COUNTY DEPARTMENT AGENDA REQUEST

Department:	Stormwater Management	Presenter(s):	Vanessa Birrell
Meeting Date:	Thursday, March 8, 2012	Type of Request:	New Business

Wording for the Agenda:

Discussion of proposed amendments to Fayette County Code, Chapter 8, Development Regulations, by amending Article X, Dam and Impoundment Design Specifications and Permit Requirements.

Background/History/Details:

Proposed amendments to Chapter 8, Fayette County Development Regulations, Article X, Dam and Impoundment Design and Permit Requirements include changing the administrating department to Stormwater Management from Engineering, rearranging content and adding definitions to simplify use and understanding, and clarifying the submission process.

After discussion, staff would like permission to place these amendments on the March 22 Board agenda for adoption.

What action are you seeking from the Board of Commissioners?

Permission to place Ordinance 2012- 03, proposed amendments to Fayette County Code, Chapter 8, Development Regulations, Article X. Dam and Impoundment Design Specifications and Permit Requirements on the Board of Commissioners Agenda for March 22, 2012.

If this item requires funding, please describe:

Funds are not needed at this time, but will be part of an overall cost to update the Fayette County Code of Ordinances.

Has this issue come before the Commissioners in the past?	No	If so, when?	
Do you need audio-visual for the presentation?	No	Back-up Material Submitted?	Yes

STAFF USE ONLY

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

Staff Notes:

STATE OF GEORGIA;
COUNTY OF FAYETTE

ORDINANCE NO. 2012-03

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, FAYETTE COUNTY, GEORGIA CHAPTER 8, THE FAYETTE COUNTY DEVELOPMENT REGULATIONS, AS AMENDED SPECIFICALLY ARTICLE X DAMS AND IMPOUNDMENTS; TO PROVIDE FOR THE INVENTORY, CLASSIFICATION, INSPECTION AND PERMITTING OF CERTAIN DAMS; TO PROVIDE FOR CODIFICATION; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR PENALTIES; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN ADOPTION DATE; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES ALLOWED BY LAW.

WHEREAS, the duly elected governing authority of Fayette County is the Board of Commissioners thereof;

WHEREAS, the governing authority desires to amend the provision that provides for the ethical standards of county officials as allowed by the State of Georgia;

WHEREAS, the health, safety, and welfare of the citizens of Fayette County, Georgia shall be improved and protected by adoption and implementation of this Ordinance.

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF FAYETTE COUNTY, GEORGIA AND IT IS HEREBY ORDAINED BY AUTHORITY THEREOF:

Section 1. **That Article X of Chapter 8 Development Regulations of the Code of Ordinances, Fayette County, Georgia is hereby deleted in its entirety and replaced to read as follows:**

~~**ARTICLE X. DAMS AND IMPOUNDMENT DESIGN AND SPECIFICATIONS**~~

~~**Sec. 8-301. Rules for Dam Safety.** It shall be the responsibility of any person, corporation or other entity proposing to construct a dam in Fayette County to conform to the latest revision of Chapter 391-3-8 of the Rules of the Department of Natural Resources Environmental Protection Division, titled Rules for Dam Safety. These rules are made a part of this ordinance by this reference. Additional requirements shall pertain to those structures proposed for construction but excluded from the Rules for Dam Safety.~~

~~**Sec. 8-302. Land Disturbance Permit Required.** Any property owner proposing to construct a dam, whether such dam is excluded from the Rules for Dam Safety or not, shall obtain a Land Disturbance Permit from the Fayette County Engineering Department in accordance with the County's Erosion and Sedimentation Control Ordinance. If the proposed dam is under the supervision of the USDA Natural Resources Conservation Service, the owner shall nevertheless notify the County Engineer's office.~~

~~**Sec. 8-303. Access to Private Residence.** Any dam constructed to serve as access to a private residence shall have a top width of a minimum of twenty (20) feet unobstructed width of access with an all-weather driving surface capable of supporting the imposed loads of fire apparatus and having a minimum vertical clearance of thirteen (13) feet six (6) inches. (ref. SFPC 602.6).~~

~~**Sec. 8-304. Prohibitions.** No public roadway, right-of-way, and/or public utilities shall be located on any embankment or dam which permanently impounds a body of water.~~

~~**Sec. 8-305. Scope of Design.** Any proposal to construct a dam shall take into account any existing downstream public roads or private driveways or downstream roads which are a part of the proposed development, which if washed-out by the failure of the dam would isolate property owners, whether or not located within the proposed development, from access by emergency vehicles or to an adjacent public thoroughfare. Any proposed dam which makes such isolation probable in the case of failure shall not be approved, nor permits issued for construction.~~

~~**Sec. 8-306. Review Requirement.** Any dam design submitted to the Safe Dams Office under the requirements of the Rules for Safe Dams shall also be submitted to the County Engineer's Office for review.~~

