



Fulton County Board of Commissioners
Agenda Item Summary

18-0971

BOC Meeting Date
 12/19/2018

Requesting Agency
 County Attorney

Commission Districts Affected
 All Districts

Requested Action *(Identify appropriate Action or Motion, purpose, cost, timeframe, etc.)*

Request Approval of an Ordinance to Repeal Certain Provisions of Title 34 Health and Sanitation of the Fulton County Code of Ordinances and to Adopt the Corresponding Fulton County Board of Health Rules and Regulations by Reference as May Hereafter Be Amended; To Repeal Title 34, Article XIV Tuberculosis; to Repeal Title 34, Article XV Venereal Diseases; To Clarify the Definition of Apartment Complex Swimming Pools; and for Other Purposes.

Requirement for Board Action *(Cite specific Board policy, statute or code requirement)*

Article 9, § 2, Par. 1(a) of the Georgia Constitution states in part that, “[t]he governing authority of each county shall have legislative power to adopt clearly reasonable ordinances, resolutions, or regulations relating to its property, affairs, and local government for which no provision has been made by general law and which is not inconsistent with this Constitution or any local law applicable thereto.”

Is this Item related to a Strategic Priority Area? *(If yes, note strategic priority area below)*

Yes All People Trust Government

Is this a purchasing item?

No

Summary & Background

(First sentence includes Agency recommendation. Provide an executive summary of the action that gives an overview of the relevant details for the item.)

Following the transition of the Fulton County Board of Health from a department of the county to a separate legal entity, it is necessary to ensure a clear understanding of the legal authorities that have been provided to both the County and the BOH co-extensively, those that are reserved to the BOH, and those that are reserved to the county. In general, the BOH is delegated authority to regulate matters of public health in the county, and the county is authorized to use its police powers in certain areas of health in order to provide for more stringent or additional regulation as the governing body determines. Therefore, this action recommends the repeal of those ordinances that the BOH has the authority to promulgate as rules and regulations, and the simultaneous incorporation by reference of those BOH Rules into the Fulton County Code. The reason for incorporating these into the FCC is to provide the authority for the BOH and the county to enforce Rules violations as misdemeanor ordinance violations. Certain actions that the BOC has taken, which the BOH is not authorized to do without county action will be retain in the FC Code explicitly, for example, the regulation of minimum lot size for onsite sewage management systems and the regulation of apartment complex swimming pools.

Note that this item requests the county to more particularly define “apartment complex pools” in order to allow the BOH to inspect and approve healthful conditions of swimming pools not only in

Agency Director Approval		County Manager's Approval
Typed Name and Title	Phone	
Signature	Date	

Revised 03/12/09 (Previous versions are obsolete)

residential housing areas called “apartments”, but also those called “condominiums” or “lofts”, or the like. The former department of Health and Wellness was previously inspecting these same pools, so this clarification of language is not expected to lead to a change in operations.

Scope of Work: (Provide a brief project scope of work of the services/work to be provided)

Community Impact: (Provide the overall impact on community health, whether the impact would be Countywide or to a specific District, if applicable)

The alignment of the Fulton County Code with the Fulton County Board of Health Rules and Regulations will ensure consistency in the requirements expressed to and imposed upon citizens, clients, and contractors, and will establish the mechanism to ensure that the county and the Board of Health have co-extensive authority to prosecute violations of the BOH Rules and Regulations as misdemeanor ordinance violations.

Department Recommendation: (Provide the user department recommendation)

The County Attorney's Office recommends adoption of the Ordinance.

Project Implications: (What are the future implications of the item in terms of potential changes in budget, service provision, or County policy/operations?)

The incorporation by reference of certain BOH Rules and Regulations will ensure immediate harmony between the codes in the event of future updates and revisions to the health laws

Community Issues/Concerns: (Identify any issues/concerns raised by constituents or clients concerning the agenda item and if those issues have been addressed?)

None

Department Issues/Concerns: (Identify any additional department recommendations or concerns including funding, staffing, external/internal partnerships and operational inefficiencies)

None

History of BOC Agenda Item: (Has this item previously been before the BOC? Yes or No. If yes, for non-purchasing item(s), describe what action(s) were taken.)

(For purchasing items, provide the project history chart or if a new procurement, insert “New Procurement”.)

The first phase of the Ordinance Realignment Project came before the BOC on May 16, 2018, as an Ordinance To Standardize The Name Of The Fulton County Board Of Health Throughout The Fulton County Code Of Ordinances And Resolutions; To Update The Ordinances To Remove References To Repealed State Laws; To Repeal The Provision Of The Code Providing For Appeal From A Final Decision Of The Fulton County Board Of Health To Be Had Through The Fulton County Government; And For Other Purposes, 18-0340, and a Resolution to modify the Local Laws to update the name of the Board of Health and clarify its attendant authorities, Res. 18-0339

Contract & Compliance Information

(Provide Contractor and Subcontractor details.)

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Typed Name and Title	Phone	
Signature	Date	

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Solicitation Information	NON-MFBE	MBE	FBE	TOTAL
No. Bid Notices Sent:				
No. Bids Received:				
Total Contract Value	.			
Total M/FBE Values	.			
Total Prime Value	.			
Fiscal Impact / Funding Source	<i>(Include projected cost, approved budget amount and account number, source of funds, and any future funding requirements.)</i>			
.				
Exhibits Attached	<i>(Provide copies of originals, number exhibits consecutively, and label all exhibits in the upper right corner.)</i>			
Source of Additional Information	<i>(Type Name, Title, Agency and Phone)</i>			

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Typed Name and Title	Phone	
Signature	Date	

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Procurement

Contract Attached: .	Previous Contracts: .		
Solicitation Number: .	Submitting Agency: .	Staff Contact: .	Contact Phone: .

Description:.

FINANCIAL SUMMARY

Total Contract Value:	MBE/FBE Participation:
Original Approved Amount: .	Amount: . %: .
Previous Adjustments: .	Amount: . %: .
This Request: .	Amount: . %: .
TOTAL: .	Amount: . %: .

Grant Information Summary:

Amount Requested: .	<input type="checkbox"/>	Cash
Match Required: .	<input type="checkbox"/>	In-Kind
Start Date: .	<input type="checkbox"/>	Approval to Award
End Date: .	<input type="checkbox"/>	Apply & Accept
Match Account \$: .		

Funding Line 1: .	Funding Line 2: .	Funding Line 3: .	Funding Line 4: .
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KEY CONTRACT TERMS

Start Date: .	End Date: .
Cost Adjustment: .	Renewal/Extension Terms: .

ROUTING & APPROVALS
(Do not edit below this line)

X	Originating Department:	Ferrari, Jerolyn	Date: 12/10/2018
X	County Attorney:	Ferrari, Jerolyn	Date: 12/10/2018
.	Purchasing/Contract Compliance:	.	Date: .
.	Finance/Budget Analyst/Grants Admin:	.	Date: .
.	Grants Management:	.	Date: .
X	County Manager:	Anderson, Dick	Date: 12/11/2018

1 **ORDINANCE TO REPEAL CERTAIN PROVISIONS OF TITLE 34**
2 **HEALTH AND SANITATION OF THE FULTON COUNTY CODE OF**
3 **ORDINANCES AND TO ADOPT THE CORRESPONDING FULTON**
4 **COUNTY BOARD OF HEALTH RULES AND REGULATIONS BY**
5 **REFERENCE AS MAY HEREAFTER BE AMENDED; TO REPEAL TITLE**
6 **34, ARTICLE XIV TUBERCULOSIS; TO REPEAL TITLE 34, ARTICLE**
7 **XV VENEREAL DISEASES; TO CLARIFY THE DEFINITIONS OF**
8 **APARTMENT COMPLEX SWIMMING POOLS; AND FOR OTHER**
9 **PURPOSES**

10
11 **WHEREAS**, the Fulton County Board of Health is provided “supervision
12 over all matters relating to health and sanitation” for Fulton County; and

13 **WHEREAS**, in 1985, the Georgia Legislature provided that counties with
14 populations of more than 800,000 could incorporate the otherwise independently
15 created boards of health into their county governments as departments; and,

16 **WHEREAS**, Fulton County chose to make its board of health into the
17 Department of Health and Wellness; and,

18 **WHEREAS**, Georgia law provides the “authority to establish rules and
19 regulations which apply to all citizens and premises of the county or to specified
20 areas and citizens therein without regard to the remainder of the county” is
21 vested in the boards of health pursuant to O.C.G.A. § 31-3-6; and,

22 **WHEREAS**, pursuant to such law, public health rules and regulations
23 were adopted and effectuated through the Fulton County Board of
24 Commissioners’ enactment of Ordinances during the time period when the
25 county board of health was a Department; and,

26 **WHEREAS**, in 2016, the Georgia Legislature repealed the prior law
27 allowing a board of health to be administered as a department of the county
28 rather than an independent county board of health; and

1 **WHEREAS**, the Fulton County Board of Health was officially established
2 on July 1, 2017, as an independent agency, assuming the responsibilities of the
3 former Fulton County Department of Health and Wellness; and

4 **WHEREAS**, the Fulton County Board of Health has now adopted Rules
5 and Regulations substantially similar to the Fulton County Ordinances related to
6 Health and Sanitation; and

7 **WHEREAS**, Fulton County retains the authority to regulate matters of
8 public health as long as there is no conflict with the Georgia Department of Public
9 Health and the Fulton County Board of Health Rules and Regulations; and

10 **WHEREAS**, Fulton County has the exclusive authority to require health
11 inspections of swimming pools in apartment complexes, pursuant to O.C.G.A. §
12 31-45-13; and

13 **WHEREAS**, Fulton County has the exclusive authority to require minimum
14 lot sizes larger than those imposed by the Fulton County Board of Health for on-
15 site sewage managements systems, pursuant to O.C.G.A. § 31-2A-11; and

16 **WHEREAS**, Fulton County Local Acts Art. II, Sec. 22-36 through Sec. 22-
17 39 provide that any violation of a Fulton County Board of Health Rule or
18 Regulation shall be a misdemeanor; and

19 **WHEREAS**, the Fulton County Board of Health has the authority through
20 O.C.G.A. § 31-14-1, et seq. to petition a court to commit persons with contagious
21 tuberculosis to involuntary confinement and treatment if necessary to protect the
22 public health; and

23 **WHEREAS**, the Fulton County Board of Health has the authority through
24 O.C.G.A. § 31-17-1, et seq. to report the incidence of venereal disease and to

