REV. 10/02

DEKALB COUNTY

BOARD OF COMMISSIONERS

BUSINESS AGENDA / MINUTES

MEETING DATE: April 9, 2013

ITEM NO.

HEARING TYPE	ACTION TYPE
Action	Ordinance

SUBJECT: Ordinances to Amend Chapter 2 for the Creation of Special Tax Districts for Water and Sewer Projects

Countywide

DEPARTMENT: Watershed Management	PUBLIC HEARING: ☐ YES ☑ NO
ATTACHMENT: ☑ YES ☐ No PAGES: 31	INFORMATION CONTACT: Ted Rhinehart, Deputy COO/Infrastructure Joe Basista, Director Watershed Management PHONE NUMBER: 404-371-4778

Deferred 6/12/12, 7/10/12, 8/14/12, 8/28/12, 9/11/12, 9/25/12, 10/9/12, 10/23/12, 11/6/12, 11/13/12, 12/11/12, 1/22/13, 3/12/13, 3/26/13

PURPOSE:

To consider adopting the attached three Ordinances to Amend Chapter 2 of the DeKalb County Code for the Creation of Special Tax Districts for Water and Sewer projects.

NEED/IMPACT:

There are a few limited areas in the County that have private water or sewer systems that have approached the County about assistance in upgrading to the public system, or that have substandard public systems for which it would be beneficial to the property owners to upgrade to a modern system that meets newer development standards. It is analogous to the situation with communities that are on septic tank systems, that will from time to time petition the County to create a special taxing district for the purpose of a public-private cost-sharing of the extension of public sewer service and an upgraded system to their properties. The attached three (3) ordinances would follow this approach to enable communities with private water or sewer systems, or with substandard old public systems, to upgrade through a public-private cost-sharing arrangement, to a modern system.

RECOMMENDATION(S):

Adopt the attached three Ordinances to Amend Chapter 2 of the DeKalb County Code for the Creation of Special Tax Districts for Water and Sewer projects.

May 17, 2012

AN ORDINANCE

AN ORDINANCE TO AMEND THE CODE OF DEKALB COUNTY, GEORGIA, CHAPTER 2, TO PROVIDE FOR THE CREATION OF SPECIAL WATER TAX DISTRICTS, AND FOR OTHER PURPOSES.

WHEREAS, the Governing Authority of DeKalb County is tasked with the protection of the county's health, safety, and general welfare; and

WHEREAS, state law gives the county the authority to create special districts for the provision of local government services within such districts, and to levy and collect taxes within such districts to pay for the cost of providing such services; and

WHEREAS, certain communities within the county are served by failing private water systems which may create public health and safety hazards; and

WHEREAS, the county wants to make available to these communities a process to correct the failings in their private water systems and thereafter incorporate these private water systems into the county's public water system;

NOW, THEREFORE, be it ordained by the Governing Authority of DeKalb County, Georgia, and it is hereby ordained by the authority of same, that Chapter 2 of the Code of DeKalb County, as Revised 1988, be and the same is hereby amended as follows:

PART I. ENACTMENT

By adding article XI of chapter 2 to read as follows:

ARTICLE XI. SPECIAL WATER TAX DISTRICTS

Sec. 2-500. Purpose and intent.

(a) Article 9, section 2, paragraph 6 of the Georgia Constitution gives the governing authority the power to create special districts for the provision of local government services within such districts, and to levy and collect taxes within such districts to pay for the cost of providing such services.

(b) Private water systems collect, pump, and distribute treated potable water.

(c) If a private water system is deficient and in need of repair, water main leaks and breaks can occur. Often, private water systems are not constructed in compliance with current county specifications, and are not repaired in a manner that reduces or eliminates water main leaks and breaks.

(d) When water main leaks and breaks occur in private water systems, the county's public water system may experience contamination, lower pressure, deterioration and wastage, which adversely affects water quality and jeopardizes the health and welfare of county citizens.

(e) The governing authority finds that failing private water systems may create potentially significant public health and safety hazards for all residents of the county. The governing authority further finds that costs associated with private water main leaks and breaks can be burdensome and, thus, it is in the best interests of all residents of the county to assist in the repair and upgrade of failing private water systems so that such systems can be incorporated into the county's public water system.

(f) To achieve this public purpose, the governing authority wants to make available a process to correct the failings in private water systems and thereafter incorporate these private water systems into the county's public water system.

(g) This article establishes a process to improve, regulate, maintain and operate water systems in special water tax districts (hereinafter referred to as "water tax districts") comprised of defined areas of the unincorporated county served by failing private water systems, as that term is defined in this article.

(h) Once a water tax district is created and the county repairs and upgrades the failing private water system, then the chief executive officer shall formally accept the private water system into the county's public water system. After the water improvements are completed, and the cost of the repair and upgrade is fully paid by the collection of taxes within the water tax district, then the water tax district shall be dissolved by operation of law.

(i) Once a failing private water system is upgraded to current specifications and/or repaired and incorporated in the county's public water system, then the governing authority

believes that contamination, lower pressure, deterioration and wastage of the county's water supply will be reduced. Therefore, creating special water tax districts as provided in this article protects the health and welfare of the county's citizens by improving the water quality of the county's waterways, and is a cost-efficient method of reducing water line breaks.

(j) Nothing in this article shall be construed to require the governing authority to approve any request to establish a water tax district, and it shall be in the sole legislative judgment of the governing authority to approve the establishment of any such water tax district.

(k) Nothing in this article shall be construed to prevent the governing authority from creating a water tax district if it determines that the water tax district is required to protect the health, safety, and welfare of the citizens of the county, and it shall be in the sole legislative judgment of the governing authority to make a determination to establish any such water tax district.

(l) This article shall not be used to create a water tax district to repair individual water service lines or laterals that run from a public or private water main to a structure, as such water service lines or laterals are regulated in Chapter 25 of this Code. Repair, upgrade, and replacement of such water service lines or laterals remain the responsibility of the owner of the structure.

(m) Nothing in this article shall be construed to provide a mechanism to create water tax districts to service property that houses apartments, or to service a commercial, business, industrial, or office structure, enterprise or development.

Sec. 2-501. Definitions.

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

"Apartment" means a building containing four or more independent, self-contained, residential units; each independent, self-contained, residential unit must be comprised of one or more rooms, designed, occupied or intended for occupancy as separate living quarters, with cooking, sleeping, and bathroom facilities. The term apartment does not include a condominium as that term is defined in state law.

"*Complete petition*" means a petition that includes: (i) the signatures of the required number of owners of the property lying within the proposed water tax district in favor of such designation; and (ii) an accurate description of the property to be included in the proposed water tax district, including tax map parcel identification numbers, as used by the tax assessor and the tax commissioner. The petition is subject to verification of property owner signature(s) and property owner(s) boundary lines by the director of watershed management.

"Costs" or "costs incurred within a water tax district" means the actual cost of designing, repairing, upgrading and constructing the water improvements in the water tax district, including the actual cost of surveying; engineering design; fee simple, right of way and/or easement acquisition; construction, financing, legal, interest and other related expenses; and the county's administrative costs. Costs shall be amortized over a period of ten (10) years for each individual water tax district.

"*Failing private water system*" means a private water system that has been determined to be in need of repair and deficient in a written, sealed engineering report prepared by a civil engineer licensed by the State of Georgia.

