

AN ORDINANCE

**AN ORDINANCE TO AMEND
THE CODE OF DEKALB COUNTY, AS REVISED 1988, CHAPTER 25, ARTICLE IV,
SEWER CONSTRUCTION AND ASSESSMENTS RELATED TO THE SPECIAL
SEPTIC TANK TO SEWER CONVERSION TAX DISTRICT FOR EXISTING
DEVELOPMENTS, AND FOR OTHER PURPOSES.**

WHEREAS, the Governing Authority of DeKalb County is tasked with the protection and preservation of the health, safety and welfare of the citizens of the county; and

WHEREAS, Chapter 25 of the Code of DeKalb County currently regulates water, sewers, and sewage disposal; and

WHEREAS, Chapter 25, Article IV, Division 2 of the Code of DeKalb County specifically regulates sewer construction and assessments; and

WHEREAS, certain areas within the county are served by septic tanks, many of which are old and may potentially fail; and

WHEREAS, DeKalb County finds that the long term welfare of the residents of DeKalb County is served by greater accessibility to public sewer; and

WHEREAS, the cost of connecting to public sewer may be prohibitively expensive to individual property owners when connection requires the laying of a sanitary sewer line; and

WHEREAS, water quality of DeKalb County's streams and lakes can be improved by connecting existing homes and businesses on septic tanks to public sewer, and

WHEREAS, the Governing Authority wants to improve water quality and community welfare by facilitating the conversion of areas to public sewer; and

WHEREAS, the Governing Authority desires to explicitly provide for cost-sharing of the installation of sanitary sewer lines when installed pursuant to an approved petition; and

NOW, THEREFORE, BE IT ORDAINED by the Governing Authority of DeKalb County, Georgia, and it is hereby ordained by the authority of same, that Chapter 25, Article IV of the Code of DeKalb County, Georgia, as Revised 1988, is hereby amended as follows:

PART I. ENACTMENT

By amending Chapter 25, Article IV by renaming Division 2, adding sections to be reserved within Division 2, adding a new Division 2.5, which incorporates sections formerly contained in Division 2 and provides for new sections as follows:

Division 2. – SEWER CONSTRUCTION AND ASSESSMENTS FOR NEW DEVELOPMENTS

Sec. 25-176. - Compliance with agreements.

The operation of the sanitary sewer system shall remain in compliance with all sanitary sewer usage agreements between the county and other county and municipal governments and agencies.

Sec. 25-177. - Sanitary sewer main extensions.

- (a) The county sanitary sewer main extension policy shall apply to the extension or replacement of existing sanitary sewer mains on existing county roads or other dedicated rights-of-way to serve new developments. A developer may request the application of this policy if a project site is not adjacent to an existing main or the existing main is inadequate to serve the proposed development.
- (b) The developer may apply for preapproval of the sewer main extension application with the understanding that such reimbursement shall be made only after the developer has complied with all the requirements of this section. Conversely, the developer may apply for reimbursement after complying with all the requirements of this section and such reimbursement shall be made on approved applications if funds are available for that purpose. Approval of all application requests shall be within the sole discretion of the governing authority.
- (c) Sanitary sewer mains approved and installed under this section shall be subject to the following conditions:
 - (1) All materials shall meet the specifications of the water and sewer division of public works.
 - (2) A sanitary sewer main design shall be prepared by and furnished to the county by a registered professional engineer licensed by the state.
 - (3) The developer shall contract for the installation of the sewer lines and shall furnish the county a copy of the contract. When the work has been completed according to the county specifications and duly inspected by the county, the developer shall provide "as-built" drawings and any required easements of the sewer main installation to the county. As-built drawings shall be completed under the direction of an engineer/land surveyor licensed in the State of Georgia and sealed.
 - (4) After the work has been completed and inspected to the satisfaction of the county, the developer shall provide a maintenance bond equal to ten (10) percent of the costs of the construction of such facilities. The developer may provide a letter of escrow or letter of credit acceptable to the county in lieu of the maintenance bond required in this section.

