
***DuPage County
Countywide Stormwater
And Flood Plain Ordinance***

Adopted by the County Board of the County of DuPage, Illinois on the 24th day of September 1991.

Revised by the County Board on the 14th day of June 1994. Revisions effective the 1st day of September 1994.

Revised by the County Board on the 23rd day of April 1996. Revisions effective the 23rd day of April 1996.

Revised by the County Board on the 12th day of November 1997. Revisions effective the 1st day of February 1998.

Revised by County Board on the 22nd day of June 1999. Revisions effective the 1st day of September 1999.

Revised by County Board on the 13th day of June 2000. Revisions effective the 13th day of June 2000.

Revised by County Board on the 25th day of March 2003. Revisions effective the 25th day of March 2003.

Revised by County Board on the 27th day of January 2004. Revisions effective the 27th day of January 2004.

Revised by County Board on the 8th day of June 2004. Revisions effective the 1st day of July 2004.

Revised by County Board on the 8th day of March 2005. Revisions effective the 8th day of March 2005.

Revised by County Board on the 28th day of February 2006. Revisions effective the 28th day of February 2006.

***COUNTY OF DUPAGE,
ILLINOIS***

***COUNTYWIDE STORMWATER
AND FLOOD PLAIN ORDINANCE***

**Adopted As Appendix F
To The DuPage County Stormwater Management Plan**

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ARTICLE 1. AUTHORITY AND PURPOSE.

Sec. 15-1. Statutory Authority.

1. This Ordinance shall be known, and may be cited, as the DuPage County Countywide Stormwater and Flood Plain Ordinance.
2. The DuPage County Stormwater Management Committee (the "Committee") and the DuPage County Board promulgate this Ordinance pursuant to their authority to adopt ordinances regulating flood plain management and governing the location, width, course, and release rate of all stormwater runoff channels, streams, and basins in DuPage County, in accordance with the adopted DuPage County Stormwater Management Plan (the "Plan"). The statutory authority for this Ordinance is contained in 55 ILCS 5/ ¶¶ 5-1041, 5-1042, 5-1049, 5-1062, 5-1063, 5-1104, 5-12003, and 5-15001 et seq.; and 415 ILCS 5/43 (1992), and other applicable authority, all as amended from time to time.
3. As applicable, the municipalities within DuPage County promulgate and enforce this and other relevant Stormwater Management Ordinances pursuant to 65 ILCS 5/1-2-1, 5/11-12-12, 11-30-2, 11-30-8, and 5/11-31-2 (1992).

Sec. 15-2. DuPage County Stormwater Management Plan.

The Plan was recommended by the Committee and adopted by the DuPage County Board, after review by the appropriate agencies and public hearing, as Ordinance No. OSM-0001-89. The Plan is available for public inspection in the office of the DuPage County Clerk.

Sec. 15-3. Findings.

The Committee and the DuPage County Board hereby find that:

1. Inappropriate use of the flood plain and development have increased flood risk, flood damage, and environmental degradation; and
2. It is necessary to consider stormwater management on a watershed basis; and
3. DuPage County drains poorly because of flat topography and soils of low permeability; and
4. The costs of increasing channel capacity are prohibitive; and
5. Many land development practices upset the natural hydrologic balance of DuPage County streams; and

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6. Most flood damage occurs to structures developed adjacent to streams in the flood plain or floodway; and
7. Wetlands represent a significant portion of the natural watershed storage in DuPage County, and wetlands play an essential role in flood storage, conveyance, sediment control, and water quality enhancement; and
8. Many stormwater management facilities are not adequately maintained; and
9. The authority for control of stormwater facilities is widely distributed to many entities in DuPage County; and
10. There are many strong local stormwater management programs; and
11. Inconsistent enforcement of stormwater regulations contributes to the extent and severity of flood damage.

Sec. 15-4. Purposes of this Ordinance.

1. The principal purpose of this Ordinance is to promote effective, equitable, acceptable, and legal stormwater management measures. Other purposes of this Ordinance include:
 - a. Managing and mitigating the effects of urbanization on stormwater drainage throughout DuPage County; and
 - b. Reducing the existing potential for stormwater damage to public health, safety, life, and property; and
 - c. Protecting human life and health from the hazards of flooding and degradation of water quality; and
 - d. Protecting and enhancing the quality, quantity, and availability of surface and groundwater resources; and
 - e. Preserving and enhancing existing wetlands and aquatic and riparian environments, and encouraging restoration of degraded areas; and
 - f. Controlling sediment and erosion in and from stormwater facilities, developments, and construction sites; and
 - g. Preventing the further degradation of the quality of ground and surface waters; and
 - h. Requiring appropriate and adequate provision for site runoff control, especially when the land is developed for human activity; and

- i. Requiring the design and evaluation of each site runoff control plan consistent with watershed capacities; and
- j. Encouraging the use of stormwater storage in preference to stormwater conveyance; and
- k. Lessening the taxpayers' burden for flood-related disasters, repairs to flood-damaged public facilities and utilities, and flood rescue and relief operations; and
- l. Meeting the Illinois Department of Transportation, Division of Water Resources' floodway permitting requirements delineated in 615 ILCS 5/18g (1992) ("An Act in Relation to the Regulation of the Rivers, Lakes and Streams of the State of Illinois"), as amended from time to time; and
- m. Making federally subsidized flood insurance available to individual communities and for property throughout the County by fulfilling the requirements of the National Flood Insurance Program; and
- n. Complying with the rules and regulations of the National Flood Insurance Program codified in Title 44 of the Code of Federal Regulations; and
- o. Encouraging cooperation between the County, communities, and other governmental entities with respect to flood plain and stormwater management; and
- p. Requiring cooperation and consistency in stormwater management activities within and between the units of government having stormwater management jurisdiction; and
- q. Restricting future development in the flood plain to facilities that will not adversely affect the flood plain environments or adversely affect the potential for flood damage; and
- r. Incorporating water quality and habitat protection measures in all stormwater management activities within DuPage County; and
- s. Requiring regular, planned maintenance of stormwater management facilities; and
- t. Encouraging control of stormwater quantity and quality at the most site-specific or local level; and
- u. Allowing the use of simple technologies whenever appropriate and realistic, but requiring the use of more sophisticated techniques when necessary to ensure the adequacy of stormwater controls; and
- v. Providing a procedure by which communities throughout the County may petition the Committee to implement and enforce the provisions of this Ordinance or an ordinance consistent with, and at least as stringent as, this Ordinance; and

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- w. Requiring strict compliance with and enforcement of this Ordinance.
2. The purposes of this Ordinance are consistent with the Plan.
3. The purposes of this Ordinance will be implemented by its provisions.

Sec. 15-5. Reference to Watershed Plans.

1. This Ordinance recognizes the integrated nature of the watershed system and the need to study certain flood control alternatives and other stormwater management functions on a watershed-wide basis.
2. The following six major watershed divisions are identified for detailed watershed studies:
 - a. Salt Creek Watershed; and
 - b. East Branch DuPage River Watershed; and
 - c. West Branch DuPage River Watershed; and
 - d. Sawmill Creek Watershed; and
 - e. Des Plaines River Tributaries Watershed; and
 - f. Fox River Tributaries Watershed.
3. Watershed Plans or Interim Watershed Plans shall be prepared and periodically updated for these six major watersheds, to identify management projects and establish criteria for development.
4. Adopted Watershed Plans or Interim Watershed Plans which contain more specific criteria than the criteria established for County-wide application in this Ordinance shall govern over County-wide criteria. Such watershed plans, upon their completion, approval, and proper adoption, are hereby incorporated into this Ordinance without further act of the DuPage County Board.
5. Watershed-specific criteria established in such Watershed Plans or Interim Watershed Plans shall be set forth as Sections 15-117 through 15-122 of this Ordinance.
6. The County-wide requirements of this Ordinance shall apply in all watersheds unless superseded by more specific watershed criteria.

Sec. 15-6. through 15-15. Reserved.

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ARTICLE 2. DEFINITIONS.

Sec. 15-16. Interpretation of Terms and Words.

The terms and words used in this Ordinance or in a waiver community ordinance shall be interpreted as follows:

1. Words used in the present tense include the future tense; and
2. Words used in the singular number include the plural number and words used in the plural number include the singular number; and
3. The words "shall", "will", and "must" are mandatory, not permissive; and
4. All distances, unless otherwise stated, shall be measured horizontally.
5. The phrases "Director or the Administrator", "Director, or the Administrator in a waiver community", or "Director, or Administrator in a complete waiver community", refer to the individual responsible for the enforcement in the specific area.

Sec. 15-17. Definitions.

Within the context of this Ordinance or a waiver community ordinance, the following words and terms shall have the meanings set forth except where otherwise specifically indicated. Words and terms not defined shall have the meanings indicated by common dictionary definition.

Administrator. The person administering the implementation and enforcement of this Ordinance; or, the person administering the implementation and enforcement of a community ordinance in a waiver community.

Applicable Engineering Practice. Procedures, methods, or materials recommended in standard engineering textbooks or references as suitable for the intended purpose.

Applicant. A person applying for a Stormwater Management Permit, which person must be either the owner or the developer of the land specified in the application.

Appropriate Use. The only uses of the regulatory floodway that may be considered for a stormwater permit. See Section 15-133 of this Ordinance.

Base Flood. The flood having a one percent probability of being equaled or exceeded in a given year.

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Base Flood Elevation. The height of the base flood in relation to the National Geodetic Vertical Datum of 1929.

Best Management Practices. Design, construction, and maintenance practices and criteria for stormwater facilities that minimize the impact of stormwater runoff rates and volume, prevent erosion, and capture pollutants.

Building. A structure that is constructed or erected partially or wholly above ground and is enclosed by walls and a roof. The term "building" includes manufactured homes and includes both the above-ground and the below-ground portions of the structure.

Certify/Certification. A statement that a proposed development meets the requirements of this Ordinance.

Committee. The Stormwater Management Committee of the DuPage County Board, authorized by Public Act 85-905.

Community. Any municipality, or the unincorporated County, within DuPage County acting as a unit of local government.

Compensatory Storage. An excavated hydrologically and hydraulically equivalent volume of storage created to offset the loss of existing flood storage.

CLOMA. A Conditional Letter of Map Amendment. A FEMA comment letter on a development proposed to be located in, and affecting only that portion of, the area of flood plain outside the regulatory floodway and having no impact on the existing regulatory floodway or base flood elevations.

CLOMR. A Conditional Letter of Map Revision. A letter that indicates that FEMA will revise base flood elevations, flood insurance rate zones, flood boundaries, or floodways as shown on an effective FIRM or FBFM, after the record drawings are submitted and approved.

COE. The United States Army Corps of Engineers.

Complete Waiver. The authority granted to a community pursuant to Articles 3, 4, and 5 of this Ordinance whereby a community acquires complete jurisdiction over reviewing applications for and granting Stormwater Management Permits.

County. The County of DuPage, Illinois.

Critical Wetlands. Wetlands of the highest value by virtue of one or more high ranking characteristics that result in a uniquely valuable environment. See Sections 15-134 and 15-135 of this Ordinance.

Dam. Any obstruction, wall embankment, or barrier, together with any abutments and appurtenant works, constructed to store or direct water or to create a pool (not including underground water storage tanks).

Department. The DuPage County Department of Engineering.

Developer. Any person who undertakes development or permits development on such person's behalf.

Development. Any activity, excavation or fill, alteration, subdivision, change in land use, or practice, undertaken by private or public entities that affects the discharge of stormwater; or any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials in a Special Management Areas. The term "development" does not include maintenance of stormwater facilities.

Director. The DuPage County Director of Stormwater Management or his or her designee. The Director Stormwater Management shall be a professional engineer.

Elevation Certificates. A form published by FEMA, or its equivalent, that is used to certify the base flood elevation and the lowest elevation of usable space to which a building has been constructed.

Environmental Scientist. A person with a four-year degree in a life science curriculum in which the emphasis was on ecologic systems. Examples of such curricula are ecology, botany, or biology.

Existing Manufactured Home Park. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring on concrete pads) is completed before the effective date of the flood plain management regulations adopted by a community.

Expansion to an Existing Manufactured Home Park. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of street, and either final site grading or the pouring of concrete pads).

FBFM. A Flood Boundary and Floodway Map. A flood plain management map issued by FEMA that depicts, based on detailed analysis, the boundaries of the base flood, the two tenth percent (0.2%) probability flood, and the floodway.

FEMA. The Federal Emergency Management Agency.

FHBM. A Flood Hazard Boundary Map. An official map of a community, issued by FEMA, on which the boundaries of the flood, mudslide or mudflow, or related erosion areas having special hazards have been designated as Zones A, M, and/or E.

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Filter Barrier. A temporary barrier installed below small disturbed areas to intercept and detain sediment.

FIRM. A Flood Insurance Rate Map. A map issued by FEMA that is an official community map, on which map FEMA has delineated both the special hazard areas and the risk premium zones applicable to the community. This map may or may not depict floodways. The current effective FIRMs for the incorporated and unincorporated DuPage County are listed in Exhibit 2.

FIS. Flood Insurance Study. An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations. The current effective FIS's for the incorporated and unincorporated DuPage County are listed in Exhibit 2.

Flood or Flooding. A general and temporary condition of partial or complete inundation of normally dry land areas from the unusual and rapid accumulation or runoff of surface waters from any source.

Flood Plain. The area typically adjacent to and including a body of water where ground surface elevations are at or below a specified flood elevation.

Floodproof. Additions, changes, or adjustments to structures or property that prevent the entry of flood water in order to protect property from flood damage.

Floodproofing Certificate. A form published by FEMA that is used to certify that a structure is floodproofed to one foot above the base flood elevation.

Floodway. The channel and that portion of the flood plain adjacent to a stream or watercourse that is needed to convey the base flood without cumulatively increasing the water surface elevation more than 0.1 feet. The maps that identify the current effective floodways for the incorporated and unincorporated DuPage County are listed in Exhibit 2.

Floodway Conveyance. The measure of the flow carrying capacity of the floodway section and is defined using Manning's equation as, $K = \frac{1.49}{n} AR^{2/3}$ where "n" is Manning's roughness factor,

"A" is the effective area of the cross-section, and "R" is ratio of the wetted area to the wetted perimeter.

