

CASE NO. 769-AT-13

SUPPLEMENTAL MEMORANDUM

January 15, 2015

Petitioner: **Zoning Administrator** Prepared by: **John Hall**, Zoning Administrator
Susan Chavarria, Senior Planner

Request:

Amend the Champaign County Zoning Ordinance by amending the Champaign County Stormwater Management Policy by changing the name to Storm Water Management and Erosion Control Ordinance and amending the reference in Zoning Ordinance Section 4.3.10; and amend the Storm Water Management and Erosion Control Ordinance as described in the legal advertisement (see attached) which can be summarized as follows:

- I. Revise existing Section 1 by adding a reference to 55 ILCS 5/5-15015 that authorizes the County Board to have authority to prevent pollution of any stream or body of water. (Part A of the legal advertisement)
- II. Revise existing Section 2 by merging with existing Sections 3.1 and 3.2 to be new Section 2 and add purpose statements related to preventing soil erosion and preventing water pollution and fulfilling the applicable requirements of the National Pollution Discharge Elimination System (NPDES) Phase II Storm Water Permit. (Part B of the legal advertisement)
- III. Add new Section 3 titled Definitions to include definitions related to fulfilling the applicable requirements of the National Pollution Discharge Elimination System (NPDES) Phase II Storm Water Permit. (Part C of the legal advertisement)
- V. Revise existing Sections 3.3, 3.4, and 4 and add new Sections 5, 11, 12, 13, 14, and 15 and add new Appendices C, D, and E. Add requirements for Land Disturbance activities including a requirement for a Land Disturbance Erosion Control Permit including Minor and Major classes of Permits that are required within the Champaign County MS4 Jurisdictional Area; add a requirement that land disturbance of one acre or more in a common plan of development must comply with the Illinois Environmental Protection Agency's ILR 10 Permit requirements; add fees and time limits for each class of Permit; add requirements for administration and enforcement of Permits; and add new Appendices with new standards and requirements for both Minor and Major Permits. (Parts D, E, L, M, N, O, T, U, and V of the legal advertisement)
- IV. Revise existing Section 7 to be new Section 6 and add a prohibition against erosion or sedimentation onto adjacent properties and add minimum erosion control and water quality requirements that are required for all construction or land disturbance. (Part F of the legal advertisement)
- VI. Revise existing Section 5 to be new Section 8 and add a Preferred Hierarchy of Best Management Practices. (Part H of the legal advertisement)
- VII. Revise and reformat existing Sections 6, 8, 9, 10, 11, 12, and the Appendices and add new Section 18. (Parts G, I, J, P, Q, R, S and W of the legal advertisement)

STATUS

Revised Appendices D and E are attached as is a new Appendix F which contains all Standard Details.

A group of minor but important edits are proposed based on comments received from the State's Attorney's Office. See Attachment III.

Revisions are proposed to the requirements for stockpiles in Sec. 6.4 and 11.5 to provide greater flexibility for narrow lots. See Attachment JJJ.

Revised Technical Appendices

The Revised Technical Appendices respond to several comments received during this public hearing and are much improved from the previous versions.

Technical Appendix D has been greatly revised to more accurately reflect rural conditions particularly with the example erosion and sediment control plans (ESCP). The General Notes have been revised to more accurately reflect the differences between a Zoning Use Permit and a Land Disturbance Erosion Control Permit. Standard details for mulching and permanent seeding have also been added since these practices are widely used on rural lots. All standard details have been coded with an "SD" number to facilitate quick preparation of an adequate ESCP.

Technical Appendix E has been updated with the latest IEPA and IDOT forms.

Note that in Appendix E the use of IDOT forms should probably not be a requirement provided that any alternative form would provide at least as much relevant information as that provided by the IDOT forms. The following note could be added to the Appendix E Table of Contents and indicated as applicable for all listed IDOT forms:

- * Use of IDOT forms is not mandatory but alternative forms must provide at least as much relevant information as that provided by the IDOT forms.

Revised Requirement for Stockpiles

The Draft amendment dated December 5, 2014, eliminated the requirement for E&S controls for stockpiles outside of the MS4 Jurisdictional Area and established different threshold stockpile sizes in the MS4 Jurisdictional Area. However, the 12/5/14 Draft retained the 30 feet minimum separation to a property line and it may be possible for a lot in the MS4 Jurisdictional Area to be less than 150 feet wide in which case the minimum 30 feet separation to the property line would be a hardship, depending upon the actual lot width. Of course a variance could be requested in those instances but it would be more efficient to write the amendment such that a variance would not be required.