- (5) After receiving the maintenance bond, letter of escrow or letter of credit, the county shall reimburse the developer a sum equivalent to fifty (50) percent of the cost of the sewer main materials required to supply the proposed development. An eight-inch main will be considered as the minimum size main required to supply a development of any size. In the event the county's plans for future sewer service call for a sewer main to be installed larger than the size of the main required to supply the development, then the county may:
 - a. If the size of sewer main planned by the county is fifteen-inch or smaller, pay the difference in cost of the materials to install the size main required by the county plans.
 - b. If the size of sewer main planned by the county is greater than fifteen-inch, pay the difference in both the cost of labor and materials to install the size main required by county plans.
 - (6) The developer shall be required to maintain the sanitary sewer lines for a period of twelve (12) months. During this developer maintenance period, the county shall make inspections and instruct the developer by letter as to what corrections must be made, if any.
 - (7) At the end of the twelve-month developer maintenance period, the county shall make a final inspection and notify the developer and the bonding company, if any, of any corrections to be made. If the work is acceptable at this time, the maintenance bond, letter of escrow or letter of credit shall be released.
 - (8) If required corrections are not made within thirty (30) days of notice, the county shall have the authority to make these corrections at the expense of the bonding company. In cases where funds are being held under letter of credit or letter of escrow, the cost of making these corrections shall be drawn by the county from these funds, and the developer charged with any costs above the amount of such funds.
 - (9) The county shall have the full authority to inspect and test all sanitary sewer mains installed under this section.
 - (10) No use shall be made of such systems nor shall the county accept such systems until the developer has complied with all the requirements of this section and until satisfactory tests and inspections have been completed by the county.
 - (11) In calculating county participation for material costs, the maximum material costs considered will be the county's contract price for like material.
- (d) Private sanitary sewer extensions will not be accepted for maintenance by the county unless materials used for installation are inspected and approved by the county prior to construction and are found to meet county specifications and unless the installation was inspected by the county during construction.

Secs. 25-178. – 25-184. Reserved.

Division 2.5. – SPECIAL SEPTIC TANK TO SEWER CONVERSION TAX DISTRICT - SEWER CONSTRUCTION AND ASSESSMENTS EXTENSIONS FOR EXISTING DEVELOPMENTS

Sec. 25-185. - Purpose, Intent and Legislative Findings.

- (a) The governing authority of DeKalb County is tasked with the protection and preservation of the health, safety and welfare of the citizens of the county.
- (b) Certain areas within the county are served by septic tanks, many of which are old and may potentially fail.
- (c) If a septic tank is deficient and in need of repair, seepage and overflows of sewage can occur.
- (d) The governing authority finds that failing septic tanks may create potentially significant public health and safety hazards for all residents of the county and that the long term welfare of all the residents of DeKalb County is served by greater accessibility to public sewer. The governing authority further finds that the water quality of DeKalb County's waterways can be improved by connecting existing homes and businesses on septic tanks to public sewer. The governing authority finds that costs associated with connecting to the public sewer can be burdensome and, thus, it is in the best interests of all residents of the county to assist in the connection of existing homes and businesses on septic tanks to the county's public sewer system.
- (e) The governing authority intends for Division 2.5 to encourage extension of public sewer up to and into developed areas.
- (f) To achieve this public purpose, the governing authority wants to make available a cost-sharing process to connect existing homes and businesses on septic tanks to the county's public sewer system when a sanitary sewer must be laid.
- (g) Article IX, section II, paragraph VI of the Georgia Constitution gives the governing authority the power to create special districts for the provision of local government services within such districts, and to levy and collect taxes within such districts to pay for the cost of providing such services.
- (h) Nothing in this Division shall be construed to require the governing authority to approve any petition submitted and it shall be in the sole legislative judgment of the governing authority to approve any submitted petition.

Sec. 25-186. – Compliance with agreements.

The operation of the sanitary sewer system shall remain in compliance with all sanitary sewer usage agreements between the county and other county and municipal governments and agencies.

Sec. 25-187. - Submission of pre-petition request; submission of petition; creation of a special tax district.

- (a) Prior to initiating a petition for sewer facilities, a request for a preliminary survey and feasibility study to determine if sewer can be provided to an area must be made to the department. This request must be made in writing by five (5) or more property owners within the same drainage basin and within a quarter-mile diameter. If the department determines that

sewer can be provided to the area, the department shall define the designated area for purposes of a petition.

- (b) Whenever the owners, as listed on the latest ad valorem tax digest, of fifty-one (51) percent or more of the property within any designated area, as defined by the department, petition the county for sewer facilities, and this action requires the laying of a sanitary sewer, the petition shall be filed with the department. Each property shall be identified by address and tax map parcel identification number, as used by the tax assessor and the tax commissioner. The petition shall be examined to see if the signatures are valid and if it sufficiently describes the services required. ~~Then the county shall initiate a feasibility study that includes, but is not limited to, a preliminary engineering survey to make sure that the proper designated area is described.~~ No more than 10% of the length of the new sewer should front undeveloped land, meaning property on which structures have not been built. Cost for construction and engineering services are also estimated at this time. Before final approval of any plans, the county must also ensure that sufficient stub-out connections are designated to adequately serve the territory affected. The petition is then advertised and a public hearing is held before the governing authority board of commissioners. If the governing authority approves the petition, construction will be programmed and the designated area shall become a special tax district.

Sec. 25-188. - Public hearing; public notices.

