Sec. 7.7.15. Certificates of occupancy.**

Certificates of occupancy are required as follows and shall be issued by the director of planning only after all requirements of this chapter and other applicable parts of the Code of DeKalb County have been met:

- A. *For new or altered structures and uses.* No person shall use or permit the use of any building, structure, or premises or part thereof hereafter created, erected, changed, converted, enlarged or moved, wholly or partly, in use or structure, until a certificate of occupancy reflecting the extent and location of the use shall have been issued to the owner or tenant by the director of planning. Where a building permit is involved, such certificate of occupancy shall show that the structure or use, or both, to the affected part thereof, is in conformance with the requirements of this chapter. It shall be the duty of the director of planning to issue such certificate of

occupancy if the director of planning finds that all of the requirements of this chapter have been met, and to withhold such certificate of occupancy if the director finds that all of the requirements of this chapter have not been met.

- B. *Temporary certificates of occupancy.* A temporary certificate of occupancy for a part of a building or premises may be issued in accordance with the requirements of section 7-33 of chapter 7 of the Code of DeKalb County, as Revised 1988, and the director of planning may impose such additional conditions and safeguards as are necessary in the circumstances of the case to protect the safety of the occupants and of the general public.
- C. *Certificates of occupancy for existing uses or structures.* An owner may request a new certificate of occupancy for existing uses or structures. Said requests shall be in the form required by the director of planning and shall require all professional surveys or certifications required by the director of planning to adequately comply with said request. The director of planning shall require as a part of said request, fees to process said requests as are established by the board of commissioners. Upon review of the application and other relevant investigation by the director of planning, if in conformance with the requirements of this chapter, the director of planning shall issue a certificate of occupancy for any buildings, premises or use, certifying that the building, premises or use is in conformance with the requirements of this chapter.

(Ord. No. 15-06, 8-25-2015)

**Sec. 7.7.16. Violations of this chapter.**

It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building or structure or use any land in the county, or cause the same to be done, contrary to or in violation of any of the provisions of this chapter.

(Ord. No. 15-06, 8-25-2015)

**Sec. 7.7.17. Penalties.**

Any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of an offense and upon conviction in court of competent jurisdiction shall be punished as is provided in section 1-10 of the Code of DeKalb County. Where any violation continues, each day's continuance of a violation shall be considered a separate offense. The owner of any buildings or premises or parts thereof, where anything in violation of this chapter exists, and any architect, builder, contractor or any other agent of the owner, or any tenant, who commits or assists in the commission of any violation, shall be guilty of a separate offense. In addition, the county may revoke the DeKalb County business license of any entity found guilty of violating this chapter in accordance with the procedures of this subsection for a period of time not to exceed five (5) years, except to the extent prohibited by law.

(Ord. No. 15-06, 8-25-2015; Memo. of 9-23-2020)

**Sec. 7.7.18. Repeal of conflicting ordinances; validity of prior approvals and actions.**

Nothing herein shall be construed as repealing the conditions of use, operation, or site development accompanying zoning approval(s) or permits issued under previous zoning ordinances or resolutions, provided further that modification or repeal of these past conditions of approval may be accomplished as authorized and provided by this chapter. All variances and exceptions heretofore granted by the zoning board of appeals shall remain in full force and effect, and all terms, conditions and obligations imposed by the zoning board of appeals shall remain in effect insofar as required for the initiation of any proceedings against these violations and for the prosecution of any violations heretofore commenced.

(Ord. No. 15-06, 8-25-2015)

**Sec. 7.7.19. Reserved.****ARTICLE 8. NONCONFORMITIES****Sec. 8.1.1. Statement of intent and purpose.**

Within the zoning districts established by this chapter, or by amendments that may later be adopted, there exist lots, uses of land, uses of land and buildings, uses of land and structures, and characteristics of buildings, structures and sites which were lawful before the effective date of this chapter's adoption or amendment, but that are now prohibited under the terms of this chapter or due to future amendments, collectively referred to as nonconforming situations. Such nonconforming situations are hereby declared to be incompatible with authorized and permitted uses in the zoning districts involved. It is the intent of the board of commissioners to require the cessation of certain nonconforming situations and to permit others to continue until they are otherwise removed or cease. It is further the intent of the board of commissioners that nonconforming situations not be used as grounds for adding other buildings, structures, or uses of land prohibited by this chapter, and that no such non-conforming building, structure, or use of land be enlarged, expanded, moved, or otherwise altered in a manner that increases the degree of nonconformity, except where expressly authorized in this zoning ordinance. (Ord. No. 15-06, 8-25-2015)

**Sec. 8.1.2. Applicability.**

A. *Applicability.* Nonconforming regulations apply only to those nonconforming situations that were legally authorized when established or that were subsequently approved through procedures in effect at the time the approval was obtained. Additionally, except as provided in section 8.1.5.B., nonconforming situations must have been maintained continuously and without interruption since the initial existence or subsequent approval of the nonconforming situation. Nonconforming situations which were not authorized when established or have not been continuously maintained over time in accordance with this subsection have no legal right to continue and must terminate as set forth herein.