1 initiate law enforcement or other action to compel the treatment or restraint of
2 individuals with certain venereal diseases if, in the determination of the Fulton
3 County Board of Health or the Georgia Department of Public Health, such action
4 is necessary to protect public health; and

5 **WHEREAS**, Fulton County contracts with health care providers to ensure
6 the health of its incarcerated populations; and

7 **WHEREAS**, the Fulton County Board of Commissioners finds that the
8 repeal of Fulton County Code Chapter 34, Article XIV, Tuberculosis, is necessary
9 because the authority to isolate contagious and noncompliant individuals for the
10 protection of the public health rests with the Board of Health and the State and
11 not with Fulton County, and further imposition of criminal penalties for such
12 noncompliance by the County would be superfluous; and,

13 **WHEREAS**, the Fulton County Board of Commissioners finds that the
14 repeal of Fulton County Code Chapter XV, Venereal Diseases, is necessary to
15 reflect the Fulton County Sheriff's jurisdiction over healthcare in the incarcerated
16 populations and to provide the Fulton County Board of Health the flexibility to act
17 as it may deem necessary to protect the public health in relation to certain
18 venereal diseases;

19 **NOW, THEREFORE, BE IT ORDAINED**, that the Board of
20 Commissioners of Fulton County hereby amends the following Chapters, Articles,
21 and Sections, of the Fulton County Code as described in detail in Attachment A
22 attached to this Ordinance:

23
24
25

ARTICLE II BOARD OF HEALTH - Section 34-33

- 1 **ARTICLE III SMOKEFREE AIR - Section 34-67**
- 2 **ARTICLE IV DRINKING WATER SUPPLY - Section 34-111 through 34-**
- 3 **123**
- 4
- 5 **ARTICLE VII NUISANCES – Section 34-362**
- 6
- 7 **ARTICLE IX RAT CONTROL – Section 34-426 through 34-438**
- 8
- 9 **ARTICLE X SOLID WASTE – Section 34-466 through 34-477**
- 10
- 11 **ARTICLE XI SEWAGE DISPOSAL - Section 34-506 through 34-527**
- 12
- 13 **ARTICLE XII SWIMMING POOLS AND NATURAL BATHING PLACES**
- 14 **– Section 34-566 through 610**
- 15
- 16 **ARTICLE XIII TOURIST COURTS – Section 34-626 through 629.1, 34-**
- 17 **631**
- 18
- 19 **ARTICLE XIV TUBERCULOSIS – Section 34-661 through 695**
- 20
- 21 **ARTICLE XV VENEREAL DISEASES – Sections 34-696 through 725**
- 22
- 23 **ARTICLE XVIII BODY ART - Section 34-821 through Section 848**
- 24

25 **BE IT FURTHER ORDAINED**, that this Ordinance shall become effective
26 on January 1, 2019, and that all resolutions, ordinances, and Code sections in
27 conflict with this Ordinance and Code amendment are hereby repealed to the
28 extent of the conflict.

29 **BE IT FURTHER ORDAINED**, that if any section, subsection, sentence,
30 clause, phrase, or portion of this Ordinance and Code amendment is for any
31 reason held invalid or unconstitutional by any court of competent jurisdiction,
32 such portion shall be deemed a separate, distinct and independent provision, and
33 such holding shall not affect the validity of the remaining portions hereof.

34 **SO ORDAINED AND ADOPTED**, this _____ day of _____
35 2018.

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**FULTON COUNTY
BOARD OF COMMISSIONERS**

Robert L. Pitts, Chairman

ATTEST:

Jesse Harris, Clerk to the Commission

APPROVED AS TO FORM

Jerolyn Webb Ferrari, Interim County Attorney

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ARTICLE I. - IN GENERAL

Sec. 34-1. - Definitions.

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

Board of Health means the Fulton County Board of Health.

Director means the Executive Director of the Fulton County Board of Health.

District Health Director means the District Health Director for the Georgia Department of Public Health, District 3.2.

Environmental health specialist means any authorized representative of the Environmental Health Division of the Fulton County Board of Health.

Person means person, individual, permit holder, owner, partnership, firm, corporation, municipality, society, or association, and may extend and apply to bodies including governmental agencies.

(Code 1983, § 30-1-1)

Cross reference— Definitions generally, § 1-2.

Sec. 34-2. - Inspections and investigations.

- (a) The Board of Health shall make or authorize any inspections and investigations it deems necessary to enforce the regulations of the Board of Health to protect the public health.
- (b) The Board of Health may take and examine reasonable samples of any substance suspected of creating a nuisance or menace to the public health or of failing to comply with the regulations.
- (c) Whenever the Board of Health shall find any substance, food or food product which is diseased, decayed, damaged, adulterated, or unwholesome; which contains deleterious substances, or has been subject to contamination, or is otherwise unfit for human consumption or use, the Board of Health may condemn and order it removed from sale, use or public access.
- (d) A record of the condemnation and/or order shall be filed in the office of the Board of Health.
- (e) The Board of Health may require any substance or food of such character that its use may be dangerous to the public health to be kept from use until its wholesomeness can be determined. If it is found to be unwholesome it may order the owner to destroy and dispose of it.

(Code 1983, § 30-1-2)

Sec. 34-3. - Permits and approvals.

All applications for permits or written approval required by any regulation of the Board of Health shall be made on forms prescribed and furnished by the Board of Health and shall be signed by the applicant, who shall be the person responsible for conformance to the conditions of the permit or approval applied for. Applications shall contain any information and be accompanied by any plans as the Board of Health shall deem necessary. A permit issued to a particular person or for a designated place or purpose shall not be valid for use by any other person or for any other place or purpose than that designated therein. Such permits or written approvals may contain general and specific conditions, and every person who shall have obtained a permit or written approval containing these conditions shall conform to the conditions prescribed in the permit or written approval and to the provisions of all applicable regulations.

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Every permit shall expire as stated on the permit and may be renewed, suspended for cause or revoked by the health department after due notice and hearing.

(Code 1983, § 30-1-3)

Sec. 34-4. - Business licenses and building permits.

- (a) Whenever any regulation of the board of health requires approval by the Board of Health of plans for any building or structure, no municipality or agency of Fulton County shall issue or renew a building permit for the building or structure without first having obtained a written statement from the Board of Health that the plans therefor comply with all the applicable regulations of the Board of Health.
- (b) Whenever any regulation of the Board of Health requires sanitary inspection and approval of any establishment by the Board of Health, no municipality or agency of Fulton County shall issue or renew any business license for the establishment without first having obtained a written statement from the Board of Health that the establishment complies with all applicable regulations of the Board of Health.
- (c) Nothing in this section shall be construed to restrict or abrogate the authority of any municipality or agency of Fulton County to adopt and enforce additional regulations or ordinances or to enforce existing regulations or ordinances relative to the regulation, control, issuance, renewal or revocation of any business license or building permit, except as herein provided.
- (d) It shall be the duty of the Board of Health to keep the appropriate municipal and county officials informed as to the provisions of this subsection and the regulations of the Board of Health to which it applies.

(Code 1983, § 30-1-4)

Sec. 34-5. - Regulations of other agencies and municipalities.

Wherever there is in effect any rule or provision of any regulation or ordinance of any governmental agency or municipality which is more strict than the corresponding provision of a regulation of the Board of Health, the Board of Health shall hold in abeyance the enforcement of the provision of the Board of Health regulation and cooperate with the agency or municipality in enforcing the stricter rule or provision of its regulations or ordinances. Provided, that if after a reasonable time the agency or municipality shall have failed to enforce its rule or the provision of its regulations or ordinances, the Board of Health shall proceed with the enforcement of the corresponding provision of the Board of Health regulation.

(Code 1983, § 30-1-5)

Sec. 34-6. - Penalty for violation of chapter.

Any person who violates any provision of this chapter shall be guilty of a misdemeanor. Each and every violation of the provisions of this chapter shall constitute a separate offense.

(Code 1983, § 30-1-6)

Secs. 34-6—34-30. - Reserved.

ARTICLE II. - BOARD OF HEALTH^[2]

Sec. 34-31

[repealed]

Sec. 34-32. - Established; composition; membership; terms; vacancies.

The composition of the Directors of the Board of Health shall be determined and maintained in accordance with the procedures set forth at O.C.G.A. §31-3-2.

Sec. 34-33. - Duties.

- (a) *Supervision/authority.* The Board of Health shall have supervision over all matters relating to health and sanitation within the county, with the authority provided by state law, including but not limited to the authority to adopt and enforce regulations, declare and enforce quarantine therein, subject to the provisions of law.
- (b) *Geographic limits of power.* All the power, authority, duties, and responsibilities of the Board of Health shall be exercised and discharged throughout the entire area of the county, both inside and outside of the corporate limits of municipalities located in whole or in part therein.
- (c) *County attorney assistance.* The county attorney or law department shall furnish whatever professional legal assistance may be needed by the Board of Health or other authority for the enforcement of these powers of the Board of Health by any of the means authorized by law.
- (d) *Authority to adopt rules.* The governing authority of the county shall be authorized to adopt a system of rules, regulations, articles and orders that may be based on recommendations by the county Board of Health. Such rules, regulations, articles and orders, when adopted, shall be recorded on the minutes of the governing authority of the county, and a certified copy thereof shall be furnished to the Board of Health.
- (e) *Certificate of attestation.* The certificate of attestation of the chairman or any other member of the Board of Health shall give sufficient validity or authenticity to any copy or transcript of any record, document, paper, or file or other matter or thing in the office of the chairman or other member of pertaining thereto to admit the same in evidence.
- (f) *Board of health authority/misdemeanor.* The violation of any rule, regulation, article or order of the Board of Health is declared to be a nuisance, per se, and shall be subject to be abated as a nuisance, or enjoined as such by the Board of Health or the county. The violation of any such rules, regulations, articles or orders is declared to be an ordinance violation rising to the level of a misdemeanor, and any person, upon conviction thereof in any court of competent jurisdiction, shall be punished as for a misdemeanor.
- (g) Prosecution of violations of Board of Health rules, regulations, articles, or orders.

The state court solicitor, assistant solicitors of the county, the County Attorney and the staff attorneys in the Office of the County Attorney are designed with concurrent jurisdiction to prosecute county ordinance violations that arise from the violation of any rule, regulation, article, or order of the Board of Health; provided however, that upon the election of the Board of Health, such violations may also be tried upon citations with or without a prosecuting attorney as provided by state law.

