COUNTY AGENDA REQUEST

Department:	Stormwater Management	Presenter(s):	Vanessa Birrell
Meeting Date:	Thursday, March 22, 2012	Type of Request:	Consent

Wording for the Agenda:

Approval of staff's recommendation to adopt Ordinance 2012-03, approving 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 Impoundment Design Specifications and Permit Requirements include changing the administrating department to Stormwater Management form Engineering, rearranging content adding definitions to simplify use and understanding, and clarifying design specifications and the submission process. At the Board of Commissioners Public Hearing/Workshop held March 8, 2012, staff was instructed to place the proposed amendments on the Board of Commissioners' March 22, 2012 Agenda.

What action are you seeking from the Board of Commissioners?

Approval of staff's recommendation to adopt Ordinance 2012-03, approving proposed amendments to Fayette County Code, Chapter 8, Development Regulations, by amending Article X, Dam and Impoundment Design Specifications and Permit Requirements.

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 request been considered within the past two years?	Yes	If so, when?	March 8, 2012
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:

Section 8-301. 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; and,

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: DAM AND ARTIFICIAL BARRIER DESIGN SPECIFICATIONS AND PERMIT REQUIREMENTS
(First adopted April 4, 1996)

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. The following definitions are restated from the Georgia Department of Natural Resources, Environmental Protection Division, Chapter 391-3-8, Rules for Dam Safety.

Category I. The classification of a dam where improper operation or failure would result in probable loss of human life. Situations constituting "probable loss of life" are those situations involving inundation of frequently occupied structures or facilities, including, but not limited to, residences, commercial and manufacturing facilities, schools and churches.

Category II. The classification of a dam 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 artificial barrier, 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) is 25 feet or more in height from the downstream toe or lowest elevation of the outside limit of the barrier 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 artificial barrier, 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.

Impoundment. The water or liquid substance that is or will be stored by a dam, commonly referred to as the reservoir.

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 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 impoundments 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.

No dam or impoundment shall be constructed that could wash out, by failure of the proposed dam or impoundment, an existing public road or downstream private driveway as determined by the Stormwater Management Department, and thereby restrict emergency vehicles from gaining access to occupied structures.

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

Section 8-305. Permit Requirements.

Any dam proposed for construction in unincorporated Fayette County must be approved by the Georgia Safe Dams Office under the requirements of the Rules for Safe Dam prior to application for a construction permit.

Any dam or impoundment proposed for construction in unincorporated Fayette County must have received all applicable federal and state environmental permits and must be compliant with all state and federal environmental regulations prior to application for a construction permit.

All dam design documentation submitted to the Georgia Safe Dams Program shall also be submitted to the Fayette County Stormwater Management Department for review.

(a) Minimum Design Requirements.

(i) Any dam, as defined in the Safe Dams Act of 1978, proposed for construction in unincorporated Fayette County shall meet all Category I design and maintenance requirements as required by the Georgia Safe Dams Act of 1978 regardless of the Georgia Safe Dams Program classification.

(ii) 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.

(iii) Any dam or impoundment constructed shall meet all requirements for land disturbance as referenced in Article IX, Fayette County Soil Erosion, Sedimentation and Pollution Control Ordinance.

(b) 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 including those required by the Safe Dams Program for Category I and II dams;

(iv) specifications for construction;

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

(vi) a dam-break analysis as required by the Georgia Safe Dams Program 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;

(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;

(viii) access easement from the nearest street, that may or may not be a part of the development, for maintenance and emergency access purposes; and,

(ix) maintenance plan for the structure that shall describe the maintenance and the parties responsible for maintenance as required by the Georgia Safe Dams Program for Category I;

(c) Emergency Action Plan. Provide an Emergency Action Plan based on the dam-break analysis. The plan shall include, but is not limited to, a 24-hour emergency point-of-contact; procedures to follow upon detection of possible failure; inundation maps and a list of owner responsibilities including all emergency notifications.

(d) 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

Section 8-306. Ownership of Dam. Fayette County does not accept the ownership, maintenance or responsibility for any dam or impoundment 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.

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.

IT IS SO ORDAINED THIS 22nd DAY OF March, 2012.

BOARD OF COMMISSIONERS
FAYETTE COUNTY, GEORGIA

_____
Herbert E. Frady, Chairman

ATTEST:

_____
Carol Chandler, County Clerk