B. *Documentation.* An owner or applicant may request from the director of planning a determination of nonconforming status. The owner or applicant must provide documentation sufficient to show that the situation was authorized when established and was continuously maintained over time. Upon receipt of the owner or applicant's evidence, the director of planning will determine if the evidence is satisfactory and, if so, shall issue a written determination that the lot, building, structure and/or use is a legal nonconforming situation. The burden of establishing the nonconforming status of a particular lot, building, structure or use is on the applicant or owner of the property or use.

C. *Evidence that a nonconforming situation was authorized when established.* Standard evidence that the proposed nonconforming situation was authorized, or legal, when established includes, but is not limited to:

1. Building or land disturbance permits;
2. Business licenses;
3. Adopted zoning ordinances or maps in force at the time of permitting;
4. Conditions of zoning;
5. Other appropriate evidence as determined by the director of planning or designee.

## **APPENDIX A**

### **DEPARTMENTS OF COUNTY GOVERNMENT**

#### **Article I. Executive Departments**

- Sec. 1. Airport.
- Sec. 2. Community development.
- Sec. 3. County attorney.
- Sec. 4. Data center.
- Sec. 5. Finance.
- Sec. 6. Merit system and personnel administration.
- Sec. 7. Physical plant management.
- Sec. 8. Planning.
- Sec. 9. Purchasing and contracting.
- Sec. 10. Public safety.
- Sec. 11. Public works.
- Sec. 12. Court of competent jurisdiction.
- Sec. 13. Parks and recreation.
- Secs. 14—100. Reserved.

#### **Article II. Other Departments and Agencies**

- Sec. 101. Board of health.
- Sec. 102. Cooperative extension service.
- Sec. 103. Family and children services.
- Sec. 104. Library.
- Sec. 105. Private industry council.



which centrally receives and processes all citizen requests for police, fire, and emergency medical services.

(g) *Animal control.* The department enforces the animal control ordinance, operates the animal shelter, administers the rabies vaccination and tag system, investigates animal bites, and operates the animal adoption program.

**Cross reference**—Animals, Ch. 5.

### **Sec. 11. Public works.**

(a) *Generally.* The public works department is responsible for the county's roads and drainage system, water and sewer system, sanitation services, the regulation of land development in the county, and fleet maintenance.

(b) *Roads and drainage.* The department is responsible for land acquisition, planning and design, and construction and maintenance of all public road and drainage facilities in the county. It is also responsible for design and implementation of the traffic-control system and street lighting.

**Cross reference**—Streets and sidewalks, Ch. 23.

(c) *Water and sewer.* The department is responsible for land acquisition, planning and design, construction and maintenance and operation of the county's water and sewer system.

**Cross reference**—Water, sewers and sewage disposal, Ch. 25.

(d) *Sanitation.* The department is responsible for the collection, transportation, and disposal of all solid waste generated within the unincorporated areas of the county and within the county sanitary district. The department is also responsible for the maintenance of the county's sanitation equipment and facilities.

**Cross reference**—Solid waste, Ch. 22.

(e) *Land development.* The department is responsible for administration and enforcement of the county's ordinances regarding land development, building construction, and property maintenance, and is also responsible for enforcement of the zoning ordinance. The department grants permits as set forth in the Code.

**Cross references**—Buildings and building regulations, Ch. 7; land development, Ch. 14; signs, Ch. 21; zoning, Ch. 27.

(f) *Fleet maintenance.* The department is responsible for the maintenance, repair, and service of county vehicles and equipment and for developing technical specifications, requisitioning vehicles and equipment, handling vehicle replacement, and overall management of the county fleet.

### **Sec. 12. Court of competent jurisdiction.**

The court of competent jurisdiction is created by state law and is the court of original jurisdiction in cases involving county ordinances and regulations. As such, the court disposes of all cases of county traffic, zoning and building ordinance violations in the unincorporated portions of the county. The court of competent jurisdiction processes, assesses fines, holds trials and hearings, collects fines, issues bench warrants, or otherwise disposes of the cases and maintains court records for the county, MARTA, and Emory police department's traffic, parking and ordinance citations, Georgia state patrol traffic citations, and ordinance violation citations issued by various county departments.