~~**Sec. 8-307. Minimum Design Requirements; Submission of Documents; Maintenance Program; Time for Review.**~~

~~(a) Although Category II dams, as defined in the Rules for Safe Dams, are required to be inventoried by the Safe Dams Office but are excluded from the design, permitting and maintenance regulations, such dams proposed for construction in unincorporated Fayette County must meet the following requirements before being permitted for construction.~~

~~(1) The dam shall be designed by a registered professional engineer licensed in the State of Georgia.~~

~~(2) The design documents submitted to the County Engineer for review shall include:~~

~~i) topographic drawings of the pond or lake site at a minimum scale of 1" = 100' with two foot contour intervals;~~
~~ii) plan, cross section and longitudinal drawings of the proposed dam showing the core, drains, cut-off trenches, spillways and the elevations of the 1, 5, 10, 25, 50, and 100-year storm elevations;~~
~~iii) hydrologic and hydraulic design calculations;~~
~~iv) specifications for construction;~~
~~v) detail drawings for appurtenances including principle and emergency spillways; and,~~

~~vi) a dambreak analysis determining the extent and height of the flood wave including the location of any downstream structures and property and the impact of failure on such property and structures.~~

~~(3) An access easement shall be provided from the nearest street, which is a part of the development, for maintenance and emergency access purposes.~~

~~(4) A maintenance plan for the structure shall be provided which shall describe the parties responsible for maintenance and the maintenance program that is to be followed by such parties.~~

~~(5) As built drawings of the dam, sealed by the design engineer, shall be submitted to the County Engineer prior to recording the Final Plat for the subdivision. Certification of construction to specified compaction requirements shall also be provided.~~

~~(b) The County Engineer's Office shall have 30 calendar days to review the submitted documents and to either approve them or return them to the engineer with comments. If the review is not completed within this period, the documents will be considered approved.~~

~~(c) Nothing contained in these requirements shall be constructed to relieve the design engineer from his/her responsibility to provide a design that is accurate, adequate, and acceptable according to generally accepted engineering practices.~~

~~**Sec. 8-308. Ownership of Dam.** Fayette County does not accept the ownership, maintenance or responsibility for any dam constructed under these regulations.~~

~~**Sec. 8-309. Effectivity Clause.** This article shall become effective sixty (60) days after the enactment date noted below [April 3, 1996].~~
~~(Ord. No. 96-06A, 4-3-96)~~

ARTICLE X: DAM AND IMPOUNDMENT DESIGN SPECIFICATIONS AND PERMIT REQUIREMENTS

Section 8-301. Purpose. The purpose of this Article is to establish design specifications and permit requirements of dams and impoundments in order to protect the health, safety and welfare of all Fayette County citizens by reducing the risk of failure of dams and/or impoundments to prevent death or injuries to persons.

Section 8-302. Definitions.

Category I. The classification where improper operation or dam failure would result in probable loss of human life. Situations constituting "probable loss of life" are

those situations involving frequently occupied structures or facilities, including, but not limited to, residences, commercial and manufacturing facilities, schools and churches.

Category II. The classification where improper operation or dam failure would not be expected to result in probable loss of human life.

Dam. With the exception of the exemptions outlined in Georgia Safe Dams Act of 1978 (O.C.G.A. 12-5-372) herein, the following:

(a) ***Any impoundment, including appurtenant works, which impounds or diverts water and which the improper operation or failure of such would result in probable loss of human life as determined pursuant to the Georgia Safe Dams Act of 1978 (O.C.G.A. 12-5-372, and which:***

(i) ***course measured at the downstream toe or the lowest elevation of the outside limit of the barrier (whichever is lower) to the maximum water storage elevation; or***

(ii) ***has an impounding capacity at maximum water storage elevation of one hundred (100) acre-feet or more.***

(b) ***Any impoundment, including appurtenant works, constructed in conjunction with the reclamation of surface mined land, and meeting the requirements of subsection (a) above, and when improper operation or failure would result in probable loss of human life.***

Embankment. A wall or bank built to impound water.

Section 8-303. General Provisions.

(a) ***Applicability. This ordinance shall be applicable to any person, corporation or other entity proposing to construct a dam or impoundment in unincorporated Fayette County unless the embankment does not exceed six (6) feet in height regardless of storage capacity, or that has a storage capacity at maximum water storage elevation not in excess of 15-acre-feet regardless of height.***

(b) ***Designation of Ordinance Administrator: The Fayette County Stormwater Management Department shall administer this ordinance.***

(c) ***Georgia Safe Dams Act of 1978 (O.C.G.A. 12-5-370 through 12-5-385). Any person, corporation or other entity proposing to construct a dam or impoundment in unincorporated Fayette County unless the embankment does not exceed six (6) feet in height regardless of storage capacity, or that has a storage capacity at maximum water storage elevation not in excess of 15-acre-feet regardless of height; must first comply with the Georgia Department of Natural Resources Environmental Protection Division Rules for Dam Safety, Chapter 391-3-8. These rules are made part of this ordinance by reference. Additional requirements listed in Section 8-304 shall apply to any dams or empoundments proposed for construction that are listed in Chapter 391-3-8.04 of the Rules for Dam Safety.***

(d) ***Compatibility with Other Regulations. This ordinance is not intended to modify or repeal any other ordinance, rule, regulation, statute, easement, covenant, deed restriction or***

other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation or other provision of law, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or impose higher protective standards for human health or the environmental shall control. No local government action under this ordinance relieves the land owner from federal and/or state permitting requirements.