Hydrology. The science of the behavior of water, including its dynamics, composition, and distribution in the atmosphere, on the surface of the earth, and underground.

Interim Watershed Plan. A watershed plan adopted by the County Board that does not contain all of the elements in Chapter 3 of the Plan.

Lake. A natural or artificial body of water encompassing an area of two or more acres that retains water throughout the year.

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Land Surveyor. A person licensed under the laws of the State of Illinois to practice land surveying.

LOMA. A Letter of Map Amendment. The official determination by FEMA that a specific structure is not in a regulatory flood plain. A LOMA amends the effective FHBM, FBFM, or FIRM.

LOMR. A Letter of Map Revision. A letter from FEMA that revises base flood elevations, flood insurance rate zones, flood boundaries, or floodway as shown on an effective FHBM, FBFM, or FIRM.

Lowest Floor. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usage solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of the *Code of Federal Regulations 44, Part 60.3*.

Maintenance. The selective removal of woody material and accumulated debris from, or repairs to, a stormwater facility so that such facility will perform its natural functions or the functions for which it was designed and constructed.

Major Stormwater System. That portion of a stormwater facility needed to store and convey flows beyond the capacity of the minor stormwater system.

Manufactured Home. A building, transportable in one or more sections, that is built on a permanent chassis and is designated for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for more than 180 consecutive days.

Manufactured Home Park. A parcel or contiguous parcels of land divided into two or more manufactured home lots for rent or sale.

Minor Stormwater System. That portion of a stormwater facility consisting of street gutters, storm sewers, small open channels, swales, and similar facilities designed to convey runoff from the 10-year flood event or less.

New Construction. For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and included any subsequent improvements to such structures. For flood plain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of the flood plain management regulation adopted by a community and includes any subsequent improvements to such structures.

New Manufactured Home Park. A manufactured home park for which the construction of facilities for servicing homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of flood plain management regulation adopted by a community.

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NFIP. The National Flood Insurance Program. The requirements of the NFIP are codified in Title 44 of the Code of Federal Regulations.

NRCS. The United States Department of Agriculture, Natural Resources Conservation Service.

Oversight Committee. A committee appointed by a waiver community to oversee the implementation and enforcement of the waiver community's ordinance.

OWR. The Illinois Department of Natural Resources, Office of Water Resources.

Parcel. Contiguous land under single ownership or control.

Partial Waiver. Authority granted to a community pursuant to Articles 3, 4, and 5 of this Ordinance whereby the waiver community acquires limited jurisdiction over reviewing applications for, and issuing, Stormwater Management Permits.

Person. Any individual, partnership, firm, school district, company, corporation, association, joint stock company, trust, estate, unit of local government, special taxing district, public utility, political subdivision, state agency, or any other legal entity, or owner, or any legal representative, agent, or assign thereof.

Plan. The DuPage County Stormwater Management Plan, adopted by the DuPage County Board in September 1989, as amended from time to time.

Professional Engineer. A person licensed under the laws of the State of Illinois to practice professional engineering.

Professional Engineering. The application of science to the design of engineering systems and facilities, using the knowledge, skills, ability, and professional judgment developed through professional engineering education, training, and experience.

Professional Engineering Practice. The consultation on, conception, investigation, evaluation, planning, and design of, and selection of materials and methods to be used in, administration of construction contracts for or site observation of an engineering system or facility, when such consultation, conception, investigation, evaluation, planning, design, selection, administration, or observation requires extensive knowledge of engineering laws, formulae, materials, practice, and construction methods.

Public Flood Easement. An easement acceptable to the appropriate jurisdictional body that meets the regulation of the OWR, the Department, and the community, that provides legal assurances that all areas subject to flooding in the created backwater of the development will remain open to allow flooding.

Record Drawings. Drawings prepared, signed, and sealed by a professional engineer or land surveyor representing the final "as-built" record of the actual in-place elevations, location of structures, and topography.

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Recreational Vehicle. A vehicle which is: (a) Built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projections; (3) Designed to be self-propelled or permanently towable by a light duty truck; and (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory Flood Map. The flood plain map panels maintained and published by DuPage County which reflect the current effective flood zone boundaries as shown on the FIRM and all effective Letters of Map Change issued by FEMA.

Regulatory Flood Plain. The flood plain as determined by the base flood elevation used as the basis for regulation in this Ordinance.

Regulatory Floodway. The floodway that is used as the basis for regulation in this Ordinance.

Regulatory Wetlands. All wetlands other than critical wetlands.

Riparian Environment. Vegetated areas within the limits of the regulatory floodplain, bordering a waterway that provides habitat or amenities dependent on the proximity to water.

Runoff. The waters derived from melting snow or rain falling within a tributary drainage basin that exceeds the infiltration capacity of the soils of that basin.

Sediment Basin. Settling ponds with pipe outlet, which have both a permanent pool (dead storage) and additional volume (live and sediment storage) component, to detain sediment-laden runoff from disturbed areas to allow sediment and debris to settle out.

Sediment Trap. A small, temporary ponding basin formed by the construction of an embankment or excavated basin to detain sediment-laden runoff from disturbed areas to allow sediment and debris to settle out.

Silt Fence. A temporary filter barrier of entrenched geotextile fabric (filter fabric) stretched across and attached to supporting posts.

Soil Scientist. A person with a four-year degree in which the core curriculum included course work in a minimum of two of the following fields: soil science, pedology, edaphology, and geomorphology, and which person has a minimum of two years of field experience in classifying soils.

Special Flood Hazard Area. An area having special flood, mudslide or mudflow, or flood-related erosion hazards, and which area is shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, AH, VO, V1-30, VE, V, M, or E.

Special Management Areas. Regulatory flood plains, riparian environment, wetlands, or wetland buffers. See Article 10 of this Ordinance.

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Start of Construction. The date the permit was issued provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement or other improvement was within 180 days of the permit date. The actual start date includes the first day of any land preparation, including clearing, grading, filling, or excavation. For substantial improvements, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building whether or not that alteration affects the external dimensions of the building.

Stormwater Facility. All ditches, channels, conduits, bridges, culverts, levees, ponds, natural and man-made impoundments, wetlands, wetland buffers, riparian environment, tile, swales, sewers, or other natural or artificial structures or measures which serve as a means of draining surface and subsurface water from land.

Stormwater Management Permit. A permit established by this Ordinance or by a waiver community's Stormwater Ordinance; and issued by the Department or a waiver community signifying acceptance of measures identified for proposed development to comply with this Ordinance and the Plan.

Structure. Anything that is erected or constructed. The term “structure” includes, without limitation: buildings, manufactured homes, tanks, dams, sewers, constructed channels, outfalls, parking lots, driveways, roads, sidewalks, and concrete patios.

Structural Engineer. A person licensed under the laws of the State of Illinois as a structural engineer.

Substantial Damage. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement. Any repair, reconstruction, rehabilitation, addition, or other improvement of a building, the cost of which improvement equals or exceeds, individually or in the aggregate, 50 percent of the fair market value of the building, determined from the equalized assessed value of the building, before the start of construction of the improvement or, if the building has been damaged, before the damage occurred. The term "cost of improvement" includes the value of volunteer labor and donated materials. The term "cost of improvement" does not, however, include either (1) any project for improvement of a building to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and that are the minimum necessary to assure safe living conditions or (2) any alteration of a historic building that will not preclude the building's continued designation as a historic building.

Usable Space. Space used for dwelling, storage, utilities, or other beneficial purposes, including without limitation basements.

Variance. An authorization recommended by the Committee or an Oversight Committee, and granted by the DuPage County Board or the corporate authorities of a waiver community, that varies certain requirements of this Ordinance or a waiver community ordinance in a manner in harmony

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with the application of such ordinance's general purpose and intent, which variance shall be granted only in a case where there are practical difficulties or particular hardships.

Violation. Failure of a structure or other development to be fully compliant with the regulations identified by Ordinance.

Waiver Community. A community that has been granted either a partial waiver or a complete waiver from County enforcement of this Ordinance. See Article 4 of this Ordinance.

Waiver Community Ordinance. An approved, valid, and effective stormwater management ordinance of a waiver community. See Articles 3 and 4 of this Ordinance.

Watershed. All land area drained by, or contributing water to, the same stream, lake, or stormwater facility.

Watershed Basin Committee. A technical committee established within a watershed planning area.

Watershed Benefit. A decrease in flood elevations or flood damages upstream or downstream of the development site.

Watershed Plan. A plan adopted by the County for stormwater management within a watershed consistent with the requirements in Chapter 3 of the Plan.

Watershed Planning Area. That area considered in a specific watershed plan, adopted as part of the Plan, and depicted on the attached Exhibit 1.

Watershed Plan Model. The hydrologic and hydraulic model meeting the standards of the Plan and used in developing a watershed plan.

Waters of DuPage.

1. All waters such as lakes, rivers, streams (including intermittent streams), mudflats, wetlands, sloughs, wet meadows, or natural ponds.
2. All impoundments of waters not otherwise defined as waters of DuPage under the definition.
3. Tributaries of waters identified above.
4. Wetlands adjacent to waters identified above.

For clarification, waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the CWA (other than cooling ponds as defined in 40 CFR 123.11(m) which also meet the criteria of this definition) are not waters of DuPage. It should also be noted that the following

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waters are generally not considered to be Waters of DuPage. However, the Director, or the Administrator in a complete waiver community, reserves the right on a case-by-case basis to determine that a particular waterbody within these categories of waters is a water of DuPage.

1. Drainage and irrigation ditches excavated on dry land.
2. Artificially irrigated areas that would revert to upland if the irrigation ceased.
3. Artificial lakes created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stormwater storage, stock watering, irrigation, or settling basins.
4. Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.

Waterfilled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of DuPage.

Wetlands. Areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

Wetland Buffer. Area within 50 feet of a regulatory wetland boundary or 100 feet of a critical wetland boundary.

Sec. 15-18. through 15-30. Reserved.

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ARTICLE 3. WAIVER COMMUNITY ENFORCEMENT.

Sec. 15-31. Authority.

1. Pursuant to the authority established in 55 ILCS 5/5-1062, the provisions of this Ordinance, either in part or as a whole, shall not be enforced by the County in any community located wholly or partly within the County on petition of such community and after a finding of the Committee that such community has a duly adopted stormwater management ordinance consistent with, and at least as stringent as, the Plan and this Ordinance, as they may be amended from time to time, or that such community has duly adopted the provisions of this Ordinance.
2. When a community petitions for and is granted a partial waiver of enforcement of this Ordinance, such community shall review and approve applications for Stormwater Management Permits in all areas under its jurisdiction; provided, however, that:
 - a. A partial waiver community shall send applications for Stormwater Management Permits for development in any special management area to the Director for review and certification of compliance with the provisions of this Ordinance; and
 - b. After the Director certifies the application for development in such special management area, the partial waiver community may issue the Stormwater Management Permit if the application meets the requirements of this Ordinance or the waiver community's ordinance, as applicable.
3. When such a community petitions for and is granted a complete waiver of enforcement of this Ordinance, such community shall review and approve all applications for development in all areas under its jurisdiction.

Sec. 15-32. Notice of Intent to Petition for Waiver.

1. Any community that desires to enforce, either partially or completely, within its borders the provisions of this Ordinance or its own stormwater management ordinance that is consistent with, and at least as stringent as, the Plan and this Ordinance, shall provide the Committee with written notice of that intent within 60 days after the date of enactment of this Ordinance, or in accordance with the provisions of Sec. 15-32.2.
2. For a period of 30 days beginning on the June 1st following the effective date of this Ordinance and every June 1st thereafter, any community may request a change in waiver status by providing the Committee with written notice of intent that such community intends to petition for such a change of waiver status. The Committee shall consider any such petition pursuant to the provisions of Article 4 of this Ordinance.

Sec. 15-33. Filing and Contents of Petition.

A petition to the Committee for a partial or a complete waiver of enforcement of this Ordinance shall be

ARTICLE 3. WAIVER COMMUNITY ENFORCEMENT.

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filed by the community with the Committee within 60 days after the date of enactment of this Ordinance or as specified in Subsection 15-32.2 of this Ordinance. Each petition shall include a duly adopted resolution or ordinance of the corporate authorities of the community including:

1. Adoption of, or an agreement to adopt the provisions of this Ordinance or an ordinance consistent with, and at least as stringent as, the Plan and this Ordinance; and
2. A proposed schedule indicating how the minimum criteria of this Ordinance will be implemented, including proposed staffing; and
3. An agreement to include a provision in any new annexation or preannexation agreement that requires every developer to comply with the stormwater standards as currently adopted or as amended from time to time with regard to any proposed development for which a plat of subdivision has not yet been recorded; and
4. An agreement that the community will be bound by the rules and procedures governing the petition, including without limitation the Committee's procedures for reasserting county jurisdiction over stormwater management within waiver community boundaries.
5. Documentation indicating the intent and ability to comply with Subsection 15-47.3 of this Ordinance.

Each petition shall specify whether the community seeks a partial waiver or a complete waiver of enforcement.

Sec. 15-34. Waiver Community Records.

1. Each waiver community shall maintain records of every Stormwater Management Permit issued and every variance granted for development within its borders.
2. Each waiver community shall maintain record drawings of all structures erected or constructed pursuant to a Stormwater Management Permit issued or variance granted by such community.
3. Each waiver community shall maintain such records for periodic inspection by the Department.
4. Each waiver community shall send to the Department a copy of each variance granted by such community, together with a copy of those documents required by Section 15-236 of this Ordinance.

Sec. 15-35. Committee Review of Waiver Community Programs.

At least once every three years the Department shall review the implementation and enforcement of each waiver community's stormwater program.

Sec. 15-36. through 15-45. Reserved.

ARTICLE 3. WAIVER COMMUNITY ENFORCEMENT.

Sec. 15-31. through 15-35.

ARTICLE 4. COMMITTEE PROCEDURES FOR WAIVER OF ENFORCEMENT.

Sec. 15-46. Committee Consideration of Petition.

The Committee shall consider each properly filed petition for either a partial or a complete waiver of County enforcement of this Ordinance at a regular or special call meeting. The Committee may take comments from interested parties, and the Committee shall have the right by rule to establish procedures for the conduct of such meetings.

Sec. 15-47. Standards for Grant of Petition.

