



AGENDA ITEM EXECUTIVE SUMMARY

Agenda Item number: 4f

Title: Recommendation to Approve Amendments to Title 18 – Stormwater Management Ordinance (adoption of 2019 revisions to the Kane County Stormwater Ordinance and related city amendments)

Presenter: Monica Hawk, Development Engineer II

Meeting: Planning & Development Committee

Date: June 10, 2019

Proposed Cost: N/A

Budgeted Amount: N/A

Not Budgeted:

In December of 2018, a presentation summarizing the major revisions to the Kane County Stormwater Management Ordinance was given to the committee. Feedback received was submitted to Kane County. The final county ordinance was approved by the Kane County Board on May 7, 2019.

A website link to the revised county ordinance is below:

<https://www.countyofkane.org/FDER/Documents/waterOrdinances/adoptedOrdinance.pdf>

Since 2001, the city has chosen to be a “certified community”, allowing us to administer and enforce the mandatory county stormwater ordinance within our corporate limits. The City has adopted the county ordinance and city amendments as Title 18 of the city code. The City will need to adopt the revisions of the county ordinance and accordingly update the related city amendments. The City amendments are either administrative or technical in nature.

The substantive changes to the county ordinance are in regards to redevelopments, the trigger for requiring detention ponds and new requirements for best management practices.

There are no substantive changes to the city amendments. A section regarding fences has been rewritten to consolidate, clarify and provide a more user-friendly standard, and to better reflect current procedures.

Exempt Development List and “grandfathered” projects

The Kane County Stormwater Ordinance allows a community to submit a list of developments to be exempt from the changes to the ordinance. The Exempt Development List will apply to projects that are currently going through the review process and will not have received their permits prior to the adoption of the revised stormwater ordinance. Essentially, these would be projects that have made substantial progress in the design of their stormwater management plans. It allows those projects to continue following the requirements of the “old” ordinance without having to redesign their plans to meet the revised ordinance. Developers of these “exempt” projects would then have the option to follow either the old or new ordinance.

City staff submitted a proposed exempt development list to Kane County on May 24th for their approval process, including an upcoming public hearing on June 11th by the Kane County Stormwater Committee. The City Council will ratify this list when voting on adopting the city amendments. Staff is recommending the exemption expire on December 31, 2020, unless an extension is granted by the City Council.

The exemption is not needed for projects that have received their permits. It would also not apply to vacant lots within a previously constructed subdivision or PUD where a stormwater system was already installed and vacant lots remain (i.e. larger developments such as Pine Ridge Park, the Reserves or Legacy Business Park, which have vacant lots remaining). Those type of projects would be considered “grandfathered”.

Attachments (please list):

Recommended Amendments to City Code Title 18 – Stormwater Management Ordinance

Recommendation/Suggested Action (briefly explain):

Recommend adoption of 2019 revisions to the Kane County Stormwater Ordinance and related Title 18 city amendments

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Chapter 18.04

STORMWATER MANAGEMENT ORDINANCE

Sections:

18.04.010 Stormwater Management Ordinance – Adopted – Modifications.

18.04.010 Stormwater Management Ordinance – Adopted – Modifications.

The provisions of the Kane County Stormwater Management Ordinance, originally adopted by the Kane County Board on November 14, 2000, effective January 1, 2002 and revised June 1, 2019, not less than three copies of which have been and now are filed in the Office of the Clerk of the City of St. Charles, Illinois, are hereby adopted in total, with the exception of the special regulations listed below which supplement and replace the concurrent sections of the Kane County Stormwater Management Ordinance as the regulations governing any activity that affects stormwater runoff or involves stormwater management. This Ordinance and the amendments noted hereafter shall become effective immediately.

Amendments to the Kane County Stormwater Management Ordinance.

A. Article II, 9-28.D is deleted in its entirety and the following inserted therefore:

“Permit Fees – Schedule.