150 feet is also not a magic number but the example lots in the Revised Appendix D illustrate that a lot width of less than 150 feet will not easily accommodate a 100 cubic yard stockpile with 30 feet separation to a property line. Also, 150 feet is the minimum required average lot width for new lots when there is no public water or public sewer.

It is clear that with proper E&S controls a stockpile need not be 30 feet from the property line and 10 feet is a reasonable separation in those instances. It remains reasonable to require the 30 feet separation to property line when no E&S controls are required.

Attachment JJJ proposes such a change to Sec. 11.5 and paragraph 6.4D. Also note that "property line" has been replaced by "property under other ownership" to allow greater flexibility during development when a builder might own more than one adjoining lot.

Status of this Zoning Case

The ZBA may finally have all that is required for a final determination.

ATTACHMENTS (* = Attachments lettered consecutively from the Preliminary Memorandum)

A Case Description from Legal Advertisement

*FFF Revised Appendix D Technical Manual Minor Land Disturbance Erosion Control Permit
(included separately with Appendices E and F)

*GGG Revised Appendix E Technical Manual Major Land Disturbance Erosion Control Permit
(included separately with Appendices D and F)

*HHH Appendix F Standard Details (included separately with Appendices D and E)

*III Miscellaneous Minor Edits

*JJJ. Revised Requirement for Stockpiles

Attachment A. Case Description from Legal Advertisement

Case 769-AT-13

FEBRUARY 6, 2014

Amend the Champaign County Zoning Ordinance by amending the Champaign County Stormwater Management Policy by changing the name to Storm Water Management and Erosion Control Ordinance and amending the reference in Zoning Ordinance Section 4.3.10; and amending the Storm Water Management and Erosion Control Ordinance as follows:

- Part A. Revise Section 1 Authority by adding a reference to 55 ILCS 5/5-15015 that authorizes the County Board to have authority to prevent pollution of any stream or body of water.
- Part B. Revise Section 2 as follows:
1. Merge existing Intent and Requirements (Sections 3.1) and General Requirements (Section 3.2) with existing Purpose (Section 2).
 2. Add purpose statements related to preventing soil erosion and preventing water pollution and fulfilling the applicable requirements of the National Pollution Discharge Elimination System (NPDES) Phase II Storm Water Permit.
- Part C. Add new Section 3 titled Definitions and add definitions related to fulfilling the applicable requirements of the National Pollution Discharge Elimination System (NPDES) Phase II Storm Water Permit.
- Part D. Change the title of existing Section 4 to Scope and make the following changes:
1. Add a requirement that Land Disturbance have requirements identified in the Ordinance.
 2. Add a requirement that all sections of the Ordinance are applicable to land disturbance activities in the Champaign County MS4 Jurisdictional Area.
 3. Add a requirement that land disturbance of one acre or more in a common plan of development must comply with the Illinois Environmental Protection Agency's ILR 10 Permit requirements.
 4. Add a requirement that all Sections except those related to the Land Disturbance Erosion Control Permit (Sections 12, 13, 14, and 15) are only applicable when a land subdivision requires approval of the Champaign County Board and when construction occurs that requires a Zoning Use Permit.
 5. Add a requirement that Protect Existing Drainage and Water Resource (Section 6) and Easement (Section 7) are applicable to all subdivisions, zoning use permits and land disturbances regardless of the amount of area involved or percent impervious surface.
 6. Add a requirement that Land Disturbance and Erosion Control Requirements (Section 11) are applicable with any Storm Water Drainage Plan or necessary enforcement action.
 7. Add a requirement for erosion and sedimentation controls when there is more than 10,000 square feet of land disturbance in total, after the Effective Date.
 8. Add exemptions to Land Disturbance Erosion Control Permits.
- Part E. Add a new Section 5 titled Authorizations and Project Termination and make the following changes:
1. Relocate existing Reviewing Authorities (existing Section 4.1) and remove Special Use Approvals
 2. Relocate existing Authorization to Construct (existing Section 3.3) and add authorizations for Land Disturbance Erosion Control Permits.
 3. Relocate existing Requirements for Final Approvals (existing Section 3.4) and rename to Project Termination, and add requirements for Land Disturbance Erosion Control Permits.