(Res. No. 05-0616, 5-18-05)

State Law reference O.C.G.A. §31-3-4, 31-3-5, 31-3-6, and 31-3-10; punishment for misdemeanors, O.C.G.A. § 17-10-3; violations tried upon citations, O.C.G.A. § 15-10-63(a).

Secs. 34-34—34-65. - Reserved.

1 ARTICLE III. - SMOKEFREE AIR³

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3 Footnotes:

4 --- (3) ---

5 **Editor's note**— Ord. No. 09-0120, adopted Jan. 7, 2009, repealed art. III and adopted provisions of the
6 Georgia Smokefree Air Act of 2005 as set out herein. The former art. III, §§ 34-66—34-77, pertained to
7 clean indoor air and derived from 93-RC-184, §§ 30-2-14.01—30-2-14.11, adopted April 21, 1993; and a
8 resolution adopted Sept. 20, 1989.

9 Sec. 34-66. - Code adopted.

10 The Georgia Smokefree Act of 2005 and implementing regulations of the Georgia Department of Public
11 Health are adopted by reference as though fully set forth herein.

12 (Ord. No. 09-0120, 1-7-09)

Sec 34-67 – Board of Health Rules and Regulations adopted and incorporated.

The county hereby adopts and fully incorporates by reference herein any Rules and Regulations that may be promulgated by the Board of Health pursuant to the Georgia Smokefree Act of 2005, as the same may be amended from time to time.

13 Secs. 34-68—34-110. - Reserved.

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Secs. 34-67—34-110. - Reserved.

ARTICLE IV. - DRINKING WATER SUPPLY^[4]

Sec 34-111 – 121.
Repealed.

Sec 34-122. Board of Health Rules and Regulations adopted and incorporated.

The county hereby adopts and fully incorporates by reference herein the Rules and Regulations of the Fulton County Board of Health for Drinking Water Supply, as the same may be amended from time to time.

Sec 34-123 Minimum Area Requirements.

Notwithstanding any Rules and Regulations of the Fulton County Board of Health that may impose a less restrictive requirement for the approval of onsite sewage management systems, no onsite sewage management system shall be approved in the county unless it complies with the following minimum area requirements.

- (a) *Individual residential lot.* If an onsite sewage management system is proposed, the minimum lot size required for approval of a private water supply serving a single residence shall be 43,560 square feet (one acre). If the residence is proposed to be connected to a public or community sewerage system, then no minimum lot size applies provided the criteria of BOH Rules and Regulations for Drinking Water Supply Table C, "Well Separation Distance Requirements" is met.
- (b) *Minor plat.* If an onsite sewage management system(s) is proposed on a lot(s) under the exemption plat process, the minimum lot size required for approval of a private water supply(ies) shall be 43,560 square feet (one acre). If the development is to be connected to a public or community sewerage system, then no minimum lot size applies the criteria of BOH Rules and Regulations for Drinking Water Supply Table C, "Well Separation Distance Requirements" is met.
- (c) *Residential development/Subdivision.* If an onsite sewage management system(s) is proposed on a lot(s) in a residential development, the minimum lot size required for approval of a private water supply(ies) shall be 43,560 square feet (one acre). If the development is to be connected to a public or community sewerage system, then no minimum lot size applies provided the criteria of BOH Rules and Regulations for Drinking Water Supply Table C, "Well Separation Distance Requirements" is met.
- (d) *Commercial development.* No minimum lot size or area restriction applies to a commercial development provided the criteria of BOH Rules and Regulations for Drinking Water Supply Table C, "Well Separation Distance Requirements" is met.

ARTICLE V. - STATE FOOD SERVICE CODE

Sec. 34-151. - State regulations adopted.

Chapter 511-6-1 et seq. of the Rules and Regulations of the State of Georgia governing food service (Ga. Comp. R. & Regs. 511-6-1), as it may be amended from time to time, is hereby adopted as the regulations governing food service for the Fulton County Board of Health and the same are made a part of this article and fully incorporated herein by reference. Ga. Comp. R. & Regs. 511-6-1 et seq. is adopted, in its entirety, as the regulations governing food service for Fulton County, regardless of whether a specific provision is re-enumerated in this article. See, Georgia Administrative Code; Department of Human Resources, Public, Chapter 511-6-1 et seq.

(Ord. No. 17-0358, 4-19-17)

Secs. 34-152—34-195. - Reserved.

ARTICLE VI. - RABIES AND ANIMAL CONTROL^[6]

Footnotes:

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State Law reference— Authority to exercise animal control, Ga. Const. art. IX, § II, ¶ III(a)(3); control of rabies, O.C.G.A. § 31-19-1 et seq.; Georgia Animal Protection Act, O.C.G.A. § 4-11-1 et seq.; dangerous Dog Control Law, O.C.G.A. § 4-8-20 et seq.

DIVISION 1. - GENERALLY

Sec. 34-196. - 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:

Abandonment means the intentional or complete forsaking of any animal by its owner, without making reasonable arrangements for the adequate care and custody of the animal to be assumed by another person or the failure to return and resume responsibility of an animal at the designated time as arranged with the custodian. Abandonment also means releasing or leaving an animal on any property, public or private, with the intention of deserting the animal. An animal shall also be considered abandoned when it has been unattended and without adequate food, water, ventilation or shelter, for a period in excess of 36 hours, regardless of where such animal may be found or kept.

Adequate food means sufficient quantity of noncontaminated and nutritionally healthy sustenance that is appropriate to the species, breed, size, age, and health of the animal, or at the direction of a licensed veterinarian, which is sufficient to prevent starvation, malnutrition, or risk to the animal's health. Garbage, spoiled, rancid, or contaminated food is not adequate food.

Adequate shelter means a protective covering for an animal that is of adequate size and provides adequate protection to maintain the animal in a state of good health, and that prevents pain, suffering, or significant risk to the animal's health. Adequate shelter shall consist of a completely enclosed structure with four sides with a door opening, a constructed floor, and a roof. It should also be clean, dry, and compatible with current weather conditions, in addition to age, size, species, and condition of the animal. The structure should be of sufficient size to allow the animal to stand, turn around, lie down, and go in and out of the structure comfortably. To be adequate, some type of bedding that is quick drying, such as hay or pine straw, must be provided to maintain comfortable temperatures within the structure during times when the ambient, outside temperature is below freezing. In addition, the structure shall include a heavy plastic or rubber flap to cover the door and/or window openings during the months of November through March. From April through October, the structure shall either be shaded or moved out of direct sunlight. If the shelter is made of wood, it shall be raised at least two inches off the ground to prevent seepage or rotting. Examples of inadequate shelter include, but are not limited to, lean-tos, metal or plastic drums, boxes, abandoned vehicles, porches, decks, or material that does not provide sufficient protection from the elements.

Adequate water means clear, potable water in adequate supply. Examples of inadequate water include, but are not limited to: snow, ice, and contaminated water.

Animal control officer means "dog control officer" and shall refer to an individual employed by the county or its designee to perform and execute the provisions of this article, and whose office shall have the power to issue citations in violation of this article, and as deputized by the Fulton County Sheriff.

Animal control shelter means the facilities operated by the county or its designee for the confining of dogs, cats, or other animals impounded under the provisions of this article.

Cat means cat, or any domesticated feline, of either sex, whether vaccinated against rabies or not.

Classified animal means any animal that has been classified as either a dangerous or vicious dog or animal pursuant to this article or comparably classified by the State of Georgia, or by any court, hearing officer, or authorized government agency of any other state, county or municipality.

Classified animal pen means a padlocked pen, as that term is defined in this article, made entirely of industrial gauge fencing with a door or gate equipped with a working lock. The classified animal pen must contain adequate shelter, as that term is defined in this chapter, but must also contain a minimum 100-square foot area outside the adequate shelter.

Commercial guard/security dog means any dog that is purchased, leased, or rented and that is trained to guard, protect, patrol, or defend any commercial property, public or private, upon and within which it is located. A dog shall not be considered a guard or security dog if it has been classified as a dangerous or vicious dog.

Cruelty means causing death or unjustifiable pain or suffering to any animal by an act, omission, or neglect. Cruelty also includes transporting an unrestrained animal in an open-air vehicle or in the trunk of any vehicle, or leaving an animal unattended in a closed vehicle without proper ventilation or temperature control where the animal may suffer from physical harm from dangerous temperatures. Cruelty also means allowing or causing any animal to train for or engage in an animal fight operated for sport, entertainment or gaming purposes. Routine medical procedures by a licensed veterinarian shall not be regarded as cruelty.

Current vaccination/license tag means a vaccination/license tag bearing a number which shows the license is valid for a one- or three-year period. The licensing period runs concurrently with the vaccination period.

Custodian means any person which has been entrusted with the responsibility and care of a dog, cat, or other animal by its owner.

Dangerous dog means any dog that:

- (1) Causes a substantial puncture of a person's skin by teeth without causing serious injury; provided, however, that a nip, scratch, or abrasion caused by a dog shall not be sufficient to classify a dog as dangerous under this subparagraph;
- (2) Aggressively attacks in a manner that causes a person to reasonably believe that the dog posed an imminent threat of serious injury to such person or another person although no such injury occurs; provided, however, that the acts of barking, growling, or showing of teeth by a dog shall not be sufficient to classify a dog as dangerous under this subparagraph; or
- (3) While off the owner's property, kills or seriously injures a pet animal.
- (4) No dog shall be classified as a dangerous dog or vicious dog for actions that occur while the dog is being used by a law enforcement or military officer to carry out the law enforcement or military officer's official duties. No dog shall be classified as a dangerous dog or a vicious dog if the person injured by such dog was a person who, at the time, was tormenting or abusing the dog or who in the past has been observed or reported to have tormented or abused the dog, was committing a willful trespass, or was committing or attempting to commit a crime.

Dog means dog, or any domesticated canine, of either sex, whether vaccinated against rabies or not.

Domestic animal/fowl means any animal/fowl domesticated by humans so as to live and breed in a tame condition for the advantage of humans. Pen raised skunks are categorized as those skunks acceptable by the State of Georgia and may be kept in Georgia as pets.

Exotic animal means any animal of any kind which is not indigenous to the State of Georgia, but not included in the definition of a domestic animal, but shall include any hybrid animal which is part exotic animal.

Harbinger means any person which has provided sustenance and/or shelter to a dog, cat, or other animal for a period of more than seven days.

Livestock means all animals of the equine, bovine, or swine class, including goats, sheep, mules, horses, hogs, cattle, and other grazing animals.

Necessary sustenance means the provision of adequate food, water and shelter.