The Committee shall grant a petition for waiver of County enforcement of this Ordinance upon finding that:

1. The community's stormwater ordinance is consistent with, and at least as stringent as, the Plan and this Ordinance, as they may be amended from time to time; and
2. The community has complied with the requirements of Article 3 of this Ordinance; and
3. By the effective date of the community's stormwater ordinance, the community shall provide reasonable assurance that it has available and will utilize experts with the following qualifications:
 - a. In a complete waiver community:
 - (1) A professional engineer with two years experience in stormwater and flood plain management; and
 - (2) A professional engineer with two years experience in the application of continuous hydrology and fully dynamic hydraulic models; and
 - (3) An environmental scientist who has attended at least one course in wetland delineation approved by the Department; and
 - (4) A soil scientist; or,
 - b. In a partial waiver community, a professional engineer with two years experience in stormwater and flood plain management.

Sec. 15-48. Decision; Findings and Decision in Writing.

The Committee shall decide, based upon all of the facts and circumstances: whether to deny the petition; whether to grant the petition and approve a partial waiver; or, whether to grant the petition and approve a complete waiver. The Committee's findings and decision shall be in writing, and shall specify whether a

ARTICLE 4. COMMITTEE PROCEDURES FOR WAIVER OF ENFORCEMENT.

partial or a complete waiver has been approved or whether the petition has been denied, and shall specify the reasons for granting or denying the petition.

Sec. 15-49. Final Action Required By Committee.

If the Committee fails to take final action on a community's petition within 75 days after the petition for application has been properly completed and filed with the Committee, such petition shall be deemed to be granted; provided, however, that the Committee may, on its own motion, extend such 75-day period for not more than one additional 60-day period, during which additional 60-day period this Ordinance shall not be enforced by the County in such community.

Sec. 15-50. through 15-55. Reserved.

ARTICLE 5. COMMITTEE ENFORCEMENT WITHIN WAIVER COMMUNITIES.

Sec. 15-56. Authority for Committee Action.

1. The Committee may, at its discretion, direct the Department to investigate substantive complaints concerning the failure of a waiver community to implement or enforce its waiver community ordinance.
2. If, after investigation and hearing pursuant to the provisions of this Article 5, the Committee determines that such waiver community has failed in some significant way, or has repeatedly failed, to implement or enforce its waiver community ordinance, then the Committee may revoke any previously granted partial or complete waiver, and the provisions of this Ordinance shall have full force and effect and shall be enforced within the boundaries of such waiver community by the County.

Sec. 15-57. Complaints.

1. Any person may file a written complaint with the Committee alleging that a waiver community or the Department has failed in some significant way, or has repeatedly failed, to implement or enforce the applicable stormwater management ordinance.
2. Such complaint shall contain a short statement of facts describing how the waiver community or the Department has so failed in some significant way, or has repeatedly failed, to implement or enforce the waiver community ordinance or this Ordinance.

Sec. 15-58. Complaint Investigation and Review.

1. Upon receipt of a complaint, the Department shall notify, and provide a copy of the complaint to, any community named in the complaint.
2. The Department shall conduct an investigation of the complaint, including without limitation:
 - a. An inspection of all relevant records related to the implementation and enforcement of the waiver community ordinance or this Ordinance by the community or the Department; and
 - b. Field inspections of relevant developments, structures, or stormwater facilities.
3. The Department shall compile such information as it determines is necessary to determine whether the community or the Department has failed in some significant way, or has repeatedly failed, to implement or enforce the waiver community ordinance or this Ordinance.
4. If the Department determines that the community or the Department has failed in some significant way, or has repeatedly failed, to implement or enforce its stormwater ordinance, then it shall prepare

ARTICLE 5. COMMITTEE ENFORCEMENT WITHIN WAIVER COMMUNITIES.

a report of its findings and determinations and file such report with the Committee. In the case of a complaint against the Department, and a determination by the Department that the Department has not acted improperly, the Department shall prepare a report of such findings and determinations and file such report with the Committee.

5. The Department shall provide a copy of its report to the complainant and the community.

Sec. 15-59. Formal Complaint of Committee.

1. After receipt of the Department report specified in Subsection 15-58.4 of this Ordinance, the Committee may request the State's Attorney, by his assistant, to issue and serve on the Department or the community that is the subject of the investigation a written notice of charges together with a formal complaint.
2. The formal complaint shall specify the manner in which the community or the Department has failed in some significant way, or has repeatedly failed, to implement or enforce the applicable Stormwater Ordinance.
3. The complaint shall also advise the community or the Department of its right to answer the charges specified therein at a public hearing before the Committee. The date, time, and place of such hearing shall be specified in the written notice.
4. A copy of the written notice and formal complaint shall also be sent to OWR, FEMA, adjacent communities within the same watershed planning area, and to any person that has filed a complaint about the community or the Department within the six months immediately preceding the date of the complaint.

Sec. 15-60. Answer and Time for Filing.

The community or the Department shall have the right to file a written answer to the allegations contained in the formal complaint at least seven days prior to the date for which the public hearing is first scheduled. No written answer shall be allowed to be filed less than seven days prior to the date for which the public hearing is first scheduled except by leave of the Committee.

Sec. 15-61. Public Hearing.

Any public hearing required by this Article shall be set, noticed, and conducted by the Committee in accordance with the provisions of Section 15-256 of this Ordinance. Such hearing shall be commenced not less than 30 days nor more than 45 days after the date of service of the written notice.

Sec. 15-62. Committee Decision.

1. After due consideration of all written and oral statements, testimony, and arguments submitted at the

ARTICLE 5. COMMITTEE ENFORCEMENT WITHIN WAIVER COMMUNITIES.

public hearing, or upon default in appearance of the community or the Department on the hearing day specified in the notice, the Committee shall issue a final determination, as it shall deem appropriate under the circumstances.

2. The Committee shall file a written opinion, within thirty-five (35) days of the conclusion of the public hearing, stating the facts and reasons leading to its decision.
3. The Committee shall immediately notify the community or the Department of the Committee's opinion and order, if any, in writing.
4. If the Committee determines that a fine or other penalty other than reduction or rescission of waiver status is to be sought, then it shall request the State's Attorney to file a complaint for such in a court of competent jurisdiction.
5. If the Committee determines that reduction or rescission of waiver status is mandated then such reduction or rescission shall occur at the direction of the Committee. The Committee's opinion and determination may be appealed in a court of competent jurisdiction. Any such appeal must be filed within thirty (30) days of issuance of the Committee's written determination.

Sec. 15-63. Committee Determinations.

The Committee may by final determination revoke any partial or complete waiver of County enforcement of this Ordinance previously granted, specifying the date on which the revocation will be effective; or the Committee may issue any other order directing the community or the Department to take such actions or measures as the Committee deems are necessary and appropriate to assure cooperation and proper enforcement of the waiver community ordinance or this Ordinance.

Sec. 15-64. through 15-70. Reserved.

ARTICLE 5. COMMITTEE ENFORCEMENT WITHIN WAIVER COMMUNITIES.

Sec. 15-56. through 15-63.

ARTICLE 6. DUAL COUNTY COMMUNITIES.

Sec. 15-71. Choice of Planning Jurisdiction.

1. Pursuant to the authority granted by 55 ILCS 5/ 5-1062(b) (1992), as amended, a community that is located in more than one county may choose, at the time of formation of the stormwater management planning committee, and based on watershed boundaries, to participate in the stormwater management planning program of either or both of the counties.
2. The following communities should express their intent to choose to be included within or excluded from the jurisdiction of the Plan and this Ordinance: Aurora, Bartlett, Batavia, Bensenville, Bolingbrook, Burr Ridge, Chicago, Elk Grove Village, Hanover Park, Hinsdale, Lemont, Naperville, Oak Brook, Roselle, St. Charles, Schaumburg, Wayne, and Woodridge.
3. The Committee shall include the above-listed communities within the scope of its planning and enforcement jurisdiction unless the community provides documentation of its intent to participate in the stormwater management planning program of the other county.

Sec. 15-72. through 15-77. Reserved.

ARTICLE 7. GENERAL PROVISIONS.

Sec. 15-78. Scope of Regulation.

1. This Ordinance or the applicable waiver community ordinance shall apply to all development of property within the boundaries of the County, including those under the control of any governmental entity, agency, or authority.
2. The provisions of this Ordinance or the applicable waiver community ordinance shall not apply to:
 - a. Structures and land uses existing as of the effective date of this Ordinance except when re-developed; and
 - b. Proposed developments that are listed on the Official List of Exempt Developments submitted by each community in accordance with Section 15-79 of this Ordinance. All such developments shall meet at least one of the following criteria:
 - (1) Building permits for such development were issued prior to the effective date of this Ordinance; or
 - (2) Engineering of all stormwater facilities for such development was submitted to and approved by the community engineer prior to the effective date of this Ordinance; or
 - (3) Annexation agreements or ordinances or other agreements were recorded or executed prior to the effective date of this Ordinance which specifically exempt such development from community codes; or
 - (4) For other developments, contractual agreements executed prior to the effective date of this Ordinance which specifically exempt such development from community codes; or
 - (5) Approvals resulting from judicial decrees preclude application of this Ordinance.

The exemption granted pursuant to this Subsection 2 shall extend only to the specific improvements authorized by the building permit, engineering approval, or judicial decrees, and all specific limitations agreed to in any annexation agreement or ordinance or contract shall apply. All other development not previously specifically exempted shall remain subject to the provisions of this Ordinance or the applicable waiver community ordinance.

3. Nonconforming structures shall not be replaced or enlarged in any manner unless such replacements or enlargements conform to the requirements of this Ordinance or the applicable waiver community ordinance.

Sec. 15-79. Official Lists of Exempt Developments.

1. Each community shall submit to the Committee a list of exempt proposed developments meeting the

criteria listed in Subsection 15-78.2 of this Ordinance within 60 days after the enactment of this Ordinance by the County Board. Such list shall be known as the Official List of Exempt Developments.

2. An Official List of Exempt Developments may be modified by the community and resubmitted to the Committee at any time prior to the effective date of this Ordinance.
3. Each Official List of Exempt Developments or revisions thereof shall be approved by an official action of the corporate authorities of the community, and shall be acknowledged in writing by the Director on behalf of the Committee.
4. The Committee may challenge any Official List of Exempt Developments or any revision thereof submitted by a community within 60 days after proper submission of such list or revision. The Committee shall state in writing its reasons for rejection of any development as not being in accordance with the provisions of Subsection 15-78.2 of this Ordinance.
5. The community may add a development to, or delete a development from, the Official List of Exempt Developments and resubmit such list to the Committee in accordance with Subsection 15-79.3 of this Ordinance after the effective date of this Ordinance if an applicant shows that the criteria listed in Subsection 15-78.2 of this Ordinance have been met or if the community has determined that the criteria listed in Subsection 15-78.2 of this Ordinance have not been met.
6. Prior to resubmitting its Official List of Exempt Development to the Committee deleting a development, the community resubmitting such list with such deletion shall notify the affected owner or developer of such deletion in writing and provide such owner or developer an opportunity to respond to the community.

Sec. 15-80. Interpretation.

1. This Ordinance and the waiver community ordinances shall be liberally construed to protect the health, welfare, safety, and the environment of the residents of the County and to effectuate the purposes of this Ordinance and the waiver community ordinances and the enabling legislation.
2. Nothing contained in this Ordinance or the waiver community ordinances shall be deemed to consent to, license, permit to locate, construct, or maintain any structure, site, facility or operation, or to carry on any trade, industry, occupation, or activity.
3. When provisions of this Ordinance or any waiver community ordinance differ from any other applicable statute, law, ordinance, regulation, or rule, the more stringent provision shall apply.
4. The provisions of this Ordinance and the waiver community ordinances are cumulative and shall be considered additional limitations on all other laws and ordinances previously approved or that may hereafter be approved and that concern any subject matter included in this Ordinance or any waiver community ordinance.

ARTICLE 7. GENERAL PROVISIONS.

Sec. 15-78. through 15-81.

Sec. 15-81. Warning and Disclaimer of Liability.

1. The degree of flood protection provided by this Ordinance or any waiver community ordinance is considered reasonable for regulatory purposes and is based on engineering experience and scientific methods of study.
2. Increased flooding may result from causes beyond the control of the County or any community.
3. This Ordinance and the waiver community ordinances do not, therefore, imply that areas outside the delineated flood plain or permitted land uses within the delineated flood plain will be free from flooding and associated damages.
4. Neither this Ordinance nor any waiver community ordinance shall be construed or applied in any manner to create liability on the part of or a cause of action against the County, any community, or any elected official, officer, agent, or employee thereof, for any flood damage resulting from reliance on the provisions of this Ordinance or any waiver community's ordinance or from reading or interpreting any map that is part of this Ordinance or any waiver community ordinance.

Sec. 15-82. through 15-90. Reserved.

ARTICLE 8. ADMINISTRATION.

Sec. 15-91. Responsibility for Administration.

1. The Committee, or the Oversight Committee in a waiver community, shall determine policy related to and direct the enforcement of this Ordinance or the waiver community's ordinance, as applicable.
2. The Director, or the Administrator in a waiver community, shall have the authority and responsibility for the administration of this Ordinance or the waiver community's ordinance, as applicable. In performing his or her duties, the Director or the Administrator may delegate routine responsibilities to any named designee.
3. Each community shall remain solely responsible for its standing in the NFIP and for:
 - a. Maintaining records and submitting reports required for the NFIP, including elevation certificates, floodproofing certificates, and lowest floor elevations; and
 - b. Notifying the Director, FEMA, OWR, COE, the Illinois Environmental Protection Agency, and the Federal Environmental Protection Agency of any proposed amendment to this Ordinance or the waiver community's ordinance.

Sec. 15-92. Duties of Director.

The duties and functions of the Director shall include:

1. Supervising the execution of this Ordinance; and
2. Supervising the development and revision of the appendices of the Plan for Committee and County Board approval and taking such actions as are reasonably necessary and proper to carry out the purposes and provisions of this Ordinance; and
3. Certifying flood plain delineations and support documentation from partial waiver communities for any CLOMR, LOMR, CLOMA, and LOMA requirement, which certification may be done concurrent with submittal to OWR or its designee and FEMA; and
4. Developing and maintaining County-wide regulatory maps; and
5. Directing the application and review of complex Stormwater Management Permits for any community that requests such assistance; and
6. Performing, in non-waiver communities, the duties which are assigned to the Administrator in waiver communities; and
7. Reviewing and certifying proposed developments in special management areas within partial waiver communities; and

8. Keeping OWR and FEMA informed of community waiver and ordinance status within 30 days after any changes in status; and
9. Notifying the communities, FEMA, OWR, COE, the Illinois Environmental Protection Agency, and the Federal Environmental Protection Agency of any amendments to the Plan or this Ordinance.