(Memo of 9-23-20)

**Editor's note**—The title of § 12 was changed from "Recorder's court" to read as herein set out at the request of the county.

### **Sec. 13. Parks and recreation.**

(a) *Generally.* The parks and recreation department is responsible for providing a variety of recreational and cultural activities for county residents and for the maintenance of the county's parks and recreational facilities.

(b) *Recreation.* The department provides general recreational programs at the county's recreation centers, playgrounds, and swimming pools and provides special activities for the elderly and the developmentally disabled. It coordinates activities with other agencies, volunteers, and community groups.

(c) *Parks.* The department manages and maintains the parks system, the golf courses, other departmental facilities, and all public grounds excluding rights-of-ways. It also plans, develops, and coordinates park acquisitions and capital improvement projects.

(d) *Cultural affairs.* The department operates cultural programs at three (3) county-owned arts centers and plans and holds special events. (Res. No. 94-27, 11-8-94)

**Cross reference**—Parks and recreation, Ch. 19.

## **Secs. 14—100. Reserved.**

## **ARTICLE II. OTHER DEPARTMENTS AND AGENCIES\***

### **Sec. 101. Board of health.**

(a) *Generally.* The board of health is an independent agency responsible for public health services in both incorporated and unincorporated areas of the county. The board is responsible for administering direct care services, with special attention to preventative services; providing health education, and assuring compliance with health laws and regulations.

(b) *Physical health.* Services are provided at nine (9) health centers, and include child health, maternal health, and family planning; teen health; communicable disease control including sexually transmitted diseases and immunizations; screening and management of chronic diseases; vision, hearing, and scoliosis screening; nutrition program for pregnant and postpartum women, infants, and children (WIC); premarital blood tests; birth and death certificates; and human immunodeficiency virus antibody testing and counseling.

(c) *Mental health, mental retardation and substance abuse.* Programs include child and adolescent mental health, adult mental health, mental retardation and substance abuse services throughout the county. Services include crisis intervention, outpatient, day treatment, and therapeutic residential services. Services are

**\*Editor's note**—This article contains a description of some of the activities of county government not covered in article I of this appendix. It has been prepared by the county government and is included in this Code in appendix form for informational purposes. No changes have been made by the editor except for formatting and minor changes of a nonsubstantive editorial nature.

provided in four (4) mental health centers, two (2) mental retardation centers, and [three] (3) substance abuse services locations.

(d) *Environmental health.* Health education, plan review, on-site evaluation, and complaint investigation services are provided to ensure compliance with state department of human resources and county board of health regulations. Programs include injury control, food protection, vector control and residential complaints, on-site sewer disposal, swimming pools, personal care homes, technical services, solid wastes, water sampling, and facility accessibility for the handicapped.

**Cross reference**—Health regulations, Ch. 13.

### **Sec. 102. Cooperative extension service.**

The DeKalb County Cooperative Extension Service is a joint educational effort of the U.S. Government, the University of Georgia and DeKalb County. It provides a wide variety of programs and services to county residents in the areas of youth development, home economics, horticulture and landscaping, and resource development.

### **Sec. 103. Family and children services.**

(a) The department of family and children services (DFACS) is a state agency which provides financial assistance through medicaid, aid to families with dependent children, general assistance, the refugee program, the food stamp program, and seasonal energy assistance.

(b) Social and rehabilitative programs include PEACH (positive employment and community help), adoption services, protective services, foster care, special services to aid families with dependent children, and supplemental security income recipients, diagnostic and treatment program, adult protective services, information and referral, volunteer services and recruitment, maintenance and supervision of foster homes, group homes, emergency receiving homes, and family day care homes for children.



**Sec. 104. Library.**

(a) The library is responsible for the operation of the entire county library system, and is under the authority of the DeKalb County Library Board of Trustees. The library provides free access to its services, resources, and programs designed to meet the informational, educational, cultural and leisure needs of DeKalb County residents.

(b) Library programs and services are available at area, community, satellite libraries, and book boutiques. Outreach programs include books for homebound readers and nursing and retirement homes, a telephone book review service, hospital kits, paperback books for county jurors, literacy programs for prisoners and a student homework library.