Attachment A. Case Description from Legal Advertisement

Case 769-AT-13

FEBRUARY 6, 2014

- Part F. Renumber existing Section 7 to new Section 6 titled Protect Existing Drainage and Water Resource and make the following changes:
1. Add new requirement to prohibit erosion or sedimentation onto adjacent properties.
 2. Add new requirements for discharges from sump pumps.
 3. Add new minimum erosion control and water quality requirements including a minimum requirement for proper disposal of construction waste; minimum requirement for location and control of soil stockpiles; and a requirement to cleanup sediment that enters onto public areas and adjacent properties.
- Part G. Renumber existing Section 9 to new Section 7.
- Part H. Change existing Section 5 to new Section 8 titled Storm Water Drainage System and add a Preferred Hierarchy of Best Management Practices.
- Part I. Change existing Section 6 to new Section 9 titled Storm Water Drainage Plan and merge with existing Section 12.
- Part J. Renumber existing Section 8 to new Section 10.
- Part K. Add new Section 11 titled Land Disturbance and Erosion Control and include the following:
1. Add general requirements for erosion and sediment control operations.
 2. Add list of practices that should be applied to minimize soil erosion.
 3. Add list of practices that should be applied to minimize sediment.
 4. Add requirements for filtering dewatering practices at construction sites.
 5. Add requirements for soil stockpiles.
 6. Add requirements for maintenance of erosion and sediment control measures.
- Part L. Add new Section 12 titled Land Disturbance and Erosion Control Permits and include the following:
1. Add a requirement for Land Disturbance Erosion Control Permits.
 2. Add a requirement that the class of permit Land Disturbance Erosion Control Permit – Minor is required for any land disturbance of less than one acre that is part of a common plan of development or sale of record that is not otherwise exempt.
 3. Add a requirement that the class of permit Land Disturbance Erosion Control Permit – Major is required for any land disturbance of one acre or more that is not otherwise exempt.
 4. Add required forms and procedure requirements for each permit class.
 5. Add that the class of permit Land Disturbance Erosion Control Permit – Major shall comply with current ILR10 requirements.
 6. Add a fee schedule with fees for each class of permit.
 7. Add a requirement that an issued permit authorizes only those activities shown on approved plans.
 8. Add time limitations for Land Disturbance Erosion Control Permits.
 9. Add responsibilities of the holder of the Land Disturbance Erosion Control Permit.
 10. Add requirements for maintenance of erosion control facilities and other drainage structures during and after construction.

Attachment A. Case Description from Legal Advertisement

Case 769-AT-13

FEBRUARY 6, 2014

Part M. Add new Section 13 titled Administration of Land Disturbance and Erosion Control Permits and include the following:

1. Add duties of the Zoning Administrator as established in the Champaign County Zoning Ordinance.
2. Add conditions of Land Disturbance and Erosion Control Permit approval to prevent the creation of a nuisance or unreasonable hazard to persons or to public or private property including specific erosion and sediment controls, safety structures, grading improvements, adequate dust controls, and acceptance of discharges on others property.
3. Add conditions to which a Land Disturbance Erosion Control Permit might be denied if the Erosion and Sediment Control Plan does not meet the requirements of the ordinance and restrictions if the permit is denied.
4. Add conditions to Land Disturbance Erosion Control Permit and plans to ensure that no work occurs without prior written approval, that any changes to plans must be submitted prior to work being conducted, and methods for changing an approved document.
5. Add requirement of site inspections during specific phases of the work to ensure compliance with the conditions of the Ordinance.

Part N. Add new Section 14 titled Liability Related to Land Disturbance and Erosion Control Permits and include a requirement that all responsibilities and liabilities are held by the permit holder and no liability is held by Champaign County.

Part O. Add new Section 15 titled Enforcement of Land Disturbance and Erosion Control Permits and include the following:

1. Add a requirement that work shall be done in accordance with the approved plans, the approved permit, and the Ordinance.
2. Add a classification of deficient sites and the related enforcement activities.
3. Add a classification of Non-Compliance on a sites and the related enforcement activities.
4. Add a classification of Notice of Violation on a sites and the related enforcement activities.
5. Add that the Zoning Administrator may require activities that shall be undertaken in order to prevent imminent hazards, dangers and adverse effects.
6. Add conditions and procedures that allow the Zoning Administrator to issue a stop-work order and that all work must stop immediately.
7. Add conditions and procedures for initiating legal proceedings.
8. Add penalties for violation of the ordinance at not less than one hundred dollars (\$100.00) per day and not more than five hundred dollars (\$500.00) per day.

Part P. Renumber existing Section 10 to new Section 16.

Part Q. Change existing Section 11 Waivers to new Section 17 titled Appeal, Waiver or Variance and include the following:

1. Add designation that the reviewing authority may issue a waiver or variance to the ordinance except for ILR10 requirements.
2. Add procedure for appealing a decision made by a reviewing authority.

Part R. Add new Effective Date (Section 18).