Sec. 15-93. Duties of Administrator in Waiver Community.

The duties and functions of the Administrator shall include:

1. Ensuring that copies of all applicable required federal, state, and regional permits or County approvals are received prior to issuing any permits required by the waiver community ordinance; and
2. Verifying the existence of special management areas for each application; and
3. Reviewing and approving certificates and issuing any permits or notices required by the waiver community ordinance; and
4. Notifying the Director and owners of adjacent upstream, downstream, and potentially affected property, affected state and federal agencies, and watershed basin communities, and publishing a notice in a local newspaper of any variance requested from the provisions of the waiver community ordinance; and
5. Notifying the Director and all affected persons defined in Subsection 15-93.4 of this Ordinance of any alteration or relocation of a watercourse including application for CLOMR or LOMR; and
6. Providing for inspections of developments as provided in Section 15-197 of this Ordinance under the terms of the waiver community's ordinance; and
7. Investigating complaints of violations of the waiver community's ordinance; and
8. Notifying any applicant for a variance that granting the variance may result in increased rates for flood insurance; and
9. Notifying the Director and other jurisdictions of alleged violations of their permit programs; and
10. Notifying violators within regulatory flood plains that failure to comply with NFIP provisions could make them ineligible to receive flood insurance; and
11. Initiating any proceeding necessary to enforce the waiver community ordinance; and
12. Encouraging and conducting studies, investigations, and research relating to the physical, chemical, ecological, engineering, and other aspects of stormwater management; and
13. Advising, consulting with, and cooperating with other governmental agencies to promote the purposes of this Ordinance and the waiver community's ordinance; and

ARTICLE 8. ADMINISTRATION.

Sec. 15-91. through 15-96.

14. Maintaining for public inspection copies of all applications and submittals, federal and state permit documents, variation documentation, CLOMR, LOMR, CLOMA, LOMA, and all other documents required pursuant to Article 11 of this Ordinance as directed under the waiver community's ordinance; and
15. Sending copies of any application for a CLOMR, LOMR, CLOMA, or LOMA to the Director; and
16. Receiving certification for development in special management areas from the Director prior to partial waiver community approval of any CLOMR, LOMR, CLOMA, or LOMA; and
17. Sending a copy of any petition or request for a variance from the terms of the waiver community ordinance to the Committee before any such variance is approved by the Oversight Committee; and
18. Submitting the necessary information to the Director relating to development in order to maintain County-wide regulatory maps and for supervision of the Ordinance. This includes, but is not limited to, copies of any Stormwater Management Permits, CLOMR, LOMR, CLOMA, and LOMA.
19. Maintaining documentation on "cost of improvement" on buildings in the flood plain, relating to the substantial improvements requirements of this Ordinance.

Sec. 15-94. Representative Capacity.

In all cases when any action is taken by the Director or the Administrator, or his or her duly appointed designee, to enforce the provisions of this Ordinance or the waiver community's ordinance, such action shall be taken either in the name of and on behalf of the County or of the waiver community, or the people of the State of Illinois, and neither the Director nor the Administrator, or his or her designee, in so acting for the County or the waiver community shall be rendered personally liable.

Sec. 15-95. Watershed Basin Committee.

1. A Watershed Basin Committee shall be established in every watershed planning area throughout the County.
2. The Watershed Basin Committee may mediate any technical disputes between the Director and the Administrator or the communities concerning the technical interpretation or application of the provisions of this Ordinance or the waiver community ordinances. Each member of the Watershed Basin Committee shall have equal voting rights. Recommendations shall be made by a majority of the members in attendance.
3. The Watershed Basin Committee shall be comprised of one professional engineer representing each community in a watershed planning area and one professional engineer representing the Department.
4. The Watershed Basin Committee shall, if requested by the Committee or an Oversight Committee, evaluate technical issues related to a specific application and render an opinion.

Sec. 15-96. Oversight Committee.

1. An Oversight Committee shall be established to oversee the implementation and enforcement of the waiver community's ordinance within its jurisdiction.
2. The corporate authorities of a community, or any representatives duly appointed by the corporate authorities, may serve as the Oversight Committee.
3. The Oversight Committee, when considering appeals or variances, may request an opinion from the Watershed Basin Committee on technical issues.

Sec. 15-97. through 15-110. Reserved.

**ARTICLE 9. REQUIREMENTS FOR STORMWATER AND FLOOD
PLAIN MANAGEMENT.**

Sec. 15-111. General Information.

1. All developments shall meet the requirements specified for general stormwater and flood plain development (Section 15-112), site runoff (Section 15-113), sediment and erosion control (Section 15-116), and performance security (Article 13).
2. All developments, with consideration given to those developments as noted in Section 15-111.3 of this ordinance, shall comply with the site runoff storage requirements provided in Section 15-114 of this Ordinance in which:
 - a. The parcels being developed total three acres or greater for single or two family residential subdivision land uses; or
 - b. The parcels being developed total one acre or greater for multiple family or non-residential subdivision land uses; or
 - c. The parcels being developed total one acre or greater for multiple family or non-residential developments and the new development totals either individually or in the aggregate after February 15, 1992 to more than 25,000 square feet; or
 - d. The area being developed totals one acre or greater for road developments in rights-of-way under the ownership or control of a unit of government.
3. The Director or Administrator in a waiver community shall consider granting an exception to Section 15-111.2 of this Ordinance for those developments listed below, if specific requirements are met for such development as listed or required by the Administrator:
 - a. The development is strictly limited to the grading of pervious area, in which the following specific requirements are met:
 - (1) The Applicant must demonstrate to the administrator's satisfaction that for all storm events, up to and including the critical duration 100-year event, the grading activity does not:
 - a) Result in an increase in runoff volume; and,
 - b) Result in an increase in peak release rate; and,
 - c) Result in a time decrease associated with the time of concentration; and,
 - d) Contribute to adjacent flood problems; and,
 - e) Alter the direction of runoff.

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- b. The development is strictly limited to the reconstruction of an existing parking lot, in which the following specific requirements are met:
 - (1) The Applicant must demonstrate that the reconstruction will remain in the same foot print as the existing parking lot; and,
 - (2) The Applicant must demonstrate to the administrator’s satisfaction that for all storm events, up to and including the critical duration 100-year event, the development activity does not:
 - (a) Result in an increase in runoff volume; and,
 - (b) Result in an increase in peak release rate; and,
 - (c) Result in a time decrease associated with the time of concentration; and,
 - (d) Contribute to adjacent flood problems; and,
 - (e) Alter the direction of runoff.
- 3) The development is strictly a Regional Stormwater Management Project or a Flood Control project in substantial compliance with either a watershed plan or other said study as reviewed and approved by the DuPage County Stormwater Management Committee.
- 4) The development is strictly a Stream Bank Stabilization project.
- 5) The development is strictly limited to the construction, or re-construction, of a pedestrian walkway/bike path, in which the following specific requirements are met:
 - (1) The pedestrian walkway/bike path shall not exceed twelve (12) feet in width; and,
 - (2) The pedestrian walkway/bike path must be constructed by a government agency (e.g., DuPage County regional trail system, municipal sidewalk program, etc.)
 - (3) The pedestrian walkway/bike path shall not be constructed in such a manner as to violate Section 15-112 of this Ordinance.
- f. The development is strictly limited to the creation of a DuPage County recognized wetland bank and/or wetland mitigation site.
- g. The development is strictly limited to the modification of an existing stormwater management facility to incorporate Best Management Practices.
- h. The development is strictly limited to the construction of a single-family residential structure on a parcel of land greater than three (3) acres.

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- i. The development is greater than one acre and the existing parcel(s) is greater than eighty percent (80%) impervious on March 8, 2005, in which the following specific requirements are met:
 - (1) Where there are no known off-site flooding problems that the development is contributory to, sufficient site runoff storage shall be provided in pervious (vegetative) areas such that the probability of the post development release rate exceeding 0.04 cfs/acre of development shall be less than fifty percent (50%) per year (2-yr event), unless the applicant demonstrates to the Administrator why this criteria can't be met and the following specific requirements are met:
 - (a) Where detention storage is provided in impervious areas (i.e. underground tanks, parking lots, etc.) best management practices as described in Section 15-113.11 of this Ordinance shall be required and the applicant shall demonstrate that these practices are appropriate and effective for the site conditions
 - (b) Where the required site runoff storage cannot be provided on-site, the shorted storage shall be provided off-site or by payment into an approved detention variance fee program as determined in Section 15-115 of this Ordinance.
 - (2) The required storage in Section 15-111.3.i.(1) is required for the total project, regardless of phasing.
 - (3) Site runoff storage facilities shall meet the requirements of Section 15-114 of this Ordinance.
 - (4) Where there are known off-site flooding problems, the Administrator may require additional site runoff storage, best management practices or other measures to reduce the flood potential.
 - (5) The post development site runoff storage shall not be less than the existing site runoff storage.
 - (6) There shall be no increase in peak release rates up to and including the one percent probability of occurrence (100-yr) per year.
 - (7) Additions to an existing site that increase the imperviousness above the eighty (80%) threshold are subject to providing the full storage such that the probability of the release rate exceeding 0.1 cfs/acre of new development is less than one percent (1.0%) per year, providing the new development is greater than 25,000 square feet.
 - (8) Approved Stormwater plans or permits that contain more stringent criteria than Section 15-111.3.i will apply.
4. Developments shall also meet the more specific requirements of applicable adopted Watershed Plans or adopted Interim Watershed Plans, set forth in Sections 15-117 through 15-122.
5. All development within special management areas, shall also satisfy the requirements specified in Article 10 of this Ordinance.

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6. All developers shall submit the documents specified in Article 11 of this Ordinance to verify compliance with these requirements.
7. Facilities constructed under the provisions of this Ordinance or the waiver community ordinance shall be maintained according to the criteria and guidelines established in the Plan. Maintenance is the responsibility of the owner of the land on which the stormwater facilities are constructed unless the responsibility is assigned, pursuant to Section 15-180 of this Ordinance, to an entity acceptable to the governmental unit that has jurisdiction over such land.

Sec. 15-112. General Stormwater and Flood Plain Requirements.

The following general stormwater and flood plain requirements shall apply to all development.

1. Development shall not:
 - a. Result in any new or additional expense to any person other than the developer for flood protection or for lost environmental stream uses and functions; nor
 - b. Increase flood elevations or decrease flood conveyance capacity upstream or downstream of the area under the ownership or control of the developer; nor
 - c. Pose any new or additional increase in flood velocity or impairment of the hydrologic and hydraulic functions of streams and flood plains unless a watershed benefit is realized; nor
 - d. Violate any provision of this Ordinance or any applicable waiver community ordinance either during or after construction; nor
 - e. Unreasonably or unnecessarily degrade surface or ground water quality.
2. Analysis and design of all stormwater and flood plain facilities required for development shall:
 - a. Meet the standards and criteria established in the Plan and, if available, in Watershed Plans or in Interim Watershed Plans; and
 - b. Consider the Technical Guidance for the DuPage Countywide Stormwater and Flood Plain Ordinance for the Plan; and
 - c. Be consistent with techniques specified in the Watershed Plans or the Interim Watershed Plans; and
 - d. Consider existing and ultimate watershed and land use conditions, with and without the proposed development.
3. Stormwater facilities shall be functional before building permits are issued for residential and non-residential subdivision.

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4. Stormwater facilities shall be functional where practicable for single parcel developments before general construction begins.
5. In areas outside the boundary of the regulatory flood plain all usable space in new buildings, or added to existing buildings shall either be elevated, floodproofed, or otherwise protected such that the lowest entry shall be at least one foot above the adjacent base flood elevation to prevent the entry of surface stormwater. Floodproofing devices shall be operational without human intervention. If electricity is required for protection against flood damage, there shall be a backup power source which will activate without human intervention. Floodproofing measures shall be certified by a professional engineer.
6. All usable space in new buildings or added to existing buildings adjacent to a major stormwater system, site runoff storage facility overflow path or site runoff storage facility, shall be elevated, floodproofed, or otherwise protected to at least one foot above the design elevation to prevent the entry of surface stormwater. The design elevation is the elevation associated with the design rate as determined in Section 15-114.8.f

Sec. 15-113. Site Runoff Requirements.

1. Stormwater facilities shall be required and shall be designed so that runoff exits the site at a point where flows will not damage adjacent property.
2. Stormwater facilities shall be designed to conform with the requirements of Illinois law and the applicable Sections 15-117 through 15-122 of this Ordinance.
3. Minor stormwater systems shall be sized to convey runoff from the tributary watershed under fully developed conditions consistent with the design requirements of the local jurisdiction.
4. Major stormwater systems shall be sized to carry the base flood without causing additional property damage.
5. Design runoff rates shall be calculated by using continuous simulation models or by event hydrograph methods. If event hydrograph methods are used, they must be either HEC-1 SCS runoff method, TR-20, or TR-55 tabular method. Event methods must incorporate the following assumptions:
 - a. Antecedent moisture condition = 2; and
 - b. Huff or SCS Type II rainfall distribution.
6. Any design runoff rate method shall use Illinois State Water Survey Bulletin 70 northeast sectional rainfall statistics or the National Oceanic and Atmospheric Administration continuous rainfall record from 1949 to present at the Wheaton gage, and shall calculate flow from all tributary area upstream of the point of design.