"*Lot*" means a designated parcel, tract, or area of land legally established by plat, subdivision, or as otherwise permitted by law, to be separately owned, used, developed, or built upon. To qualify as a lot, the property must be residentially zoned, must house a single-family detached or attached dwelling(s), and legal ownership of the lot must be held in fee simple. The term "lot" includes lots that house common areas such as clubhouses, swimming pools, tennis courts, or recreational areas designed to be used by residents of a neighborhood or development and owned in fee simple by an individual or entity such as a homeowner's association.

"*Private water system*" means a water system that: (i) has not been accepted by the county as part of the public water system, and (ii) services lots or condominium units. A water system is accepted by the county as part of the public water system only if: (i) it is designed, constructed, inspected, and tested according to county standards, and either (ii) a written, fully executed easement, right of way deed, or agreement conveying the water system to DeKalb County, Georgia, as grantee, exists and is recorded in the office of the Clerk of Superior Court of DeKalb County, or (iii) a final plat exists that includes a dedication and conveyance of the water main and is accepted and approved by the board of commissioners or the chief executive officer and filed with the clerk of superior court in the manner required by the applicable provisions of the law.

"*Property owner"* means an owner of land, and includes condominium unit owner as that term is defined by state law. The term property owner does not include owners of land utilized as apartments, or a commercial, business, industrial, or office structures, enterprises or developments.

"*Water Main*" means a pipe that is designed and constructed to carry potable water.

Sec. 2-502. Authority and responsibility.

(a) The chief executive officer shall be responsible for administering the water tax district program set forth in this article, and shall have the authority to promulgate policies, procedures, and forms necessary to effectuate the provisions of this article.

(b) The executive assistant shall, at a minimum:

(1) Advise prospective petitioners for a proposed water tax district of the procedures required for the establishment of such districts pursuant to this article;

(2) Establish the boundaries of a proposed water tax district in accordance with such criteria and in such manner as is necessary and appropriate;

(3) Establish an orderly system of numbering water tax districts created pursuant to this article, in consultation with the tax assessor and the tax commissioner;

(4) Provide standard form petitions for use by prospective petitioners which shall include a requirement to provide the name and address of an individual who shall serve as the petition originator and who shall agree to be the designated person to receive required notices from the county;

(5) Advise the petition originator of estimated assessment rates for owners of property lying within the proposed water tax district;

(6) Examine all filed petitions for accuracy and compliance with the provisions of this article;

(7) Submit the petition, if the petition is complete, accurate, and approved by the director of watershed management in the manner set forth in this article, to the governing authority together with estimated assessment rates for owners of property lying within the proposed water tax district, the date of dissolution of the proposed water tax district, and such other recommendations as the chief executive officer may deem appropriate;

(8) Coordinate the installation, repair, and upgrade of private water systems within water tax districts approved by the governing authority;

(9) Obtain the necessary surveys, engineering designs, plans, specification cost estimates, bid forms, and other documents necessary for the repair and/or upgrade of a private water system so that it can be accepted as part of the public water system;

(10) Seek establishment of a water tax district where appropriate and necessary, even if residents of the community served by the private water system do not petition the governing authority for creation of a water tax district; and

(11) Perform any and all other acts or duties necessary or proper to effectuate the provisions of this article.

Sec. 2-503. Creation of a water tax district upon the petition of fifty-one percent of the property owners in areas where private water systems are located within a county easement or right of way.

(a) The owner(s) of not less than fifty-one percent (51%) of the property within an area that is being served by a failing private water system located within a county easement or right of way in the unincorporated area of the county may file with the executive assistant a petition requesting creation of a water tax district. Each property owner in favor of designating a water tax district must sign a petition and print or type thereon his/her name, address of the property within the proposed water tax district, and the date of signature. The petition must also contain an accurate description of the property to be contained within the water tax district, including tax map parcel identification numbers, as used by the tax assessor and the tax commissioner. The petition must include copies of easements, right of way deeds, or other documents that conclusively show that the private water system is located within a county easement or right of way. Owners of private water systems that are not located within a county right of way or easement are not eligible to petition the governing authority for creation of a water tax district pursuant to this section.

(b) Within thirty (30) days of receipt of the petition, the executive assistant shall review the petition to determine if it is complete and accurate. If complete and accurate, the executive assistant shall have an additional ten (10) days to forward the complete and accurate petition to the director of watershed management for approval. The director of watershed management shall determine if the boundaries of the proposed water tax district are definable and contiguous. If the boundaries of the proposed water tax district are determined to be definable and contiguous, the director of watershed management shall obtain a written, sealed engineering report prepared by a civil engineer licensed by the State of Georgia to determine if the private water system is in need of repair and deficient. The report shall include a professionally prepared cost estimate to repair the system and bring it into compliance with the current requirements of federal and state law, and this Code. The director of watershed management shall have sixty (60) days from receipt of the written, sealed engineering report to review and approve, or disapprove, the petition. The director of watershed management's review and approval of the petition shall be based on sound engineering and accounting practices, and the compatibility of the proposal with existing county facilities and systems. The director of watershed management shall not approve a petition until he/she has notified the affected county departments and county officials of the petition and secured their review and approval of the petition. The director of watershed management shall not approve a petition if the private water system is not located in a county easement or right of way. If disapproved, the director of watershed management shall provide written notice to the petition originator of the decision to disapprove the petition, and the reasons for that decision, within the sixty (60)-day review period. The director of watershed management's decision in this regard is final.

(c) Within thirty (30) days of receipt of a complete and accurate petition approved by the director of watershed management, the executive assistant shall submit to the governing

authority a proposed agenda item and enabling resolution to create the water tax district, and provide such other information as is necessary and appropriate to authorize the creation of the water tax district.

(d) If decisions by county employees are not made in accordance with the time constraints set forth in section 2-503(a), (b) and (c) directly above, then the petition shall stand disapproved without further action by the county.

(e) Prior to the creation of a water tax district, the governing authority shall hold a public hearing to consider the creation of such district. A notice of the public hearing shall be published in a newspaper of general circulation once within the thirty (30) days immediately preceding the public hearing.

(f) The governing authority shall make a decision on the creation of the water tax district within ninety (90) days of the first time the enabling resolution appears on the agenda for consideration by the governing authority.

Sec. 2-504. Creation of a water tax district upon the petition of one hundred percent of the property owners in areas where private water systems are located on private property.

(a) All property owners within an area that is being served by a failing private water system located on private property in the unincorporated area of the county may file with the executive assistant a petition requesting creation of a water tax district. Each property owner in the proposed water tax district must sign a petition and print or type thereon his/her name, address of the property within the proposed water tax district, and the date of signature. The petition must also contain an accurate description of the property to be contained within the proposed water tax district, including tax map parcel identification numbers, as used by the tax assessor and the tax commissioner.

