



DEPARTMENT OF PUBLIC WORKS

Environmental Sustainability Division

m e m o r a n d u m

TO: Mayor Laurel Lunt Prussing and Members of the City Council
FROM: Scott R. Tess, Environmental Sustainability Manager
DATE: May 11, 2015
SUBJECT: Pollution Control Facility Siting Ordinance Amendment

Background

Section 39.2 of the Environmental Protection Act, 415 ILCS 5/39.2 (the “Act”), provides that the governing body of a municipality shall approve or disapprove local siting requests for pollution control facilities within its jurisdiction, in accordance with criteria contained in that section. The State of Illinois recently amended that section. Specifically, the State amendment removed construction and demolition waste facilities from the definition of pollution control facilities. Since the City of Urbana Code of Ordinances had incorporated the original statute language in the City Code, our Code is now out of conformity with the State statute.

This proposed amendment is intended to bring the City Code into conformity. Additionally, this proposed amendment adopts the State of Illinois’ exemptions from the definition of Pollution Control Facilities by reference, ensuring that any additional State amendments are automatically adopted by the City of Urbana.

Pollution Control Facilities include:

“any waste storage site, sanitary landfill, waste disposal site, waste transfer station, waste treatment facility, or waste incinerator. This includes sewers, sewage treatment plants, and any other facilities owned or operated by sanitary districts organized under the Metropolitan Water Reclamation District Act.”

and do not include:

recycling centers
construction and demolition recycling facilities
landscape composting operations

Recommendation

Staff recommends approval of this ordinance amendment.

Prepared by:

Scott R. Tess

Environmental Sustainability Manager

ORDINANCE NO. 2015-05-048

AN ORDINANCE AMENDING URBANA CITY CODE CHAPTER 10, SECTION 10-50

(Pollution control facilities siting / 2015)

WHEREAS, Section 39.2 of the Environmental Protection Act, 415 ILCS 5/39.2 (the "Act"), provides that the governing body of a municipality shall approve or disapprove local siting requests for pollution control facilities within its jurisdiction, in accordance with criteria contained in such Section; and

WHEREAS, the City Council heretofore did enact Urbana City Code Chapter 10, Article III, to set forth procedures for the processing and review of local siting requests for pollution control facilities; and

WHEREAS, Public Act 98-1130, which became effective on January 1, 2015, amended the Act to exclude certain sites or facilities from the definition of "pollution control facility" found in Section 3.330 of the Act; and

WHEREAS, the City Council finds that the best interests of the City are served by amending the definitions contained in Urbana City Code Chapter 10, Article III, Section 10-50, to conform to Public Act 98-1130, as hereinafter provided; and

WHEREAS, the City Council desires to make certain other changes to Section 10-50 to update the definitions contained therein.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Urbana, Champaign County, Illinois, as follows:

Section 1.

Urbana City Code Chapter 10, "Solid Waste Management," Article III, "Pollution Control Facilities Siting," Section 10-50, "Definitions," is hereby amended with the underlined text indicating new language and the strikethrough text indicating deletions as follows:

Sec. 10-50. - Definitions.

The following words and phrases, when used in this article, shall have the meanings respectively ascribed to them;

Act means the Illinois Environmental Protection Act (415 ILCS 5/1 et seq.), as amended from time to time.

Agency is the Illinois Environmental Protection Agency.

Applicant means any person or entity who submits an application to the city for site location approval for a pollution control facility.

Application means the application for site location approval of a pollution control facility filed by applicant.

City means the City of Urbana.

Disposal means the discharge, deposit, injection, dumping, spilling, leaking or placing of any waste or hazardous waste into or on any land or water or into any well so that such waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

Nuisance means the doing of or the failure to do something that injuriously affects the safety, health or morals of the public, or works some substantial annoyance, inconvenience or injury to the public and all other acts designated as such.

Operator is any person or entity who operates a pollution control facility.

Party means any person, in addition to the applicant, who complies with the prehearing filing requirements set forth in section 10-59 and who may be affected by the proposed facility. "Party" includes the city, members or representatives of the governing authority of a municipality contiguous to the proposed site or contiguous to the city and members or representatives of the Champaign County Board.

Pollution control facility is any waste storage site, sanitary landfill, waste disposal site, waste transfer station, waste treatment facility or waste incinerator.

The following are not pollution control facilities:

(1) Recycling centers;

(2) Sites or facilities excluded from the definition of "pollution control facility," as set forth in 415 ILCS 5/3.330, as amended from time to time.

~~1) Waste storage sites regulated under 40 CFR, Part 761.42;~~

~~2) Sites or facilities used by any person conducting waste storage, waste treatment, waste disposal, waste transfer or waste incineration operation, or a combination thereof, for wastes generated by such person's own activities, when such wastes are stored, treated, disposed of, transferred or incinerated within the site or facility owned, controlled, or operated by such person, or when such wastes are transported within or between site facilities owned, controlled or operated by such person;~~

~~3) Sites or facilities at which the state is performing removal or remedial action pursuant to either 415 ILCS 5/22.2 or 55.3;~~

~~4) Abandoned quarries used solely for the disposal of concrete, earth materials, gravel, or aggregate debris resulting from road construction activities conducted by a unit of government or construction activities due to the construction and installation of underground pipes, lines, conduit or wires off of the premises of a public utility company which are conducted by a public utility;~~

~~5) Sites or facilities used by any person to specifically conduct a landscape composting operation;~~