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7. Major and minor stormwater systems shall be located within easements or rights-of-way explicitly providing for public access for maintenance of such facilities.
8. Maximum flow depths on any roadway shall not exceed six inches during the base flood condition.
9. Transfers of waters between watersheds shall be prohibited except when such transfers will not violate the provisions of Subsection 15-112.1 of this Ordinance.
10. Stormwater facilities for runoff upstream of flood protection facilities shall provide for conveyance or storage of flood waters without increased potential for damage to real or personal property during base flood conditions.
11. Developments shall, to the extent practicable and necessary, incorporate the following Best Management Practices into the site design to minimize increases in runoff rates, volumes, and pollutant loads:
 - a. All runoff from rooftops and parking lots, and discharge from sump pumps, that does not discharge into a site runoff storage facility shall be directed onto vegetated swales or filter strips, for a distance of at least 50 feet.
 - b. Vegetated swales shall be utilized, where appropriate, as an alternative to storm sewers to promote the infiltration of stormwater and the filtration of stormwater pollutants.
 - c. Effective impervious surface area should be limited by site designs which minimize the area of streets, parking lots, and rooftops and/or utilize permeable paving material such as concrete grids in low traffic areas.
 - d. Other Best Management Practices such as infiltration basins and trenches (where permeable soils are present) and filtration basins and sand filters (on highly impervious or industrial developments) shall be utilized where appropriate.
 - e. The practices and procedures established in the Technical Guidance for the DuPage Countywide Stormwater and Flood Plain Ordinance for the Plan and as described in the United States Environmental Protection Agency's "Guidance Specifying Management Measures for Sources of Nonpoint Pollution in Coastal Waters", dated January 1993.
12. Developments shall incorporate all best management practices as may be required pursuant to the United States Clean Water Act, 33 U.S.C. §§ 1251 et seq., as amended.

Sec. 15-114. Site Runoff Storage Requirements (Detention).

1. Maximum site runoff storage requirements shall be consistent with the information, procedures, and requirements of the applicable Sections 15-117 through 15-122 of this Ordinance, except as limited by the provisions of Subsection 15-114.2 of this Ordinance.

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2. If no release rate, or a greater release rate than identified below, is specified in the applicable Sections 15-117 through 15-122 of this Ordinance, then sufficient storage shall be provided such that the probability of the post development release rate exceeding 0.1 cfs/acre of development shall be less than one percent (1.0%) per year. Design runoff volumes shall be calculated using continuous simulation or event hydrograph methods.
3. If event hydrograph methods are used to calculate design runoff volumes, they must be either HEC-1 SCS runoff method with outlet routing option, TR-20 with outlet control routing option, or TR-55 tabular method with outlet control routing. Event methods shall incorporate the following assumptions:
 - a. Antecedent moisture condition = 2; and
 - b. Huff or SCS Type II rainfall distribution; and
 - c. Twenty-four (24) hour duration storm with a one percent (1.0%) probability of occurrence in any one year as specified by Illinois State Water Survey Bulletin 70 northeast sectional rainfall statistics.
4. If continuous simulation methods are used, design runoff volumes shall be calculated using the Wheaton National Oceanic and Atmospheric Administration rainfall record from 1949 to present.
5. For sites where the undeveloped release rate is less than the maximum release rate in Subsection 15-114.2 of this Ordinance, the developed release rate and corresponding site runoff storage volume shall be based on the existing undeveloped release rate for the development site.
6. All hydrologic and hydraulic computations must be verified under the full range of expected downstream water surface elevations, from low flow through the base flood elevation.
7. Responsibility for maintenance of all storage facilities shall be designated on the plat of subdivision or other recorded documents.
8. Storage facilities shall be designed and constructed with the following characteristics:
 - a. Water surface depths two feet above the base flood elevation will not damage the storage facility.
 - b. The storage facilities shall be accessible and easily maintained.
 - c. All outlet works shall function without human intervention or outside power and shall operate with minimum maintenance.
 - d. Storage facilities shall facilitate sedimentation and catchment of floating material.
 - e. Storage facilities shall minimize impacts of stormwater runoff on water quality by incorporating Best Management Practices.

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- f. Storage facilities shall provide an overflow structure and overflow path that can safely pass excess flows through the development site. The minimum design rate shall be 1.0 cfs/acre of area tributary to the storage facility.
9. Storage facilities located within the regulatory flood plain shall:
 - a. Conform to all applicable requirements specified in Article 10 of this Ordinance; and
 - b. Store the required site runoff under all stream flow and backwater conditions up to the base flood elevation; and
 - c. Not allow design release rates to be exceeded under any stream elevation less than the base flood elevation.
 10. Storage facilities located within the regulatory floodway shall:
 - a. Meet the requirements for locating storage facilities in the regulatory flood plain; and
 - b. Be evaluated by performing hydrologic and hydraulic analysis consistent with the standards and requirements for Watershed Plans; and
 - c. Provide a watershed benefit.
 11. Developments with storage facilities that have off-site flow tributary to the site either shall provide storage sufficient to accommodate runoff from the off-site tributary watershed and the site, or shall store the site runoff and convey off-site flows through the development while preserving the existing flow and storage of the site.
 12. Storage facilities may be located off-site if the following conditions are met:
 - a. The off-site storage facility meets all of the requirements of this Article 9; and
 - b. Adequate storage capacity in the off-site facility is dedicated to the development; and
 - c. The development includes provisions to convey stormwater to the off-site storage facility.

Sec. 15-115. Detention Variance Fee Program.

1. Where a variance to the site runoff storage requirements of Section 15-114 is granted, payment into a detention variance fee program shall be made prior to the issuance of a Stormwater Management Permit as a condition of the variance.
2. Development in a non-waiver community or in a waiver community that has not adopted a detention variance fee program shall participate in the County's program where:

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- a. Payment of a detention variance fee for the varied storage shall be made to the County and is determined by applying the first applicable criteria as follows:
 - (1) A fee calculated by multiplying the per acre-foot cost of the closest off-site storage facility times the varied storage where:
 - (a) A design concept plan for the facility has been approved by the Committee and the County Board containing an estimate of the per acre-foot cost of constructing the storage, including operation and maintenance costs; and
 - (b) A formula has been developed to determine that any investment in the facility shall be at least equal to the cost of planning, acquiring of lands, constructing, operating, and maintaining the facility; and
 - (c) The facility is located in the same watershed planning area as the variance.
 - (2) An adopted fee schedule, attached to this Ordinance as Schedule B and by this reference incorporated into this Ordinance, that identifies reasonable and rational cost to provide site runoff storage in the same watershed planning area as the variance. The fee shall include the cost of planning, acquiring land, construction, operation, and maintenance.
 - b. Funds collected shall be accounted for in separate project or watershed planning area accounts. Funds shall be used in the same community or watershed planning areas as collected to enhance existing site runoff storage facilities and related components, construct off-site facilities and related components, provide maintenance of stormwater facilities, or undertake other development that provides a watershed benefit.
 - c. The County Board shall provide accounting on an annual basis of all funds deposited in each project or watershed planning accounts and shall account for each fund on a first-in, first-out basis.
 - d. The Committee may prioritize and allocate funds on an annual basis within each watershed planning area account. Communities may make a request to the Committee by June 30th of each year for funds within the watershed planning accounts for uses identified in Section 15-115.2.b.
 - e. All detention variance fees are refunded to the person who paid the fee, or to that person's successor in interest, whenever the County fails to encumber the fees collected within 10 years of the date on which such fees are collected.
 - f. Refunds are made provided that the person who paid the fee, or that person's successor in interest, files a petition with the County within one year from the date on which such fees are required to be encumbered.
3. Development in a waiver community shall participate in the waiver community's detention variance fee program where the corporate authority has adopted a program that is consistent with Section 15-115.2. The waiver community may adopt its own fee schedule and designate off-site facilities.

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Funds may be used in the same community or watershed planning area as collected. All accounting records shall be made available to the Committee upon request.

Sec. 15-116. Erosion and Sediment Control Requirements.

1. Erosion and sediment control features shall be considered as part of any development's initial site planning process. The developer's engineer should consider the following factors in the overall site design:
 - a. The susceptibility of the existing soils to erosion.
 - b. The natural contours of the land.
 - c. Existing native and mature vegetation.
 - d. Existing natural or established drainageways.
 - e. Emphasize erosion controls first then address sediment control.
2. All developments, whether a permit is required or not, shall incorporate stormwater management measures that control and manage runoff from such developments, as provided in this section. Temporary erosion and sediment control measures shall be functional and consistent with the information and requirements of this entire section before land is otherwise disturbed on the site. These measures shall be maintained during both the construction season and any construction shutdown periods until permanent erosion and sediment control measures are operational.
3. Soil erosion and sediment control measures shall be appropriate with regard to the amount of tributary drainage area as follows:
 - a. Disturbed areas draining less than 1 acre shall, at a minimum, be protected by a filter barrier or equivalent to control all runoff leaving the site. The use of straw bales for this purpose is prohibited.
 - b. Disturbed areas draining more than 1 but fewer than 5 acres shall, at a minimum, be protected by a sediment trap or equivalent control measure.
 - c. Disturbed areas draining more than 5 acres shall, at a minimum, be protected by a sediment basin or equivalent control measure.
4. Pumping sediment-laden water into any stormwater facility either directly or indirectly without filtration is prohibited. Water removed from traps, basins and other water holding depressions or excavations must first pass through a sediment control and/or filtration device. When dewatering devices are used, discharge locations shall be protected from erosion.
5. All discharges to an undisturbed area, stabilized area or watercourse shall be designed at a non-erosive velocity corresponding to the soil and vegetative cover of the undisturbed area.

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6. All temporary and permanent stormwater conveyance channels, including ditches, swales, and diversions, and the outlets of all channels and pipes shall be designed and constructed to withstand the expected flow velocity from the 25-year frequency storm without erosion assuming the worst soil cover conditions to prevail in the contributing drainage area over the life of the structure. All materials specified shall be able to withstand these expected flow velocities without damage or soil erosion. Modifications to existing stormwater facilities shall be stabilized within 48 hours.
7. All storm drain inlets shall be protected by an appropriate sediment control measure when the area tributary to an inlet is disturbed.
8. Silt fences can be used to intercept sheet flow only. Unreinforced silt fences cannot be used as velocity checks in ditches or swales nor can they be used where they will intercept concentrated flows.
9. Reinforced silt fences (normal silt fence reinforced with woven wire fencing) can be used to intercept sediment-laden water from disturbed areas less than 1 acre. Its purpose is to reduce the runoff velocity thereby allowing the deposition of transported sediment to occur.
10. All Special Management Areas and waters of DuPage shall, at a minimum, have a dual silt fence barrier of protection. Additional soil erosion and sediment control measures may be required to adequately protect these sites.
11. All trenches, holes or other excavations required for utility installation should be back-filled, and stabilized at the end of each working day. No excavation should be opened more than what can be stabilized by the end of the same day. If an excavation must be left unstabilized or opened overnight, soil erosion and safety protection measures shall be installed.
12. The surface of stripped or disturbed areas shall be permanently or temporarily stabilized within 14 days after final grade is reached or when left idle for more than 14 days. Temporary erosion and sediment control measures shall be maintained continuously until permanent soil erosion control measures have been adequately established.
13. Stockpiles of soil or any other building materials shall not be located in Special Management Areas.
14. If a stockpile is to remain in place for more than three days, then erosion and sediment control shall be provided for such stockpile.
15. All waste generated as a result of site development (including discarded building materials, concrete truck washout, chemicals, litter, sanitary waste or any other waste shall be properly disposed of and be prevented from being carried off the site by either wind or water.
16. Graveled roads, access drives, parking areas of sufficient width and length, and vehicle wash down facilities if necessary, shall be provided to prevent soil from being tracked or deposited onto public or private roadways. Any soil reaching a public or private roadway shall be removed immediately or as warranted and transported to a controlled sediment disposal area.

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17. All temporary erosion and sediment control measures shall be removed within 30-days after final stabilization is achieved with permanent soil stabilization measures. Trapped sediment and other disturbed soils resulting from temporary measures shall be properly disposed of and the area permanently stabilized.
18. Design criteria, standards and specifications for erosion and sediment control shall be taken from one of the following sources:
 - a. Technical Guidance for the DuPage Countywide Stormwater and Flood Plain Ordinance (Appendix E), as amended
 - b. IEPA/NRCS "Illinois Urban Manual", as amended
 - c. Other design criteria, standards and specifications, provided prior written approval is received from the Director or Administrator.
 - d. In the event of a conflict between the provisions of the above sources, this Ordinance and the Technical Guidance shall apply.
19. Erosion and sediment control measures utilized in complying with the requirements of Section 15-116 of this Ordinance that have a design frequency assigned, such as in the references noted in Section 15-116.18, shall have its design frequency increased to a design storm event equal to or greater than a 25-year 24-hour rainfall event.

Sec. 15-117. Reserved for Special Requirements in the Salt Creek Watershed.

Sec. 15-118. Reserved for Special Requirements in the East Branch DuPage River Watershed.

Sec. 15-119. Reserved for Special Requirements in the West Branch DuPage River Watershed.

Sec. 15-120. Reserved for Special Requirements in the Sawmill Creek Watershed.

Sec. 15-121. Reserved for Special Requirements in the Des Plaines River Tributaries Watershed.

Sec. 15-122. Reserved for Special Requirements in the Fox River Tributaries Watershed.

Sec. 15-123. through 15-130. Reserved.

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ARTICLE 10. SPECIAL MANAGEMENT AREAS.

Sec. 15-131. Special Management Areas.

1. Special management areas include regulatory flood plains, wetlands, wetland buffers, and riparian environments. Requirements for determining regulatory flood plains are specified in Section 15-132 of this Ordinance. Requirements for delineating wetlands are specified in Section 15-134 of this Ordinance. Requirements for determining riparian environments are specified in Section 15-137 of this Ordinance.
2. Any development in the regulatory flood plain shall comply with the requirements of Section 15-133 of this Ordinance in addition to the requirements of Article 9 of this Ordinance.
3. Any development in wetlands shall comply with the requirements of Section 15-135 of this Ordinance in addition to the requirements of Article 9 of this Ordinance.
4. All developers shall submit the documents specified in Article 11 of this Ordinance to verify compliance with the requirements of this Ordinance or the applicable waiver community ordinance.
5. All developers shall grant the Director or the Administrator consent to record against the title of the property an informational note stating that a permit to build in a special management area has been granted. The informational note shall be printed on the face of the plat or other recorded document or shall be separately recorded if the project is a single lot development.

Sec. 15-132. Requirements for Regulatory Flood Plain and Regulatory Determination.