(b) Within thirty (30) days of receipt of the petition, the executive assistant shall review the petition to determine if it is complete and accurate. If complete and accurate, the executive assistant shall have an additional ten (10) days to forward the complete and accurate petition to the director of watershed management for approval. The director of watershed management shall determine if the boundaries of the proposed water tax district are definable and contiguous. If the boundaries of the proposed water tax district are determined to be definable and contiguous, the director of watershed management shall obtain a written, sealed engineering report prepared by a civil engineer licensed by the State of Georgia to determine if the private water system is in need of repair and deficient. The report shall include a professionally prepared cost estimate to repair the system and bring it into compliance with the current requirements of federal and state law, and this Code. The director of watershed management shall have sixty (60) days from receipt of the written, sealed engineering report to review and approve, or disapprove, the petition. The director of watershed management's review and approval of the petition shall be based on sound engineering and accounting practices, and the compatibility of the proposal with existing county facilities and systems. The director of

watershed management shall not approve a petition until he/she has notified the affected county departments and county officials of the petition and secured their review and approval of the petition. If disapproved, the director of watershed management shall provide written notice to the petition originator of the decision to disapprove the petition, and the reasons for that decision, within the sixty (60)-day review period. The director of watershed management's decision in this regard is final.

(c) Within thirty (30) days of receipt of a complete and accurate petition approved by the director of watershed management, the executive assistant shall submit to the governing authority a proposed agenda item and enabling resolution to create the water tax district, and provide such other information as is necessary and appropriate to authorize the creation of the water tax district.

(d) If decisions by county employees are not made in accordance with the time constraints set forth in section 2-504(a), (b) and (c) directly above, then the petition shall stand disapproved without further action by the county.

(e) The governing authority shall make a decision on the creation of the water tax district within ninety (90) days of the first time the enabling resolution appears on the agenda for consideration by the governing authority.

Sec. 2-505. Creation of a water tax district by the governing authority.

(a) The governing authority shall be authorized and empowered to create water tax districts in unincorporated areas of the county that are served by failing private water systems, and the creation of such water tax districts shall be upon such terms and conditions and in such manner as the governing authority may deem necessary or proper.

(b) Water tax districts created pursuant to this section shall not require a petition and shall not be required to comply with sections 2-503 or 2-504. Water tax districts created pursuant to this section do not require consent or support of the owners of the private water system or the property owners served by the private water system. Creation of water tax districts pursuant to this section shall not abrogate in any way the applicable legal requirements that a county must adhere to when seeking to acquire an interest in privately owned land.

(c) The governing authority shall not create a water tax district pursuant to this section until it has received a written, sealed engineering report prepared by a civil engineer licensed by the State of Georgia, showing that a private water system is in need of repair and deficient. The report shall include a professionally prepared cost estimate to repair the system and bring it into compliance with the current requirements of federal and state law, and this Code.

(d) Prior to the creation of a water tax district, the governing authority shall hold a public hearing to consider the creation of such district. A notice of the public hearing shall be

published in a newspaper of general circulation once within the thirty (30) days immediately preceding the public hearing.

Sec. 2-506. Individual water service lines or laterals, and other exemptions.

(a) No water tax district shall be forwarded to the governing authority or created by the governing authority to repair individual water service lines or laterals that run from a public or private water main to a structure; as such water service lines or laterals are regulated in Chapter 25 of this Code. Repair, upgrade, and replacement of such water service lines or laterals remain the responsibility of the owner of the structure.

(b) No water tax district shall be forwarded to the governing authority or created by the governing authority for property that houses apartments, or a commercial, business, industrial, or office structure, enterprise or development.

(c) Property in a water tax district that is exempt from payment of ad valorem property taxes pursuant to state law shall be exempt from payment of any water tax imposed pursuant to this article.

Sec. 2-507. Fee Simple, right of way and/or easement acquisitions necessary to complete water improvements and construction services.

All fee simple, right of way and/or easement acquisitions necessary for the completion of water improvements within a water tax district created pursuant to sections 2-503 or 2-504 shall be conveyed at no cost to the county at an appropriate time designated by the chief executive officer after approval of the water tax district by the governing authority. The construction services in a water tax district shall not commence until the governing authority has approved the water tax district and all necessary fee simple, right of way and/or easement acquisitions have been conveyed.

Sec. 2-508. Acceptance of the private water system as part of the county public water system.

(a) *Private water systems located within a county easement or right of way.* If the governing authority creates a water tax district for a private water system located within a county easement or right of way, and if the director of watershed management certifies in writing that the necessary water improvements in the water tax district have been completed so that the water system is no longer failing and complies with all applicable requirements of law, including the time requirements in section 2-508(c), then upon receipt of such written certification, the chief executive officer shall execute the necessary documents, if any are needed, to accept the private water system as part of the county's public water system. Thereafter, the water system in the water tax district shall be part of the county's public water system, subject to county repair, upgrade requirements, and conditions for that system.

(b) *Private water systems located on private property.* If the governing authority creates a water tax district for a private water system located on private property, and if the

director of watershed management certifies in writing that the necessary water improvements in the water tax district have been completed so that the private water system is no longer failing and complies with all applicable requirements of law, including the time requirements in section 2-508(c), then upon receipt of such written certification, the chief executive officer shall execute the necessary legal documents, if any are needed, to accept the private water system as part of the county's public water system. Title shall not be conveyed to the water system without prior conveyance of necessary written fee simple, easement or right of way deeds, or a fully executed agreement conveying the water system to DeKalb County, as grantee. If all such documents are executed and recorded in the deed records of the Clerk of Superior Court of DeKalb County, and the requirements of this article have been met, thereafter, the water system in the water tax district shall be part of the county's public water system, subject to county repair, upgrade requirements, and conditions for that system.

(c) No private water system shall be finally accepted as part of the county's public water system until January 1st of the year after the finance director and the tax commissioner have adjusted all the property owners' estimated assessment rates to accurately reflect their pro rata shares of all costs incurred within the water tax district.

Sec. 2-509. Calculation of taxes to be assessed in the water tax district.

(a) The property owners in the water tax district collectively shall pay fifty percent (50%) of the costs incurred within a water tax district, but in no event shall each property owner's share of costs exceed seven thousand five hundred dollars ($7,500.00). The county shall pay fifty percent (50%) of the same costs, or a greater amount if necessary to enforce the seven thousand five hundred dollars ($7,500.00) cap. Each property owner in the water tax district shall be responsible for and pay his/her pro rata share of the costs, which shall be divided equally among all property owners within such district on the basis of the number of lots, whether improved or unimproved, or on the basis of the number of condominium units, as that term is defined by state law. Owners of exempt properties shall not be included in the calculation of costs.

(b) Each year, the finance director shall be responsible for calculating each property owner's annual pro rata share of the costs, in accordance with the provisions of this article. The tax commissioner shall be responsible for collecting from the property owners payment of their pro rata share of the fifty percent (50%) of costs incurred within a water tax district. The finance director and tax commissioner shall be notified by the executive assistant at such time as the water tax district is approved to commence the collection and receipt of monies in payment of estimated assessment rates. Beginning January 1st of the year following the creation of the tax district and for each year thereafter, the tax statement issued to each such property owner shall include a separate line item tax showing each property owner's annual pro rata share of the costs until paid. When all work within an approved water tax district is complete, the finance director and tax commissioner shall adjust estimated assessment rates pursuant to section 2-508(c) to reflect all costs incurred within a water tax district.

