

LUMPKIN COUNTY RESOLUTION No. 2011 – 36

**A RESOLUTION TO ADOPT A LUMPKIN COUNTY HEALTH DEPARTMENT
COMPREHENSIVE ENVIRONMENTAL HEALTH ORDINANCE**

Whereas, the governing authority of Lumpkin County has received a joint request from Doctor David N. Westfall, M.D., M.P.H., C.P.E, as District 2 Public Health Director, and as the Lumpkin County Health Department Director, requesting that certain State and local environmental and health care rules and regulations be adopted as a Lumpkin County Comprehensive Environmental Health Ordinance; and,

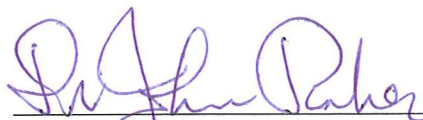
WHEREAS, the Georgia Department of Community Health ("DCH") has promulgated multiple rules and regulations for the protection of environmental health and public health, and has tasked local Boards of Health with the enforcement of these requirements; and

WHEREAS, enforcement and prosecution of DCH rules and regulations in Superior Court can be time consuming and expensive on local Boards of Health, and the ability to prosecute same through issuance of a citation to Magistrate Court could significantly streamline the process both for the local Boards of Health and the citizens accused of prohibited conduct; and

WHEREAS, in addition to DCH promulgated rules, the local Boards of Health have adopted their own public, health/environmental regulations having application to the County. These locally enacted regulations, too, could benefit from the ability to proceed to Magistrate Court for prosecution;


NOW THEREFORE, it is hereby resolved that the proposed ordinance set out on the attached Exhibit "A," which is by reference incorporated as fully as if set out herein, is hereby adopted as a Lumpkin County Ordinance to be known as the Lumpkin County Health Department Comprehensive Environmental Health Ordinance.

Resolved, adopted and effective this 21st day of June, 2011.



John Raber, Chairman
Lumpkin County Board of Commissioners

Attest:



Kathleen C. Walker
Clerk, Lumpkin County

LUMPKIN COUNTY HEALTH DEPARTMENT
COMPREHENSIVE ENVIRONMENTAL HEALTH ORDINANCE
June 21, 2011

An Ordinance Identifying and Adopting those Rules and Regulations Promulgated by the Georgia Department of Community Health; Identifying and Adopting those Rules and Regulations Enacted by the Lumpkin County Board of Health; Providing for Jurisdiction and Enforcement of those Rules and Regulations in the Magistrate Court of Lumpkin County; Providing for Criminal Penalties for Violation Thereof; and for Other Purposes, all for the Protection and Preservation of the Public Health, Safety and Welfare of the People of Lumpkin County.

WHEREAS, the Constitution of the State of Georgia, approved by the voters of the State in November of 1982, and effective July 1, 1983, provides in Article IX, Section II, Paragraph I thereof, that the governing authority of the county may adopt clearly reasonable ordinances, resolutions and regulations; and

WHEREAS, the Board of Commissioners of Lumpkin County desires to identify and adopt rules and regulations to protect the public health, safety and welfare by preventing unhealthy conditions to exist in the county, and by providing uniform enforcement of those health regulations in accordance with O.C.G.A. § 36-1-20; and

WHEREAS, the Georgia Department of Community Health ("DCH") has promulgated multiple rules and regulations for the protection of environmental health and public health, and has tasked local Boards of Health with the enforcement of these requirements; and

WHEREAS, enforcement and prosecution of DCH rules and regulations in State and Superior Court can be time consuming and expensive on local Boards of Health, and the ability to prosecute same through issuance of a citation to Magistrate Court could significantly streamline the process both for the local Boards of Health and the citizens accused of prohibited conduct; and

WHEREAS, in addition to DCH promulgated rules, the local Boards of Health have adopted their own public, health/environmental regulations having application to the County. These locally enacted regulations, too, could benefit from the ability to proceed to Magistrate Court for prosecution; and

NOW THEREFORE, at the request of the District Health Director, the Lumpkin County Board of Commissioners has by Lumpkin County Resolution 2011-06 adopted this Comprehensive Environmental Health Ordinance effective June 21, 2011.

STATE PROMULGATED RULES AND REGULATIONS

I.

The following rules and regulations of the Georgia DCH, including all subsequent amendments, revisions or modifications thereto, and which are expressly incorporated herein, are hereby adopted and

approved for enforcement as set forth herein:

- (a) Control of Rabies, Comp. R. & Regs. § 290-5-2.
- (b) Food Service, Comp. R. & Regs. § 290-5-14.
- (c) Tourist Accommodations, Comp. R. & Regs. § 290-5-18.
- (d) Land Disposal of Domestic Septage, Comp. R. & Regs. § 290-5-25.
- (e) On-Site Sewage Management Systems, Comp. R. & Regs. § 290-5-26.
- (f) Drinking Water Supply, Comp. R. & Regs. § 290-5-55.
- (g) Solid Waste, Comp. R. & Regs. § 290-5-56.
- (h) Swimming Pools and Recreational Water Parks, Comp. R. & Regs. § 290-5-57.
- (i) Special On-Site Sewage Management Systems, Comp. R. & Regs. § 290-5-59.
- (j) The Georgia Smokefree Air Act of 2005, Comp. R. & Regs. § 290-5-61.

