

Staff Report

Public Hearing

Subject: Ordinance Revision

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Department: Development Services

Meeting Date: July 16, 2024

Item Description: Consideration to approve the amendment of the Code of Ordinances **Part II – Official Code: Appendix C – Zoning Ordinance, Section 3.17 - Excavation, Mining, Ponds, and Fills of land and/or State/Federal Jurisdictional Waters or Wetlands and 3.17A - Ponds—Construction** of the Effingham County Code of Ordinances.

Summary Recommendation

The County needs Amendments to the current Ponds Ordinance. The County Planning Staff have suggested some clarification amendments and some setback amendments to the ordinance.

Executive Summary/Background

Recommended Clarifications:

- Clarifying when projects must be reviewed by Planning Board and Board of Commissioners or only by County Staff.
- Removal of Section 3.17A – All information is moved to Section 3.17.4

Recommended Changes:

- There must be a 50ft setback from any dwelling, church, school or highway right of way.
- Buffers must adhere to the Buffer Ordinance.
- Removal of Item #6 under Construction Requirements – 3.17.4

Alternatives

1. **Approve** an **amendment** to the Code of Ordinances **Section 3.17 & 3.17A**
2. **Deny** an **amendment** to the Code of Ordinances **Section 3.17 & 3.17A.**

Recommended Alternative: 1

Other Alternatives: 2

Department Review: **FUNDING: N/A**

Attachments: 1. Section 3.17 - Excavation, Mining, Ponds, and Fills of land and/or State/Federal Jurisdictional Waters or Wetlands and 3.17A - Ponds—Construction Red Line Version

3.17 - Excavation, mining, ponds, and fills of land and/or state/federal jurisdictional waters or wetlands.

3.17.1 The following activities shall be subject to review by the county planning board:

1. Excavation of land, or removal of earth that exceeds one acres of disturbed area.
2. Removal of earth or like material from the subject site to another parcel.
3. Filling of land and/or state/federal jurisdictional waters or wetlands.

If **any 2 out of the 3 items** above meets the project criteria, review by the planning board and approval by the board of commissioners is mandatory. **If 1 of the 3 items above meets the project criteria, review by the County Engineer or their designee is mandatory.**

3.17.2 Excavation, mining, and fills of land and/or state/federal jurisdictional waters or wetlands. Excavation, mining, and fills of land and/or state/federal jurisdictional waters or wetlands that are associated with a specific project that has been approved by the board of commissioners that comply with all other regulations set forth in this ordinance are exempt from section 3.17.

3.17.3 Requirements for submittal for planning board and/or staff review.

1. Application and checklist.

- a. Applications and a checklist may be obtained from the development services office.
- b. Application and checklist must be complete and submitted with all required information.
- c. Fees in accordance with the county schedule of fees must be paid at the time of application submittal.

2. Excavation activities that have greater than one acre of disturbed area must obtain a state mining permit. A copy of the approved state mining permit must be submitted to the development services office prior to work commencing.

3. Any excavation activity between one acre and ten acres that requires a state mining permit or is a GDOT-approved borrow-source or pit for a GDOT-approved project, may be permitted as a conditional use in the AR-1 and AR-2 zoning districts, upon approval of the board of commissioners, and after review by the planning board.

4. Any excavation activity greater than one acre of disturbed area may be permitted in the PD-MR zoning district. Excavation activities that have greater than ten acres must be permitted in PD-MR.

3.17.3A Requirements for approval and final inspection.

1. Pond of less than one acre of disturbed area. Construction of the pond shall cease within six months of the approval date. The pond may be subject to a final inspection.

2. For any excavation activity between one acre and ten acres that is approved as a conditional use in AR-1 or AR-2, and requires a state mining permit, or is a GDOT-approved borrow-source or pit for a GDOT-approved project, the bond shall be submitted to DNR, if required. Excavation activities shall cease within three years of DNR or GDOT approval date. Extension of excavation activities beyond three years will require approval by the board of commissioners, after review by the planning board. Business operator shall maintain an annual occupation tax certificate, pursuant to article II, business and occupation tax, for a license to operate a surface mine. Applicant shall submit a survey of the completed excavation site to development services. A final inspection is required. All DNR reclamation requirements shall be met.

3. For any excavation activity greater than one acre that requires a state mining permit and is permitted in PD-MR, or is a GDOT-approved borrow-source or pit for a GDOT-approved project, the bond shall be submitted to DNR, if required. Excavation activities shall cease within five years of DNR or GDOT approval date. Extension of excavation activities beyond five years shall require approval by the board of commissioners, after review by the planning board. Business operator shall maintain an annual occupation tax certificate, pursuant to article II, business and occupation tax, for a license to operate a surface mine. Applicant shall submit a survey of the completed excavation site to development services. A final inspection is required. All DNR reclamation requirements shall be met.

3.17.4 Construction requirements.

1. All projects must comply with best management practices as outlined in the "Manual for Soil and Sediment Control in Georgia" as specified in O.C.G.A. § 12-7-6.
2. Side slopes of any excavated area must be constructed at a **maximum of 3:1** slope (one foot in elevation change per three feet of horizontal distance) from the top of the excavation to the bottom at all times during construction and at completion of the excavation. **All wet ponds must have a minimum 5ft depth and a minimum 10ft width from bottom of the bank, excluding stormwater ponds.**
3. **All digging and hauling operations must be completed within six (6) months.** All disturbed areas will have a permanent stand of grass established at completion.
4. No digging and hauling activities shall take place except between the hours of 8:00 a.m. and 5:00 p.m, Monday through Friday **for a pond less than one (1) acre and in an R Zoning District.** A project of regional significance may be permitted alternative hours of operation, upon review and approval by the county manager or his designee.
5. Unless a pond/excavation is to be shared by two or more parcels it shall be located at least 50 feet from the nearest property line. **Proposed** excavations shall not be nearer than 100 feet to any **existing** school, church, dwelling, or highway right-of-way. **The location of the existing Pond may not be within 50ft from any**

proposed school, church, dwelling or highway right-of-way. No pond shall be located less than ten (10) feet from the nearest access or utility easements. This section shall serve as the buffer requirements for surface mining operations. Refer to the Buffer Ordinance (Section 3.4) for Buffer requirements for Surface Mining Operations.

6. The limits of excavation of the pond shall be located at a distance from the nearest access easement or utility easement, as follows:

a. For pond depths of ten inches or less, the limits of excavation of the pond shall be 20 inches from the nearest access easement or utility easement; and

b. For every additional five-inch depth of pond, the additional distance from the nearest access easement or utility easement shall be ten inches.

7. 6. All wetland impacts must be approved by the USACE.

8. 7. The construction entrance and roadway shall be designed and built pursuant to GSWCC Construction Exit Guidance (2016 Edition). The roadway shall extend a minimum of 50 feet into the mine site from the paved entrance.

(Ord. of 7-5-05; Ord. of 8-2-16, § 1; Ord. of 9-15-20 ; Ord. of 1-3-23(1))

~~3.17A Ponds—Construction:~~

- ~~• No digging and hauling activities shall take place except between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday.~~
- ~~• Unless a pond is to be shared by two or more parcels it shall be located at least 50 feet from the nearest property line.~~
- ~~• No pond shall be located less than ten feet from the nearest access or utility easements.~~
- ~~• The pond sides shall be sloped at a 3 to 1 run to rise ratio.~~
- ~~• All wetland impacts must be approved by the USACE.~~
- ~~• All digging and hauling operation must be completed within six months.~~

~~(Ord. of 9-4-07, § 1(b))~~