The following schedule of fees is established for the filing and review of all stormwater permit applications and the inspection of construction or maintenance activities related to required improvements:

1. Filing fee (payable when permit application is filed) fifty (\$50.00) dollars.
2. Reimbursement for professional services:
 - a. Recording fees.
 - b. Fees for attorney’s review and negotiations in connection with the filing, review and construction of the project.
 - c. Fees for consultant’s review and consultation in connection with the filing, review and construction of the proposed work including meetings and associated tasks.
Consultants may include but are not to be limited to Engineers and Wetland specialists.
3. Reimbursement for City staff review: Cost per productive work hour of each City staff member involved in reviews, meetings, inspections or any associated task relative to a stormwater permit application. The applicant shall pay all fees within 30 days of invoice by the City subsequent to performance of said tasks. Any dispute of payment shall be sent in writing to the Administrator within 30 days of invoice by the City. Failure to respond within the 30 day period shall result in a default of permit obligation and allow the Administrator to revoke the permit.”

B. Article IV, 9-83.C is deleted in its entirety and the following inserted therefore:

“Minor stormwater systems shall be sized to convey runoff from the tributary watershed under pre-development or fully developed conditions as may create the greatest amount of runoff. The recurrence frequency for design purposes shall be the 10-year event. The rainfall data shall be from ISWS Bulletin 70. Inlet capacity shall generally be provided such that depth of ponding does not exceed 6 inches to facilitate the 10-year event. Pipe capacity shall generally be provided such that the calculated hydraulic grade line does not exceed the top of pipe elevation.”

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C. Article IV, 9-83.L shall be appended to Article IV, 9-83 and shall read as follows:

“Fences.

1. Fences within drainage routes: Fences shall not be permitted:
 - a. where they impede the flow of storm water, or drainage; or,
 - b. below the high water elevation of a detention storage facility.

2. Fences within Easements – Affidavit and Release Certificate: Applications for fences installed in or across an easement containing drainage rights shall have an affidavit and release attached, prepared by the property owner, stating that he has read the requirements for fences located in easements and that he agrees to comply with them and that he does for himself, his heirs, successors and assigns indemnify and hold harmless the City from any liability asserted by others in connection with the placement of the fence and that they permit the removal of any fence or any other structure or form of landscaping within the easement area by the City if the fence or landscaping impedes the flow of storm water or drainage. The affidavit may be recorded at the owner’s expense by the City in the County Recorder of Deeds Office. In the event the City shall determine it necessary to excavate or have access across the easement, the owner shall remove the fence at the City’s direction and in the event of failure thereof, the City may remove the same at owner’s expense and the City shall not be required to replace same.

3. Fences within Easements – Vertical Clearance: If the fence lies within an easement which contains drainage rights, a minimum vertical clearance of four (4”) inches from the ground surface to the bottom of the fence must be maintained. The vertical clearance shall be maintained for the entire length of that portion of the fence that is installed in or across the Easement. Requests for a reduced vertical clearance requirement may be submitted and will be considered in accordance with this section. Notwithstanding any guideline given herein, the City Administrator may deny or approve a reduced vertical clearance which is in the interest of public health and safety as he/she deems appropriate.
 - a. The vertical clearance may not be reduced in the following instances:
 - i. Fence around a storm water management basin or perpendicular to the emergency overflow route of a storm water management basin.
 - ii. Fences that will impede the flow of storm water or drainage.
 - b. For purposes of this section, the following definitions apply:
 - i. Privacy fence - less than 50% open surface area
 - ii. Non Privacy fence - more than 50% open surface area and able to pass a one (1") inch diameter sphere
 - iii. Chainlink - more than 50% open surface area and able to pass a two (2") inch diameter sphere
 - c. Screening placed across the vertical clearances shall be more than 50% open surface area and able to pass a two (2") inch diameter sphere
 - d. The minimum vertical clearances shall be in accordance with the following:

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Table 9-83.L

Fence Type	Minimum Vertical Clearance above ground		
	Inside Easement	Outside Easement	In Floodplain
Privacy	4"	2"	not allowed
Non-Privacy	2"	0	2"
Chainlink	0	0	0