(c) The fifty percent (50%) of costs, as limited by the seven thousand five hundred dollar ($7,500.00) cap, shall be the special services water tax and shall become due and payable at the same time that other county taxes are due and payable. If such tax remains unpaid, the tax commissioner shall have the authority to issue a writ of fieri facias or execution against the property served, which writ shall have the same lien dignity and priority as writs of fieri facias or executions issued for other county taxes. Each annual special services water tax shall become a lien against the property served on January 1st of each year in the same manner that a lien attaches for other county taxes, and such lien shall cover the property of the owner until such special services water tax is paid. Any unpaid amount shall accrue penalty, interest and charges in the same manner and at the same rate as other delinquent county taxes.

Sec. 2-510. Dissolution of the water tax district.

On December 31st of the tenth (10th) year following creation of a water tax district, the water tax district shall stand dissolved by operation of law. Dissolution of a water tax district in no way affects or invalidates enforcement and collection of any outstanding lien(s) for costs owed pursuant to this article in a water tax district.

Secs. 2-511 - 2-699. Reserved.

PART II. EFFECTIVE DATE

This ordinance shall become effective one hundred and eighty (180) days after adoption by the Board of Commissioners and approval by the Chief Executive Officer.

PART III. SEVERABILITY

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

ADOPTED by the DeKalb County Board of Commissioners, this _____ day of _____, 2012.

_____
LARRY L. JOHNSON, MPH
Presiding Officer
Board of Commissioners
DeKalb County, Georgia

APPROVED by the Chief Executive Officer of DeKalb County, this _____ day of _____, 2012.

_____
W. BURRELL ELLIS, JR.
Chief Executive Officer
DeKalb County, Georgia

ATTEST:

_____
BARBARA H. SANDERS, CCC
Clerk to the Board of Commissioners
and Chief Executive Officer

APPROVED AS TO SUBSTANCE:

_____
WILLIAM E. RHINEHART
Deputy Chief Operating Officer-Infrastructure

APPROVED AS TO FORM:

_____
~~**LISA E. CHANG**~~ LORI BRILL
SR. ASST. County Attorney

May 17, 2012

AN ORDINANCE

AN ORDINANCE TO AMEND THE CODE OF DEKALB COUNTY, GEORGIA, CHAPTER 2, TO PROVIDE FOR THE CREATION OF SPECIAL SEWER TAX DISTRICTS, AND FOR OTHER PURPOSES.

WHEREAS, the Governing Authority of DeKalb County is tasked with the protection of the county's health, safety, and general welfare; and

WHEREAS, state law gives the county the authority to create special districts for the provision of local government services within such districts, and to levy and collect taxes within such districts to pay for the cost of providing such services; and

WHEREAS, certain communities within the county are served by failing private sewers which may create public health and safety hazards; and

WHEREAS, the county wants to make available to these communities a process to correct the failings in their private sewer systems and thereafter incorporate these private sewer systems into the county's public sewer system;

NOW, THEREFORE, be it ordained by the Governing Authority of DeKalb County, Georgia, and it is hereby ordained by the authority of same, that Chapter 2 of the Code of DeKalb County, as Revised 1988, be and the same is hereby amended as follows:

PART I. ENACTMENT

By amending article IX of chapter 2 to add sections 2-242 through 2-299 to read as follows:

Secs. 2-242 – 2-299. Reserved.

By adding article X of chapter 2 to read as follows:

ARTICLE X. SPECIAL SEWER TAX DISTRICTS

Sec. 2-300. Purpose and intent.

(a) Article 9, section 2, paragraph 6 of the Georgia Constitution gives the governing authority the power to create special districts for the provision of local government services within such districts, and to levy and collect taxes within such districts to pay for the cost of providing such services.

(b) Private sewer systems collect, treat, transport, and dispose of sewage, which is water-carried waste including human excrement and grey water.

(c) If a private sewer system is deficient and in need of repair, blockages, seepage, and overflows of sewage can occur. Often, private sewer systems are not constructed in compliance with current county specifications, and are not repaired in a manner that reduces or eliminates blockages, spills and deficiencies.

(d) When blockages and overflows occur in private sewer systems, untreated sewage may spill over into the county's waterways, which adversely affects the county's water quality and jeopardizes the health and welfare of county citizens.

(e) The governing authority finds that failing private sewer systems may create potentially significant public health and safety hazards for all residents of the county. The governing authority further finds that costs associated with seepages, blockages and overflows can be burdensome and, thus, it is in the best interests of all residents of the county to assist in the repair and upgrade of failing private sewer systems so that such systems can be incorporated into the county's public sewer system.

(f) To achieve this public purpose, the governing authority wants to make available a process to correct the failings in private sewer systems and thereafter incorporate these private sewer systems into the county's public sewer system.

(g) This article establishes a process to improve, regulate, maintain and operate sewer systems in special sewer tax districts (hereinafter referred to as "sewer tax districts") comprised of defined areas of the unincorporated county served by failing private sewer systems, as that term is defined in this article.

(h) Once a sewer tax district is created and the county repairs and upgrades the failing private sewer system, then the chief executive officer shall formally accept the private sewer system into the county's public sewer system. After the sewer improvements are completed, and the cost of the repair and upgrade is fully paid by the collection of taxes within the sewer tax district, then the sewer tax district shall be dissolved by operation of law.

(i) Once a failing private sewer system is upgraded to current specifications and/or repaired and incorporated in the county's public sewer system, then the governing authority believes that blockages, seepages and overflows of untreated sewage in the county's waterways will be reduced. Therefore, creating special sewer tax districts as provided in this article protects the health and welfare of the county's citizens by improving the water quality of the county's waterways, and is a cost-efficient method of reducing blockages, spills and overflows from failing private sewer systems.

(j) Nothing in this article shall be construed to require the governing authority to approve any request to establish a sewer tax district, and it shall be in the sole legislative judgment of the governing authority to approve the establishment of any such sewer tax district.

(k) Nothing in this article shall be construed to prevent the governing authority from creating a sewer tax district if it determines that the sewer tax district is required to protect the health, safety, and welfare of the citizens of the county, and it shall be in the sole legislative judgment of the governing authority to make a determination to establish any such sewer tax district.

(l) This article shall not be used to create a sewer tax district to repair individual sewer service lines or laterals that run from a public or private sewer main to a structure, as such sewer service lines or laterals are regulated in Chapter 25 of this Code. Repair, upgrade, and replacement of such sewer service lines or laterals remain the responsibility of the owner of the structure.

(m) Nothing in this article shall be construed to provide a mechanism to create sewer tax districts to service property that houses apartments, or to service a commercial, business, industrial, or office structure, enterprise or development.

Sec. 2-301. Definitions.

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

"Apartment" means a building containing four or more independent, self-contained, residential units; each independent, self-contained, residential unit must be comprised of one or more rooms, designed, occupied or intended for occupancy as separate living quarters, with cooking, sleeping, and bathroom facilities. The term apartment does not include a condominium as that term is defined in state law.

"*Complete petition*" means a petition that includes: (i) the signatures of the required number of owners of the property lying within the proposed sewer tax district in favor of such designation; and (ii) an accurate description of the property to be included in the proposed sewer tax district,

including tax map parcel identification numbers, as used by the tax assessor and the tax commissioner. The petition is subject to verification of property owner signature(s) and property owner(s) boundary lines by the director of watershed management.

"Costs" or "costs incurred within a sewer tax district" means the actual cost of designing, repairing, upgrading and constructing the sewer improvements in the sewer tax district, including the actual cost of surveying; engineering design; fee simple, right of way and/or easement acquisition; construction, financing, legal and other related expenses; and the county's administrative costs. Costs shall be amortized over a period of ten (10) years for each individual sewer tax district.

