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 XI. Groundwater Recharge Area Protection.

Background/History/Details:

Proposed amendments to Chapter 8, Fayette County Development Regulations Article XI - Groundwater Recharge Area Protection include changing the regulation administrating department to Stormwater Management from Engineering; rearranging content and adding definitions to simplify use and understanding, and adding updates to satisfy the Department of Community Affairs environmental planning requirements.

What action are you seeking from the Board of Commissioners?

Permission to place Ordinance 2012- 04, proposed amendments to Fayette County Code, Chapter 8, Development Regulations, Article XI. Groundwater Recharge Area Protection 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	
Administrator's Approval	Yes		

Staff Notes:

ARTICLE XI: GROUNDWATER RECHARGE AREA PROTECTION ORDINANCE

Section 8-320. ~~Title of Ordinance; Findings and Objectives~~ *Purpose and Objectives*.

~~(a) **Title of Ordinance**. This ordinance shall be known as the Groundwater Recharge Area Protection Ordinance of Fayette County, Georgia.~~

(a) ~~**Findings of Fact**.~~***Purpose.*** ***The purpose of this ordinance is*** ~~In order~~ to provide for the health, safety and welfare of the public and a healthy economic climate within Fayette County, Georgia and surrounding communities, ~~it is essential that~~ ***by protecting*** the quality of public drinking water ~~be ensured~~. For this ~~reason~~ ***purpos***e it is necessary~~-~~ to protect the subsurface water resources that Fayette County, Georgia and surrounding communities rely on as sources of public water.

Groundwater resources are contained within aquifers, ~~which~~ ***that*** are permeable, rock strata occupying vast regions of the subsurface. These aquifers are replenished by infiltration of surface water runoff in zones of the surface known as groundwater recharge areas. Groundwater is susceptible to contamination when unrestricted development occurs within significant groundwater recharge areas. It is therefore, necessary to manage land use within groundwater recharge areas in order to ensure that pollution threats are minimized.

(b) **Objectives.** The objectives of this ordinance are:

1) Protect groundwater quality by restricting land uses that generate, use or store dangerous pollutants in recharge areas;

2) Protect groundwater quality by limiting density of development; and,

3) Protect groundwater by ensuring that any development that occurs within the recharge area shall have no adverse effect on groundwater quality.

Section 8-321. Definitions.

Aquifer. Any stream (rock layer) or zone of rock beneath the surface of the earth capable of containing or producing water from a well. (Note: This is the same definition used in the Groundwater Use Act).

Environmental Health Manager. This position refers to the current Department Head holding the title "Environmental Health County Manager".

Groundwater Recharge Area (synonymous with Aquifer Recharge Area). An area of the earth's surface where water infiltrates the ground, thereby replenishing the groundwater supplies within an aquifer.

Pollution Susceptibility. The relative vulnerability of groundwater to pollution from chemical spills, leaching of pollutants from dump sites, animal waste from agricultural operations or pollution generated by other human activities.

Pollution Susceptibility Map(s). Maps prepared by the Georgia Department of Natural Resources (DNR) that show the relative susceptibility of groundwater to pollution. Pollution susceptibility maps

categorize the land areas of the State into areas of high, medium and low groundwater pollution potential.

Section 8-322. Significant Groundwater Recharge Areas. Areas mapped by DNR in Hydrologic Atlas 18 (1989 Edition). Mapping of recharge areas is based on outcrop area, lithology (chemical nature and form of the rock), soil type and thickness, slope, density of lithologic contacts, geologic structure, presence of "karst" topography (sinkholes, caves, and fissures associated with limestone and other carbonate rocks), and potentiometric surfaces.

Section 8-323. Establishment of a Groundwater Recharge Area District. A Groundwater Recharge Area District is hereby established which shall correspond to all lands within the jurisdiction of Fayette County, Georgia that are mapped as significant recharge areas by the Georgia Department of Natural Resources in Hydrologic Atlas 18, 1989 Edition.

Section 8-324. Determination of Pollution Susceptibility. Each recharge area is determined to have a pollution susceptibility of high, medium or low based on the Georgia Pollution Susceptibility Map prepared by the Georgia Department of Natural Resources in Hydrologic Atlas 20, 1992 Edition. Groundwater recharge areas in Fayette County are located in low pollution susceptibility areas.

Section 8-321. Permit Requirements and Enforcement. No building permit, site plan, preliminary plat, or final plat will be approved by the county unless said building permit, site plan, preliminary plat, or final plat is in compliance with the groundwater protection standards listed in this article.

Section 8-322. Permit Review; Site Plan, Preliminary Plat, and Final Plat Requirements. With the exception of certain exempted activities identified in Section 8-327 in this article, applications for a development permit within the Groundwater Recharge Area District shall include a site plan, preliminary plat, or a final plat, depending on the nature of the development. The following information, in addition to any other requirements for site plans, preliminary plats, or final plats per the Fayette County Development Regulations, is required for all Groundwater Recharge Area development permits:

(a) Location and detailed design of any spill and leak collection systems designed for the purpose of containing accidentally released hazardous or toxic materials.

(b) All development activities or site work conducted after site plan, preliminary plat, or final plat approval shall conform with the specifications of said site plan, preliminary plat, or final plat. Significant changes to the site plan, preliminary plat, or final plat that would alter the amount and velocity of stormwater runoff from the site, increase the amount of impervious surface within the development, alter the overall density of development, result in an increase in the amount of excavation, fill or removal of vegetation during construction or otherwise result in an alteration of the overall appearance of the development as proposed, can be amended only with the approval of a revised site plan, preliminary plat, or final plat. Minor changes, such as the realignment of streets or minor alterations to drainage structures and other infrastructure to meet unexpected conditions, are exempted from this requirement

Section 8-323. Enforcement. The county, its agent, officers and employees shall have authority to enter upon privately owned land at reasonable times for the purpose of performing their duties under this article and may take or cause to be made such examinations, surveys or sampling as the county deems necessary.