**Sec. 105. Private industry council.**

The private industry council is responsible for the planning, implementation, and administration of employment training programs funded by the Georgia Department of Labor through the Job Training Partnership Act.



increase in his or her monthly pension benefit amount, applicable to months commencing after the joint annuitant's death, equal to two (2) percent of the monthly pension benefit amount payable to that 2019 eligible retiree for the first month commencing after the joint annuitant's death in accordance with subsection 908(b)(6)(C) of this plan; however, in calculating this increase applicable to months commencing after the joint annuitant's death, the increase payable to this 2019 eligible retiree pursuant to this subsection for months commencing prior to the joint annuitant's death shall be disregarded. A 2019 eligible beneficiary or joint annuitant who began receiving monthly pension benefits as a joint annuitant between January 1, 2019 and July 1, 2019 shall receive a monthly pension benefit calculated in accordance with subsection 908(b)(5)(B) OPTION 2 of this plan and the participant's election thereunder; however, in making that calculation, the "participant's monthly retirement benefit\*" referenced in subsection 908(b)(5)(B) OPTION 2 shall be deemed equal to one hundred two (102) percent of the monthly pension benefit otherwise payable to the participant for the month of January 2019. Such increased monthly pension benefit amounts payable pursuant to this subsection shall commence with the first monthly retirement benefit payable after July 1, 2019, and the two-percent increase amounts applicable to prior months in 2019 shall be accumulated and paid with such first increased monthly benefit amount payment.

(4) 2020 benefit adjustment.

A. *Definitions.* For purposes of this subsection, a "2020 Eligible Retiree"

is a participant in this plan who retired and began receiving monthly pension benefits under section 908 or section 913 of this plan on or before January 1, 2020 and who remains in retired status receiving such monthly pension benefits as of December 1, 2020. For purposes of this subsection, a "2020 Eligible Beneficiary or Joint Annuitant" is an individual who began receiving monthly pension benefits as a beneficiary or joint annuitant of a deceased participant under this plan on or before January 1, 2020 and who is still receiving such monthly pension benefits as of December 1, 2020; or an individual who began receiving monthly pension benefits as a joint annuitant of a deceased participant under this plan between January 1, 2020 and December 1, 2020, and who is still receiving such monthly pension benefits as of December 1, 2020, provided that such deceased participant began receiving monthly pension benefits under this plan on or before January 1, 2020.

B. *Calculation of 2020 benefit adjustment.* Each "2020 Eligible Retiree" and each "2020 Eligible Beneficiary or Joint Annuitant" as defined above shall receive an increase in his or her monthly pension benefit amount, applicable to monthly pension benefit amounts payable to that 2020 Eligible Retiree or that 2020 Eligible Beneficiary or Joint Annuitant on and after January 1, 2020, equal to 2% of the monthly pension benefit amount otherwise payable to such 2020 Eligible Retiree or such 2020 Eligible Beneficiary or Joint Annuitant for the month of December 2020. Such increased monthly pension benefit amounts payable pursuant to this subsection shall commence with the first monthly pension benefit payable after the

effective date of this amendment, and the 2% increase amounts applicable to months prior to the effective date of this amendment shall be accumulated and paid at the time of the first monthly pension benefit payable after the effective date of this amendment.

(b) *Retirement incentives.*

(1) *1996 retirement incentive.* A participant who has attained age fifty (50) and less than age fifty-five (55), and who has completed at least twenty-five (25) years of service, and who retires with an early retirement date between September 1, 1996 and November 1, 1996 (inclusive) shall receive an immediate monthly retirement benefit which shall be an amount computed and payable in accordance with subsection 3.B. of this section 8, with no deduction for each complete month by which the date the benefit commences precedes the normal retirement date of the participant.

(2) *2010 retirement incentives.*

A. *2010 early-out incentive.* A participant shall receive the retirement opportunity and incentive referred to herein as the "2010 early-out incentive" only if the participant: is a current DeKalb County officer, employee, or deputy as of May 30, 2010; completes at least twenty-five (25) years of credited service as of May 31, 2010; is less than fifty (50) years of age on May 31, 2010; submits to the director of finance a fully completed and executed 2010 retirement incentive application and waiver/release between March 2 and April 16, 2010; allows that waiver/release to become effective and enforceable; and elects to retire with a retirement date of May 31, 2010. A participant who satisfies all these criteria and requirements for the 2010 early-out incentive shall receive an immediate monthly retirement