(e) Severability. If the provisions of any section, subsection, paragraph, subdivision or clause of this ordinance shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision or clause of this ordinance.

(f) Effective Date. This Ordinance becomes effective upon adoption by the Board of Commissioners.

Section 8-304. Prohibitions.

Any proposal to construct a dam or impoundment that would wash out, by failure of the proposed dam or impoundment, any existing public road or downstream private driveway restricting emergency vehicles from gaining access to occupied structures shall not be approved for construction.

Any proposal to construct a dam or impoundment that would flood, by failure of the proposed dam or impoundment, any frequently-occupied structure or facility, including, but not limited to, residences, commercial and manufacturing facilities, schools and churches shall not be approved for construction.

No public roadway, right-of-way, and/or utilities with the exception of stormwater shall be located on any dam or impoundment.

Section 8-305. Permit Requirements.

Any dam design submitted to the Georgia Safe Dams Office under the requirements of the Rules for Safe Dams shall also be submitted to the Fayette County Stormwater Management Department for review.

(a) Minimum Design Requirements. Any dam proposed for construction in unincorporated Fayette County shall meet all Category I design and maintenance requirements as defined by the Georgia Safe Dams Act of 1978.

(b) Any dam or impoundment constructed to serve as access to a private residence shall have a top width of a minimum of twenty (20) feet unobstructed width of access with an all-weather driving surface capable of supporting the imposed loads of fire apparatus and having a minimum vertical clearance of thirteen (13) feet six (6) inches (ref. SFPC 602.6).

Nothing contained in these requirements shall be constructed to relieve the design engineer from his/her responsibility to provide a design that is accurate, adequate, and acceptable according to generally accepted engineering practices.

(c) ***Submission of Documents. The design documents submitted to the Stormwater Management Department for review shall include:***

(i) ***topographic drawings of the pond or lake site at a minimum scale of 1" = 100' with two-foot contour intervals;***

(ii) ***plan, cross section and longitudinal drawings of the proposed dam showing the core, drains, cut-off trenches, spillways and the elevations of the 1, 5, 10, 25, 50, and 100-year storm elevations;***

(iii) ***hydrologic and hydraulic design calculations;***

(iv) ***specifications for construction;***

(v) ***detail drawings for appurtenances including principle and emergency spillways;***

(vi) ***a dam-break analysis determining the extent and height of the flood wave including the location of any downstream structures and property and the impact of failure on such property and structure; and,***

(vii) ***as-built drawings of the dam, sealed by the design engineer, shall be submitted to the Stormwater Management Department prior to recording the Final Plat for the subdivision, if applicable. Certification of construction to specified compaction requirements shall also be provided, if applicable.***

(d) ***Maintenance Program. A maintenance plan for the structure shall be provided to the Stormwater Management Department and shall describe:***

(6) ***the parties responsible for maintenance and the maintenance program that is to be followed by such parties;***

(7) ***An access easement shall be provided from the nearest street, which may or may not be a part of the development, for maintenance and emergency access purposes.***

(e) ***Review. The Stormwater Management Department shall have 30 calendar days to review the submitted documents and to either approve them or return them to the engineer with comments. If the review is not completed within this period, the documents will be considered approved.***

Section 8-306. Ownership of Dam. Fayette County does not accept the ownership, maintenance or responsibility for any dam or embankment constructed under these regulations.

Section 8-307. Reserved.

Section 2. That the preamble of this Ordinance shall be considered to be and is hereby incorporated by reference as if fully set out herein.

Section 3. a. It is hereby declared to be the intention of the Board of Commissioners that all Sections, paragraphs, sentences, clauses and phrases of this Article are and were, upon their enactment, believed by the Board of Commissioners to be fully valid, enforceable and constitutional.

b. It is hereby declared to be the intention of the Board of Commissioners that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Board of Commissioners that, to the greatest extent allowed by law, no Section, paragraph, sentence, clause or phrase of this Article is mutually dependent upon any other Section, paragraph, sentence, clause or phrase of this Article.

c. In the event that any phrase, clause, sentence, paragraph or section of this Article shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Board of Commissioners that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or Sections of the Article and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and Sections of the Article shall remain valid, constitutional, enforceable, and of full force and effect.