(a) The ~~County Engineer~~ ***Director of Stormwater Management*** or ~~his~~ representative is hereby designated as the administrator and enforcement officer for this article.

(b) The ~~County Engineer~~ ***Director of Stormwater Management*** or ~~his~~ representative shall have authority to enforce this article; issue permits hereunder; and address violations or threatened violations hereof by issuance of violation notices, administrative orders and civil and criminal actions. All costs, fees and expenses in connection with such actions may be recovered as damages against the violator. Decisions of the ~~County Engineer~~ ***Director of Stormwater Management*** may be appealed to the Zoning Board of Appeals.

(c) Law enforcement officials or other officials having police powers shall have the authority to assist the ~~County Engineer~~ ***Director of Stormwater Management*** or ~~his~~ representative in enforcement.

(d) Any person who commits, takes part in, or assists in any violation of any provision of this article shall be fined not more than $1,000.00 for each offense. Each violation shall be a separate offense and, in the case of a continuing violation, each day's continuance shall be deemed to be a separate and distinct offense.

(e) The ~~County Engineer~~ ***Director of Stormwater Management*** or ~~his~~ representative shall have the authority to issue stop work orders in the event of any violation of this article. Stop work orders may be appealed to a court of competent jurisdiction as identified in Section 8-329 of this article.

Section 8-324. Exemptions to Site Plan, Preliminary Plat, or Final Plat Requirements. The following activities are exempt from the requirement for detailed plans:

(a) Repairs to a facility that is part of a previously approved and permitted development.

(b) Construction of minor structures, such as sheds or additions to single family residences.

Section 8-325. Groundwater Protection Standards.

(a) New waste disposal facilities must have synthetic lines and leachate collection systems.

(b) A SCS approved liner must be provided for new agricultural waste impoundments exceeding fifty (50) acre-feet. . As a minimum, the liner shall be constructed of compacted clay having a thickness of one-foot and a vertical hydraulic conductivity of less than 5x10-7 cm/sec or other criteria established by the Natural Resources Conservation Service. (Amended 12/5/01).

(c) No land disposal of hazardous waste shall be permitted within any Significant Groundwater Recharge Area.

(d) For all significant Groundwater Recharge Areas, the handling, storage and disposal of hazardous materials shall take place on an impermeable surface having spill and leak protection approved by the Georgia Department of Natural Resources, Environmental Protection Division (EPD). New facilities that handle hazardous materials of the types listed in Section 312 of the Resource Conservation and Recovery Act of 1976 (excluding underground storage tanks) and in the amounts of 10,000 pounds or more on any one day, shall perform their operations on impervious surfaces and in conformance with any

applicable federal spill prevention requirements and local fire code requirements. (Amended 12/05/01).

(e) For all Significant Groundwater Recharge Areas, new above ground chemical or petroleum storage tanks larger than 650 gallons must have secondary containment of 110 percent of tank volume or 110 percent of the largest tanks in a cluster of tanks.

(f) No construction may proceed on a building or mobile home to be served by a septic tank unless Fayette County Health Department first approves the proposed septic tank installations as meeting the requirements of the Georgia Department of Human Resources Manual for On-Site Sewage Management Systems (hereinafter referred to as DHR Manual) and Section 8-328-g of this ordinance. (Amended 12/5/01).

(g) Minimum lot size for new homes served by an individual septic tank/drain field system will be based on Table MT-1 of the DHR Manual and the Criteria for Protection of Groundwater Recharge Areas, A through D. Minimum lot or space size for mobile homes served by an individual septic tank/drain field system will be based on Table MT-2 of the DHR Manual and the Criteria for Protection of Groundwater Recharge Areas, A through D. Section M, Lot Sizing of the DHR Manual states in the Criteria for Protection of Groundwater Area, that if a local government requires a larger lot size than that required by (2A) of the DHR Manual for homes or (2B) of the DHR Manual for mobile homes, the larger lot size shall be used. Section M, Lot Sizing of the DHR Manual is included as an addendum to this ordinance. (Amended 12/05/01)

Section 8-326. Judicial Review.

(a) Jurisdiction. All final decisions of Fayette County concerning denial, approval or conditional denial, approval or conditional approval of a permit shall be reviewable in the Fayette County Superior Court.

(b) Alternative Actions. Based on these proceedings and the decision of the court, the Board of Commissioners may, within the time specified by the court, elect to:

(i) Institute negotiated purchase or condemnation proceedings to acquire an easement or fee interest in the applicant's land;

(ii) Approve the permit application with lesser restrictions or conditions (i/e/, grant a variance); or

(iii) Institute other appropriate actions ordered by the court that fall within the jurisdiction of the Board of Commissioners.

Section 8-330. Amendments. These regulations may, from time to time, be amended in accordance with procedures and requirements in the general statutes and as new information becomes available.

Section 8-331. Separability and Abrogation. All sections and subsections of this article are considered separate and distinct. Should any section, subsection, paragraph or part of this article be declared by a court of competent jurisdiction to be invalid for any reason, it shall not invalidate any other section, subsection, paragraph, or part of this article.

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.

Section 4. All ordinances or resolutions and parts of ordinances or resolutions in conflict herewith are hereby expressly repealed.

Section 5. The effective date of this Ordinance shall be the date of adoption unless otherwise specified herein.