"*Failing private sewer system*" means a private sewer system that has been determined to be in need of repair and deficient in a written, sealed engineering report prepared by a civil engineer licensed by the State of Georgia.

"*Lot*" means a designated parcel, tract, or area of land legally established by plat, subdivision, or as otherwise permitted by law, to be separately owned, used, developed, or built upon. To qualify as a lot, the property must be residentially zoned, must house a single-family detached or attached dwelling(s), and legal ownership of the lot must be held in fee simple. The term "lot" includes lots that house common areas such as clubhouses, swimming pools, tennis courts, or recreational areas designed to be used by residents of a neighborhood or development and owned in fee simple by an individual or entity such as a homeowner's association.

"*Private sewer system*" means a sanitary sewer system that: (i) has not been accepted by the county as part of the public sanitary sewer system, and (ii) services lots or condominium units. A sanitary sewer system is accepted by the county as part of the public sewer system only if: (i) it is designed, constructed, inspected, and tested according to county standards, and either (ii) a written, fully executed easement, right of way deed, or agreement conveying the sanitary sewer system to DeKalb County, Georgia, as grantee, exists and is recorded in the office of the Clerk of Superior Court of DeKalb County, or (iii) a final plat exists that includes a dedication and conveyance of the sewer main and is accepted and approved by the board of commissioners or the chief executive officer and filed with the clerk of superior court in the manner required by the applicable provisions of the law.

"*Property owner"* means an owner of land, and includes a condominium unit owner as that term is defined by state law. The term property owner does not include owners of land utilized as apartments, or commercial, business, industrial, or office structures, enterprises or developments.

"*Sanitary sewer*" means a pipe that is designed and constructed to carry sewage.

Sec. 2-302. Authority and responsibility.

(a) The chief executive officer shall be responsible for administering the sewer tax district program set forth in this article, and shall have the authority to promulgate policies, procedures, and forms necessary to effectuate the provisions of this article.

(b) The executive assistant shall, at a minimum:

(1) Advise prospective petitioners for a proposed sewer tax district of the procedures required for the establishment of such districts pursuant to this article;

(2) Establish the boundaries of a proposed sewer tax district in accordance with such criteria and in such manner as is necessary and appropriate;

(3) Establish an orderly system of numbering sewer tax districts created pursuant to this article, in consultation with the tax assessor and the tax commissioner;

(4) Provide standard form petitions for use by prospective petitioners which shall include a requirement to provide the name and address of an individual who shall serve as the petition originator and who shall agree to be the designated person to receive required notices from the county;

(5) Advise the petition originator of estimated assessment rates for owners of property lying within the proposed sewer tax district;

(6) Examine all filed petitions for accuracy and compliance with the provisions of this article;

(7) Submit the petition, if the petition is complete, accurate, and approved by the director of watershed management in the manner set forth in this article, to the governing authority together with estimated assessment rates for owners of property lying within the proposed sewer tax district, the date of dissolution of the proposed sewer tax district, and such other recommendations as the chief executive officer may deem appropriate;

(8) Coordinate the installation, repair, and upgrade of private sewer systems within sewer tax districts approved by the governing authority;

(9) Obtain the necessary surveys, engineering designs, plans, specification cost estimates, bid forms, and other documents necessary for the repair and/or upgrade of a private sewer system so that it can be accepted as part of the public sewer system;

(10) Seek establishment of a sewer tax district where appropriate and necessary, even if residents of the community served by the private sewer system do not petition the governing authority for creation of a sewer tax district; and

(11) Perform any and all other acts or duties necessary or proper to effectuate the provisions of this article.

Sec. 2-303. Creation of a sewer tax district upon the petition of fifty-one percent of the property owners in areas where private sewer systems are located within a county easement or right of way.

(a) The owner(s) of not less than fifty-one percent (51%) of the property within an area that is being served by a failing private sewer system located within a county easement or right of way in the unincorporated area of the county may file with the executive assistant a petition requesting creation of a sewer tax district. Each property owner in favor of designating a sewer tax district must sign a petition and print or type thereon his/her name, address of the property within the proposed sewer tax district, and the date of signature. The petition must also contain an accurate description of the property to be contained within the sewer tax district, including tax map parcel identification numbers, as used by the tax assessor and the tax commissioner. The petition must include copies of easements, right of way deeds, or other documents that conclusively show that the private sewer system is located within a county easement or right of way. Owners of private sewer systems that are not located within a county right of way or easement are not eligible to petition the governing authority for creation of a sewer tax district pursuant to this section.

(b) Within thirty (30) days of receipt of the petition, the executive assistant shall review the petition to determine if it is complete and accurate. If complete and accurate, the executive assistant shall have an additional ten (10) days to forward the complete and accurate petition to the director of watershed management for approval. The director of watershed management shall determine if the boundaries of the proposed sewer tax district are definable and contiguous. If the boundaries of the proposed sewer tax district are determined to be definable and contiguous, the director of watershed management shall obtain a written, sealed engineering report prepared by a civil engineer licensed by the State of Georgia to determine if the private sewer system is in need of repair and deficient. The report shall include a professionally prepared cost estimate to repair the system and bring it into compliance with the current requirements of federal and state law, and this Code. The director of watershed management shall have sixty (60) days from receipt of the written, sealed engineering report to review and approve, or disapprove, the petition. The director of watershed management's review and approval of the petition shall be based on sound engineering and accounting practices, and the compatibility of the proposal with existing county facilities and systems. The director of watershed management shall not approve a petition until he/she has notified the affected county departments and county officials of the petition and secured their review and approval of the petition. The director of watershed management shall not approve a petition if the private sewer system is not located in a county easement or right of way. If disapproved, the director of watershed management shall provide written notice to the petition originator of the decision to disapprove the petition, and the reasons for that decision, within the sixty (60)-day review period. The director of watershed management's decision in this regard is final.

(c) Within thirty (30) days of receipt of a complete and accurate petition approved by the director of watershed management, the executive assistant shall submit to the governing authority a proposed agenda item and enabling resolution to create the sewer tax district, and provide such other information as is necessary and appropriate to authorize the creation of the sewer tax district.

(d) If decisions by county employees are not made in accordance with the time constraints set forth in section 2-303(a), (b) and (c) directly above, then the petition shall stand disapproved without further action by the county.

(e) Prior to the creation of a sewer tax district, the governing authority shall hold a public hearing to consider the creation of such district. A notice of the public hearing shall be published in a newspaper of general circulation once within the thirty (30) days immediately preceding the public hearing.

(f) The governing authority shall make a decision on the creation of the sewer tax district within ninety (90) days of the first time the enabling resolution appears on the agenda for consideration by the governing authority.

Sec. 2-304. Creation of a sewer tax district upon the petition of one hundred percent of the property owners in areas where private sewer systems are located on private property.

(a) All property owners within an area that is being served by a failing private sewer system located on private property in the unincorporated area of the county may file with the executive assistant a petition requesting creation of a sewer tax district. Each property owner in the proposed sewer tax district must sign a petition and print or type thereon his/her name, address of the property within the proposed sewer tax district, and the date of signature. The petition must also contain an accurate description of the property to be contained within the proposed sewer tax district, including tax map parcel identification numbers, as used by the tax assessor and the tax commissioner.