Neglect means endangering an animal's health by failing to provide or arrange to provide the animal with adequate food and water if the animal is dependent upon a person for the provision of food or drink, or the act of restraining an animal in a manner that endangers the animal's life or health. Other acts considered to be neglect include, but are not limited to:

- (1) Failing to provide reasonable care or seek veterinary care for an injury or illness that seriously endangers the life or health of an animal; or
- (2) Leaving an animal outside and exposed to excessive heat or cold without providing the animal with adequate shelter or protection from the heat or cold, or exposing an animal to unsanitary conditions.

Nuisance means whatever is dangerous or detrimental to human life or health and whatever renders or tends to render the soil, air, water, or food impure or unwholesome, or unreasonably offends or impairs the senses of smell, sight, and hearing.

Owner means any natural person or any legal entity, including, but not limited to, a corporation, partnership, firm, or trust owning, possessing, harboring, keeping, or having custody or control of an animal. In the case of an animal owned by a minor, the term "owner" includes the parents or person in loco parentis with custody of the minor.

Person means person, firm, corporation, municipality, society, or association.

Public nuisance animal means an animal that:

- (1) Is repeatedly found at large, except cats; or
- (2) Damages the property of anyone other than the owner; or
- (3) Because of temperament, conditioning, or training, has a propensity, tendency, or disposition to attack, bite, or injure humans or other animals without provocation; or
- (4) On one or more occasion, has caused physical injury to humans or other animals without provocation, whether on public or private property; or
- (5) Chases or acts so as to menace pedestrians or other persons using public ways.

Qualified adoption facilitator, rescue group and animal shelter means an organization offering animals for adoption so long as the organization is licensed as a shelter by the State of Georgia, or, if not incorporated in Georgia, is a non-profit organization under Section 501(c)(3) of the Internal Revenue Code; and has the express mission/business function of facilitating the sterilization and adoption of homeless and unwanted animals. A copy of the state license or the Internal Revenue Service letter of non-profit designation shall be provided to the county upon request.

Records means records of any state, county, or municipal law enforcement agency; records of any county board of health; records of any federal, state, or local court; or records of an animal control officer.

Serious injury means any physical injury that creates a substantial risk of death; results in death, broken or dislocated bones, lacerations requiring multiple sutures, significant puncture wounds, or disfiguring avulsions; requires plastic surgery or admissions to a hospital; or results in protracted impairment of health, including transmission of an infection or contagious disease, or impairment of the function of any bodily organ.

Tether means any chain, rope, leash, tie out, or wire designed to restrain an animal which is attached to an animal or to an animal's collar or halter and is also attached to a stationary object.

Unsanitary conditions means an animal living space, shelter, or exercise area contaminated by health hazards, irritants, pollutants, items, excessive animal excrement, or conditions that endanger or pose a risk to an animal's health.

Vaccinate means immunization against rabies if a vaccination certificate documents that the animal received a primary rabies vaccine, approved by the United States Department of Agriculture, from a licensed veterinarian at least 28 days previously and that booster vaccinations have been administered on an annual or triennial schedule, in accordance with the Georgia Rabies Manual or as described on the individual vaccine label.

Vaccination certificate means a certificate issued at the time of vaccination of the dog, cat, or other animal and bearing thereon the signature of the vaccinator; the name, color, breed, age, and sex of the dog, cat, or other animal; the name and address of the owner; the date of expiration of the vaccination; and the spay or neuter status, if known.

Vaccination/license tag means a metal tag bearing a number which is issued to the animal owner after showing proof of vaccination for the animal and paying, when required, the license fee. This tag is issued by Fulton County or its designee.

Veterinarian means any person who holds a license to practice the profession of veterinary medicine in the State of Georgia; the veterinary license number shall be the same as that recorded by the Georgia Board of Veterinary Examiners.

Vicious dog means any dog that:

- (1) Inflicts serious injury on a person or causes serious injury to a person resulting from reasonable attempts to escape from the dog's attack; or
- (2) Has been previously classified as a dangerous dog and has attacked or bitten a human or pet animal subsequent to the dangerous dog classification.

Wildlife/fowl means any animal/fowl of any kind which is indigenous to the State of Georgia, but not included in the definition of a domestic animal/fowl, and shall include any hybrid animal/fowl which is part wild animal/fowl.

(91-RC-441, § A, 8-21-91; 09-0243, 3-4-09; 16-0469, Exh. 1, 6-1-16; 16-0728, Exh. A, 9-7-16)

Cross reference— Definitions generally, § 1-2.

Sec. 34-197. - Penalties for violation of article.

- (a) Any person who does anything prohibited or fails to do anything required by this article, upon conviction of the violation in a court of competent jurisdiction, shall be subject to fine, imprisonment, or any combination thereof, in accordance with section 1-8 of this Code. Each act or omission in violation of this article shall constitute a separate offense. Where any offense or violation continues from day to day, each day's continuance thereof shall be deemed a separate offense.
- (b) For any violation of this article, the court may impose the following conditions in any combination thereof:
 - (1) Prohibit the offender from owning, possessing, or having on the offender's premises in Fulton County any animal during the term of the sentence;
 - (2) Require that the animal be removed from Fulton County;
 - (3) Require that the animal be surrendered to the animal control shelter;
 - (4) Require that the animal be humanely euthanized;
 - (5) Require payment of restitution to the victim(s);
 - (6) Require payment of costs for impound, housing, veterinary care, and humane euthanasia.
- (c) Any person who violates the provisions of this article as it pertains to a public nuisance animal shall be guilty of a misdemeanor and shall be fined not less than \$250.00 for a second conviction, and not less than \$500.00 for a third conviction.

- (d) Any person who violates the provisions of this article as it pertains to a dangerous dog shall be guilty of a misdemeanor and will be fined not less than \$500.00 for a second conviction, and not less than \$750.00 for a third conviction or subsequent conviction.
- (e) If the owner of a dangerous or vicious dog fails to comply with section 34-281 or section 34-284 of this article and his/her dog attacks or bites a human, or if the owner of a dangerous or vicious dog knowingly and willfully fails to comply with section 34-281 or section 34-284 of this article and his/her dog aggressively attacks and causes severe injury to or the death of a human, in addition to any penalties provided in this Code or state law, the animal control officer shall immediately confiscate the dog and place it in quarantine for a period of time as provided by the Board of Health and thereafter the dog may be humanely destroyed.

(91-RC-441, § V, 8-21-91; 16-0469, Exh. 1, 6-1-16; 16-0728, Exh. A, 9-7-16)

State Law reference— Punishment for misdemeanors generally, O.C.G.A. § 17-10-3; maximum punishments which may be imposed for violations of county ordinances, O.C.G.A. § 36-1-20(b).

Sec. 34-247. - Rabies cases to be reported.

It shall be the duty of any person knowing of a rabid animal, or of any animal showing symptoms of rabies, to immediately report such animal to the Board of Health or its designee and give as much pertinent information as possible. Any bite by an animal shall be reported to the Board of Health or its designee. The animal control office, in order to maintain an effective epidemiological surveillance and control program, shall maintain a record of its rabies related activities, including investigation and confirmation of rabies in animals in the manner and frequency stipulated by the Board of Health.

(91-RC-441, § F, 8-21-91)

Sec. 34-248. - Quarantine.

- (a) In the event a dog or cat has bitten a human, such animal shall be immediately confined at the animal control shelter, veterinary hospital, or other such premises deemed acceptable by the Board of Health or its designee for a period of ten days from the date of the bite to be observed for symptoms of rabies.
- (b) In the event a warmblooded animal other than a dog or cat has bitten a human or other warmblooded animal, or in the event a warmblooded animal has been bitten by another warmblooded animal, the recommendations contained in the rabies control manual compiled by the Georgia Department of Public Health shall be followed.
- (c) All expenses incurred for boarding an animal for the quarantine period as well as other applicable fees shall be paid by the owner or custodian of the biting animal.
- (d) It shall be unlawful for any person, custodian, or harbinger to fail to surrender a dog, cat, or other animal which has bitten a human, upon the sworn statement of the person bitten. Such animal will be placed under quarantine or submitted for laboratory examination at the discretion of the Board of Health or its designee. The provisions of this division shall apply, regardless of whether or not such animal has a current rabies vaccination and tag.
- (e) When rabies has been found to exist in any warmblooded animal, or where its existence is suspected, the Board of Health or its designee may designate a geographical area within which quarantine of all owned warmblooded animals shall be maintained. Such animals shall be immediately confined to the premises designated and in a manner approved by the Board of Health or its designee, whether or not such animals have been vaccinated against rabies.
- (f) No warmblooded animal shall be brought into or removed from a quarantined area or premises without written approval of the Board of Health or its designee.
- (g) Quarantine ordered by the Board of Health or its designee shall be maintained for such period as deemed necessary to protect the public health.
- (h) Quarantined areas or premises where rabid animals or animals suspected of having rabies remain at large, may be posted by the Board of Health or its designee with signs which read as follows: "Rabies suspected" or "rabies—keep away from animals." Such signs shall be conspicuously displayed in a place designated by the Board of Health or its designee and shall not be removed except by the Board of Health or its designee. Such signs shall not be defaced.
- (i) The owner, custodian, or harbinger of each animal subject to a quarantine invoked by the Board of Health or its designee under the terms of this article shall be notified of the quarantine, the particular animals subject thereto, and shall be given such other information as the Board of Health or its designee deems necessary.
- (j) Every animal showing clinical signs of rabies, as determined by the Board of Health or its designee, shall be immediately destroyed; and/or the heads of all animals suspected of having had rabies at the time of death shall be submitted to the epidemiology office, department of public health, for examination by the Georgia Public Health Laboratory.

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(91-RC-441, § G, 8-21-91; 16-0469, Exh. 1, 6-1-16; 16-0728, Exh. A, 9-7-16)

State Law reference— Animal bites, O.C.G.A. § 31-19-4.

Secs. 34-249—34-280. - Reserved.

Sec. 34-316. - Impoundment of dogs, domestic animals, livestock, owned wildlife, and exotic animals.

