

# DuPage County Countywide Stormwater and Flood Plain Ordinance - Update

Comment Responses on  
Revised Public Comment Draft  
Stormwater Committee January 17, 2011



# Comment Response Document

- Comments from 20 Different Entities/People, 22 sets of Comments
- More Than 390 Separate Comments
- Document to be Posted on the Website
- Some Blanks to Be Filled In at Adoption:
  - Fees
  - Penalties

## Article 2: Administration

- Municipal Engineers Group (MEG) is “Officially” Recognized (15-16.A)
  - “...provide input to the County...”
  - “...Recommend General Certification Topics...”
  - “...Provide Educational and Training Opportunities...”
  - “...Review Draft General Certifications...”
  - “...Discuss permitting issues as they arise...”
  - Formality of the group has been reduced to answer concerns on Open Meetings Act.

## Article 2: Administration

- The Municipal Technical Advisory Panel (15-16.B) is Dropped from the Ordinance.
  - Too many conflicting comments to reconcile.
- Technical Issues (15-16.C) Has been dropped from the Ordinance.
  - Not necessary to define a “technical issue” outside of the context of the MTAP.

## Article 3: General Provisions

- When does this Ordinance Apply?
  - It does Not apply to land uses existing as of February 15,1992 until or unless they are “developed”.
  - Comment: FEMA interprets this as a conflict with the NFIP, because there are some provisions of the NFIP, that would apply to all structures, and our Certifications last 3-years, not 180 days.
    - This ordinance has never been all that is required for maintaining Community participation in NFIP.

# Article 4: Stormwater Management Certifications

- Status of General Certifications
  - Currently being worked on by Municipal Engineers Group (MEG)
- Performance Security and Easements (Also Article VI)
  - Multiple Comments on Recording maintenance, wetlands and Floodplains against the title.  
Response: Recording against the Title is a compromise instead of requiring easements.

## Article 8: Post Construction Best Management Practices

- Comment: 2500 sq. ft. is not appropriate for longer Roadway Projects. Response: For Roadway projects, exemption of 2500 sq. ft. expanded to “2500 sq. ft. per quarter mile”.
- Comment: For any size project, as long as the project is less than 50% impervious, allow Fee-in-lieu without justification. Response: This reflects a shift away from localized and distributed PCPMP's, and the comment was not implemented.

# Article 9: Site Runoff Conveyance and Storage

## When is site runoff storage (detention) required? Draft Ordinance

- Required for total area of disturbance when:
  - The cumulative total of the first 25,000 sq ft of new impervious area on a lot platted prior to February 15, 1992 is exempt from site runoff storage requirements. (15-72)
  - If the percentage of impervious area of the development site increase or does not decrease by 5 % compared to the highest percentage in the previous three years.
  - If the with-project impervious area of the site is greater than 10%
- Change in Response to Comment: County comment, and with concurrence of the Municipal Engineers Group, that the 25,000 sq. ft. should not be “exempted”, but “deferred” until cumulative development goes over 25,000 sq. ft. Once threshold is crossed, must provide detention for deferred impervious area.

# Article 11: Wetlands

## Draft Ordinance

- Allow permanent impacts of up to 0.1 acres of wetlands without mitigation? **Response: Not Implemented**, as it represents a reduction in protection to natural resources.
- Allow impacts of up to 0.1 acres of wetlands without avoidance and minimization, and without alternatives analysis? **Response: yes, but still keeping the limitations that are spelled out in the draft to avoid negative impact of piecemeal development.**

# Article 11: Wetlands

## Draft Ordinance

- Use a sliding scale of mitigation instead of alternatives analysis, assuming the economics of impact will protect the most valuable resources?

Response: Not implemented because:

- Only practical metric to base sliding scale on is a measure of the “conservative nature” of the plant community, or some form of “community type” valuation, neither of which captures full value of the existing wetland.
- Approach is out of sync with the Federal Clean Water Act.

## Article 12: Buffers

- Eliminate the provision that allows an applicant to demonstrate that the 100-yr floodplain is not an appropriate Buffer?  
Response: Floodplain limit is the default, but suggestion implemented because no part of floodplain delineation is based on buffers, so must have some way of allowing applicant to “right-size” the buffer.

## Website

<http://ec.dupageco.org/StormWaterUpdate/>

Questions?