(b) Within thirty (30) days of receipt of the petition, the executive assistant shall review the petition to determine if it is complete and accurate. If complete and accurate, the executive assistant shall have an additional ten (10) days to forward the complete and accurate petition to the director of watershed management for approval. The director of watershed management shall determine if the boundaries of the proposed sewer tax district are definable and contiguous. If the boundaries of the proposed sewer tax district are determined to be definable and contiguous, the director of watershed management shall obtain a written, sealed engineering report prepared by a civil engineer licensed by the State of Georgia to determine if the private sewer system is in need of repair and deficient. The report shall include a professionally prepared cost estimate to repair the system and bring it into compliance with the current requirements of federal and state law, and this Code. The director of watershed management shall have sixty (60) days from receipt of the written, sealed engineering report to review and approve, or

disapprove, the petition. The director of watershed management's review and approval of the petition shall be based on sound engineering and accounting practices, and the compatibility of the proposal with existing county facilities and systems. The director of watershed management shall not approve a petition until he/she has notified the affected county departments and county officials of the petition and secured their review and approval of the petition. If disapproved, the director of watershed management shall provide written notice to the petition originator of the decision to disapprove the petition, and the reasons for that decision, within the sixty (60)-day review period. The director of watershed management's decision in this regard is final.

(c) Within thirty (30) days of receipt of a complete and accurate petition approved by the director of watershed management, the executive assistant shall submit to the governing authority a proposed agenda item and enabling resolution to create the sewer tax district, and provide such other information as is necessary and appropriate to authorize the creation of the sewer tax district.

(d) If decisions by county employees are not made in accordance with the time constraints set forth in section 2-304(a), (b) and (c) directly above, then the petition shall stand disapproved without further action by the county.

(e) The governing authority shall make a decision on the creation of the sewer tax district within ninety (90) days of the first time the enabling resolution appears on the agenda for consideration by the governing authority.

Sec. 2-305. Creation of a sewer tax district by the governing authority.

(a) The governing authority shall be authorized and empowered to create sewer tax districts in unincorporated areas of the county that are served by failing private sewer systems, and the creation of such sewer tax districts shall be upon such terms and conditions and in such manner as the governing authority may deem necessary or proper.

(b) Sewer tax districts created pursuant to this section shall not require a petition and shall not be required to comply with sections 2-303 or 2-304. Sewer tax districts created pursuant to this section do not require consent or support of the owners of the private sewer system or the property owners served by the private sewer system. Creation of sewer tax districts pursuant to this section shall not abrogate in any way the applicable legal requirements that a county must adhere to when seeking to acquire an interest in privately owned land.

(c) The governing authority shall not create a sewer tax district pursuant to this section until it has received a written, sealed engineering report prepared by a civil engineer licensed by the State of Georgia, showing that a private sewer system is in need of repair and deficient. The report shall include a professionally prepared cost estimate to repair the system and bring it into compliance with the current requirements of federal and state law, and this Code.

(d) Prior to the creation of a sewer tax district, the governing authority shall hold a public hearing to consider the creation of such district. A notice of the public hearing shall be published in a newspaper of general circulation once within the thirty (30) days immediately preceding the public hearing.

Sec. 2-306. Individual sewer service lines or laterals, and other exemptions.

(a) No sewer tax district shall be forwarded to the governing authority or created by the governing authority to repair individual sewer service lines or laterals that run from a public or private sewer main to a structure, as such sewer service lines or laterals are regulated in Chapter 25 of this Code. Repair, upgrade, and replacement of such sewer service lines or laterals remain the responsibility of the owner of the structure.

(b) No sewer tax district shall be forwarded to the governing authority or created by the governing authority for property that houses apartments, or a commercial, business, industrial, or office structure, enterprise or development.

(c) Property in a sewer tax district that is exempt from payment of ad valorem property taxes pursuant to state law shall be exempt from payment of any sewer tax imposed pursuant to this article.

Sec. 2-307. Fee Simple, right of way and/or easement acquisitions necessary to complete sewer improvements and construction services.

All fee simple, right of way and/or easement acquisitions necessary for the completion of sewer improvements within a sewer tax district created pursuant to sections 2-303 or 2-304 shall be conveyed at no cost to the county at an appropriate time designated by the chief executive officer after approval of the sewer tax district by the governing authority. The construction services in a sewer tax district shall not commence until the governing authority has approved the sewer tax district and all necessary fee simple, right of way and/or easement acquisitions have been conveyed.

Sec. 2-308. Acceptance of the private sewer system as part of the county public sewer system.

(a) *Private sewer systems located within a county easement or right of way.* If the governing authority creates a sewer tax district for a private sewer system located within a county easement or right of way, and if the director of watershed management certifies in writing that the necessary sewer improvements in the sewer tax district have been completed so that the sewer system is no longer failing and complies with all applicable requirements of law, including the time requirements in section 2-308(c), then upon receipt of such written certification, the chief executive officer shall execute the necessary documents, if any are needed, to accept the private sewer system as part of the county's public sewer

system. Thereafter, the sewer system in the sewer tax district shall be part of the county's public sewer system, subject to county repair, upgrade requirements, and conditions for that system.

(b) *Private sewer systems located on private property.* If the governing authority creates a sewer tax district for a private sewer system located on private property, and if the director of watershed management certifies in writing that the necessary sewer improvements in the sewer tax district have been completed so that the sewer system is no longer failing and complies with all applicable requirements of law, including the time requirements in section 2-308(c), then upon receipt of such written certification, the chief executive officer shall execute the necessary legal documents, if any are needed, to accept the private sewer system as part of the county's public sewer system. Title shall not be conveyed to the sanitary sewer without prior conveyance of necessary written fee simple, easement or right of way deeds, or a fully executed agreement conveying the sanitary sewer system to DeKalb County, as grantee. If all such documents are executed and recorded in the deed records of the Clerk of Superior Court of DeKalb County, and the requirements of this article have been met, thereafter, the sewer system in the sewer tax district shall be part of the county's public sewer system, subject to county repair, upgrade requirements, and conditions for that system.

(c) No private sewer system shall be finally accepted as part of the county's public sewer system until January 1st of the year after the finance director and the tax commissioner have adjusted all the property owners' estimated assessment rates to accurately reflect their pro rata shares of all costs incurred within the sewer tax district.

Sec. 2-309. Calculation of taxes to be assessed in the sewer tax district.

(a) The property owners in the sewer tax district collectively shall pay fifty percent (50%) of the costs incurred within a sewer tax district, but in no event shall each property owner's share of costs exceed seven thousand five hundred dollars ($7,500.00). The county shall pay fifty percent (50%) of the same costs, or a greater amount if necessary to enforce the seven thousand five hundred dollars ($7,500.00) cap. Each property owner in the sewer tax district shall be responsible for and pay his/her pro rata share of the costs, which shall be divided equally among all property owners within such district on the basis of the number of lots, whether improved or unimproved, or on the basis of the number of condominium units, as that term is defined by state law. Owners of exempt properties shall not be included in the calculation of costs.