- (a) Any citizen may pick up and impound any animal running at large in Fulton County, provided said animal is promptly surrendered to the Fulton County Animal Control to allow the person having the right of possession an opportunity to reclaim their animal.
- (b) Dogs, domestic animals, livestock, owned wildlife, and exotic animals within any of the following classes may be captured and impounded from the areas noted in subsection 34-201(a) (with the exception of subsections (b)(1), (b)(3), (b)(4), (b)(5), and (b)(6) of this section which shall also apply to any area of Fulton County not under contract for animal control services).
 - (1) Dogs or cats without a current rabies vaccination.
 - (2) Dogs or cats without a current Fulton County license.
 - (3) Dogs not wearing a current vaccination/license tag. This shall include dogs wearing a tag that was not issued for said dog.
 - (4) Warmblooded animals which have bitten a human or another warmblooded animal and warmblooded animals which have been bitten by another warmblooded animal suspected of having rabies.
 - (5) Warmblooded animals suspected of having rabies.
 - (6) Unconfined warmblooded animals in quarantine areas.
 - (7) Animals whose safety, health, or life is in immediate danger.
 - (8) Animals whose ownership is unknown.
 - (9) Dogs, domestic animals, livestock, owned wildlife, or exotic animals roaming at large, with the exception of cats.
 - (10) Public nuisance animals or dangerous or vicious dogs not properly confined or restrained as defined in sections 34-281 and 34-284.
 - (11) Commercial guard/security dogs not properly confined or restrained as defined in section 34-206.
 - (12) Dogs in heat not properly confined as defined in section 34-207.
- (c) No animal shall be exempt from the provisions of this article by virtue of a vaccination, tag, or certificate.
- (d) Any animal control officer empowered to perform any duty under this article is hereby authorized to go upon any premises to seize for impounding a dog or other animal which the officer is in immediate pursuit of with the exception of any occupied building into which the dog or other animal may enter. In the latter case, if the occupant or owner of the premises gives permission to the animal control officer to enter the premises, the officer may remove said dog or other animal.
- (e) It shall be unlawful for any person to, in any manner, interfere with, hinder, resist, obstruct, or molest the animal control officer in the performance of his/her duties, or for any person to remove any animal from the animal control vehicle or animal control shelter without the permission of the animal control officer.
- (f) When the owner of the dog or other animal impounded under the provisions of this article, can be readily identified and located, the health department or its designee shall notify the owner of the impoundment. A reasonable attempt to contact the owner shall be satisfied by a telephone call to the owner's residence, when possible, or a postcard sent to the owner's residence through the U.S. Postal System.
- (g) A dangerous dog or vicious dog shall be immediately impounded by any animal control officer or by a law enforcement officer if:

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- (1) The owner of the dangerous dog or vicious dog does not secure the liability insurance or surety bond required by section 34-283;
- (2) The dangerous dog or vicious dog is not validly registered as required by section 34-283; or
- (3) The dangerous dog or vicious dog is not maintained in a proper enclosure as specified in section 34-284.

Any dangerous dog or vicious dog impounded under the provisions of this section may be returned to its owner upon the owner's compliance with the provisions of this section, and upon payment of reasonable impoundment costs. In the event the owner has not complied with the provisions of this section within 20 days of the date the dog was impounded, said dog may be destroyed in an expeditious and humane manner.

(91-RC-441, § O, 8-21-91; 16-0728, Exh. A, 9-7-16)

ARTICLE VII. - NUISANCES⁹¹

Footnotes:

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Editor's note— Res. No. 05-0616, adopted May 18, 2005, effective July, 1, 2005, amended art. VII in its entirety to read as herein set out. Formerly, said article pertained to similar subject matter. See the Code Comparative Table for a detailed analysis of amendment.

DIVISION 1. - GENERALLY

Sec. 34-361. - 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:

Board of Health means the Fulton County Board of Health or its authorized representative(s).

Nuisance means whatever is dangerous or detrimental to human life or health and whatever renders or tends to render soil, water or food impure or unwholesome.

Person means any individual, permit holder, owner, partnership, corporation, or association, and including governmental agencies.

(05-0616, 5-18-05; 09-0120, 1-7-09)

Cross reference— Definitions generally, § 1-2.

Sec. 34-362. - Specific nuisances.

The following are declared to be specific nuisances:

- (a) Conditions conducive to the breeding or harboring of flies, rats, or mosquitoes.
- (b) Any foul, decaying, or putrescent material kept, used, or disposed of in such a manner or place as to be or become offensive, objectionable or detrimental to health or well-being.

(05-0616, 5-18-05; 09-0120, 1-7-09)

Sec. 34-363. - Reserved.

Editor's note— Ord. No. 09-0120, adopted Jan. 7, 2009, repealed § 34-363 which pertained to general requirements and derived from Res. No. 05-0616, adopted May 18, 2005.

Sec. 34-364. - Nuisance prohibited.

No person shall create, maintain, support, aid or continue any condition declared to be a nuisance.

(05-0616, 5-18-05; 09-0120, 1-7-09)

Sec. 34-365. - Penalty for violation of article.

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Any person who violates any provisions of this article shall be guilty of a misdemeanor. Each and every violation of the provisions of this article shall constitute a separate offense.

(05-0616, 5-18-05; 09-0120, 1-7-09)

State Law reference— Punishment for misdemeanors generally, O.C.G.A. § 17-10-3; maximum punishments which may be imposed for violations of county ordinances, O.C.G.A. § 36-1-20(b).

Sec. 34-366. - Repeal and date of effect.

All regulations or parts of regulations in conflict with this article are hereby repealed, and this article shall be in full force and effect immediately upon its adoption and its publication as provided by law.

(05-0616, 5-18-05; 09-0120, 1-7-09)

Sec. 34-367. - Severability.

Should any section, paragraph, sentence, clause or phrase of this article be declared unconstitutional or invalid for any reason, the remainder of said article shall not be affected thereby.

(05-0616, 5-18-05; 09-0120, 1-7-09)

Secs. 34-368--34-385 - Reserved

ARTICLE IX. - RAT CONTROL^[11]

Sec. 34-426 – 437

[Repealed.]

Sec. 34-438.

The county hereby adopts and fully incorporates by reference herein the Rules and Regulations for Rat Control promulgated by the Fulton County Board of Health, as the same may be amended from time to time.

ARTICLE X. - SOLID WASTE^[12]

Sec. 34- 466 – 476

[Repealed.]

Sec. 34 – 477 Board of Health Rules and Regulations adopted and incorporated.

The county hereby adopts and fully incorporates by reference herein the Rules and Regulations of the Fulton County Board of Health for Solid Waste, as the same may be amended from time to time.

Sec. 34 – 478 – 505.
Reserved.

ARTICLE XI. - SEWAGE DISPOSAL

Sec. 34 – 506 – 525

[Repealed]

Sec. 34-526. Board of Health Rules and Regulations adopted and incorporated.

The county hereby adopts and fully incorporates by reference herein the Rules and Regulations of the Fulton County Board of Health for Sewage Disposal, as the same may be amended from time to time.

Sec 34-527 Minimum Area Requirements.

- (a) *Individual lot.* The minimum lot size required for considering approval of installation of an onsite sewage management system serving a single residence shall be 43,560 square feet (one acre) of usable area and shall accommodate the initial system and the reserve area. The reserve area shall remain undisturbed, available for future repair, shall not conflict with applicable zoning requirements and shall not be used to accommodate any other construction (aboveground or underground) precluding its use or availability in the event of initial-system failure. Development on individual lots with less than 43,560 square feet of usable area shall be restricted to those served by public or community sewerage systems.
- (b) *Exemption plat.* The minimum lot size required for considering approval of installation of an onsite sewage management system under the exemption plat process shall be 43,560 square feet (one acre) of usable area and shall accommodate the initial system and the reserve area. The reserve area shall remain undisturbed, available for future repair, shall not conflict with applicable zoning requirements and shall not be used to accommodate any other construction (aboveground or underground) precluding its use or availability in the event of initial-system failure. Development on lots on an exemption plat with less than 43,560 square feet of usable area shall be restricted to those served by public or community sewerage systems.
- (c) *Commercial development.* The minimum area onsite required for installation of an onsite sewage management system in a commercial development shall be that required for the initial system plus reserve area. The reserve area shall remain undisturbed, shall be available for future repair, shall not conflict with applicable zoning requirements and shall not be used to accommodate any other construction (aboveground or underground) precluding its use or availability in the event of initial system failure.
- (d) *Residential development.* The minimum lot size required for considering approval of an onsite management system in a residential development shall be 43,560 square feet (one acre) of usable

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area, except that if a public or community sewerage system will be located at the development within ten years after initial construction, as documented by the appropriate governmental jurisdiction, the minimum lot size may be 30,000 square feet of usable area. Adverse conditions onsite shall negate reduced lot size considerations and/or result in denial of a permit. In residential developments where onsite sewage management systems are proposed, no lot may be less than minimum size. Each lot approved for installation of an onsite sewage management system shall include the area required for the initial system and the reserve area. The reserve area shall remain undisturbed, available for future repair, shall not conflict with applicable zoning requirements and shall not be used to accommodate any other construction (aboveground or underground) precluding its use or availability.

Sec. 34- 528 – 565.Reserved.

ARTICLE XII. - SWIMMING POOLS AND NATURAL BATHING PLACES¹³

Sec. 34-566 – 610

[Repealed]

Sec. 34-611 Board of Health Rules and Regulations adopted and incorporated.

The county hereby adopts and fully incorporates by reference herein the Rules and Regulations for Swimming Pools and Natural Bathing Places that have been promulgated by the Fulton County Board of Health, as the same may be amended from time to time.

Sec. 34-612. Applicability to Apartment Complex Pools

This Article shall apply to apartment complex swimming pools in the county. "Apartment Complex Pools" shall mean swimming pools utilized by residents and guests of multi-residential housing units, including but not limited to apartments, condominiums, townhomes, and lofts.

Sec. 34-613 – 625

Reserved

ARTICLE XIII. - TOURIST COURTS^[14]

Sec. 34-630. - Additional regulations for tourist courts operating in unincorporated areas.