- (a) When a petition for the construction of a sanitary sewer line has been filed, then a public hearing must be held before the governing authority board of commissioners. The department shall notify the governing authority of the impending petition. The department shall then give notice to all persons concerned by publication of a notice on the county's website and in the newspaper where sheriff's notices are published for a period of at least twenty (20) days prior to the hearing. The notice shall state the date and location of the proposed public hearing and shall give a general description of the proposed sanitary sewer construction and include that if the petition is approved, the designated area shall become a special tax district.
- (b) All owners of property abutting the proposed sanitary sewer line who shall be assessed for the costs of the proposed sanitary sewer shall be notified in writing by the county at least twenty (20) days prior to the hearing. The notice shall include a provision which notifies the owners that if the petition is approved, the designated area shall become a special tax district. The county shall comply with the intent of this section by addressing all notices to the owners listed on the latest ad valorem tax digest of the county at the addresses indicated.

Sec. 25-189. - Notification to abutting property owners of public hearing.

In addition to the published notice of a public hearing on a petition for sanitary sewer construction, all owners of property abutting the proposed sanitary sewer line who shall be assessed for the costs of the proposed sanitary sewer shall be notified in writing by the department at least twenty (20) days prior to the hearing. The county shall comply with the intent of this section by addressing all notices to the owners listed on the latest ad valorem tax digest of the county at the addresses indicated. The records of the county showing evidence of the mailing of the notices shall be prima facie evidence of receipt, and failure of the owner of any property concerned to receive a notice shall in no way affect the validity of the proceedings or the assessment. The purpose of this written notice is to furnish the owner with an additional statement of the public hearing.

Sec. 25-190. - Conduct of hearing.

At the hearing provided for in this division, any person who will be assessed costs for the proposed sanitary sewer may appear before the governing authority either in person or through an agent or attorney. The decision of the governing authority with respect to the approval or rejection of the proposed sanitary sewer shall be final and conclusive. Any decision by the governing authority in favor of the construction shall indicate a public need for the sanitary sewer, and this shall make all matters pertaining to the construction of the sanitary sewer and the assessment of costs against the abutting property owners legal and binding.

Sec. 25-191. - Procedure after plans and specifications received.

When the county has approved the sanitary sewer, it shall procure the necessary right-of-way for construction of the sanitary sewer line whether by agreement or by condemnation.

Sec. 25-192. - Performance of construction.

All sanitary sewers shall be constructed by the county or by such contractors retained by the county. All sanitary sewer construction performed by a private contractor shall be guaranteed against defects in contractor-supplied material and workmanship for a minimum period of one (1) year from the final inspection date. Construction shall be under the supervision of the county.

Sec. 25-193. – Budget, Assessments and Criteria, generally.

- (a) Before construction of a sanitary sewer line begins, the department shall make up an assessment roll properly describing the sanitary sewer line and containing the names of all owners of abutting property. Each owner's property abutting the sanitary sewer shall be correctly described as it pertains to the construction. The cost of the sanitary sewer, including costs of easement acquisition, design, permitting by agencies other than DeKalb County, construction and related activities, shall then be shared by the county, if budgeted funds are available, and the various property owners. The property owners in the designated area shall collectively pay one-third (1/3) of the costs associated with the sanitary sewer line, but in no event shall the portion of costs assigned to each lot, whether improved or unimproved, or each condominium unit, as that term is defined by state law, exceed a seven thousand five hundred dollars (\$7,500.00) cap. The county shall pay two-thirds (2/3) of the costs associated with the sanitary sewer line, or a greater amount if necessary to enforce the seven thousand five hundred dollars (\$7,500.00) cap.
- (b) Each property owner in the designated area shall be responsible for and pay his/her pro rata share of the costs, which shall be divided equally among all property owners of abutting property within such designated area on the basis of the number of lots, whether improved or unimproved, or on the basis of condominium units, as that term is defined by state law. The costs shall be amortized over a period of ten (10) years.
- (c) An annual budget shall be established for the county's expenditures related to sanitary sewer petitions. If the budget becomes exhausted before the end of the fiscal year, then no further petitions will be presented until the following year, unless the governing authority authorizes an increase in the budget.

- (d) In the event that petitions are presented which compete for the available remaining budget, the department will make recommendations based upon criteria including, but not limited to, the following: cost effectiveness (\$/lot), public health and water quality problems, in collaboration with the DeKalb County Department of Health.

Sec. 25-194. - Outfall sewers.

- (a) In this section, "outfall sewer" means a section of sanitary sewer line, either in a public street or across private property, which normally does not provide direct service to the abutting property. Usually the outfall sewer is a section of a trunk sewer providing service to several street sanitary sewers serving properties and its cost is not included in the assessment rate. However, when an outfall does provide direct service to the abutting property, the cost of constructing the outfall shall be assessed against the abutting property owners.
- (b) Property owners desiring connection to outfall sewers may do so with concurrence of the director and shall pay an assessment based on the current year linear foot rate prior to their obtaining a sewer connection permit.
- (c) Exceptions to the provisions of this section may be granted by the department upon application.

