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 2012-04 approving 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. 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 request to adopt Ordinance 2012-04 approving proposed amendments to Fayette County Code, Chapter 8, Development Regulations, by amending Article XI, Groundwater Recharge Area Protection.

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 8-320. STATE OF GEORGIA;
COUNTY OF FAYETTE

ORDINANCE NO. 2012-04

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, FAYETTE COUNTY, GEORGIA CHAPTER 8, THE FAYETTE COUNTY DEVELOPMENT REGULATIONS, AS AMENDED SPECIFICALLY ARTICLE XI GROUNDWATER RECHARGE AREA PROTECTION ORDINANCE; 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 XI of Chapter 8 Development Regulations of the Code of Ordinances, Fayette County, Georgia is hereby amended to read as follows:

ARTICLE XI: GROUNDWATER RECHARGE AREA PROTECTION ORDINANCE
(Created in entirety on June 22, 2000 Ordinance 2000-13)

Section 8-320. Introduction

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 the quality of Fayette County's water resources be ensured for public use. For this reason, it is necessary to protect the subsurface water resources of Fayette County.

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.

Significant Groundwater Recharge Area. Areas mapped by DNR in Hydrologic Atlas 18 (1989 Edition) are. 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 8-322. Purpose and Objectives.

Groundwater resources are contained within aquifers 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.

The objectives of this ordinance are to:

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

Protect groundwater quality by limiting density of development; and,

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

Section 8-323. General Provisions

(a) Applicability. This ordinance shall be applicable to any person, corporation or other entity performing land disturbing activities that require a building permit, site plan, preliminary plat, or final plat approved by Fayette County.

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

(c) 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.

(d) 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.

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

Section 8-324. Establishment of a Groundwater Recharge Area District.

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

Section 8-325. 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 8-326. Submittal Requirements.

With the exception of activities identified in (c) below that are exempt from this ordinance, any land disturbing activity in a Groundwater Recharge Area District shall identify the Groundwater Recharge Area District on any submittals to the County including, but not limited to 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 development within Groundwater Recharge Areas:

(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 to specifications of said site plan, preliminary plat, or final plat. Significant changes to the site plan, preliminary plat, or final plat that 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 by Fayette County.

(c) The following activities are exempt from the requirement of this ordinance:

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

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

Section 8-327. 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 8-328. Penalties

(a) In the event the remedial measures described in the notice of violation have not been completed by the date set forth for such completion in the notice of violation, any one or more of the following actions or penalties may be taken or assessed against the person to whom the notice of violation was directed. Before taking any of the following actions or imposing any of the following penalties, the Fayette County Stormwater Management Department shall first notify the owner/operator or other responsible person in writing of its intended action, and shall provide a reasonable opportunity, of not less than ten (10) days (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours notice shall be sufficient) to cure such violation.

In the event the owner/operator or other responsible person fails to cure such violation after such notice and cure period, the Fayette County Stormwater Management Department may take any one or more of the following actions or impose any one or more of the following penalties.

(i) *Stop Work Order* -The Fayette County Stormwater Management Department may issue a stop work order which shall be served on the owner/operator or other responsible person. The stop work order shall remain in effect until the owner/operator or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein, provided the stop work order may be withdrawn or modified to enable the owner/operator or other responsible person to take the necessary remedial measures to cure such violation or violations.

(ii) *Suspension, Revocation or Modification of Permit* - The Fayette County Stormwater Management Department may suspend, revoke or modify any permit authorizing any development on the project. A suspended, revoked or modified permit may be reinstated after the owner/operator or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated (upon such conditions as the Fayette County Stormwater Management Department may deem necessary) to enable the owner/operator or other responsible person to take the necessary remedial measures to cure such violations.

(b) Civil Penalties - For intentional and flagrant violations of this ordinance or in the event the owner/operator or other responsible person fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within ten (10) days, or such greater period as the Fayette County Stormwater Management Department shall deem appropriate (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours notice shall be sufficient), the Fayette County Stormwater Management Department may impose a penalty not to exceed $1,000 (depending on the severity of the violation) for each day the violation is not remediated after receipt of the notice of violation.

(c) Criminal Penalties - For intentional and flagrant violations of this ordinance, or in the event the owner/operator or other responsible person fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within ten (10) days, or such greater period as the Fayette County Stormwater Management Department shall deem appropriate (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours notice shall be sufficient), the Fayette County Stormwater Management Department may issue a citation to the owner/operator or other responsible person, requiring such person to appear in Fayette County State Court to answer charges for such violation. Upon conviction, such person shall be punished by a fine not to exceed $2,500.00 per day, per violation or a sentence of imprisonment for 60 days or both. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.

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 8th DAY OF March, 2012.

BOARD OF COMMISSIONERS
FAYETTE COUNTY, GEORGIA

_____
Herbert E. Frady, Chairman

ATTEST:

_____
Carol Chandler, County Clerk