



Staff Report

Subject: Text Amendment to the Zoning Ordinance – Section 3.4 Buffers

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Department: Development Services

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REQUEST

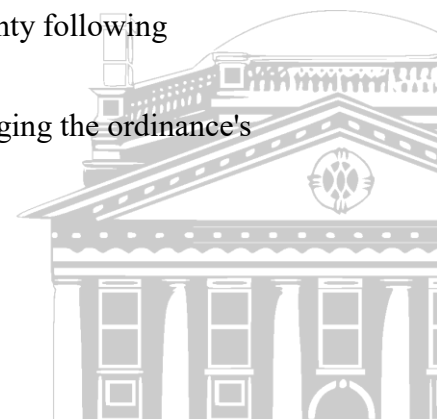
Staff is requesting a text amendment to Article III, Section 3.4 - Buffers of the Effingham County Code of Ordinances to add definitions, correct an omission in the buffer matrix, add encroachment standards, add enforcement mechanisms and a civil penalty, correct a section-numbering error, and establish a new framework for buffer adjustments and County restoration obligations arising from right-of-way (ROW) acquisition.

BACKGROUND

The existing buffer ordinance establishes standards for the separation and screening of differing land uses and zoning districts. Since adoption, staff has identified areas where additional clarity, consistency, and enforceability are needed, including:

- Key terms used throughout the ordinance (e.g., "buffer," "buffer area," "Director") that are not defined
- An AR-3 zoning district inadvertently omitted from the Table 3.4.1 buffer matrix
- A fence/wall buffer-reduction standard located as an unlabeled note beneath the buffer table rather than within the numbered encroachment standards
- No defined enforcement process for residential vegetative buffers that fail to achieve or maintain required opacity
- No defined civil penalty for buffer violations
- A section-numbering collision between "Enforcement" and "Required Plant Materials"
- No process for adjusting buffer requirements when County right-of-way acquisition reduces a parcel's buffer depth, and no corresponding restoration obligation on the County following temporary construction easement (TCE) activity

The proposed amendment refines and expands existing standards rather than changing the ordinance's fundamental purpose or buffer-use structure.



PROPOSED AMENDMENT

The amendment modifies Section 3.4 to:

- Add Section 3.4.0, Definitions, establishing objective definitions for Buffer, Buffer Area, Undisturbed Buffer, Canopy Tree, DBH, and Director
- Add the AR-3 zoning district to the Table 3.4.1 buffer matrix
- Relocate and formalize the fence/wall buffer-reduction standard as new Section 3.4.1(B)(9), within the numbered list of permitted encroachments
- Clarify the office responsible for determining berm construction bond amounts
- Establish a written enforcement procedure for vegetative buffers that fail to achieve or maintain required opacity, including a 90-day cure period (Section 3.4.2(D))
- Clarify that the interstate right-of-way buffer exemption applies only to the property line with direct interstate frontage, and add an alternative 15-foot landscaped-strip standard for I-1, LI, and HI districts (Section 3.4.2(F))
- Correct the section-numbering collision between Enforcement (now 3.4.3) and Required Plant Materials (now 3.4.4); no substantive text was changed by this correction
- Add a civil penalty of not less than \$500.00 per day for each day a violation continues (Section 3.4.3(D)(4))
- Replace the former duplicate-numbered Section 3.4.5 with a new Administrative Plant List Maintenance provision authorizing the Director to maintain and update approved plant lists subject to Board approval
- Add new Section 3.4.6, Right-of-Way Acquisition Buffer Adjustments, establishing a formula-based buffer reduction for properties affected by County ROW acquisition and corresponding County restoration obligations following TCE activity, with County financial assurance funded through the annual appropriations process and property owner reimbursement claims presented under the County's standard claims procedure (O.C.G.A. § 36-11-1)

STAFF ANALYSIS

Consistency with Ordinance Intent

The proposed amendment is consistent with the intent of the zoning ordinance to:

- Promote orderly development
- Ensure compatibility with surrounding land uses
- Provide clear and objective standards

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Objective Standards vs. Discretionary Determinations

The amendment replaces several undefined or open-ended provisions with objective, measurable standards. Defining terms such as "buffer," "buffer area," and "Director" in new Section 3.4.0 reduces reliance on case-by-case interpretation, and the Section 3.4.6 buffer-reduction formula (discussed below) replaces what would otherwise require a discretionary variance with a calculation applied consistently to every affected parcel.

