# COUNTY AGENDA REQUEST

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| Department: | Legal | Presenter(s): | Interim Attorney Dennis Davenport |
| Meeting Date: | Tuesday, July 9, 2013 | Type of Request: | Consent |

Wording for the Agenda:

Approval of staff's recommendation to approve Ordinance 2013-09 amending the Code of Ordinances for Fayette County, Georgia by establishing operating regulations for Lake McIntosh, repealing conflicting ordinances, providing severability, and promoting the public health, safety and welfare, and for other purposes.

Background/History/Details:

Lake McIntosh is the county reservoir designated as Lake McIntosh and established and owned by Fayette County.

Ordinance 2013-09 establishes the Hours of Operation, Prohibited Activities, Miscellaneous regulations, and Penalties for violations .

Lake McIntosh will be open to the public from 6:30 am until 6:00 p.m. eastern standard time or 6:30 a.m. until 8:30 p.m. daylight savings time.

Prohibited activities include swimming, wade, bodily contact with the water, operation of hydrocarbon or alcohol-fueled boats or other water craft, water skiing, scuba diving, alcoholic beverages, and fishing from the shore except for within the recreation area.

The general public shall have access to Lake McIntosh only at areas designated as public access and facilities by the owner, that it is unlawful for anyone under the age of 14 to operate any watercraft on Lake McIntosh, entry of all vehicles registered in any county, aside from Fayette County, shall cause the accrual of a daily parking fee set forth by the Board of Commissioners. Violators may be subject to fine and / or imprisonment not to exceed $1,000 or thirty (30) days imprisonment.

What action are you seeking from the Board of Commissioners?

Approval of staff's recommendation to approve Ordinance 2013-09 amending the Code of Ordinances for Fayette County, Georgia by establishing operating regulations for Lake McIntosh, repealing conflicting ordinances, providing severability, and promoting the public health, safety and welfare, and for other purposes.

If this item requires funding, please describe:

Not Applicable.

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| Has this request been considered within the past two years? | No | If so, when? | |
| Is Audio-Visual Equipment Required for this Request?* | No | Backup Provided with Request? | Yes |

**** All audio-visual material must be submitted to the County Clerk's Office no later than 48 hours prior to the meeting. It is also your department's responsibility to ensure all third-party audio-visual material is submitted at least 48 hours in advance.***

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| Approved by Finance | Not Applicable | Reviewed by Legal | |
| Approved by Purchasing | Not Applicable | County Clerk's Approval | Yes |
| Administrator's Approval | | | |

Staff Notes:

**STATE OF GEORGIA**

**FAYETTE COUNTY**

**ORDINANCE**

**NO. 2013-09**

**AN ORDINANCE TO AMEND THE CODE OF ORDINANCES FOR FAYETTE COUNTY, GEORGIA; TO ESTABLISH OPERATING REGULATIONS FOR LAKE MCINTOSH; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR SEVERABILITY; TO PROMOTE THE PUBLIC HEALTH, SAFETY AND WELFARE, AND FOR OTHER PURPOSES.**

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS FOR FAYETTE COUNTY, GEORGIA AND IT IS HEREBY ENACTED PURSUANT TO THE AUTHORITY OF THE SAME THAT THE CODE OF ORDINANCES OF FAYETTE COUNTY AS IT PERTAINS TO RECREATION AND PARKS (CHAPTER 14), BE AMENDED AS FOLLOWS:**

**Section 1.** By designating Sections 14-65 through 14-79 of Article IV of Chapter 14 as "Reserved", and by adding a new Article V, pertaining to "Lake McIntosh", to Chapter 14, to be numbered and read as follows:

**ARTICLE V. LAKE McINTOSH**

**Sec. 14-80. Definitions.**

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

different meaning:

*Lake McIntosh* means the county reservoir designated as Lake McIntosh and established in the county and owned and operated by this county. This definition includes the lake at its normal pool elevation, a certain flood easement as shown on the records as kept in the clerk's office of the county superior court, dam site and public access and facilities.

*Owner* means the county and/or the board of commissioners.

*Public assess and facilities* means any area open to the public in or about Lake McIntosh as designated by the county.

**Sec. 14-81. Hours of operation.**

Lake McIntosh shall be open to the general public from and to those public access and facility areas as designated by the county between the hours of 6:30 a.m. and 6:00 p.m. eastern standard time or 6:30 a.m. and 8:30 p.m. daylight saving time, whichever is applicable.

**Sec. 14-82. Prohibited activities.**

The following activities shall be prohibited on or about Lake McIntosh and any other property surrounding such area as being property of the owner:

(1) Swimming, wading;

(2) Any activity allowing bodily contact with the water;

(3) The operation of any hydrocarbon or alcohol-fueled power boats or other water

craft so powered;

(4) Water skiing;

(5) Scuba diving;

(6) Alcoholic beverages; and

(7) Fishing from shore except for the shore within the recreation area.

**Sec. 14-83. Miscellaneous.**

(a) The general public shall have access to Lake McIntosh only at those areas designated as public access and facilities by the owner.

(b) It shall be unlawful for any person under the age of fourteen (14) to operate any and all water craft which are either electrically, wind or manually powered upon Lake McIntosh. No person under the age of fourteen (14) years old shall be allowed in or upon Lake McIntosh unless accompanied by a parent or legal guardian or other adult over the age of twenty-one (21) years old.

(c) Entry of any and all vehicles registered in any county, aside from Fayette County, Georgia, upon the grounds of Lake McIntosh, shall cause the accrual of a daily parking fee in an amount set forth by the Fayette County Board of Commissioners from time to time. Said fee shall be paid by the occupant(s) of said vehicle immediately subsequent to entering upon the Lake McIntosh grounds, in accordance with the procedures and rules posted for said payment.

**Sec. 14-84. Penalty for violations.**

Any and all violations of this article shall be tried in the state court of Fayette County. Upon conviction, such violator shall be subject to fine and/or imprisonment not to exceed one thousand dollars ($1,000.00) or thirty (30) days imprisonment.

**Section 2.** This ordinance shall become effective immediately upon its adoption by the Board of Commissioners for Fayette County, Georgia.

**Section 3.** All other ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

**Section 4.** In any event any section, subsection, sentence, clause or phrase of this Ordinance shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect other sections, subsections, sentences, clauses or phrases of this Ordinance, which shall remain in full force and effect as if the section, subsection, sentence, clause or phrase so declared or adjudged invalid or unconstitutional were not a part thereof. The Board of Commissioners hereby declares that it would have passed the remaining parts of this Ordinance if it had known that such part or parts hereof would be declared or adjudged invalid or unconstitutional.

**SO ENACTED** this ____ day of _____, 2013.

BOARD OF COMMISSIONERS OF
FAYETTE COUNTY, GEORGIA

By:_____
Steve Brown, Chairman

(SEAL)

ATTEST:

_____
Floyd Jones, County Clerk

Approved as to form:

_____
Interim County Attorney