benefit in an amount that is computed and payable in the same manner as a normal retirement benefit in accordance with subsection (b)1.B. of this section 8 [908], with no deduction for each complete month by which the date the benefit commences precedes the participant's normal retirement date. A participant who satisfies all criteria and requirements for the 2010 early-out incentive shall also receive, after his retirement date, a lump sum retirement benefit from the pension fund in an amount equal to the net value of the participant's unused accumulated annual leave (up to sixty (60) days) at his regular rate of pay. Because a participant who satisfies all criteria and requirements for the 2010 early-out incentive shall receive, from the pension fund, the retirement benefit described in the previous sentence, such a participant shall not be eligible to receive payment from any other source for any amount of unused accumulated annual leave. Some participants who are eligible to receive the 2010 early-out incentive may be deemed "key employees" because their retirement on May 31, 2010, would cause a substantial business hardship for the county. The chief executive officer or another elected county officer may defer the retirement date of a key employee under his supervision for up to three (3) months after May 31, 2010, if that key employee agrees in writing, before May 31, 2010, to accept the deferred retirement date. A key employee who agrees to accept a deferred retirement date shall not be paid any retirement benefit under this paragraph until after his deferred retirement date.

B. *2010 retirement-plus incentive.* A participant shall receive the retirement opportunity and incentive pack-

age referred to herein as the "2010 retirement-plus incentive" only if the participant: is a current DeKalb County officer, employee, or deputy as of May 30, 2010; completes at least eight (8) years of credited service as of May 31, 2010; reaches the age of fifty (50) years on or before May 31, 2010; submits to the director of finance a fully completed and executed 2010 retirement incentive application and waiver/release between March 2 and April 16, 2010; allows that waiver/release to become effective and enforceable; and elects to retire with a retirement date of May 31, 2010. A participant who satisfies all these criteria and requirements for the 2010 retirement-plus incentive shall receive an immediate monthly retirement benefit in an amount that is computed and payable in the same manner as a normal retirement benefit in accordance with subsection (b)1.B. of this section 8 [908], with no deduction for each complete month by which the date the benefit commences precedes the participant's normal retirement date, and with two (2) years of service added to the participant's credited years of service for the purpose of calculating the participant's benefit under subsection (b)1.B. of this section 8 [908], except that the two (2) added years of service shall not increase the participant's credited years of service to a total higher than thirty (30) years. A participant who satisfies all criteria and requirements for the 2010 retirement-plus incentive may, in his timely-submitted 2010 retirement incentive application, elect to receive zero (0) percent, ten (10) percent, or twenty-five (25) percent of the actuarial present value of the total retirement benefit described above in this paragraph as a lump sum payment

in 2010; however, if such a participant receives ten (10) percent or twenty-five (25) percent of the actuarial present value of that retirement benefit as a lump sum payment in 2010, then the participant's monthly retirement benefit amount shall be reduced based on the ten (10) percent or twenty-five (25) percent reduction in the actuarial present value of the amount remaining to be paid out to the participant. A participant who satisfies all criteria and requirements for the 2010 retirement-plus incentive shall also receive, after his retirement date, a lump sum retirement benefit from the pension fund in an amount equal to the net value of the participant's unused accumulated annual leave (up to sixty (60) days) at his regular rate of pay, plus one of the following two (2) amounts, whichever is larger: the net value of twenty-five (25) days of annual leave at the participant's regular rate of pay, or fifty (50) percent of the net value of the participant's unused accumulated annual leave (up to sixty (60) days) at his regular rate of pay. Because a participant who satisfies all criteria and requirements for the 2010 retirement-plus incentive shall receive, from the pension fund, the retirement benefit described in the previous sentence, such a participant shall not be eligible to receive payment from any other source for any amount of unused accumulated annual leave. Some participants who are eligible to receive the 2010 retirement-plus incentive may be deemed "key employees" because their retirement on May 31, 2010, would cause a substantial business hardship for the county. The chief executive officer or another elected county officer may defer the retirement date of a key employee under his supervision

for up to three (3) months after May 31, 2010, if that key employee agrees in writing, before May 31, 2010, to accept the deferred retirement date. A key employee who agrees to accept a deferred retirement date shall not be paid any retirement benefit under this paragraph until after his deferred retirement date.

- C. *Funding.* DeKalb County will fund the actuarially amortized amount of the total lump sum retirement benefits that are based on annual leave calculations, including the interest thereon, and that are paid to participants in the pension fund who retire pursuant to the 2010 retirement incentives described in paragraphs A. and B. of this subsection.