1. Any developer proposing development shall identify the boundaries and elevation of the regulatory flood plain and the boundaries of the regulatory floodway.
2. The regulatory flood plain shall be determined by the highest base flood elevation for a development site at the time of application as determined by:
 - a. Flood plain studies in the Watershed Plans.
 - b. Flood plain studies prepared as part of Interim Watershed Plans.
 - c. OWR studies adopted as State Regulatory Maps listed in Exhibit 2.
 - d. Flood Insurance Studies, Flood Insurance Rate Maps, and Flood Boundary and Floodway Maps published by FEMA listed in Exhibit 2.
 - e. Project specific flood plain studies that meet the standards established in the Plan and approved by the Director.

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3. The Director, or the Administrator in a complete waiver community, may require the applicant to perform a project specific flood plain study when no other regulatory flood plain has been established as provided in Subsection 15-132.2 of this Ordinance. If the drainage area is one square mile or greater, the study shall also require approval from OWR or their designee.
4. Any development located within the regulatory flood plain as listed in Exhibit 2 may require approval from OWR or its designee or FEMA or both. Exhibit 2 includes approved OWR and FEMA studies and maps used for insurance and flood plain management purposes.
5. The regulatory floodway shall be designated by OWR or its designee and is shown on maps listed in Exhibit 2. If a floodway is not designated on the maps in Exhibit 2, then the regulatory floodway shall be deemed to be the regulatory flood plain.
6. The regulatory floodway may be redesignated by a project specific flood plain study and shall require approval from the Department and OWR or its designee, and a CLOMR or LOMR from FEMA.

Sec. 15-133. Requirements for Development within the Regulatory Flood Plain.

1. Development shall preserve effective floodway conveyance such that there will be no increases in flood elevations, flows, or floodway velocity, unless any such increases are contained in a public flood easement and a watershed benefit is provided.
2. Structures that are floodproofed shall:
 - a. Be anchored (including manufactured homes) to prevent flotation, collapse, or lateral movement of the structure.
 - b. Use flood resistant materials below the base flood elevation.
 - c. Use construction methods and practices that do not increase the potential for increases in flood damage.
 - d. Locate electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities at least one foot above the base flood elevation.
 - e. Provide adequate drainage.
3. Temporary or permanent storage of the following are prohibited unless elevated or floodproofed to one foot above the base flood elevation:
 - a. Items susceptible to flood damage; or
 - b. Unsecured buoyant materials or materials that may cause off-site damage including bulky materials, flammable liquids, chemicals, explosives, pollutants, or other hazardous materials; or

- c. Landscape wastes.
4. All usable space in new buildings, added to existing buildings, or in existing buildings in the flood plain undergoing substantial improvement shall be elevated to at least one foot above the base flood elevation.
 5. In areas outside the regulatory floodway but within the flood plain, maximum flow depths on new parking lots shall not exceed one foot during the base flood condition and shall be designed for protection against physical flood damages. Flood hazard in parking areas below the base flood elevation shall be clearly posted.
 6. New structures other than buildings shall either be elevated to at least one foot above the base flood elevation or designed for protection against physical flood damages. Floodproofing devices shall be operational without human intervention. If electricity is required for protection against flood damage, then there must be a backup power source that will activate without human intervention. The floodproofing shall be certified by a professional engineer.
 7. New or expansion of existing manufactured home parks or subdivisions and placement of manufactured homes not in existing manufactured home parks or subdivisions shall require that:
 - a. All stands or pads shall be elevated to or above the base flood elevation; and
 - b. Adequate access and drainage shall be provided; and
 - c. If pilings are used for elevation, applicable design and construction standards for pilings shall be met; and
 - d. Anchoring shall be accomplished in accordance with the rules and regulations for the Illinois Mobile Home Tie-Down Act issued pursuant to 77 Ill. Adm. Code § 870 to resist flotation, collapse, and lateral movement.
 8. Parked recreational vehicles shall be required to meet the elevation and anchoring requirements of Section 15-133.7 unless:
 - a. They are on site for fewer than 180 consecutive days; and,
 - b. They are fully licensed and ready for highway use. A recreation vehicle is ready for highway use if it is on its wheels and/or jacking system, is attached to the site only by quick disconnect type utility and service devices, and has no permanently attached additions.
 9. Existing structures shall not be enlarged, replaced, or structurally altered unless the changes meet the requirements for development. If the changes constitute substantial improvement to a building in the flood plain, then the entire building shall meet the requirements for development.
 10. Existing structures may be floodproofed. Floodproofing shall meet the requirements listed in Section 15-133(2) for development in the flood plain and be operational without human intervention. If

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electricity is required, then there must be a backup power source that will activate without human intervention. The floodproofing shall be certified by a professional engineer.

11. Any placement of fill, structures, or other materials above grade in the flood plain shall require compensatory storage equal to at least 1.5 times the volume of flood plain storage displaced and shall be provided at the same incremental flood frequency elevation as the flood storage displaced. Compensatory storage shall be operational prior to placement of fill, structures, or other materials in the regulatory flood plain. Grading in Special Management Areas shall be done in such a manner that the existing flood plain storage is maintained at all times. Compensatory storage is not required for flood protection of existing buildings for flood plain volume displaced by the building and within the area of 10 feet adjacent to the building.
12. A copy of an application for a CLOMR, CLOMA, LOMA, or LOMR including all the required information, calculations, and documents shall be submitted to the Department concurrent with the application to FEMA or OWR or its designee.
13. No filling, grading, dredging, or excavating which changes the base flood elevation, base flood flow rate or the floodway boundary shall take place until a CLOMR is issued by FEMA.
14. If a LOMR is required by FEMA, no building construction shall take place until the LOMR is received.
15. Any fill required to elevate a building must extend at least 10 feet beyond the foundation before the grade slopes below the highest base flood elevation.
16. When a structure is elevated by some means other than filling in the regulatory flood plain:
 - a. The useable space of any building, the bottom of the lowest structural member of the first finished floor (lowest habitable floor), and all electrical, heating, ventilating, plumbing, and air conditioning equipment shall be located at least one foot above the highest base flood elevation; and
 - b. Elevation can be accomplished using stilts, piles, walls, or other foundations. Areas below the lowest floor that are subject to flooding shall be designed so that hydrostatic forces on exterior walls are automatically equalized by allowing for the entry and exit of floodwaters and shall be anchored and aligned in relation to flood flows and adjoining structures so as to minimize exposure to known hydrodynamic forces such as currents, waves, ice, and floating debris. Designs for meeting this requirement shall be prepared, signed, and sealed by a structural engineer or architect and meet or exceed the following minimum criteria:
 - (1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and
 - (2) The bottom of all openings shall be no higher than one foot above grade; and

- (3) Openings may be equipped with screens, louvers, valves, or other coverings or devices, provided that such coverings and devices do not impede the automatic entry and exit of floodwaters; and
 - (4) The grade interior to the foundation of the structure shall not be more than 2 feet below the lowest adjacent exterior grade; and
 - (5) An adequate drainage system must be installed to remove floodwaters from the area interior to the structure foundation within a reasonable period of time after the floodwaters recede.
- c. All materials and structures less than one foot above the base flood elevation shall be resistant to flood damage.
17. Existing flood storage that is lost due to channel modification shall require compensatory storage.
 18. Any removal, replacement, or modification of stormwater facilities that has an existing hydraulic impact shall provide a watershed benefit and shall require compensatory storage to mitigate for any potential increases in flow or flood elevations. All structures and their associated low entry elevations within the created backwater of the existing stormwater facility shall be identified.
 19. The release rate from new or modified storm sewer outfalls shall meet the requirements of Section 15-114.2 of this Ordinance or demonstrate compliance with Section 15-112.
 20. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
 21. Sanitary sewer systems and water distribution systems shall be designed to minimize or eliminate infiltration or inflow of flood waters and discharge of sewage.
 22. Hydrologic and hydraulic impacts of developments located in the regulatory floodway shall be evaluated using the applicable regulatory model and confirmed using Watershed Plan models, if available, or models meeting the Plan standards for watershed planning. The hydrologic and hydraulic impacts of development shall be evaluated using events representing the frequency range from 50 percent (2-yr) to one percent (100-yr) probability of being equalled or exceeded in a given year. The results of any such evaluation shall be submitted to the Department.
 23. Any proposed development in the regulatory floodway shall evaluate the hydrologic and hydraulic impacts for existing and any future planned watershed conditions.
 24. In the regulatory floodway portion of the regulatory flood plain, all of the requirements of this Section 15-133 shall apply to any proposed development, and only the following appropriate uses shall be considered for permits:
 - a. Bridges, culverts, and associated roadways, sidewalks, and railways, necessary for crossing over the floodway or for providing access to other appropriate uses in the floodway and any modification thereto; and

- b. At or below grade trail systems; and
 - c. Regulatory floodway regrading, without fill, to create a positive slope toward a watercourse; and
 - d. Floodproofing activities to protect existing structures; and
 - e. Stormwater facilities relating to the control of drainage or flooding; and
 - f. Above-ground and below-ground utilities and sanitary and storm sewer outfalls; and
 - g. The storage and conveyance of floodwaters; and
 - h. Erosion control structures and water quality and habitat structures; and
 - i. Recreational boating and commercial shipping facilities.
25. Transition sections within the regulatory floodway are required for the calculation of effective conveyance including the modification and the replacement of existing bridge and culvert structures, or to compensate for lost conveyance for other appropriate uses. The following ratios shall be used to calculate transition sections:
- a. Water will expand no faster than one foot horizontal for every four feet of flooded stream length.
 - b. Water will contract no faster than one foot horizontal for every one foot of flooded stream length.
 - c. Water will not expand or contract faster than one foot vertical for every 10 feet of flooded stream length.

Sec. 15-134. Requirements for Wetland Delineation.

- 1. Any developer proposing development in or near mapped wetland areas shall identify the boundaries, extent, function and value, and quality of all wetland areas on the subject property. The presence and extent of wetland areas on the subject property shall be determined as the result of an on-site wetland procedure. This procedure shall be conducted in accordance with the current Federal wetland delineation methodology authorized under Section 404 of the Clean Water Act. A written wetland delineation/evaluation report shall be prepared in compliance with all methodologies and definitions set forth in this Ordinance or the applicable waiver community ordinance.
- 2. The approximate location, extent, and relative quality of off-site wetlands contiguous to the development shall be identified. The location and extent of contiguous off-site wetlands shall be determined by using the first of the following documents or procedures pertaining at the time of development:
 - a. Site specific delineation according to the procedures specified in the Plan and the Federal Manual for Identifying and Delineating Jurisdictional Wetlands. If such delineation is not available, use Paragraph (b) below.

- b. Wetlands identified in Watershed Plans. If such plans are not available, use Paragraph (c) below.
 - c. Wetlands identified in Interim Watershed Plans. If such plans are not available, use Paragraph (d) below.
 - d. Wetlands identified in the Soil Conservation Service Wetlands Inventory Maps.
3. Wetlands shall be classified as either critical or regulatory wetlands based on the assessment of the following functions and values. Critical wetlands, because of their sizes, configurations, vegetation, soils, or other characteristics, play crucial roles in storing or conveying flood waters, controlling erosion, maintaining or enhancing water quality, and providing habitat for threatened or endangered species. Critical wetland status shall be assigned to those wetlands that have been determined to satisfy one or more of the following:
- a. The wetland is identified as a critical wetland in the County's wetland inventory; or
 - b. The wetland is known to possess a Federal or State listed threatened or endangered species based on the consultation with the Illinois Department of Natural Resources.
 - c. The plant community within the wetland is determined to have a native floristic quality index of 20 or higher during a single season assessment, a native mean C-value of 3.5 or greater, or alternatively a natural area rating index (NARI) value of 35.0 or higher during a spring, summer, and fall assessment, as calculated by the Swink & Wilhelm methodology. If both methods are performed, the NARI value shall prevail as the determining value; or
 - d. The initial wildlife quality value using the Modified Michigan Department of Natural Resources Method is 5.0 or higher, or alternatively the mean rated wildlife quality (MWRQ) is determined to be 8.0 or higher, as calculated by the Ludwig Wildlife Habitat Evaluation Methodology. If both methods are performed, the Ludwig value shall prevail as the determining value.
4. All other wetlands not meeting one or more of the critical wetland criteria shall be assigned a regulatory wetland status. The final determination of wetland status shall be made by the Director, or the Administrator in a complete waiver community, based upon a review of submitted information and when necessary, upon consultation with outside wetland authorities.

Sec. 15-135. Requirements for Development Affecting the Function and Values of Wetlands.

- 1. Development within or affecting critical wetlands shall be prohibited, unless documentation is submitted that conclusively proves that the presence of critical wetlands precludes all economic use of the entire parcel, and that no practicable alternative to wetland modification exists. Based upon a review of the submitted documentation, and any other available resources, the Director, or the Administrator in a complete waiver community, will make a determination as to whether the proposed critical wetland modification represents the least amount of wetland impact required to restore an economic use to the upland portion of the parcel, and whether a permit should be granted.

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2. Development within or affecting a regulatory wetland that includes contiguous waters of DuPage less than 0.10 acre does not require documentation showing that no practicable alternatives to wetland modification exists, and is allowable pursuant to Sections 15-135.5 and 15-136. Based upon a review of the submitted documentation, and other available resources, the Director, or the Administrator in a complete waiver community, will make a determination as to whether the proposed wetland modifications will be permitted.
3. Development within or affecting a regulatory wetland that is equal to or greater than 0.10 acre shall be prohibited unless documentation is submitted that conclusively proves that no practicable alternative to wetland modification exists. Based upon a review of the submitted documentation, and other available resources, the Director, or the Administrator in a complete waiver community, will make a determination as to whether the proposed wetland modifications will be permitted.
4. Development of a regulatory wetland that is equal to or greater than 0.10 acre, or a critical wetland, will be permitted only when the proposed direct and indirect environmental impacts to on-site wetlands, and indirect environmental impacts to off-site wetlands, can be sufficiently evaluated, minimized, and mitigated, as specified in this Section 15-135.
5. Mitigation for developments within or affecting a wetland shall provide for the replacement of the wetland environment lost to development at a minimum proportional rate of three to one (3:1) for critical wetlands where critical for wetland environments as defined in sections 15-134.3.b,c, & d, and one and one half to one (1.5:1.0) for regulatory wetlands. The mitigated wetlands shall be designed to duplicate or improve the hydrologic, biologic, and economic features of the original wetland. The Director, or the Administrator in a complete waiver community, may require a greater compensation ratio where special wetland functions are threatened.
6. Mitigation for storage lost within wetlands shall be provided in accordance with Section 15-112 and Subsection 15-114.5 of this Ordinance.
7. Mitigation for development impacts within or affecting a critical or regulatory wetland shall take place in the same watershed planning area as the affected wetland. For the purpose of Section 15-135 and Section 15-136, the four watershed planning areas are defined by the Salt Creek and Des Plaines River Tributaries Watersheds, West Branch DuPage River and Fox River Watersheds, the East Branch DuPage River Watershed, and the Sawmill Creek Watershed, as shown on Exhibit 1.
8. Creation of wetlands for the mitigation of development impacts within or affecting a critical or regulatory wetland may take place only within areas not currently comprised of wetlands.
9. Mitigation of impacts within or affecting critical and regulatory wetlands shall include design, construction, and continued maintenance of the mitigation measures. See Section 15-197 of this Ordinance.
10. The Director, or the Administrator in a complete waiver community, at his or her discretion may allow an existing wetland contiguous to a proposed regulatory wetland mitigation site to be enhanced in exchange for a partial reduction in the mitigation area required. In no case shall there be a loss of wetland function and value. The area of creation of new wetland to compensate for unavoidable wetland loss shall not be allowed to fall below a one to one ratio.