- (1) *Hourly rates prohibited.* No tourist court within the unincorporated areas of Fulton County shall charge or accept money or other consideration for lodging by an hourly rate or any increment less than one full day's room rental.
- (2) *Posting of rates.* The operator of any tourist court within the unincorporated areas of Fulton County shall post the room rental rates in a conspicuous location in clear view of registrants and guests. The operator shall not charge or accept money or other consideration in excess of the room rental rates required to be posted by this section.
- (3) *Guest receipts.*
 - (a) Receipts shall be issued for all cash and noncash payments at the time paid. County hotel/motel occupancy tax and any charges other than room rental charges shall be listed separately.
 - (b) Receipts shall be pre-numbered and in sequential order. Receipts may be in sequential order based upon date/time, when a reservation was made, or based upon date/time of registration.
 - (c) Room numbers shall be included on all receipts, bills and registration cards, with any changes noted.
 - (d) In the event the tourist court utilizes a computerized pre-arrival registration and/or billing procedure, the business shall not be required to comply with subsection (b) of this section; provided, however, that the pre-arrival registration and/or billing procedure must be able to certify that payments are properly tracked and recorded so as to create an audit trail.
- (4) *Guest register.*

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- (a) The operator of any tourist court shall keep a register of the names and home or business addresses of all persons to be accommodated with the length of stay indicated.
- (b) Except as otherwise provided in subsection (c) below, the operator or his or her employee shall, at the time of registration, verify the identification of the registrant by requesting to see, and copying onto the registration form, any one of the following: the registrant's valid driver's license number, the registrant's valid passport number and country of issuance, a photocopy of a valid military photo identification, and/or a credit card number of a credit card issued in the registrant's name.
- (c) The operator or his or her employee must also include on the registration forms required by this section the make, type and license number of the registrant's automobile, trailer or other vehicle, and the state in which such vehicle is registered and the year of registration, for any vehicle operated by the registrant that is parked on the premises.
- (d) In the event that the tourist court utilizes a pre-arrival registration or approval procedure that obviates the requirement for an arriving guest to go to the front desk and provide information typically required as part of the premises' customary registration process, the business shall not be required to comply with subsection (b) of this section; provided, however, that the business must obtain such guest-related information of the types specified in subsection (b) as a part of the pre-arrival registration or approval procedure.
- (5) *Period of retention.* The guest register required by subsection (4) above shall be kept and maintained on the premises for a period of not less than three years by the operator. The guest receipts required by subsection (3) above shall be kept and maintained in compliance with article 2 of chapter 18 regarding business and occupation taxes.
- (6) *Posting of identification of owner and operator.* The name, business address and business telephone number of the owner and operator must be posted in a conspicuous location in the registration, lobby or similar public area. The owner and the operator must provide to employees of the tourist court a telephone number where the owner or his or her representative may be reached during any time the business is in operation.

(Ord. No. 12-0285, 4-4-12)

Sec. 34-631 Board of Health Rules and Regulations adopted and incorporated.

The county hereby adopts and fully incorporates by reference herein the Rules and Regulations for Tourist Courts that have been promulgated by the Fulton County Board of Health, as the same may be amended from time to time.

Sec. 34-632 – 660

Reserved

ARTICLE XIV. - TUBERCULOSIS

[Repealed]

ARTICLE XV. - VENEREAL DISEASES^[15]

[Repealed]

ARTICLE XVI. - LITTER CONTROL

Sec. 34-726. - Enactment authority.

The Board of Commissioners of Fulton County, Georgia under the authority of Article 9, Section 2, Paragraph 1 of the Constitution of the State of Georgia (1983), as amended and O.C.G.A. Title 36-1-20, hereby ordains and enacts into law this article.

(Ord. No. 98-0379, 3-4-98)

State Law reference— Littering, O.C.G.A. § 16-7-40 et seq.

Sec. 34-727. - Purpose.

The governing authority is authorized to adopt ordinances for the governing and policing of unincorporated areas of the county for the purpose of preserving and protecting the public health, safety and welfare. Specifically, the governing authority may provide for the regulation and control of litter (O.C.G.A. § 36-1-20). The board of commissioners hereby enacts the following provisions in an effort to regulate and control litter in the unincorporated areas of Fulton County for the purpose of protecting and preserving the public health, safety, and welfare of the citizens, and to curb thereby the desecration of the beauty of Fulton County caused by persons who litter.

(Ord. No. 98-0379, 3-4-98)

Sec. 34-728. - Title.

This article shall be known and may be cited as the "Fulton County Litter Control Ordinance", and as Article XVI of Chapter 34, Health and Sanitation.

(Ord. No. 98-0379, 3-4-98)

Sec. 34-729. - Scope of article.

The provisions of this article shall apply only to unincorporated Fulton County or any area within the jurisdiction of the governing authority of Fulton County.

(Ord. No. 98-0379, 3-4-98)

Sec. 34-730. - Definitions.

As used in this article, unless the context clearly requires otherwise, the following words or phrases shall have the following meanings:

Bulk waste shall mean dry type wastes such as discarded tires, white goods, furniture, appliances, land clearing material, oversize tree trunks and/or limbs, and/or similar material.

Dispose means to discharge, deposit, inject, burn, dump, place or get rid of any liquid, trash, litter, or garbage into, or on any land, or water so that such liquid, trash, litter, or garbage, or any constituent thereof, may enter into and upon the environment or transfer to the control of another person in a manner inconsistent with this article or any other state or local law, regulation, or ordinance.

Garbage shall mean all household or domestic waste, including waste from the preparation and cooking of food, vegetable, fruit, and meat scraps, ashes, cans and bottles, paper, floor sweepings,

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cardboard, and other such material to be disposed of from residents, churches, schools, office buildings, business establishments and similar places.

Governing authority means Fulton County ("County"), its board of commissioners, and where delegated [designated] by the board of commissioners, the directors of the Fulton County Department of Public Works, and the Department of the Environment and Community Development.

Litter means all discarded sand, liquid, bulk waste, gravel, slag, brickbats, rubbish, waste material, tin cans, refuse, garbage, trash, debris, dead animals or discarded materials of every kind and description.

Litter receptacle shall mean a receptacle designed and constructed to receive, collect, store and contain litter in a lawful, convenient and spill-proof manner.

Owner shall mean any person, firm or corporation owning, leasing, renting, occupying, or managing any premises in unincorporated Fulton County or any area within the jurisdiction of the governing authority.

Person shall mean any individual, trust, firm, association, joint-stock company, corporation (including a government corporation), partnership, organization, municipality, commission, or political subdivision, or any agency, board, department, or bureau of this state or any other state or of the federal government.

Public or private property means the right-of-way of any road or highway; any body of water or watercourse or the shores or beaches thereof; any park, playground, building, refuge or conservation or recreation area, and residential or farm properties, timberland or forest.

Refuse means garbage, rubbish, or commercial solid waste.

Rubbish means discarded waste paper, cartons, boxes, wood, tree branches, yard trimmings, furniture, appliances, metals, cans, glass crockery, dunnage and/or similar materials.

Trash means any combustible and noncombustible nonputrescible solid waste, of a size and form which can be easily deposited in, and removed—by Fulton County personnel or lawfully removed by any other entity—from containers provided by the county or any other entity for the disposal and collection of solid waste from residences, and which includes paper, cardboard, small metal items or containers and packaging materials, and similar items normally accumulated in the care and maintenance of residential or commercial property.

Vegetative overgrowth means any and all uncultivated vegetative growth exceeding a height of 12 inches, as measured vertically from the surface of the ground, and covering a portion of any lot, tract or parcel of land which is not occupied by buildings, other structures or trees, but not including riparian vegetation located on any water frontage area.

Weeds means all rank, vegetative growth, including kudzu, poison ivy, plants of obnoxious odors, weeds and grasses causing hay fever or those which serve as a breeding place for mosquitoes and other unhealthy or undesirable insects or as a refuge for snakes, rats or other rodents or as a hiding place for filth, litter or trash or that create a fire or traffic hazard or provide a hiding place for persons.

(Ord. No. 98-0379, 3-4-98)

Sec. 34-731. - Dumping, depositing, etc., litter on public property or waters.

- (a) It shall be unlawful for any person or persons to dispose, dump, deposit, throw, or leave or to cause or permit the dumping, depositing, placing, throwing, or leaving of litter on any public property or waters within unincorporated Fulton County or other areas within the jurisdiction of the governing authority, unless:
 - (1) The property is designated by Fulton County or the state or by any of its agencies or political subdivisions or municipalities for the disposal of litter and the person is authorized by the proper public authority to use such property; or

- (2) The litter is placed into a litter receptacle or container lawfully installed on such property.
- (3) The person is the owner or tenant in lawful possession of such property and the litter is disposed of in a manner consistent with the public welfare and in accordance with this article.
- (b) *Restrictions on permission.* It shall be unlawful for the owner of any public property within unincorporated Fulton County or the owner's agent to intentionally and expressly give permission to dump or otherwise place on that property, any garbage, trash or other materials or substances which may catch and retain rain water.
- (c) Any person who violates this section shall be punished in accordance with section 34-742 of this article.

(Ord. No. 98-0379, 3-4-98)

State Law reference— Littering, O.C.G.A. § 16-7-40 et seq.; violation of county ordinances, O.C.G.A. § 36-1-20.

Sec. 34-732. - Deposit of refuse on streets and sidewalks.

- (a) No person shall deposit in any street or other public place in unincorporated Fulton County or other areas within the jurisdiction of the governing authority, any refuse of any type; provided, however, that earth and rubbish or building debris caused by construction may be allowed to lie in those places subject to law. It shall be lawful to place debris, such as twigs, small branches and similar matter, in the parkway between the sidewalk and the curbstone, provided the debris does not extend over the sidewalk so as to block pedestrian traffic or fall into or extend over the street so as to block pedestrian traffic or fall into or extend over the street so as to hinder vehicular traffic or make it difficult to use any motor-driven, roadway maintenance equipment.
- (b) All persons engaged in the business of trimming or removing trees, shrubbery or similar growth shall remove from the property, where the work is being done, all sawdust, branches, stumps and all portions of the byproduct of the trimming or removal service and dispose of such materials in a lawful manner.
- (c) All persons engaged in the business of landscaping, nurseries or yard maintenance and who shall contract with a property owner, the owner's agent or the occupant to improve the property, trim or remove shrubbery and trees or maintain yards shall remove from the property all rubbish, including rocks, dirt, glass, trimmings and other byproducts of that service and dispose of such materials in a lawful manner.

(Ord. No. 98-0379, 3-4-98)

Sec. 34-733. - Throwing trash upon streets, sidewalks or public places.

It shall be unlawful for any person to throw hulls, peelings, trash or other litter upon the streets, sidewalks or upon the floors of churches, public halls, theaters or other public places.

(Ord. No. 98-0379, 3-4-98)

Sec. 34-734. - Placing nails, tacks, glass on streets or sidewalks.

It shall be unlawful for any person to place on the street or sidewalks any loose nails, tacks, spikes, broken glass or any similar substance or thing which would be likely to injure the feet of persons or animals or cut or puncture tires of vehicles.

(Ord. No. 98-0379, 3-4-98)

Sec. 34-735. - Cleanliness of sidewalks.