(Ord. No. 15-07, Pt. I, 10-27-15; H.R. Ord. of 6-25-19, Pt. I; Ord. of 1-26-21, Pt. I)

**Editor's note**—The ordinances shown in the left-hand column below may be found in the acts as shown in the right-hand column below:

<i>Ord. No.</i>	<i>Acts</i>
15-07	2016, p. 4399

**Sec. 909. Pension fund—Created.**

There is hereby created a pension fund to be administered by the Pension Board of DeKalb County and from which this board shall pay the benefits as set out hereinbefore to the participants therein, said fund to consist of the transfer to it of the funds accumulated under the former pension plans of DeKalb County and contributions by participants and DeKalb County as set out hereinafter and its accumulations by investment and reinvestment under the direction and control of the pension board as set out hereinafter. (Acts 1962, p. 3088, § 9)

**Sec. 910. Same—Contributions by participants.**

(a) *Participant contribution rates.* Except as otherwise provided herein, or as otherwise amended, it shall be the duty of the Director of Finance of DeKalb County to make payroll deduc-

tions from the compensation paid to each participant of an amount equal to two and one-half (2½) percent of the compensation of the participant. Effective January 1, 2007, it shall be the duty of the Director of Finance of DeKalb County to make payroll deductions from the compensation paid to each participant of an amount equal to three and one-half (3½) percent of the compensation of the participant. Effective January 1, 2008, it shall be the duty of the Director of Finance of DeKalb County to make payroll deductions from the compensation paid to each participant of an amount equal to four (4.0) percent of the compensation of the participant. Effective January 1, 2009, it shall be the duty of the Director of Finance of DeKalb County to make payroll deductions from the compensation paid to each participant of an amount equal to four and one-half (4½) percent of the compensation of the participant. Effective January 1, 2011, it shall be the duty of the

CODE COMPARATIVE TABLE

Ordinance Number	Date	Section	Section this Code
			27-4, § 4.2.28
			27-4, § 4.2.40
			27-7, § 7.4.6
			27-9, § 9.1.3
17-02	9-26-17	Pt. I	Added 27-41, §§ 3.41.1—3.41.16
17-03	10-24-17	Pt. I	App. B, § 908(a)(8)
17-04	11-14-17	Pt. I	Added 18-131—18-142, 18-154—18-157
17-05	11-14-17	Pt. I	Rpld 25-176—25-193 Added 25-176, 25-177, 25-185—25-197
17-06	12-12-17	Pt. I	4-126 4-128(a) 4-147 4-149(a) 4-162 4-164(a)
17-07	12-12-17	Pt. I	27-5, § 5.4.7 27-9, § 9.1.3
18-01	2-27-18	Pt. I	Added 2-44
18-02	2-27-18	Pt. I	27-3, § 3.5.15.A.3., B.17.
18-03	7-24-18	Pt. I	2-207(f) 2-209(a)
18-04	9-25-18	Pt. I	27-3, § 3.36.4 27-3, § 3.36.5(tit.) 27-3, § 3.36.5.A.1—4. Added 27-3, § 3.36.5.A.10. Rpld 27-3, § 3.36.5.B., C., E., F., I. Added 27-3, § 3.36.5.G. 27-3, § 3.36.6.A.1. 27-3, § 3.36.6.C.1. Rpld 27-3, § 3.36.6.D—H. Rnbd 27-3, § 3.36.6.I., J. as 27-3, § 3.36.6.D., E. 27-3, § 3.36.7.A.1. 27-3, § 3.36.7.C.1. Rpld 27-3, § 3.36.7.D—H. Rnbd 27-3, § 3.36.7.I—K. as 27-3, § 3.36.7.D—F. 27-3, § 3.36.8.A. 27-3, § 3.36.8.C.1. Rpld 27-3, § 3.36.8.D—H. Rnbd 27-3, § 3.36.8.I—L. as 27-3, § 3.36.8.D—G. Rpld 27-3, § 3.36.10 Added 27-3, § 3.36.10 Rpld 27-3, § 3.36.11.A. Added 27-3, § 3.36.11.A., B. Rnbd 27-3, § 3.36.11.B—F. as 27-3, § 3.36.11.C—G. 27-3, § 3.36.11.E. Rpld 27-3, § 3.36.12 Added 27-3, § 3.36.12 27-3, § 3.36.17.A.

CODE OF DEKALB COUNTY

<b>Ordinance Number</b>	<b>Date</b>	<b>Section</b>	<b>Section this Code</b>
			27-3, § 3.36.21.D.1.
18-05	10-23-18	Pt. I	Rpld 15-26—15-48
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