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11. Development in or affecting a wetland environment shall be initiated only after a mitigation plan has been approved and adequate securities are provided as specified in Article 13 of this Ordinance.
12. The designs and analyses of all wetland mitigation measures shall meet the standards of the Plan and shall comply with all applicable Federal, State, and local regulations regarding wetland impact and mitigation.
13. The Director, or the Administrator in a complete waiver community, shall require that the developer or owner provide the County or the waiver community with periodic monitoring reports on the status of the constructed mitigation measures, and further may require the developer or owner to undertake remedial action to bring the area into compliance with the mitigation plan.
14. Mitigation for development within or affecting a wetland begun prior to issuance of a stormwater permit, or other unauthorized impact to a wetland, shall presume the wetland disturbed was a critical wetland requiring mitigation at a minimum rate of three to one (3:1).
15. To the extent practicable, development within a wetland buffer shall not, without mitigation:
 - a. Adversely change the quantity, quality, or temporal and areal distribution of flows entering any adjacent wetlands or waters; nor
 - b. Destroy or damage vegetation that stabilizes wetland fringe areas or provides overland flow filtration to wetlands; nor
 - c. Adversely affect any ground water infiltration functions.

Sec. 15-136. Wetland Banking.

1. Where development affecting wetland meets the requirements of Section 15-135 and the long term preservation of existing wetland functions or characteristics is unlikely as a result of existing or proposed land use practices in adjacent upland areas, then the Director or the Administrator may provide that mitigation for development within or affecting wetlands be accomplished wholly or in part through investment in an established wetland banking project in lieu of constructing new wetlands.
2. Such wetland banking shall be allowed only if no long term net loss of wetlands results within each watershed planning area as defined in Section 15-135.5 and if the adverse impacts of development in regulatory or critical wetlands are fully mitigated.
3. Wetland banking for development impacts within a critical or regulatory wetland shall take place within an established wetland banking project approved by the Committee, or the Oversight Committee in a complete waiver community, and shall:
 - a. Include a wetland enhancement, restoration, and construction plan approved by the Committee and the County Board, or by the Oversight Committee and the corporate authorities in a waiver community; and

- b. Include a capital improvements plan containing an estimate of the total per acre cost of wetland mitigation, including operation and maintenance costs; and
 - c. Include a formula to determine that any investment in a wetland bank shall be at least equal to the cost of planning, acquiring of lands, constructing, operating, and maintaining mitigated wetlands of equivalent or greater functional value than those lost to development.
 4. If development impacts to a wetland meets all the conditions for mitigation in a wetland banking project, a payment may be made into the wetland banking program and shall be determined by multiplying the acres of required mitigation times the first of the following applicable costs:
 - a. The investment cost of the closest wetland banking project to the development that is in the watershed planning area that has the greatest wetland deficit, as defined in Section 15-136.4.c; or
 - b. The investment cost of the closest wetland banking project within the same watershed planning area as the proposed wetland impact; or
 - c. The investment cost of the closest wetland bank to the development that is outside the watershed planning area where the development is proposed. However, the area of mitigation available within a wetland banking project for mitigation from outside the watershed planning area shall not exceed 15% of the bank's total wetland area. This amount of wetland mitigation is considered a wetland deficit in the watershed planning area where the development occurs. The watershed planning area that receives the wetland mitigation shall pay back the wetland deficit in accordance with Section 15-136.4.a.
 5. If development impacts to a wetland meet all the conditions for mitigation in the wetland banking program, wetland impacts are under the threshold requiring compensatory mitigation in accordance with current U.S. Army Corps of Engineers – Chicago District Regional Permit Program, and there is not a wetland banking project available per Section 15-136.4, a payment may be made to the County equal to \$175,000 per acre of required mitigation.
 6. All funds deposited in the wetland banking program shall be maintained in accounts designated solely for a particular wetland banking project or in a wetland bank suspense account if collected under Section 15-136.5. At the option of the Director, or the Administrator in a full waiver community, funds may be transferred to the account of another wetland banking project in the same watershed planning area, or if one is not available, in an off-site mitigation area meeting the requirements in Section 15-135, if that particular wetland banking project is not constructed within 10 years after the date on which such funds were deposited. Upon approval of a wetland banking project within a watershed planning area for which payments have been deposited in accordance with Section 15-136.5, such payments shall be immediately transferred into that wetland banking project. Any portion of the payment paid in excess of the actual fee established for said wetland banking project shall be refunded to the then current property owner or his/her/its designee.
 7. The County Board or the corporate authorities in a waiver community shall audit annually all funds deposited in wetland banking accounts and shall account for such funds on a first-in, first-out basis.

Sec. 15-137. Riparian Environments Requirements.

1. Riparian environments serve the following functions:
 - a. Reduces flood flow rates, velocities, and volumes.
 - b. Prevents erosion and promotes bank stability of streams, lakes, ponds, or wetland shorelines.
 - c. Controls sediment from upland areas thus reducing the impact of urbanization on stream habitat and water quality by filtering and assimilating nutrients discharged from surrounding uplands.
 - d. Insulates and moderates daily and seasonal stream temperature fluctuations by maintaining cooler instream temperatures for areas with overhanging vegetation.
 - e. Serves as important sites for denitrification, which reduces development of algal blooms and subsequent depressed levels of dissolved oxygen instream.
 - f. Provides an effective mechanism for treatment of contaminated surface runoff.
 - g. Provides habitat corridors for both aquatic and terrestrial fauna and flora.
 - h. Provides recreational and aesthetics values for human use.
2. Any developer proposing development in a riparian environment shall identify the boundaries by using the first of the following documents or procedures pertaining at the time of development:
 - a. Riparian environments identified in Watershed Plans. If such plans are not available, use Paragraph (b).
 - b. Riparian environments identified in Interim Watershed Plans. If such plans are not available, use Paragraph (c).
 - c. Vegetative areas along waterways within the limits of the regulatory flood plain.
3. Tree-cutting and vegetation removal shall be minimized within riparian environments, and revegetation of disturbed areas shall take place as soon as possible.
4. Development in a riparian environment shall be initiated only in accordance with the requirements of this Section 15-137 and the standards of the Plan and upon consultation with the Technical Guidance for the DuPage Countywide Stormwater and Flood Plain Ordinance for the Plan.
5. To the extent practicable, development in a riparian environment shall not, without mitigation:
 - a. Adversely change the quantity, quality, or temporal and areal distribution of flows entering any adjacent wetlands or waters; nor

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- b. Destroy or damage vegetation that overhangs, stabilizes, provides overland flow filtration, or shades stream channels, wetlands, or impoundments that normally contain water; nor
 - c. Adversely affect any ground water infiltration functions.
6. The length of any mitigated channel shall be equal to or greater than the length of the disturbed channel.
 7. Mitigation in riparian environments shall be in accordance with the procedures specified in the Plan.
 8. Mitigation measures in riparian environments shall include required provisions for long-term maintenance.

Sec. 15-138. through Sec. 15-145. Reserved.

ARTICLE 11. STORMWATER MANAGEMENT PERMITS.

Sec. 15-146. General Requirements.

1. Any person proposing a development shall obtain a Stormwater Management Permit prior to development, as provided in Section 15-147 of this Ordinance.
2. All Stormwater Management Permit review fees shall be paid at the time of application. See Section 15-153 of this Ordinance.
3. All submittals that include the design of stormwater facilities, calculations for the determination of the regulatory flood plain, or calculations of the impacts of development shall meet the standards of the Plan and shall be prepared, signed, and sealed by a professional engineer. Such professional engineer shall provide an opinion that the technical submittal meets the criteria required by the Plan and this Ordinance or the applicable waiver community ordinance.
4. Any structure subject to a differential water pressure head of greater than three feet shall be prepared, signed, and sealed by a structural engineer.
5. The site topographic map, record drawings, and other required drawings shall be prepared, signed, and sealed by a land surveyor or professional engineer and tied to the DuPage County Survey Control Network (National Geodetic Vertical Datum, 1929 adjustment).
6. Any proposed development shall secure all appropriate stormwater management related approvals, including without limitation a OWR Dam Safety permit if required, and other appropriate federal, state, and regional approvals prior to the issuance of a Stormwater Management Permit.
7. All development undertaken by a unit of local government in the regulatory flood plain where no regulatory floodway has been designated shall obtain a permit from OWR or its designee prior to issuance of a Stormwater Management Permit.
8. Within the regulatory floodway, the following calculations or analyses shall be submitted to and approved by OWR or its designee prior to the issuance of a Stormwater Management Permit:
 - a. Flood damage analyses for the replacement or modification of existing bridges or culverts; and
 - b. Hydraulic analyses of new, modified, or replacement bridges or culverts; and
 - c. Analyses of alternative transition sections as required in Subsection 15-133.23 of this Ordinance; and
 - d. Analyses of hydrologically and hydraulically equivalent compensatory storage.
9. Any and all proposed development not in a Special Management Area shall be reviewed under the supervision of a professional engineer meeting the requirements in Section 15-47.3.b.

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10. Any and all proposed development within the regulatory flood plain shall be reviewed under the supervision of a professional engineer meeting the requirements in Section 15-47.3.a. and, in the case of floodway development, certified by that professional engineer that the proposed development meets the minimum requirements of this Ordinance.
11. Any and all proposed development in or near a wetland shall be reviewed under the supervision of an environmental scientist meeting the requirements in Section 15-47.3.a (3). and certified by that environmental scientist that the proposed development meets the minimum requirements of this Ordinance.

Sec. 15-147. Applicability; Required Submittals.

1. A Stormwater Management Permit shall be required if:
 - a. The development involves one or more Special Management Areas; or
 - b. The development involves a substantial improvement in the regulatory flood plain; or
 - c. The development disturbs more than 5,000 square feet of ground cover, unless the development solely involves one or more of the following:
 - (1) Cultivation, conservation measures, or gardening; or
 - (2) Installation, renovation, or replacement of a septic system, potable water service line, or other utility to serve an existing structure; or
 - (3) Excavation or removal of vegetation in rights-of-way or public utility easements for the purpose of installing or maintaining utilities; or
 - (4) Maintenance, repair, or at grade replacement of existing lawn areas not otherwise requiring a stormwater permit under Ordinance.
2. In addition to the application requirements provided in Sections 15-146 and 15-148 of this Ordinance, the following submittals shall be required:
 - a. The Stormwater Submittal provided in Section 15-149 of this Ordinance shall be required for all development requiring a stormwater permit.
 - b. The Flood Plain Submittal provided in Section 15-150 of this Ordinance shall be required for all development proposed within any regulatory flood plain designated in Section 15-132 of this Ordinance.
 - c. The Wetland Submittal provided in Section 15-151 of this Ordinance shall be required for any development proposed within a wetland designated in Section 15-134 of this Ordinance.

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Sec. 15-148. Stormwater Management Permit Application.

The Stormwater Management Permit application shall include all of the following:

1. The name and legal address of the applicant and of the owner of the land; and
2. The common address and legal description of the site where the development will take place; and
3. A general narrative description of the development, including submittals required pursuant to Subsection 15-147.2 of this Ordinance; and
4. Affidavits signed by the land owner and the developer attesting to their understanding of the requirements of this Ordinance or the applicable waiver community ordinance and their intent to comply therewith; and
5. A statement of opinion by a qualified person either denying or acknowledging the presence of Special Management Areas on the development site, and the appropriate submittals if the statement acknowledges the presence of Special Management Areas; and
6. Copies of other permits or permit applications as required; and
7. A stormwater submittal; and
8. A flood plain submittal, if development is proposed in a flood plain; and
9. A wetland submittal, if development is proposed in a wetland; and
10. A riparian environment submittal, if development is proposed in a riparian environment; and
11. An engineer's estimate of probable construction cost of the stormwater facilities.

Sec. 15-149. Stormwater Submittal.

1. The stormwater submittal shall include:
 - a. A site stormwater plan; and
 - b. Site runoff calculations; and
 - c. Site runoff storage calculations if site runoff storage is required in Section 15-111.2; and
 - d. Information describing off-site conditions; and
 - e. A sediment and erosion control plan; and
 - f. Description on how Best Management Practices are incorporated in the development.