It shall be the duty of all occupants and owners of improved property and owners of vacant property, in front of which the sidewalk area is paved or unpaved, to keep that area clean and to do such sweeping and scraping and cutting of grass or weeds and watering, pruning and maintaining planted material and planters as may be necessary to remove clay, dirt and trash therefrom and to render it passable, comfortable and sightly.

(Ord. No. 98-0379, 3-4-98)

Sec. 34-736. - Depositing materials on streets.

- (a) *Private construction activity.* No person shall conduct, authorize, or carry out any construction activity on private property so as to cause any debris, dirt, sediment, soil, trash, building material, and other physical materials originating from the private property or construction activity, to deposit upon the surface of a street or highway and create an unsightly condition or a condition which may be injurious or hazardous to any person, animal or vehicle upon or using the street or highway.
- (b) *Washing material onto street or highway.* No person shall permit any wood, dirt, mud, sand, rock, rubbish or any other material to wash from such person's property or the property of any person upon which such person is performing repairs, improvements, excavations or grading onto any street or highway within unincorporated Fulton County and/or areas within the jurisdiction of the governing authority of Fulton County so as to cause or permit this material to deposit upon the surface of the street or highway and create an unsightly condition or a condition which may be injurious or hazardous to any person, animal or vehicle upon or using the street or highway.
- (c) *Removal required.* Any person who throws, drops or washes or permits to be thrown, dropped or washed onto the street or highway any of the items named or referred to in subsections (a) and (b) of this section shall immediately remove them or cause them to be removed.
- (d) *Application to wrecked, damaged vehicles.* Any person removing a wrecked or damaged vehicle from a street or highway shall remove any glass, metal or other material dropped from the damaged vehicle upon the street or highway which may be hazardous to any person, animal or vehicle upon or using the street or highway.

(Ord. No. 98-0379, 3-4-98)

Sec. 34-737. - Assessments against private property of the cost of reopening, repairing, or cleaning of street and roads necessitated by construction activity; creation and enforcement of lien.

- (a) The governing authority is empowered to assess against any property the cost of reopening or repairing any public way, street, road, right-of-way, or highway, or the cost of cleaning up from any public way, street, road, right-of-way, or highway any debris, dirt, sediment, soil, trash, building material, and other physical materials originating on such property, as a result of any private construction activity carried on by any developer, contractor, subcontractor, or owner of such property.
- (b) Any assessment authorized under subsection (a) of this section, as well as the interest thereon and the expense of collection, shall be a lien against the property so assessed coequal with the lien of other taxes and shall be enforced in the same manner as are state and county ad valorem property taxes by issuance of a fi. Fa. and levy sale as set forth in Title 48, the "Georgia Public Revenue Code."

(Ord. No. 98-0379, 3-4-98)

State Law reference— O.C.G.A. § 36-1-18; Ga. L. 1981, p. 3259, §§ 1, 2)

Sec. 34-738. - Transporting garbage, trash and other waste material in open vehicles.

It shall be unlawful for any person to operate or cause to be operated upon any public street in unincorporated Fulton County or any area under the jurisdiction of the governing authority, any open truck, wagon or other vehicle in and upon which garbage, trash, manure, waste material or other debris is transported, unless the vehicle shall be equipped with a cover that will prevent the garbage, trash, waste material and other debris from falling from the truck onto any street in unincorporated Fulton County and/or areas within the jurisdiction of the governing authority.

(Ord. No. 98-0379, 3-4-98)

Sec. 34-739. - Discharging water or other liquids.

No person shall throw or discharge from any lot or building any water, fluid or liquid substance so as to injuriously affect the surface of the street or sidewalk or so to make it unsafe for travel.

(Ord. No. 98-0379, 3-4-98)

Sec. 34-740. - Newspapers distributed without charge.

Newspapers may be distributed without charge to private residential premises so long as upon any request from a person to be removed from the company's distribution list, the name is removed. Any person who distributes a newspaper or any entity that causes a newspaper to be distributed after having received notice from a person to be removed from the distribution list shall be in violation of this article.

(Ord. No. 98-0379, 3-4-98)

Sec. 34-741. - Spills from vehicles.

- (a) *Grading contractors.* A vehicle used by a contractor carrying or grading and hauling dirt in unincorporated Fulton County or any area within the jurisdiction of the governing authority shall be equipped with a cover that prevents dirt from spilling and/or blowing out of the vehicle carrying such dirt. When the contractor shall have finished grading, the contractor shall then clean all dirt off the streets as may have been dropped by the contractor's vehicles. If the work of a contractor has rendered the streets muddy or dusty, all those streets shall be left in as good condition as they were at the time of commencement of the work by the contractor. The cleaning described in this subsection is to be done to the satisfaction of the director of public works or that official's designee.
- (b) *Concrete, gravel, sand or asphalt haulers.* Any person engaged in hauling ready-mixed concrete, gravel, sand or asphalt within the jurisdiction of the governing authority of Fulton County shall so fill any vehicle carrying such ready-mixed concrete, gravel, sand or asphalt so as to not allow spillage from the vehicle on streets or sidewalks within unincorporated Fulton County and/or areas within the jurisdiction of the governing authority. Vehicles hauling sand or gravel shall be provided with suitable covers to prevent materials from blowing from the vehicles. Any person responsible for any spillage from hauling vehicles shall take immediate action to remove the spillage from the streets or sidewalks.

(Ord. No. 98-0379, 3-4-98)

State Law reference— O.C.G.A. § 36-1-18.

Sec. 34-742. - Penalties for littering public property or waters.

Any person who litters public property or waters shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as follows:

- (1) If litter is ten pounds in weight or less or 15 cubic feet in volume or less, by a fine not more than \$500.00 or no more than 30 days in jail or both.
- (2) If litter is in excess of ten pounds in weight or 15 cubic feet in volume, shall be fined \$1,000.00 or no more than 60 days in jail or both for each occurrence; and each occurrence shall be deemed a separate offense.
- (3) In addition to the fines set out in subsections (1) and (2) above, the violator shall reimburse Fulton County for the reasonable cost of removing the litter when the litter is removed by Fulton County or its agents; and
- (4) In the sound discretion of a court in which a conviction is obtained, the violator may be directed to pick up and remove from any public street or highway or public right-of-way for a distance not to exceed one mile any litter the person has deposited and any and all litter deposited thereon by anyone else; and
- (5) In the sound discretion of the judge of a court in which a conviction is obtained, the violator may be directed to pick up and remove from any public property, right-of-way, or such property, upon which it can be established that the violator has deposited litter, any and all litter deposited thereon by anyone; and/or repair or restore property damaged by such littering.
- (6) The court may publish the names of persons convicted of a violation under this section.

(Ord. No. 98-0379, 3-4-98)

Cross reference— Duty of owner to clean property, § 26-3.

State Law reference— Chattahoochee River Basin Act, O.C.G.A. § 12-5-400; Metropolitan River Protection Act, O.C.G.A. § 12-5-440; violations of county ordinances, O.C.G.A. § 15-10-60; maximum penalty for violating county ordinances, O.C.G.A. § 36-1-20.

Sec. 34-743. - Maintenance of property.

- (a) *Required.* Every person owning or occupying public or private property in unincorporated Fulton County shall maintain the property free of any condition which may render the premises or property to be unhealthy, unsanitary, unsightly or unaesthetic to the occupants thereof, the neighborhood or the community at large.
- (b) *Conditions in violation.* Because they are deemed to be conducive to breeding or harboring of harmful germs or to the breeding or harboring of insects, snakes, rodents, lizards or similar or undesirable living pests and carriers of harmful germs or poisons or to the harboring of undesirable persons or illicit activities and are in violation of the general public health, safety, welfare and well-being, the existence of any one of the following conditions on property within unincorporated Fulton County shall be a violation of this section and this article:
 - (1) Uncontainerized garbage or uncovered garbage containers of all kinds and types.
 - (2) Trapped litter or any other improperly containerized solid waste.
 - (3) Exterior storage of junk or other unsightly materials.

- (4) The existence of weeds and vegetative overgrowth.
- (5) The existence, storage or accumulation of garbage, hazardous, putrescible solid waste or rubbish.

(Ord. No. 98-0379, 3-4-98)

Sec. 34-744. - Inspection of property.

- (a) *Inspection of premises/right of entry.* The director of the Fulton County Department of Public Works or any duly authorized agent of the department of public works, or any department of Fulton County as directed or authorized by the county manager, may enter on and inspect any and all public and private property in unincorporated Fulton County, at any reasonable time after the presentation of proper credentials, to determine by inspection that those properties are or are not free of any condition which may be in violation of this article. For the purpose of this duty, employees of the department of public works, the department of environment and community development, including, but not limited to code enforcement officers, or subsequent classification titles performing the same duties, or employees of any department as authorized by the county manager, or members of the public duly appointed by the governing authority of Fulton County to perform litter enforcement duties, are clothed with police powers and shall be designated as special officers of Fulton County. Any act of obstructing an inspection hereunder shall constitute a violation of this article and subject the interferer to penalties authorized by section 34-742 or section 34-746 depending on the nature of the property.
- (b) *Notice of unsanitary conditions.* Upon the determination—through inspection by the director of the Fulton County Department of Public Works or his agent or designee, or any duly authorized agent or department of Fulton County as directed or authorized by the county manager or the governing authority—that any property within unincorporated Fulton County is in violation of this article, the director of public works or his agent or designee, or any duly authorized agent or department of Fulton County as directed or authorized by the county manager or the governing authority, shall give written notice to the owner or agent of the owner of the property of the condition found. Such notice shall set forth the condition of the property, the specific violation of this article and the remedial action to be taken. The notice to the owner or agent shall include a time certain in which the violation is to be abated, but not more than ten days from date of receipt of the notice by the owner or agent. All notices shall be sent by personal service or sent by registered or certified mail, return receipt requested, to the last known address as listed in the official tax register of the county or records of the secretary of state. Upon failure of the owner or agent to abate the violation cited within the time set forth in the notice, the property owner or agent shall be held accountable for violating this article.
- (c) *Citations issued.* Nothing in this section is intended to prevent the immediate issuance of a written citation pursuant to section 34-748 of this article for violation of this article.

(Ord. No. 98-0379, 3-4-98)

Cross reference— Nuisance abatement authorized, §§ 26-3, 34-363.

Sec. 34-745. - Throwing litter upon private property and waters.

Prohibited. It shall be unlawful for any person to throw hulls, peelings, trash, bottles, cans or other litter upon the private property or waters of another within unincorporated Fulton County.