- D. Article IV, 9-84.J.8 shall be appended to Article IV, 9-84.J and shall read as follows:
 “Paved parking lots may not be utilized to provide any portion of the required site runoff storage volume.”
- E. Article IV, 9-84.S shall be appended to Article IV, 9-84 and shall read as follows:
1. The site runoff storage requirements for the following projects shall be calculated in accordance with the procedures set forth in this Article IV, 9-84.S:
 - a. CMD Midwest Unit 1 (SSA #7) (Doc. 1915404).
 - b. CMD (SSA #5) (Ord. 1984-M-20).
 - c. CMD (SSA #4) (Ord. 1984-M-21).
 2. Off-site regional stormwater detention has been provided for the three projects and SSA areas noted above. The required off-site detention was calculated based on a “design percentage impervious surface”, with said “design percentages” as follows:
 - a. CMD Midwest Unit 1 (SSA #7) (Doc. 1915404): 61.66%
 - b. CMD (SSA #5) (Ord. 1984-M-20): 56.67%
 - c. CMD (SSA #4) (Ord. 1984-M-21): 56.67%
 3. When development causes the percentage of impervious surface for any single lot to exceed the design percentage noted above, site runoff storage shall be provided in accordance with the requirements set forth in the 100-Year Detention Volume vs Percent Impervious nomograph provided as Figure T9-108.A of the Kane County Technical Manual. The required volume shall be determined by establishing an initial volume utilizing said Figure T9-108.A, based on the development proposal, and crediting the off-site regional detention design percentage against that initial volume.
 4. For illustrative purposes only: a site in SSA #7 with a proposed 65.3% imperviousness, which is greater than the 61.66% imperviousness that the site was originally designed to accommodate in the regional detention facility. Using said Figure T9-108.A (0.10 cfs/acre release rate), 65.3% hydraulically connected imperviousness translates to 0.44 ac-ft./acre to be provided. However, using Figure T9-108.A (0.1 cfs/acre release rate) at the “original design percentage impervious surface” of 61.66% imperviousness, 0.425 cfs/acre is to be “credited”. For a 2.5 acre site, 2.5 acres x 0.44 acre-ft./acre = 1.1 ac-ft. should be provided, but 2.5 acres x 0.425 acre-ft./acre = 1.06 ac-ft. are credited. It is seen that (1.1 – 1.06), or 0.04 ac-ft. is to be provided on-site for this example.
 5. All other requirements of this chapter shall apply, including Requirements for Stormwater Mitigation / Best Management Practices (BMPs) in accordance with Article V.
- F. Article IV, 9-85.A.1 is deleted in its entirety and 9-85.A.2 is deleted in its entirety and the following inserted therefore:
 “The engineer’s opinion of probable cost of otherwise providing the required Stormwater Management Measure and the verifiable off-site Major, Minor or Subsurface Drainage System, including the value of the land required and all construction costs. For this purpose, the land

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required shall be valued according to the use to which it will ultimately be put if not used to provide the required Stormwater Management Measure. This cost shall be solely determined by the Administrator. Challenges to land valuation and land area requirements are not considered in this ordinance. The Administrator's decision is final relative to this ordinance."