~~6) Regional facilities as defined by the Central Midwest Interstate Low-Level Radioactive Waste Compact;~~

~~7) The portion of a site or facility where coal combustion wastes are stored or disposed of in accordance with 415 ILCS 5/21(r) (2) and (3);~~

~~8) The portion of a site or facility used for the collection, storage or processing of waste tires as defined in 415 ILCS 5/53 et seq.;~~

~~9) The portion of a site or facility where used oil is collected or stored prior to shipment to a recycling or energy recovery facility, provided that the used oil is generated by households or commercial establishments, and~~

~~the site or facility is a recycling center or a business where oil or gasoline is sold at retail.~~

~~10) The portion of a site or facility utilizing cold combustion waste for stabilization and treatment of only waste generated on that site or facility when used in connection with response actions pursuant to the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, the federal Resource Conservation and Recovery Act of 1976, or the Illinois Environmental Protection Act or as authorized by the agency.~~

~~11) Recycling centers.~~

Recycling center means a site or facility that accepts only segregated, nonhazardous, nonspecial, homogeneous, nonputrescible materials, such as dry paper, glass, cans or plastics, for subsequent use in the secondary materials market.

Sanitary landfill means a facility permitted by the agency for the disposal of waste on land meeting the requirements of the Resource Conversation and Recovery Act, the regulations thereunder, and without creating nuisances or hazards to public health or safety, by confining the refuse to the smallest practical volume and covering it with a layer of earth at the conclusion of each day's operation, or by such other methods and intervals as the pollution control board may provide by regulation.

Site means any location, place, tract of land, and facilities, including but not limited to buildings and improvements used for purposes subject to regulation or control by this article.

Storage site is a site at which waste is stored. Storage site includes transfer stations but does not include (i) a site that accepts or receives waste in transfer containers unless the waste is removed from the transfer container or unless the transfer container becomes stationary, en route to a disposal, treatment, or storage facility for more than five (5) business days, or (ii) a site that accepts or receives open top units containing only clean construction and demolition debris, or (iii) a site that stores waste on a refuse motor vehicle or in the vehicle's detachable refuse receptacle for no more than twenty-four (24) hours, excluding Saturdays, Sundays, and holidays, covered or enclosed and is stored on the same site as the refuse motor vehicle that transported the receptacle to the site.

Transfer station means a site or facility that accepts waste for temporary storage or consolidation and further transfer to a waste disposal, treatment or storage facility. Transfer station includes a site where waste is transferred from (1) a rail carrier to a motor vehicle or water carrier; (2) a water carrier to a rail carrier or motor vehicle; (3) a motor vehicle to a rail carrier, water carrier or motor vehicle; (4) a rail carrier to a rail carrier, if the waste is removed from the rail car; or (5) a water carrier to a water carrier, if the waste is removed from a vessel. Transfer station does not include (i) a site where waste is not removed from the transfer container, or (ii) a site that accepts or receives open top units containing only clean construction and demolition debris, or (iii) a site that stores waste on a refuse motor vehicle or in the vehicle's detachable refuse receptacle for no more than twenty-four (24) hours, excluding Saturdays, Sundays, and holidays, but only if the detachable refuse receptacle is completely covered or enclosed and is stored on the same site as the refuse motor vehicle that transported the receptacle to the site.

Treatment means any method, technique or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any waste so as to neutralize it or render it nonhazardous, safer for transport, amenable for recovery, amenable for storage, or reduced in volume. Such term includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it nonhazardous.

Waste means any garbage, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows, or coal combustion by-products as defined in Section 3.94 of the Act, or industrial discharges which are point sources subject to permits under discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as now or hereafter amended, or source, special nuclear, or by-product materials as defined by the Atomic Energy Act of 1954, as amended, or any solid or dissolved material from any facility subject to the Federal Surface Mining Control and Reclamation Act of 1977 or the rules and regulations adopted by the State of Illinois pursuant thereto.

Waste disposal site is a site on which solid waste is disposed.

Unless otherwise defined herein, all words and terms used in this article shall have the meanings ascribed to them in the Illinois Environmental Protection Act, as amended from time to time.

Section 2.

Those sections, paragraphs, and provisions of the Urbana City Code that are not expressly amended or repealed by this Ordinance are hereby re-enacted, and it is expressly declared to be the intention of this Ordinance not to repeal or amend any portions of the Urbana City Code other than those expressly set forth as amended or repealed in this Ordinance. The invalidity of any section or provision of this Ordinance hereby passed and approved shall not invalidate other sections or provisions thereof.

Section 3.

This Ordinance shall not be construed to affect any suit or proceeding pending in any court, or any rights acquired, or a liability incurred, or any cause or causes of action acquired or existing prior to the effective date of this Ordinance; nor shall any right or remedy of any character be lost, impaired, or affected by this Ordinance.

Section 4.

This Ordinance shall be in full force and effect from and after its passage and publication in accordance with Section 1-2-4 of the Illinois Municipal Code.

This Ordinance is hereby passed by the affirmative vote, the "ayes" and "nays" being called, of a majority of the members of the Council of the City of Urbana, Illinois, at a meeting of said Council.

PASSED BY THE CITY COUNCIL this ____ day of _____, _____.

AYES:

NAYS:

ABSENT:

ABSTAINED:

Phyllis D. Clark, City Clerk

APPROVED BY THE MAYOR this ____ day of _____, _____.

Laurel Lunt Prussing, Mayor