(Ord. No. 98-0379, 3-4-98)

Sec. 34-746. - Penalties for littering private property or waters.

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Penalties. Any person who litters private property or waters in unincorporated Fulton County shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as follows:

- (1) Where the volume of trash thrown is less than 30 gallons, the violation of this section shall subject the violator to a fine not more than \$500.00 or no more than 30 days in jail or both. Each day a violation continues shall constitute a separate violation.
- (2) Where the volume of trash thrown exceeds 30 gallons, the violation of this section shall subject the violator to mandatory penalties as follows:
 - a. *First offense.* A fine of \$1,000.00.
 - b. *Second offense.* A fine of \$1,000.00 and confinement in jail for a period not to exceed 30 days.
 - c. *Third or more offense.* A fine of \$1,000.00 and confinement in jail for a period not to exceed 60 days.
 - d. Each day a violation continues shall constitute a separate violation.
- (3) In addition to the penalties in this subsection, the following penalties may be imposed:
 - a. *First offense.* The violator may be directed to pick up and remove from any public street or highway or any public right-of-way for a distance not to exceed one-half mile any and all litter deposited thereon by anyone prior to the date of execution of sentence.
 - b. *Second offense.* The violator may be directed to pick up and remove from any public street or highway or any public right-of-way for a distance not to exceed one mile any and all litter deposited thereon by anyone prior to the date of execution of sentence.
 - c. *Third or more offense.* The violator may be directed to pick up and remove from any public park, private right-of-way or, with the prior permission of the legal owner or tenant in lawful possession of such property, any private property, upon which it can be established by competent evidence that the violator has deposited or dumped litter, any and all litter deposited or dumped thereon by anyone prior to the date of the execution of sentence.
 - d. *Publication of names.* The court may publish the names of persons convicted of a violation under this section.

(Ord. No. 98-0379, 3-4-98)

State Law reference— O.C.G.A. § 16-7-43; O.C.G.A. § 36-1-20.

Sec. 34-747. - Prima facie evidence; rebuttable presumptions.

- (a) Whenever litter is thrown, deposited, dropped, or dumped from any motor vehicle, boat, airplane, or other conveyance in violation of this article, it shall be prima facie evidence that the operator of the conveyance has violated this article.
- (b) Whenever any litter is dumped, deposited, thrown, or left on public or private property in violation of this article is discovered to contain any article or articles, including but not limited to letters, bills, publications, or other writings which display the name of a person thereon in such a manner as to indicate that the article belongs or belonged to such person, it shall be a rebuttable presumption that such person has violated this article.

(Ord. No. 98-0379, 3-4-98)

Sec. 34-748. - Enforcement.

- (a) Unless otherwise specifically provided by resolution of the Fulton County Board of Commissioners, the enforcement of this article shall be within the jurisdiction of the county's enforcement personnel, including the director of the department of public works or his or her designees or employees and all law and code enforcement personnel who shall have such powers as are reasonably necessary to enforce and give effect to this article. Specifically, but not by way of limitation, any violation of this article may be tried upon citations issued by enforcement personnel pursuant to O.C.G.A. § 15-10-63 and any successor statute. Persons designated by the director of public works or as otherwise designated by the county manager or the governing authority, are hereby authorized to issue citations or summons or both, charging violations under this article, returnable to Magistrate Court, or any court having jurisdiction of a commitment court throughout the entire county, for a hearing.
- (b) For purposes of enforcing the provisions of this article, any Fulton County Magistrate Court, including the Environmental Court, shall be entitled to take such action to ensure compliance, and the person convicted shall reimburse Fulton County for any cost or expense associated with such compliance efforts and Fulton County shall be entitled to place a lien on the property or require a bond from the person to secure payment and reimbursement for these expenses.
- (c) The provisions of [this] article shall be enforced by the Fulton County Department of Public Works with assistance as needed from the Fulton County Police Department, the Fulton County Board of Health, and the department of the environment and community development and/or as otherwise designated by the county manager or the governing authority.

(Ord. No. 98-0379, 3-4-98)

State Law reference— O.C.G.A. § 36-1-17; O.C.G.A. § 36-1-18.

Secs. 34-749—34-800. - Reserved.

ARTICLE XVII. - SCRAP TIRE ENFORCEMENT^[16]

Footnotes:

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Editor's note— Res. No. 01-0279, §§ 1—8, adopted Feb. 21, 2001, did not specifically amend this Code. Hence inclusion of said resolution provisions as §§ 34-801—34-808 was at the discretion of the editor to read as herein set out. See the Code Comparative Table—Ordinances and Resolutions.

Cross reference— Administration, ch. 2; businesses, ch. 18; code enforcement, ch. 22; health and sanitation, solid waste, ch. 34, art. X; solid waste, ch. 70.

State Law reference— Management of scrap tires by the Georgia Department of Natural Resources, Environmental Protection Division, O.C.G.A. § 12-8-20 et seq.

Sec. 34-801. - Title.

This article shall be known as the "Fulton County Scrap Tire Enforcement Ordinance."

(Res. No. 01-0279, § 1, 2-21-01)

Sec. 34-802. - Intent and purpose.

The county board of commissioners finds that protection of the environment is vital to the health, welfare, and economic progress of the county and its citizens. Therefore, it is the intent of this article to develop regulations and procedures that govern scrap tires from the point of generation to the point of disposal.

(Res. No. 01-0279, § 2, 2-21-01)

Sec. 34-803. - 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:

End user means the last person who uses the scrap tires, chips, crumb rubber, or similar materials to make a product with economic value, or in the case of energy recovery, the person who utilizes the heat content or other forms of energy from the incineration or pyrolysis of waste tires, chips or similar materials.

Financial assurance means a mechanism designed to demonstrate that funds will be available to ensure compliance with statutory/regulatory and permit requirements of scrap tire carriers. The financial mechanisms must be either performance bonds or letters of credit.

Governing authority means Fulton County ("county"), its board of commissioners, and where delegated by the board of commissioners, the directors of the county's department of public works, and the department of the environment and community development..

Manifest means a form or document used for identifying the quantity and composition and the origin, routing, and destination of scrap tires during transportation from the point of generation, through any intermediate points, to an end user, processor, or disposer approved by the environmental protection division (EPD).

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Mixed tires means a heterogeneous group of tires consisting of used, retreadable casings, and scrap tires.

New replacement tires include, but are not limited to, automobile, truck, heavy equipment, motor bike, boat and other trailers, aircraft and recreational vehicles.

Person shall mean the State of Georgia or any other state or any agency or institution thereof, and any municipality, county, political subdivision, public or private corporation, solid waste authority, special district empowered to engage in solid waste management activities, individual, partnership, association or other entity in Georgia or any other state. This term also includes any officer or governing or managing body of any municipality, political subdivision, solid waste authority, special district empowered to engage in solid waste activities, or public or private corporation in Georgia or any other state. This term also includes employees, departments, and agencies of the federal government.

Recycled means any process by which materials which would otherwise become solid waste are collected, separated, or processed and reused or returned to use in the form of raw materials or products.

Retail tire dealer means a person actively engaged in the business of selling new tires. Retail tire dealers may also be, but are not limited to, manufacturers, wholesalers, and others who sell new tires to the ultimate consumer.

Retreadable casing means a tire which has the quality and soundness of the tire structure to accept a retread or repair and provide additional service and is designed for retreading.

Reused tire means use of tires for purposes, approved by the EPD, other than intended, such as playground equipment, offshore reefs, erosion control, etc.

Scrap tire means a tire that is no longer suitable for its original intended purpose because of wear, damage, or defect.

Scrap tire carrier means any person engaged in picking up or transporting scrap tires not otherwise exempted for the purpose of removal to a scrap tire processor, end user, or disposal facility.

Scrap tire generator means any person who generates scrap tires. Generators may include, but not limited to, retail tire dealers, retreaders, scrap tire processors, automobile dealers, private company vehicle maintenance shops, garages, service stations.

Scrap tire processing means any method, system, or other treatment designed to change the physical form, size, or chemical content of scrap tires and includes all aspects of its management (administration, personnel, land, equipment, building, and other elements). Processing includes, but is not limited to, shredding, chopping, chipping, baling, splitting, recycling, or sorting of scrap tires.

Scrap tire processor means any person who is approved by the EPD to receive scrap tires from scrap tire generators or scrap tire carriers for the purpose of scrap tire processing.

Scrap tire sold means the generator or processor of scrap tires received consideration or compensation for the material because of its inherent value.

Scrap tire sorter means any person, other than the original scrap tire generators, who handles mixed tires by separating used tires and retreadable casing from scrap tires.

Solid waste means any garbage or refuse; sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility; and other discarded material including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operation materials; solid or dissolved materials in domestic sewage; solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permit under 33 U.S.C. Section 1342; or source, special nuclear, or by-product material as defined by the Federal Atomic Energy Act of 1954, as amended (68 Stat. 923).

State waters means any all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells and other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of the state which are not entirely confined and retained completely upon the property of a single individual, partnership or corporation.

Tire means a continuous solid or pneumatic rubber covering designed for encircling the wheel of a motor vehicle and which is attached to neither the motor vehicle nor a part of the motor vehicle as original equipment.

Tire handling business means persons whose income is at least partially derived from the sale, processing, transporting, or disposal of tires.

Tire retreader means any person actively engaged in the business of retreading scrap tires by scarifying the surface to remove the old surface tread and attaching a new tread to make a usable tire.

Ultimate consumer means the last person who receives and uses a new replacement tire. Ultimate consumers may be, but are not limited to:

- (1) An individual;
- (2) A leasing company purchasing tires from retail dealers for their vehicle fleet;
- (3) A private company purchasing tires from retail dealers for their vehicle fleet;
- (4) A governmental agency.

Used tire means a tire which has a minimum of two-thirty-second of an inch of road tread and which is still suitable for its original purpose. It must be inventoried and marketed in substantially the same fashion as a new tire, the dealer must be able to provide satisfactory evidence to the governing authority that a market exists, and the used tires are, in fact, being marketed.

(Res. No. 01-0279, § 3, 2-21-01)

ARTICLE XVIII. - BODY ART

Sec. 34-821.

[Repealed]

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Sec. 34-822 through 34-847

[Repealed]

Sec. 34 – 848 Board of Health Rules and Regulations adopted and incorporated.

The county hereby adopts and fully incorporates by reference herein the Rules and Regulations for Body Art that have been promulgated by the Fulton County Board of Health, as the same may be amended from time to time.