- G. Article VIII, 9-203.A.3 is deleted in its entirety and the following inserted therefore:
"An irrevocable letter of credit in favor of the permitting authority, or such other adequate security as the Administrator may approve, in an amount equal to one hundred fifteen percent (115%) of the approved estimated probable cost to complete the construction of any required major and minor stormwater systems, stormwater management measures (excluding category I BMPs) and special management areas."
- H. Article VIII, 9-203.C is deleted in its entirety and the following inserted therefore:
"The Administrator may approve periodic reductions in the amount of the security based upon the progress of construction. At no time, however, shall more than eighty-five percent (85%) of the security be released prior to approval of Record Drawings and final inspection. A minimum of fifteen percent (15%) of the original amount of the security shall be retained for a period of one year after completion of all required stormwater facilities."
- I. Article VIII, 9-204.A.2 is deleted in its entirety and the following inserted therefore:
"An irrevocable letter of credit in favor of the permitting authority, or other adequate security upon approval by the Administrator, in an amount equal to one hundred fifteen percent (115%) of the approved estimated probable cost to install and maintain the required Erosion and Sedimentation Control Practices."
- J. Article VIII, 9-205.A.2 is deleted in its entirety and the following inserted therefore:
"An irrevocable letter of credit in favor of the Permitting Authority, or other adequate security upon approval by the Administrator, in an amount equal to one hundred fifteen percent (115%) of the approved estimated probable cost to install, monitor and maintain the native vegetated Category II BMPs or Watershed Benefit Measures."
- K. Article X, 9-258 is deleted in its entirety and the following inserted therefore:
"Variances – Application Fee.
The following schedule of fees is established for the filing and review of all stormwater permit variances and the activities related to said request:
1. Filing fee (payable when variance application is filed) fifty (\$50.00) dollars:
 2. Reimbursement for professional services:
 - a. Recording fees;
 - b. Fees for attorney's review and negotiations in connection with the filing, review and construction of the application.
 - c. Fees for consultant's review and consultation in connection with the filing review of the application including meetings and associated tasks. Consultants may include but are not limited to Engineers and Wetland specialists.
 3. Reimbursement for City staff review: One and one-half times the hourly rate or pro rata salary of each City staff member involved in reviews, meetings, inspections or any associated task relative to a variance application.
The applicant shall pay all fees within 30 days of invoice by the City subsequent to performance of said tasks. Any dispute of payment shall be sent in writing to the Administrator within 30 days of invoice by the City. Failure to respond within the 30 day period shall result in a default of petitioner obligation and allow the Administrator to cease consideration of the variance or revoke any permit granted including the subject variance."
- L. Article XI, 9-288.A.1 is deleted in its entirety and the following inserted therefore:
"Any person found guilty of an offense under this ordinance shall pay a civil fine in an amount not less than \$50 and not more than \$1,000. Each calendar day during which such violation continues

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to exist shall constitute a separate offense. In addition to the penalties provided in this Chapter, the City may recover reasonable attorney's fees, court costs, court reporter fees and other expenses of litigation by appropriate suit against the person found to have violated this chapter or the rules, regulations, permits or orders issued hereunder."

- M. Article XII, 9-310.B – Responsibility for Administration – shall be amended by appending the following sentence and shall read as follows:
"The administrator for the City of St. Charles shall be the City Administrator of the City of St. Charles."
- N. Article XII, 9-314 – Oversight Committee – shall be amended by appending the following sentence and shall read as follows:
"The oversight committee for the City of St. Charles shall be the City Council of the City of St. Charles."
- O. Article XV, 9-403.E is deleted in its entirety and the following inserted therefore:
The exemption for projects listed in Article XV, 9-403.F shall expire on December 31, 2020, unless an extension is granted by the oversight committee.
- P. Article XV, 9-403.F shall be appended to Article XV, 9-403 and shall read as follows:
"The following list of projects defined by Tax Assessment P.I.N. numbers or address shall be considered exempt from the changes to the Kane County Stormwater Management Ordinance at the Revision Date:
1. Extreme Clean Car Wash – 1625 W. Main Street – PIN 0933126031
 2. Cityview Subdivision – 895 Geneva Road – 4 lot residential – PIN 0934401015
 3. Crystal Lofts – 214 S. 13th Ave – 14-unit multi-family residential – PIN 0927484005
 4. Parkside Reserves - 1337 Geneva Rd – 3-unit multifamily residential – PIN 0934476002
 5. Hillcroft – 1147 Geneva Rd. – 2 lot residential – PIN 0934404024, 0934404025
 6. Meijer Outlots – southwest corner Randall Rd & Lincoln Hwy; portion of 855 S. Randall Road – retail – portion of PIN 0932476008
 7. Brooke Toria Estates – 32W510 Smith Rd. – 16 lot residential – PIN 0130100002, 0130100003, 0130100004
 8. Pride Gas Station – 33W573 Rt. 64 – PIN 0925100036
 9. 60 S. 14th St. – 8-unit apartment – PIN 0933128026
 10. Prairie Place Lofts – Lot 702 of the resubdivision of Lot 7 of Pheasant Run Crossing (located north of 4050 E. Main St) – 3 building 66-unit apartment – PIN 0130102046
 11. 1812 and 1818 Riverside – 2 lot subdivision – PIN 0935356002

(Ord. 2013-M-59 § 1; Ord. 2009-M-15 § 1; Ord. 2005-M-5 § 1; Ord. 2001-M-86 § 1; 2001-M-37 § 1.)