District-Specific and Use-Specific Standards

The amendment appropriately addresses gaps in district-specific application by:

- Restoring the AR-3 district to the buffer matrix so AR-3 parcels have a defined buffer requirement against every other district
- Limiting the interstate frontage exemption to the specific property line with frontage, preventing unintended buffer loss on other property lines of the same parcel
- Providing I-1, LI, and HI districts a defined 15-foot landscaped-strip alternative along interstate frontage

Equity in Right-of-Way Acquisition

Section 3.4.6 addresses a gap in the current ordinance: when the County acquires ROW or a permanent easement that reduces a parcel's buffer depth, the ordinance previously provided no defined path to compliance for the affected property owner and no restoration obligation on the County following temporary construction easement activity. The new section establishes an adjusted buffer formula ($\text{Required Buffer Width} \times \text{Remaining Parcel Depth} \div \text{Pre-Acquisition Parcel Depth}$), bounded by a 15-foot minimum floor and a 50 percent maximum-reduction cap, with Director review of a site plan prior to permit issuance. It also requires the County to document pre-construction buffer conditions, restore disturbed buffers to a functionally equivalent condition (including 3:1 tree replacement), and submit a Restoration Plan. Financial assurance for restoration is maintained through the County's normal budgeting process, in an amount not less than 110 percent of estimated restoration cost, subject to annual appropriation by the Board of Commissioners. If the County fails to complete restoration within the approved timeframe, the property owner may complete the work independently and seek reimbursement, capped at the estimated restoration cost, with claims presented in accordance with the County's standard claims process under O.C.G.A. § 36-11-1 and the remedy lapsing two years after expiration of the TCE. This creates parity between the County's acquisition authority and its restoration obligations, while routing the County's financial commitments through its existing budgeting and claims procedures.

Administrative and Enforcement Benefits

The amendment:

- Reduces ambiguity in defined terms and buffer measurement
- Improves consistency in application review and permit determinations

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- Supports defensible staff determinations through written findings and recordkeeping requirements
- Adds a defined civil penalty to strengthen enforcement of Section 3.4
- Limits misinterpretation of the interstate exemption and the fence/wall reduction standard

FACTS & FINDINGS

Staff has reviewed the proposed text amendment and makes the following findings:

1. The proposed amendment promotes the health, safety, and welfare of the public.

The amendment strengthens enforcement of vegetative buffer opacity standards, adds a civil penalty for violations, and ensures buffer areas disturbed by County right-of-way construction are restored, directly supporting the screening, stormwater, and environmental functions the buffer ordinance is intended to provide.

2. The amendment provides clear and objective standards for administration of the ordinance.

New defined terms, a corrected buffer matrix, a formula-based right-of-way adjustment, and a corrected section-numbering scheme reduce ambiguity and improve consistency in staff's zoning determinations.

3. The amendment is consistent with the intent of the zoning ordinance.

The changes reinforce the ordinance's existing purpose of ensuring separation and screening between differing land uses, without altering the underlying buffer-use structure or the categories of development the ordinance regulates.

4. The amendment does not increase development intensity or density beyond what is currently permitted.

The amendment clarifies and enforces existing buffer, encroachment, and opacity standards; it does not modify allowable density or use intensity in any zoning district.

5. The amendment establishes equitable treatment between the County and private property owners affected by right-of-way acquisition.

Section 3.4.6 ensures that property owners whose buffers are reduced by County acquisition receive a defined, formula-based adjustment, while placing restoration and financial-assurance obligations on the County for buffer areas it disturbs through temporary construction easements. Those obligations are structured to work within the County's existing budgeting and claims procedures, including annual appropriation of restoration funding and presentment of reimbursement claims under O.C.G.A. § 36-11-1.

6. The amendment improves enforceability and reduces potential zoning conflicts.

Clarified definitions, a defined civil penalty, and a written notice-and-cure process for buffer opacity failures allow staff to make consistent, defensible decisions and reduce the likelihood of disputes or appeals.

COMPREHENSIVE PLAN CONSISTENCY

The proposed amendment is consistent with the Comprehensive Plan by:

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- Protecting the County's existing tree canopy and natural resources
- Supporting compatibility between differing land uses and development intensities
- Ensuring public infrastructure projects are carried out with defined obligations to affected property owners
- Promoting predictable, administratively efficient development review

PUBLIC IMPACT

The amendment is not anticipated to create adverse impacts. It provides clarity and predictability to property owners and developers, strengthens the County's ability to enforce existing buffer standards, and, for property owners affected by County right-of-way acquisition, establishes a defined and equitable adjustment and restoration process that did not previously exist.

STAFF RECOMMENDATION

Staff supports adoption of the proposed text amendment to Section 3.4 - Buffers.

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