Sec. 25-195. - Payment of assessments for cost of sanitary sewer in special tax district.

Each year, the finance director shall be responsible for calculating each property owner's annual pro rata share of the costs, in accordance with the provisions of this Division. The tax commissioner shall be responsible for collecting from the property owners payment of their pro rata share of one-third (1/3) of the costs associated with the sanitary sewer. The finance director and tax commissioner shall be notified by the executive assistant at such time as the construction is complete. Beginning January 1 of the year following the completion of construction and for each year thereafter, the tax statement issued to each such property owner shall include a separate line item tax showing each property owner's annual pro rata share of the costs until paid.

The annual pro rata share of the one-third (1/3) share of the costs, as limited by the seven thousand five hundred dollar (\$7,500.00) cap, shall become due and payable at the same time that county taxes are due and payable. If such cost remains unpaid, the tax commissioner shall have the authority to issue a writ of fieri facias or execution against the property served, which writ shall have the same lien dignity and priority as writs of fieri facias or executions issued for county taxes. Each assessment shall become a lien against the property served on January 1 of each year in the same manner that a lien attaches for county taxes, and such lien shall cover the property of the owner until such assessment is paid. Any unpaid amount shall accrue penalty, interest and charges in the same manner and at the same rate as other delinquent county taxes.

Sec. 25-196. – Dissolution of special tax district for sanitary sewer.

On December 31 of the tenth year following completion of construction of the sanitary sewer, the special tax district shall stand dissolved by operation of law. Dissolution of a special tax district in no way affects or invalidates enforcement and collection of any outstanding lien(s) for costs owed pursuant to this division.

Sec. 25-197. Service connections.

- (a) After sanitary sewer lines have been constructed and tied into the county sewerage system, each abutting property owner who will be assessed a portion of the costs of construction through assessment may desire a service connection. Property owners are encouraged to connect to the public sewer once it becomes available; however, immediate connection is not mandated unless required by another provision of this Code, or unless public health, water quality or nuisance conditions as determined by either the Department or the DeKalb County Department of Health warrant immediate connection. To make such a connection, the property owner shall hire, at the owner's expense, a plumber or contractor to lay pipe from the building drain to the stub-out provided. Before this service line can be connected to the sanitary sewer, the owner shall secure a permit from the county by paying a plumbing fee and a sewer tap fee. If the service line then passes the inspection criteria of the county, the owner may have it connected into the sewerage system.
- (b) The costs associated with service connections are not included as costs for the construction of a sewer line and shall not be shared by the county as part of the seven thousand five hundred dollars (\$7,500.00) cap. However, nothing in this section shall prevent abutting property owners from seeking admission to any sewer or lateral grant program that is now in existence or that shall hereafter be established by the department or the governing authority.
- (c) When a property owner desires connection to the sewerage system after construction of the sanitary sewer line, and no owner, or previous owner, of the property has paid his or her share of the costs of constructing the sanitary sewer line, or is making payments, the owner must pay a share of costs proportionate to the share paid by other owners in the designated area prior to obtaining a sewer connection permit, but in no event shall the portion of costs assigned to the owner exceed seven thousand five hundred dollars (\$7,500.00) per lot.

Secs. 25-197—25-210. - Reserved.

PART II. EFFECTIVE DATE

This ordinance shall become effective upon adoption by the ~~governing authority~~board of commissioners and approval by the Chief Executive Officer and shall apply to all sewer petitions that have already been filed with the county on the date of adoption. The pre-petition request included in Section 25-187(a) shall not apply to sewer petitions that have already been filed with the county on the date of adoption. A feasibility study shall be conducted as part of the petition process outlined in Section 25-187(b) for sewer petitions already filed on the date of adoption.

PART III. SEVERABILITY

Should any court of this state declare any section, part, paragraph or clause of this Article unconstitutional or invalid for any cause or reason, then such decision shall affect only that section, part, paragraph or clause so declared to be unconstitutional or invalid, and shall not affect any other section, part, paragraph or clause of this Article.

ADOPTED by the DeKalb County Board of Commissioners this _____ day of

11.13.17

_____, 2017.

DEKALB COUNTY BOARD OF COMMISSIONERS:

KATHIE GANNON
Presiding Officer
Board of Commissioners
DeKalb County, Georgia

APPROVED by the Chief Executive Officer of DeKalb County this ____ day of _____, 2017.

MICHAEL L. THURMOND
Chief Executive Officer
DeKalb County, Georgia

Attest:

APPROVED AS TO FORM:

BARBARA SANDERS-NORWOOD, CCC
Clerk to the Board of Commissioners and
Chief Executive Officer
DeKalb County, Georgia

O.V. Brantley
County Attorney