COUNTY AGENDA REQUEST

Department:	Environmental Management	Presenter(s):	Vanessa Birrell
Meeting Date:	Thursday, November 14, 2013	Type of Request:	Consent

Wording for the Agenda:

Approval of Ordinance 2013-19 amending Chapter 12 Offenses and Miscellaneous, Article IV Litter, to include Sections 12-91 through 12-98, to meet the mandated requirements of the Metropolitan North Georgia Water Planning District and provide for enforcement of said requirements.

Background/History/Details:

The amendments prohibit the burial of any debris on construction sites to prevent future sink holes, protect the environment and provide for the enforcement of these regulations by county personnel.

What action are you seeking from the Board of Commissioners?

Approval of Ordinance 2013-19 amending Chapter 12 Offenses and Miscellaneous, Article IV Litter, to include sections 12-91 through 12-98 to meet the mandated requirements of the Metropolitan North Georgia Water Planning District and provide for enforcement of said requirements.

If this item requires funding, please describe:

Not Applicable.

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.***

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

Staff Notes:

STATE OF GEORGIA

FAYETTE COUNTY

ORDINANCE

NO. 2013-19

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES FOR FAYETTE COUNTY, GEORGIA; TO REVISE PROVISIONS PERTAINING TO LITTER; TO PROVIDE AN EFFECTIVE DATE; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR SEVERABILITY; TO PROMOTE THE PUBLIC HEALTH, SAFETY AND WELFARE, AND FOR OTHER PURPOSES.

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF FAYETTE COUNTY AND IT IS HEREBY ENACTED PURSUANT TO THE AUTHORITY OF THE SAME THAT THE CODE OF ORDINANCES OF FAYETTE COUNTY AS IT PERTAINS TO LITTER (ARTICLE IV OF CHAPTER 12), BE AMENDED AS FOLLOWS:

Section 1. By deleting Article IV, pertaining to Litter, of Chapter 12, in its entirety, and by replacing it with a new Article IV in Chapter 12, to be numbered and read as follows:

ARTICLE IV. LITTER.

Sec. 12-91. Purpose and intent.

The purpose of this ordinance is to protect the public health, safety, environment, and general welfare through the regulation and prevention of litter. The objectives of this ordinance are:

(1) Provide for uniform prohibition throughout Fayette County of any and all littering on public or private property; and,

(2) Prevent the desecration of the beauty and quality of life of Fayette County and prevent harm to the public health, safety, environment, and general welfare, including the degradation of water and aquatic resources caused by litter.

Sec. 12-92. Applicability.

This ordinance shall apply to all public and private property within Fayette County.

Sec. 12-93. Compatibility with other regulations.

This ordinance is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, stature, or other provision of law. The requirements of this ordinance should be considered minimum requirements, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.

Sec. 12-94. Definitions.

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

Litter shall mean any organic or inorganic waste material, rubbish, refuse, garbage, trash, hulls, peelings, debris, grass, weeds, ashes, sand, gravel, slag, brickbats, metal, plastic, and glass containers, broken glass, construction and grading debris, dead animals or intentionally or unintentionally discarded materials of every kind and description which are not "waste" as such term is defined in O.C.G.A., § 16-7-51, paragraph 6.

Public or private property shall mean 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; timberlands or forests; and residential, commercial, industrial, or farm properties.

Sec. 12-95. Prohibition against littering public or private property or waters.

It shall be unlawful for any person or persons to bury, dump, deposit, throw or leave or to cause or permit the burying, dumping, depositing, placing, throwing or leaving of litter on any public or private property in Fayette County or any waters in Fayette County unless:

(1) The property is designated by the State or by any of its agencies or political subdivisions for the disposal of such litter, and such person is authorized by the proper public authority to use such property; or

(2) The litter is placed into a receptacle or container installed on such property; or

(3) The owner(s) of such property has or have a valid permit from the State of Georgia Environmental Protection Division to dispose of any litter on such

property.

Sec. 12-96. Vehicle loads causing litter.

No person shall operate any motor vehicle with a load on or in such vehicle unless the load on or in such vehicle is adequately secured to prevent the dropping or shifting of materials from such load onto the roadway.

Sec. 12-97. Violations, enforcement and penalties.

(a) *Violations.* It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this ordinance. Any person who has violated or continues to violate the provisions of this ordinance, may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise sentenced in a manner provided by law.

(b) *Evidence.*

(1) Whenever litter is thrown, buried, deposited, dropped or dumped from any motor vehicle, boat, airplane, machinery or other conveyance in violation of this ordinance, it shall be prima facie evidence that the operator of the conveyance has violated this ordinance.

(2) Except as provided in paragraph (1), whenever any litter which is dumped, buried deposited, thrown or left on public or private property in violation of this ordinance is discovered to contain any article or articles, including but not limited to letters, bills, publications or other writing which display the name of the 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 ordinance.

(c) *Penalties.* Any person who violates this ordinance shall be guilty of a violation and, upon conviction thereof, shall be punished as follows:

(1) By a fine of not less than $200 and not more than $1,000; and

(2) In addition to the fine set out in paragraph (1) above, the violator shall reimburse Fayette County for the reasonable cost of removing the litter when the litter is or is ordered removed by Fayette County; and

(3) (A) In the sound discretion of the court, the person 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 he has deposited and any and all litter deposited thereon by anyone else prior to the date of execution of sentence; or

(B) In the sound discretion of the court, the person may be directed to pick up and remove any and all litter from any public property, private right-of-way, or with 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 he has deposited litter. Pick up and removal shall include any and all litter deposited thereon by anyone prior to the date of execution of sentence; and

(4) The court may publish the names of persons convicted of violating this ordinance.

(d) *Enforcement.* All law enforcement agencies, officers and officials of this state or any political subdivision thereof, or any enforcement agency, officer or any official of any

commission of this state or any political subdivision thereof, are hereby authorized, empowered and directed to enforce compliance with this article.

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

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 14th day of November, 2013.

BOARD OF COMMISSIONERS OF
FAYETTE COUNTY

By:_____
Steve Brown, Chairman

(SEAL)

ATTEST:

_____
Floyd Jones, County Clerk

Approved as to form:

_____
Interim County Attorney