(b) Each year, the finance director shall be responsible for calculating each property owner's annual pro rata share of the costs, in accordance with the provisions of this article. The tax commissioner shall be responsible for collecting from the property owners payment of their pro rata share of the fifty percent (50%) of costs incurred within a sewer tax district. The finance director and tax commissioner shall be notified by the executive assistant at such time as the sewer tax district is approved to commence the collection and receipt of monies in payment of estimated assessment rates. Beginning January 1st of the

year following the creation of the tax district and for each year thereafter, the tax statement issued to each such property owner shall include a separate line item tax showing each property owner's annual pro rata share of the costs until paid. When all work within an approved sewer tax district is complete, the finance director and tax commissioner shall adjust estimated assessment rates pursuant to section 2-308(c) to reflect all costs incurred within a sewer tax district.

(c) The fifty percent (50%) of costs, as limited by the seven thousand five hundred dollar ($7,500.00) cap, shall be the special services sewer tax and shall become due and payable at the same time that other county taxes are due and payable. If such tax remains unpaid, the tax commissioner shall have the authority to issue a writ of fieri facias or execution against the property served, which writ shall have the same lien dignity and priority as writs of fieri facias or executions issued for other county taxes. Each annual special services sewer tax shall become a lien against the property served on January 1st of each year in the same manner that a lien attaches for other county taxes, and such lien shall cover the property of the owner until such special services sewer tax is paid. Any unpaid amount shall accrue penalty, interest and charges in the same manner and at the same rate as other delinquent county taxes.

Sec. 2-310. Dissolution of the sewer tax district.

On December 31st of the tenth (10th) year following creation of a sewer tax district, the sewer tax district shall stand dissolved by operation of law. Dissolution of a sewer tax district in no way affects or invalidates enforcement and collection of any outstanding lien(s) for costs owed pursuant to this article in a sewer tax district.

Secs. 2-311 - 2-499. Reserved.

PART II. EFFECTIVE DATE

This ordinance shall become effective one hundred and eighty (180) days after adoption by the Board of Commissioners and approval by the Chief Executive Officer.

PART III. SEVERABILITY

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

ADOPTED by the DeKalb County Board of Commissioners, this _____ day of _____, 2012.

_____
LARRY L. JOHNSON, MPH
Presiding Officer
Board of Commissioners
DeKalb County, Georgia

APPROVED by the Chief Executive Officer of DeKalb County, this _____ day of _____, 2012.

_____
W. BURRELL ELLIS, JR.
Chief Executive Officer
DeKalb County, Georgia

ATTEST:

_____
BARBARA H. SANDERS, CCC
Clerk to the Board of Commissioners
and Chief Executive Officer

APPROVED AS TO SUBSTANCE:

_____
WILLIAM E. RHINEHART
Deputy Chief Operating Officer-Infrastructure

APPROVED AS TO FORM:

_____
~~**LISA E. CHANG**~~ LORI BRILL
SR. ASST. County Attorney

May 17, 2012

AN ORDINANCE

AN ORDINANCE TO AMEND THE CODE OF DEKALB COUNTY, GEORGIA, CHAPTER 2, TO PROVIDE FOR THE CREATION OF SPECIAL PUBLIC SEWER AND WATER TAX DISTRICTS, AND FOR OTHER PURPOSES.

WHEREAS, the Governing Authority of DeKalb County is tasked with the protection of the county's health, safety, and general welfare; and

WHEREAS, state law gives the county the authority to create special districts for the provision of local government services within such districts, and to levy and collect taxes within such districts to pay for the cost of providing such services;

NOW, THEREFORE, be it ordained by the Governing Authority of DeKalb County, Georgia, and it is hereby ordained by the authority of same, that Chapter 2 of the Code of DeKalb County, as Revised 1988, be and the same is hereby amended as follows:

PART I. ENACTMENT

By adding article XII of chapter 2 to read as follows:

ARTICLE XII. SPECIAL PUBLIC SEWER AND WATER TAX DISTRICTS

Sec. 2-700. Purpose and intent.

(a) Article 9, section 2, paragraph 6 of the Georgia Constitution gives the governing authority the power to create special districts for the provision of local government services within such districts, and to levy and collect taxes within such districts to pay for the cost of providing such services.

(b) The county's public sewer, as that term is defined in section 25-145, now and as it may be amended hereafter, collects, treats, transports, and disposes of sewage, which is water-carried waste including human excrement and grey water, from residences, businesses, buildings and institutions.

(c) The county's public water system, as that term is defined in section 25-26, now and as it may be amended hereafter, collects, pumps, and distributes treated potable water to residences, businesses, buildings and institutions.

(d) When blockages and overflows occur, untreated sewage may spill over into the county's waterways, which adversely affects the county's water quality and jeopardizes the health and welfare of county citizens.

(e) When water main leaks and breaks occur, the county's public water system may experience contamination, reduced pressure and wastage, which adversely affects water quality and jeopardizes the health and welfare of county citizens.

(f) The governing authority finds that costs associated with sewer seepages, blockages and overflows, and water contamination, lower water pressure and water wastage can be burdensome and, thus, it is in the best interests of all residents of the county to assist in the repair and upgrade of the county's public sewer and water system.

(g) This article establishes a process to improve, regulate, maintain and operate the county's public sewer and water system in special sewer or water tax districts (hereinafter referred to as "public sewer or water tax districts") comprised of defined areas of the unincorporated county served by the county sewer or water system.

(h) After the sewer and water improvements are completed, and the cost of the repair and upgrade is fully paid by the collection of taxes within the public sewer or water tax district, then the public sewer or water tax district shall be dissolved by operation of law.

(i) Nothing in this article shall be construed to require the governing authority to approve any request to establish a public sewer or water tax district, and it shall be in the sole legislative judgment of the governing authority to approve the establishment of any such public sewer or water tax district.

(j) Nothing in this article shall be construed to prevent the governing authority from creating a public sewer or water tax district if it determines that the public sewer or water tax district is required to protect the health, safety, and welfare of the citizens of the county, and it shall be in the sole legislative judgment of the governing authority to make a determination to establish any such public sewer or water tax district.

(k) This article shall not be used to create a public sewer or water tax district to repair individual sewer and water service lines or laterals that run from a public or private sewer and water main to a structure, as such sewer and water service lines or laterals are regulated in Chapter 25 of this Code. Repair, upgrade, and replacement of such sewer and water service lines or laterals remain the responsibility of the owner of the structure.

(l) Nothing in this article shall be construed to provide a mechanism to create sewer and water tax districts to service property that houses apartments, or to service a commercial, business, industrial, or office structure, enterprise or development.

Sec. 2-701. Definitions.

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

"Apartment" means a building containing four or more independent, self-contained, residential units; each independent, self-contained, residential unit must be comprised of one or more rooms, designed, occupied or intended for occupancy as separate living quarters, with cooking, sleeping, and bathroom facilities. The term apartment does not include a condominium as that term is defined in state law.

"Costs" or "costs incurred within a public sewer or water tax district" means the actual cost of designing, repairing, upgrading and constructing the sewer and water improvements in the sewer and water tax district, including the actual cost of surveying; engineering design; fee simple, right of way and/or easement acquisition; construction, financing, legal and other related expenses; and the county's administrative costs. Costs shall be amortized over a period of ten (10) years for each individual public sewer or water tax district.

