COUNTY AGENDA REQUEST

Department:	Code Enforcement	Presenter(s):	Kathy Hobbs
Meeting Date:	Thursday, November 14, 2013	Type of Request:	Consent

Wording for the Agenda:

Approval of Ordinance 2013-18 amending Chapter 12 Offenses and Miscellaneous, Article I in General, to include sections 12-7 Disorderly Conduct; 12-8 Loitering and Prowling; and 12-9 Public Drunkenness; and to provide for enforcement of said regulations by law enforcement personnel.

Background/History/Details:

Input for these amendments comes from the Sheriff's Office and their stated need to expand the local scope of protection, safety and security of the community through County Code.

In reaction to numerous automobile break-ins in parking lots, the Loitering and Prowling provision includes a defined procedure for law enforcement personnel to deter such crimes.

What action are you seeking from the Board of Commissioners?

Approval of Ordinance 2013-18 amending Chapter 12 Offenses and Miscellaneous, Article I in General, to include sections 12-7 Disorderly Conduct; 12-8 Loitering and Prowling; and 12-9 Public Drunkenness; and to provide for enforcement of said regulations by law enforcement personnel.

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. 2013-18

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES FOR FAYETTE COUNTY, GEORGIA; TO ENACT PROVISIONS PROVIDING FOR THE OFFENSES OF DISORDERLY CONDUCT, LOITERING OR PROWLING, AND PUBLIC DRUNKENNESS; 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 OFFENSE AND MISCELLANEOUS PROVISIONS (CHAPTER 12), BE AMENDED AS FOLLOWS:

Section 1. By creating new Sections 12-7, 12-8, and 12-9 in Article I of Chapter 12, to be numbered and read as follows:

Sec. 12-7. Disorderly conduct.

(a) No person shall remain, loiter or prowl in a place, at a time, or in a manner not usual for law abiding individuals under circumstances that warrant a justifiable and reasonable alarm or immediate concern for the safety of persons or property in the vicinity, after having been ordered to clear such place by a law enforcement officer.

(b) No person shall act in a violent or tumultuous manner toward another whereby any other person is placed in fear of safety of his life, limb or health, or whereby the property of another is placed in danger of being destroyed or damaged.

(c) No person shall endanger the lawful pursuits of another by acts of violence, angry threats or abusive conduct.

(d) No person shall cause, provoke or engage in any fight, brawl or riotous conduct so as to endanger the life, limb, health or property of another.

(e) No person shall assemble or congregate with another or others for the purpose of causing, provoking or engaging in any fight or brawl.

(f) No person shall jostle, roughly crowd or push any person in any public place.

(g) No person shall use "fighting words," or loud and boisterous language, directed towards another so as to create a breach of the peace potentially dangerous to the safety of persons or property.

(h) No person shall congregate with another or others in or on any public way or place so as to halt or impede the flow of vehicular or pedestrian traffic after having been directed to clear such public way or place when ordered by a law enforcement officer.

(i) No person shall disrupt the actions which tend to incite a breach of the peace, the activities of any house of worship, hospital, home for the elderly, school, court, county commission chambers.

(j) No person shall interfere, by acts of physical obstruction, another's pursuit of a lawful occupation or activity.

(k) No person shall throw bottles, paper, cans, glass, sticks, missiles, or any other debris on public property or private property without the consent of the owner or occupant thereof.

Sec. 12-8. Loitering or prowling.

(a) It shall be unlawful for any person to remain, loiter or prowl in a place, at a time, or in a manner not usual for law-abiding individuals under circumstances that warrant a justifiable and reasonable alarm or immediate concern for the safety of persons or property in the vicinity.

(b) The circumstances which may be considered in determining whether alarm is warranted include, but are not limited to, the following:

(1) The fact that the person takes flight upon the appearance of a law enforcement officer, refuses to identify himself/herself, or manifestly endeavors to conceal himself/herself or any object.

(2) The person is observed flipping or pulling door handles on vehicles and/or doors of vehicles or property that does not belong to him/her and said person does not have written permission allowing said activity with regard to said vehicle or property.

(c) Unless flight by the person or other circumstances make it impractical, a law enforcement officer shall, prior to any arrest for an offense under this section, afford the person an opportunity to dispel any alarm or immediate concern which would otherwise be warranted by requested the person to identify himself/herself and explain his/her presence and conduct.

(d) No person shall be convicted of an offense under this section if the law enforcement officer failed to comply with the foregoing procedure or if it appears at trial that the explanation given by the person was true and would have dispelled the alarm or immediate concern.

Sec. 12-9. Public drunkenness.

It shall be unlawful for a person to be and appear in an intoxicated condition in any public place or within the curtilage of any private residence not his/her own other than by invitation of the owner or lawful occupant, which condition is made manifest by boisterousness, by indecent condition or act, or by vulgar, profane, loud, or unbecoming language.

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