Current copies of those DCH rules and regulations are on file in the office of the Lumpkin County Health Department where the same are available for inspection and copying by the public during regular County operating hours.

LOCAL BOARD OF HEALTH ENACTMENTS

II.

Pursuant to O.C.G.A. § 31-3-1, et seq., in addition to the above-referenced rules and regulations of the Georgia DCH, the following rules and regulations have been enacted by the Lumpkin County Board of Health and are hereby adopted by the Lumpkin County Board of Commissioners in accordance with State law, and are further hereby adopted and approved for enforcement as set forth herein:

Rules and regulations concerning Rabies Control, enacted by Lumpkin County Board of Health resolution dated August 26, 2010, which are hereby set forth verbatim herein and adopted by the Board of Commissioners upon lawful adoption of this Ordinance.

Note: Rules and Regulations concerning Tattoo and Body Art, County Resolution No. 2004-21, were enacted and adopted by ordinance of the Lumpkin County Board of Commissioners on June 17, 2004.

Copies of those rules and regulations enacted by the Lumpkin County Board of Health and having been adopted by ordinance of the Board of Commissioners are on file in the office of the Lumpkin County Board of Health, where the same are available for inspection and copying by the public during regular County operating hours.

III.

In addition, the rules and regulations concerning Minimum Lot Sizes for the orderly and safe development of property utilizing on-site sewage management systems, having been enacted by the Lumpkin County Board of Health by resolution dated May 27, 2010 are hereby adopted and made a part of this Ordinance as though fully set out at length herein. The Lumpkin County Board of Commissioners may, however, require larger minimum lot sizes for utilization of onsite sewage management systems in zoning or land use districts providing for septic service, and in the event there is a conflict between the minimum lot size(s) having been enacted by the Lumpkin County Board of Health, and that established by the Lumpkin Board of County Commissioners, the larger lot size(s) established by the Board of Commissioners shall control and take precedence.

IV.

A fee schedule for the implementation and confirmation of compliance with the above referenced State Promulgated Rules and Regulations and Local Board of Health Enactments, including permit and inspection fees, has been established by the Lumpkin County Board of Health, and is hereby approved and adopted by the Lumpkin County Board of Commissioners. A copy of this fee schedule, including all subsequent amendments, revisions or modifications thereto, is on file in the office of the Lumpkin County Board of Health, where the same are available for inspection and copying by the public during regular County operating hours.

V.

The enforcement and prosecution of this Ordinance shall be within the jurisdiction of Lumpkin County and the Lumpkin County Board of Health, and their authorized designee(s) or agent(s), and all law enforcement personnel of Lumpkin County.

VI.

It shall be unlawful for any natural person or persons or any legal entity including, and not limited to, a corporation, partnership, limited liability company, firm or trust, to violate any of the above-identified rules and regulations, and/or to fail or refuse to pay any fee established by the Lumpkin County Board of Health, and approved and adopted by the Lumpkin County Board of Commissioners, for the implementation and confirmation of compliance with the above identified rules and regulations, including all permit and inspection fees.

VII.

Pursuant to O.C.G.A. § 36-1-20, any person or persons or any legal entity including, and not limited to, a corporation, partnership, limited liability company, firm or trust, violating any provision of the rules and regulations identified and adopted in this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed one thousand dollars (\$1,000.00) or by imprisonment in the county jail for not more than sixty days, or both.

VIII.

Each day during which a violation of any provision of the rules and regulations identified and adopted in this Ordinance shall constitute, and shall be considered, a separate offense.

IX.

The Lumpkin County Magistrate Court shall have original jurisdiction upon any offense charged pursuant to this Ordinance.

X.

In addition to the rights and remedies set forth herein, or as otherwise authorized by law, Lumpkin County and the Lumpkin County Board of Health retain and reserve the right to seek equitable relief, injunction, abatement, or any appropriate action or proceeding to protect the public health, safety and welfare. Failure or refusal to pay any fee approved for the implementation and confirmation of compliance with the above-identified rules and regulations, including all permit and inspection fees, may result in suspension and/or revocation of any permit issued by the Lumpkin County Board of Health.

XI.

Violations of all DCH promulgated rules and regulations and all local Board of Health enactments identified herein may be prosecuted by an accusation or citation with or without a prosecuting attorney in accordance with O.C.G.A. §15-10-63, and any successor statute; and the Lumpkin County Board of Commissioners authorizes the county attorney or his designee to prosecute violations of this Ordinance, pursuant to O.C.G.A. §15-10-66, and any successor statute.

XII.

This Ordinance, and the enforcement and prosecution of this Ordinance by Lumpkin County and the Lumpkin County Board of Health, and their authorized agent(s) or designee(s), does not in any way effect, estop, prescribe, regulate, limit, or in any way control or prohibit the Georgia DCH, and its agent(s) or designee(s), from initiating or undertaking any action or proceeding to enforce compliance with its rules and regulations.

XIII.

This Ordinance shall become effective immediately upon its adoption by the Lumpkin County Board of Commissioners. Any and all existing or pre-existing ordinances and provisions in conflict with this Ordinance are hereby repealed.

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