"*Lot*" means a designated parcel, tract, or area of land legally established by plat, subdivision, or as otherwise permitted by law, to be separately owned, used, developed, or built upon. To qualify as a lot, the property must be residentially zoned, must house a single-family detached or attached dwelling(s), and legal ownership of the lot must be held in fee simple. The term "lot" includes lots that house common areas such as clubhouses, swimming pools, tennis courts, or recreational areas designed to be used by residents of a neighborhood or development and owned in fee simple by an individual or entity such as a homeowner's association.

"*Property owner"* means an owner of land, and includes condominium unit owner as that term is defined by state law. The term property owner does not include owners of land utilized as apartments, or commercial, business, industrial, or office structures, enterprises or developments.

Sec. 2-702. Authority and responsibility.

(a) The chief executive officer shall be responsible for administering the public sewer and water tax district program set forth in this article, and shall have the authority to promulgate policies, procedures, and forms necessary to effectuate the provisions of this article.

(b) The executive assistant shall, at a minimum:

(1) Establish the boundaries of a proposed public sewer or water tax district in accordance with such criteria and in such manner as is necessary and appropriate;

(2) Establish an orderly system of numbering public sewer and water tax districts created pursuant to this article, in consultation with the tax assessor and the tax commissioner;

(3) Submit a resolution to the governing authority together with estimated assessment rates for owners of property lying within the proposed public sewer or water tax district, the date of dissolution of the proposed public sewer or water tax district, and such other recommendations as the chief executive officer may deem appropriate;

(4) Coordinate the installation, repair, and upgrade of the public sewer and water system within public sewer or water tax districts approved by the governing authority;

(5) Obtain the necessary surveys, engineering designs, plans, specification cost estimates, bid forms, and other documents necessary for the repair and/or upgrade of the county's sewer and water system;

(6) Perform any and all other acts or duties necessary or proper to effectuate the provisions of this article.

Sec. 2-703. Creation of a public sewer or water tax district by the governing authority.

(a) The governing authority shall be authorized and empowered to create public sewer or water tax districts in unincorporated areas of the county, and the creation of such public sewer or water tax districts shall be upon such terms and conditions and in such manner as the governing authority may deem necessary or proper.

(b) Public sewer or water tax districts created pursuant to this article do not require consent or support of the owners of property within the public sewer or water district.

(c) The governing authority shall not create a public sewer or water tax district pursuant to this article until it has received a written, sealed engineering report prepared by a civil engineer licensed by the State of Georgia, showing that the county's public sewer and water system is in need of repair and deficient. The report shall include a professionally prepared cost estimate to repair the system and bring it into compliance with the current requirements of federal and state law, and this Code.

(d) Prior to the creation of a public sewer or water tax district, the governing authority shall hold a public hearing to consider the creation of such district. A notice of the public hearing shall be published in a newspaper of general circulation once within the thirty (30) days immediately preceding the public hearing.

Sec. 2-704. Individual sewer and water service lines or laterals, and other exemptions.

(a) No public sewer or water tax district shall be forwarded to the governing authority or created by the governing authority to repair individual sewer and water service lines or laterals that run from a public or private sewer and water main to a structure; as such sewer and water service lines or laterals are regulated in Chapter 25 of this Code. Repair, upgrade, and replacement of such sewer and water service lines or laterals remain the responsibility of the owner of the structure.

(b) No public sewer or water tax district shall be forwarded to the governing authority or created by the governing authority for property that houses apartments, or a commercial, business, industrial, or office structure, enterprise or development.

(c) Property in a public sewer or water tax district that is exempt from payment of ad valorem property taxes pursuant to state law shall be exempt from payment of any public sewer and water tax imposed pursuant to this article.

Sec. 2-705. Calculation of taxes to be assessed in the public sewer or water tax district.

(a) The property owners in the public sewer or water tax district collectively shall pay fifty percent (50%) of the costs incurred within a public sewer and water tax district, but in no event shall each property owner's share of costs exceed seven thousand five hundred dollars ($7,500.00). The county shall pay fifty percent (50%) of the same costs, or a greater amount if necessary to enforce the seven thousand five hundred dollars ($7,500.00) cap. Each property owner in the public sewer and water tax district shall be responsible for and pay his/her pro rata share of the costs, which shall be divided equally among all property owners within such district on the basis of the number of lots, whether improved or unimproved, or on the basis of the number of condominium units, as that term is defined by state law. Owners of exempt properties shall not be included in the calculation of costs.

(b) Each year, the finance director shall be responsible for calculating each property owner's annual pro rata share of the costs, in accordance with the provisions of this article. The tax commissioner shall be responsible for collecting from the property owners payment of their pro rata share of the fifty percent (50%) of costs incurred within a public sewer and water tax district. The finance director and tax commissioner shall be notified by the executive assistant at such time as the public sewer and water tax district is approved to commence the collection and receipt of monies in payment of estimated assessment rates. Beginning January 1st of the year following the creation of the tax district and for each year thereafter, the tax statement issued to each such property owner shall include a separate line item tax showing each property owner's annual pro rata share of the costs until paid. When all work within an approved public sewer and water tax district is complete, the finance director and tax commissioner shall adjust estimated assessment rates pursuant to section 2-705(c) to reflect all costs incurred within a public sewer and water tax district.

(c) The fifty percent (50%) of costs, as limited by the seven thousand five hundred dollar ($7,500.00) cap, shall be the special services public sewer and water tax and shall become due and payable at the same time that other county taxes are due and payable. If such tax remains unpaid, the tax commissioner shall have the authority to issue a writ of fieri facias or execution against the property served, which writ shall have the same lien dignity and priority as writs of fieri facias or executions issued for other county taxes. Each annual special services public sewer and water tax shall become a lien against the property served on January 1st of each year in the same manner that a lien attaches for other county taxes, and such lien shall cover the property of the owner until such special services public sewer and water tax is paid. Any unpaid amount shall accrue penalty, interest and charges in the same manner and at the same rate as other delinquent county taxes.

Sec. 2-706. Dissolution of the public sewer and water tax district.

On December 31st of the tenth (10th) year following creation of a public sewer and water tax district, the public sewer and water tax district shall stand dissolved by operation of law. Dissolution of a public sewer and water tax district in no way affects or invalidates enforcement and collection of any outstanding lien(s) for costs owed pursuant to this article in a public sewer and water tax district.

Secs. 2-707 - 2-899. Reserved.

PART II. EFFECTIVE DATE

This ordinance shall become effective one hundred and eighty (180) days after adoption by the Board of Commissioners and approval by the Chief Executive Officer.

PART III. SEVERABILITY

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

ADOPTED by the DeKalb County Board of Commissioners, this _____ day of _____, 2012.

_____
LARRY L. JOHNSON, MPH
Presiding Officer
Board of Commissioners
DeKalb County, Georgia

APPROVED by the Chief Executive Officer of DeKalb County, this _____ day of _____, 2012.

_____
W. BURRELL ELLIS, JR.
Chief Executive Officer
DeKalb County, Georgia

ATTEST:

_____
BARBARA H. SANDERS, CCC
Clerk to the Board of Commissioners
and Chief Executive Officer

APPROVED AS TO SUBSTANCE:

_____
WILLIAM E. RHINEHART
Deputy Chief Operating Officer-Infrastructure

APPROVED AS TO FORM:

_____
~~**LISA E. CHANG**~~ LORI BRILL
SR. ASST County Attorney