Attachment A. Case Description from Legal Advertisement

Case 769-AT-13

FEBRUARY 6, 2014

- Part S. Re-letter existing Appendix B to be new Appendix A and re-letter existing Appendix A to be new Appendix B.
- Part T. Add new Appendix C titled Champaign County MS4 Jurisdictional Area to include a map of the Champaign County MS4 Jurisdictional Area.
- Part U. Add new Appendix D titled Technical Manual Minor Land Disturbance Erosion Control Permit Standards and Standard Details and include application templates, erosion control plan examples, and standard construction drawings.
- Part V. Add new Appendix E titled Technical Manual Major Land Disturbance Erosion Control Permit Standards and Standard Details and include application templates, erosion control plan examples, and standard construction drawings.
- Part W. Revise and reformat the text, and update all references to new and renumbered Sections.

Attachment III. Miscellaneous Minor Edits

Case 769-AT-13
JANUARY 15, 2015

The following edits should be made to the Draft Storm Water Management and Erosion Control Ordinance dated 12/5/14:

1. In the second sentence of the definition of “Common plan of development or sale of record”, at the end of the fourth numbered clause, replace the period with a semi-colon.
2. In the definition of “Impervious”, replace the two letters “a t” with the word “at”.
3. In Table 1 in Section 4.3, in the last sentence replace “8.2” with “4.3F.”.
4. In subparagraph 4.3F.1., replace “4.3G4.” with “4.3F.4.” and replace “4.3G.2.c.” with “4.3F.2.c.”.
5. In subparagraph 4.3F.5, replace “4.3F.” with “4.3E.”
6. In subparagraph 5.2E., replace “DEVELOPMEENT” with “DEVELOPMENT”.
7. In subparagraph 5.3A.6., replace “in” with “by”.
8. In subparagraph 5.3B.6., replace “in” with “by”.
9. In Section 6.5, add an “s” to the end of “Section”.
10. In subparagraph 9.1A.1., add a period at the end of the sentence.
11. In subparagraph 9.6A., replace “9.1A.2.d.” with “9.2E.”.
12. Revise paragraph 12.A. to read as follows:
Within the Champaign County MS4 JURISDICTIONAL AREA, a LDEC PERMIT shall be required for applicable LAND DISTURBANCES except activities identified in LDEC Permit Exemptions (Section 4.4).
13. In paragraph 12.B.1., delete the second sentence.
14. In paragraph 13.5F., replace “, or is thought to be planned.” with “or has been authorized.”
15. In the second sentence of Section 15.3, insert “and any” after the last comma.

Attachment JJJ. Revised Requirement for Stockpiles

Case 769-AT-13
JANUARY 15, 2015

The following revisions are proposed to the Draft Storm Water Management and Erosion Control Ordinance dated 12/5/14:

• **Revise Section 11.5 to read as follows:**

11.5 Stockpiles

Stockpiles of soil and other erodible building material (such as sand) of 100 cubic yards or more shall be stabilized with temporary or permanent measures of EROSION and SEDIMENT control within 14 calendar days and shall be located as follows:

- A. Stockpiles shall be provided a minimum separation of not ~~be located~~ less than 50 feet from the top of the bank of a drainage ditch or stream and not less than 30 feet from the centerline of a drainage swale that is indicated as an intermittent stream on a United States Geological Survey 7.5 Minute Quadrangle Map and not less than 30 feet from the top of the bank of a roadside ditch ~~or~~ and not in a drainage ditch easement and not less than ~~30-10~~ feet from the nearest property ~~line~~ under other ownership; and
- B. Any additional separation distance required for stabilization and maintenance of the stockpile outside of the minimum separation required above.

• **Revise Section 6.4 to read as follows:**

- D. The following practices shall be applied to LAND DISTURBANCE activities to minimize impacts from stockpiles containing more than ~~400~~ 150 cubic yards of material:
 - 1. Stockpiles of soil and other erodible building material (such as sand) shall be located as follows:
 - a. Stockpiles shall be provided a minimum separation as follows:
 - (a) not ~~be located~~ less than 50 feet from the top of the bank of a drainage ditch or stream; and
 - (b) not less than 30 feet from the centerline of a drainage swale that is indicated as an intermittent stream on a United States Geological Survey 7.5 Minute Quadrangle Map; and
 - (c) not less than 30 feet from the top of the bank of a roadside ditch; ~~or~~ and
 - (d) not within a drainage ditch easement; and
 - (e) not less than 30 feet from the nearest property line ~~except for~~ stockpiles on lots less than 150 feet in width and less than 30,000 square feet in area in which case the minimum separation to the nearest property under other ownership is 10 feet provided that erosion and sedimentation controls are installed and maintained as required in Section 11; and
 - b. Any additional separation distance required for stabilization and maintenance of the stockpile outside of the minimum separation required above.

