

BRIEFING FOR THE BOARD OF COMMISSIONERS

Several years ago as codified in the Code of Ordinances, Section 62-8, the Board of Commissioners banned drinking while a person is on a public way. The term "public way" includes roads, sidewalks, and any area where the public has a right of access.

Recently a judge has expressed concern about the lack of definition of the term "public way" in the ordinance. Officers are using this ordinance to prohibit drinking in parking lots and other common areas of apartment complexes where they have received complaints from management and residents about unruly behavior.

The purpose of this ordinance is to further define "public way" so that it will still be useful to our officers, but at the same time, satisfy the court in that it does not apply to private property that is *not* open to the general public. For example, the ordinance will not prohibit drinking in a person's own yard or in sections of an apartment complex that are not open to the public, such as patios, decks and the like.

In the new ordinance subsection (a) redefines public way in greater detail:

(a) *Definitions.* For the purpose of this ordinance, a "public way" shall include any street, highway, roadway, sidewalk, path, driveway or any other way, or parking area that is owned, operated or maintained by the state, county or other public entity or that is owned by a private entity but is accessible and used by the general public. A public way shall also include the driveway, parking areas, sidewalks, approaches, and any other open space within 100 feet of any business that holds an alcohol retail consumption dealer's license or an alcohol retail dealer's license.

The prohibited conduct which is now in subsection (b) is verbatim, word for word exactly as it is in the current code section.

To address the fact that the Code does provide for drinking in public parks with a permit, this new code carves out an exception for persons who drink in public parks with a permit. [Note: These permits are authorized by Sections 66-18, 6-205 and 6-206.]

Finally, the new subsection (d) sets the punishment for a violation as the general punishment found in Section 1-12 and removes unneeded and confusing language from the existing code section.

STATE OF GEORGIA
COUNTY OF CLAYTON

ORDINANCE NO. 2008 – 223

AN ORDINANCE TO AMEND THE CODE OF CLAYTON COUNTY, GEORGIA, AS AMENDED, SPECIFICALLY, CODE OF CLAYTON COUNTY, GEORGIA, PART II, CHAPTER 62, OFFENSES AND MISCELLANEOUS PROVISIONS, ARTICLE I, GENERAL, TO REPEAL THE EXISTING SECTION 62-8 "PUBLIC DRINKING OR CONSUMPTION OF ALCOHOLIC BEVERAGES" AND SUBSECTIONS AND TO SUBSTITUTE IN LIEU THEREOF A NEW SECTION 62-8 "PUBLIC DRINKING OR CONSUMPTION OF ALCOHOLIC BEVERAGES" AND SUBSECTIONS; TO REPEAL CONFLICTING LAWS, ORDINANCES, AND RESOLUTIONS; TO PROVIDE SEVERABILITY; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF CLAYTON COUNTY AND IT IS HEREBY ORDAINED:

Section 1. The CODE OF CLAYTON COUNTY, GEORGIA, as amended, is hereby further amended by amending, CODE OF CLAYTON COUNTY, GEORGIA, Part II, Chapter 62, Offenses and Miscellaneous Provisions, Article I, General, to repeal the existing Section 62-8 "Public drinking or consumption of alcoholic beverages" and subsections and to substitute in lieu thereof a new Section 62-8 "Public drinking or consumption of alcoholic beverages" and subsections which shall read as follows:

"Sec. 62-8. Public drinking or consumption of alcoholic beverages.

(a) *Definitions.* For the purpose of this ordinance, a "public way" shall include any street, highway, roadway, sidewalk, path, driveway or any other way, or parking area that is owned, operated or maintained by the state, county or other public entity or that is owned by a private entity but is accessible and used by the general public. A public way shall also include the driveway, parking areas, sidewalks, approaches, and any other open space within 100 feet of any business that holds an alcohol retail consumption dealer's license or an alcohol retail dealer's license.

(b) *Prohibitions.* It shall be unlawful for any person to consume alcoholic beverages while on any public way, or upon any way that the public has the right of access to, to include private parking areas open to the general public. It shall also be unlawful for any person to consume alcoholic beverages upon any county-owned property.

(c) *Exceptions.* With the required permit, alcoholic beverages may be consumed in county parks as provided for in this Code.

(d) *Violation; punishment.* Any person violating this ordinance shall be punished in accordance with section 1-12."

Section 2. All laws, ordinances and resolutions, or parts thereof, which conflict with the provisions of this Ordinance are hereby repealed.

Section 3. If any part of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect the remainder of this enactment, and such remainder shall remain in full force and effect.

Section 4. This Ordinance shall become effective upon its approval by the Board of Commissioners.

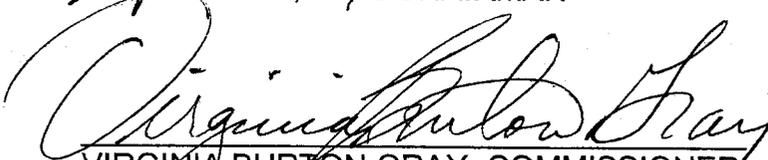
{Signature page follows}

SO ORDAINED, this the 16th day of December, 2008.

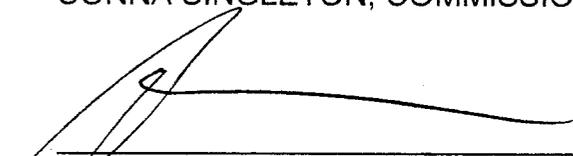
CLAYTON COUNTY BOARD OF COMMISSIONERS


ELDRIN BELL, CHAIRMAN

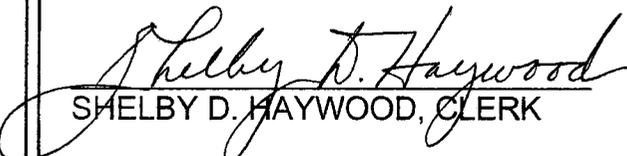

WOKE RALPH, VICE CHAIRMAN


VIRGINIA BURTON GRAY, COMMISSIONER


SONNA SINGLETON, COMMISSIONER


MICHAEL EDMONDSON, COMMISSIONER

ATTEST:


SHELBY D. HAYWOOD, CLERK