2. The site stormwater plan shall include:
 - a. A site topographic map depicting both existing and proposed contours of the entire site to be disturbed during development and all areas 100 feet beyond the site or as required by the Director or the Administrator at a scale of at least one inch equals 100 feet or less (e.g., one inch to 50 feet), with a minimum contour interval of one foot with accuracy equal to 0.5 foot of elevation; and
 - b. A plan view drawing of all existing and proposed stormwater facilities features, at the same scale as the site topographic map, including all of the following:
 - (1) Boundaries for watersheds tributary to all significant stormwater facilities (i.e., channels, bridges, inlets, and the like), along with the location of such facilities; and
 - (2) Major and minor stormwater systems (i.e., storm water pipes, culverts, inlets, and storage and infiltration facilities, and flooding limits under base flood conditions for the major stormwater system); and
 - (3) Roadways, structures, parking lots, driveways, sidewalks, and other impervious surfaces; and
 - (4) The nearest base flood elevations; and
 - c. Design details for all proposed stormwater facilities (i.e., major and minor stormwater systems, storage basins, and outlet works, and the like); and
 - d. A scheduled maintenance program for the stormwater facilities, including:
 - (1) Planned maintenance tasks; and
 - (2) Identification of the person or persons responsible for performing the maintenance tasks as required by Section 15-180 of this Ordinance; and
 - (3) A description of the permanent public access maintenance easements granted or dedicated to, and accepted by, a governmental entity; and
 - e. A schedule of implementation of the site stormwater plan; and
 - f. Upon completion of development, record drawings of the site stormwater plan shall be submitted to the Director or the Administrator. Such drawings shall be prepared, signed, and sealed by a land surveyor or professional engineer and shall include calculations showing the "as-built" volume of compensatory and site-runoff storage.
3. The site runoff calculations shall include:
 - a. Profile drawings of the major and minor stormwater systems, including cross section data for open channels, showing the hydraulic grade line and water surface elevation under the design and base flood condition; and

- b. Documentation identifying the procedures, assumptions, and data used to calculate hydrologic and hydraulic conditions for sizing both major and minor stormwater systems.
4. The site runoff storage calculations shall include:
- a. Documentation identifying the procedures, assumptions, and data used to calculate hydrologic and hydraulic conditions and to determine the allowable release rate and related storage volume; and
 - b. Elevation-area-storage and elevation-discharge data for storage systems.
5. Information describing the off-site conditions shall include sufficient information to allow evaluation of off-site impacts to and resulting from the proposed development. Such information shall include:
- a. A vicinity topographic map covering the entire upstream watershed that drains to or through the site and the entire watershed downstream to the point of known or assumed discharge and water surface elevation; and
 - b. A plan view drawing of existing and proposed stormwater facilities, at the same scale as the vicinity topographic map, including:
 - (1) Watershed boundaries for areas draining through or from the development; and
 - (2) The location of the development within the watershed planning area; and
 - (3) Soil types, vegetation, and land cover conditions affecting runoff upstream of the development site for any area draining through or to the site.
6. The erosion and sediment control plan shall conform to the requirements of Section 15-116 of this Ordinance. The erosion and sediment control plan shall include:
- a. A plan and schedule for construction, including site clearing and grading, construction waste disposal and stockpile locations, placement and maintenance of all soil stabilization controls, and sediment trapping facilities; and
 - b. A description of the development, including existing site land cover and hydrologic conditions, adjacent areas, soil types including a soils report and/or survey, permanent and temporary erosion and sediment control measures, and maintenance requirements; and
 - c. All data and calculations used to size, locate, design and maintain any soil erosion and sediment control measures.
 - d. Plan view drawings of existing and proposed site conditions, at the same scale as the site stormwater plan, including:
 - (1) Existing contours with drainage patterns and watershed boundaries; and

- (2) Soil types, vegetation, and land cover conditions; and
 - (3) Limits of clearing and grading; and
 - (4) Final contours with locations of drainageways and erosion and sediment control measures with the drainage area tributary to each sediment control measure delineated on the drawings; and
 - (5) A sediment control quantity table including: total project area, total disturbed area, total existing and proposed impervious area, and total number of units for each sediment control measure.
- e. Design details for proposed erosion and sediment control facilities; and
 - f. A copy of the written opinion, when applicable, of the Soil and Water Conservation District required under 70 ILCS 405/22.02 (1992); and
 - g. Evidence that the sediment and erosion control installation and maintenance requirements, including both a list of maintenance tasks and a performance schedule, are identified and required in the plans and specifications.
7. Information describing how Best Management Practices are incorporated into the site design. Such information shall include:
- a. A description of Best Management Practices that are incorporated into the site design and how they will function. Include applicable design criteria such as soil type, vegetation, and land cover conditions draining to the Best Management Practice along with appropriate calculations; and
 - b. A description of the maintenance requirements.

Sec. 15-150. Flood Plain Submittal.

The flood plain submittal shall include:

- 1. A delineation of the pre-development and post-development regulatory flood plain and regulatory floodway consistent with the requirements of Section 15-132 of this Ordinance; and
- 2. Calculations necessary for meeting the requirements of Sections 15-132 and 15-133 of this Ordinance; and
- 3. Topographic survey drawings of all structures located on or near the site, showing all structures including the lowest floor, point of entry, and floodproofing elevations. This survey shall be prepared, signed, and sealed by a land surveyor or professional engineer.

Sec. 15-151. Wetland Submittal.

1. The wetland submittal for a regulatory wetland that includes contiguous waters of DuPage less than 0.10 acre shall include:
 - a. A delineation of the wetlands consistent with the requirements for wetland delineation provided in Sections 15-134.1, 15-134.2, and 15-134.3 (a), (b), and (c) of this Ordinance; and
 - b. A completed joint application form (NCR Form 426, Protecting Illinois Waters) signed by the applicant or agent. If the agent signs, notification shall include a signed, written statement from the applicant designating the agent as its representative, or a Corps of Engineers jurisdictional determination letter; and
 - c. A wetland banking statement in accordance with Sections 15-135.5 and 15-136 of this Ordinance.
2. The wetland submittal for a critical wetland, or a regulatory wetland greater than 0.10 acre shall include:
 - a. A delineation of the wetlands consistent with the requirements for wetland delineation provided in Section 15-134 of this Ordinance; and
 - b. A characterization of the wetlands as either critical or regulatory; and
 - c. A mitigation plan meeting the requirements of Section 15-135 of this Ordinance, if mitigation is required; and
 - d. A plan for the continued management, operation, and maintenance of the mitigation measures, including the designation of the person or persons responsible for long term operation and maintenance and dedicated funding sources, if mitigation is required.
 - e. A completed joint application form (NCR Form 426, Protecting Illinois Waters) signed by the applicant or agent. If the agent signs, notification shall include a signed, written statement from the applicant designating the agent as its representative, or a Corps of Engineers jurisdictional determination letter.

Sec. 15-152. Riparian Environment Submittal.

The riparian environment submittal shall include:

1. An inventory of the functions of the riparian environments consistent with the requirements for riparian environments delineation provided in Subsection 15-137.2 of this Ordinance; and
2. A mitigation plan meeting the requirements of Section 15-137 of this Ordinance; and

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3. A plan for continued management, operation, and maintenance of the mitigation measures, including designation of the person or persons responsible for long term operational management and dedicated funding sources.

Sec. 15-153. Permit Fees.

1. A review and inspection fee schedule for Stormwater Management Permits in non-waiver communities, and in Special Management Areas for partial waiver communities, is attached to this Ordinance as Schedule A and by this reference incorporated into this Ordinance.
2. All permit review and inspection fees for development in non- waiver communities, and in Special Management Areas in partial waiver communities, shall be payable to the Department.
3. Waiver communities may set permit review and inspection fees for developments within their jurisdictions.

Sec. 15-154. Duration and Revision to Permits.

1. Permits expire December 31 of the third year following the date of permit issuance.
2. If the permitted activity has been started but is not completed by the expiration date of the permit, and the permittee intends to pursue the permitted activity, then the permittee may submit a written request that the expiration date be extended. Upon receipt of such request, the Director or the Administrator may extend the expiration date in maximum increments of three years for permitted activities outside Special Management Areas. Expiration dates for permitted activities in Special Management Areas may be extended in maximum three year increments provided the activity is in compliance with the then current requirements of this Ordinance or the applicable waiver community ordinance.
3. If, after permit issuance, the permittee decides to revise the approved plans, the permittee shall submit revised plans to the Director or the Administrator, along with a written request for approval. If the Director or the Administrator determines that the revised plans are in compliance with the then current requirements of this Ordinance or the applicable waiver community ordinance, an approval of the revised plans will be issued.

Sec. 15-155. through 15-165. Reserved.

ARTICLE 12. PROHIBITED ACTS.

Sec. 15-166. Prohibited Acts.

1. It shall be unlawful for any person to undertake any development within the County or a waiver community without first securing a Stormwater Management Permit as required by this Ordinance or the applicable waiver community ordinance.
2. It shall be unlawful for any person to violate, disobey, omit, neglect, or refuse to comply with, or to resist enforcement of, any provision of this Ordinance or the applicable waiver community ordinance or any condition of a Stormwater Management Permit required by this Ordinance or the waiver community ordinance.

Sec. 15-167. Prosecution of Violations.

Upon finding the existence of any violation of this Ordinance or a waiver community ordinance, the Director or the Administrator shall have the authority and duty to take or direct all actions necessary or appropriate to abate and redress such violation. The Director or the Administrator shall also initiate proceedings, as necessary, to enforce this Ordinance or the waiver community ordinance.

Sec. 15-168. through 15-175. Reserved.

ARTICLE 13. PERFORMANCE SECURITY.

Sec. 15-176. General Security Requirements.

1. As security to the County or the waiver community for the performance by the developer of the developer's obligations to complete the construction of any stormwater facilities required by the Stormwater Management Permit, to pay all costs, fees, and charges due from the developer pursuant to this Ordinance or the applicable waiver community ordinance, and to otherwise faithfully perform the developer's undertakings pursuant to this Ordinance or the applicable waiver community ordinance, the developer shall, prior to issuance of a Stormwater Management Permit:
 - a. Post a development security as provided in Section 15-177 of this Ordinance; and
 - b. Post an erosion and sediment control security as provided in Section 15-178 of this Ordinance, if a erosion and sediment control plan is required pursuant to Section 15-149 of this Ordinance.
2. The developer shall bear the full cost of securing and maintaining the securities required by this Section 15-176.

Sec. 15-177. Development Security.

1. A development security shall be posted and shall include:
 - a. A schedule, agreed upon by the developer and the Director or the Administrator, for the completion of the construction of any stormwater facilities required by the permit; and
 - b. An irrevocable letter of credit, or such other adequate security as the Director or the Administrator may approve, in an amount equal to not less than one hundred ten percent (110%) of the estimated probable cost to complete the construction of any stormwater facilities required by the Stormwater Management Permit, which estimated probable cost shall be approved by the Director or the Administrator; and
 - c. A statement signed by the applicant granting the Director or the Administrator the right to draw on the security and the right to enter the development site to complete required work in the event that work is not completed according to the work schedule; and
 - d. A statement signed by the applicant that the applicant shall indemnify the community and the Department for any additional costs incurred attributable to concurrent activities of or conflicts between the applicant's contractor and the community's or Department's remedial contractor at the site.
2. The security required by this Section 15-177 shall be maintained and renewed by the applicant, and shall be held in escrow by the Director or the Administrator until the conditions set forth in this Section 15-177 or other applicable provision are satisfied.

ARTICLE 13. PERFORMANCE SECURITY.

Sec. 15-176. through 15-180.

3. After approval of record drawings and final inspection by the Director or the Administrator, not more than ninety percent (90%) of the security provided for in this Section 15-177 or other applicable provision may be released. A minimum of ten percent (10%) of the security shall be retained for a period of time not to exceed:
 - a. One year after completion of construction of all stormwater facilities required by the permit if the development involves no wetland mitigation; or
 - b. Five years after completion of construction of all stormwater facilities required by the permit if the development involves wetland mitigation.

Sec. 15-178. Erosion and Sediment Control Security.

1. If an erosion and sediment control plan is required pursuant to Section 15-149 of this Ordinance, then an erosion and sediment control security shall be required. Such a security shall include:
 - a. An irrevocable letter of credit, or such other adequate security as the Director or the Administrator shall approve, in an amount equal to not less than one hundred ten percent (110%) of the estimated probable cost to install and maintain the erosion and sediment control measures, which estimated probable cost shall be approved by the Director or the Administrator; and
 - b. A statement signed by the applicant granting the Director or the Administrator, as applicable, the right to draw on the security and the right to enter the development site to complete erosion and sediment control measures in the event that such measures are not installed and maintained according to the established schedule.
2. The security required by this Section 15-178 shall be maintained and renewed by the applicant, and shall be held in escrow by the Director or the Administrator, as applicable, until the conditions set forth in this Section 15-178 are satisfied.
3. After establishment of vegetation, removal of all sediment from stormwater facilities, and final inspection and approval by the Director or the Administrator, as applicable, one hundred percent (100%) of the erosion and sediment control security shall be released.

Sec. 15-179. Letters of Credit.

1. Letters of credit posted pursuant to Sections 15-176, 15-177, and 15-178 of this Ordinance shall be in a form satisfactory to the Director or the Administrator, as applicable.
2. Each letter of credit shall be from a lending institution: (a) acceptable to the Director or the Administrator, as applicable, (b) having capital resources of at least ten million dollars (\$10,000,000), or such other amount acceptable to the Director or the Administrator; (c) with an office in the Chicago Metropolitan Area; and, (d) insured by the Federal Deposit Insurance Corporation.

ARTICLE 13. PERFORMANCE SECURITY.

Sec. 15-176. through 15-180.

3. Each letter of credit shall, at a minimum, provide that:
 - a. It shall not be canceled without the prior written consent of the Director or the Administrator; and
 - b. It shall not require the consent of the developer prior to any draw on it by the Director or the Administrator; and
 - c. If at any time it will expire within 45 or any lesser number of days, and if it has not been renewed, and if any applicable obligation of the developer for which its security remains uncompleted or is unsatisfactory, then the Director or the Administrator may, without notice and without being required to take any further action of any nature whatsoever, call and draw down the letter of credit and thereafter either hold all proceeds as security for the satisfactory completion of all such obligations or employ the proceeds to complete all such obligations and reimburse the County or the waiver community for any and all costs and expenses, including legal fees and administrative costs, incurred by the County or the waiver community, as the Director or the Administrator shall determine.
4. If at any time the Director or the Administrator determines that the funds remaining in the letter of credit are not, or may not be, sufficient to pay in full the remaining unpaid cost of all stormwater facility construction or erosion and sediment control measures, then, within ten (10) days following a demand by the Director or the Administrator, the developer shall increase the amount of the letter of credit to an amount determined by the Director or the Administrator to be sufficient to pay such unpaid costs. Failure to so increase the amount of the security shall be grounds for the Director or the Administrator to draw down the entire remaining balance of the letter of credit.
5. If at any time the Director or the Administrator determines that the bank issuing the letter of credit is without capital resources of at least ten million dollars (\$10,000,000), is unable to meet any federal or state requirement for reserves, is insolvent, is in danger of becoming any of the foregoing, or is otherwise in danger of being unable to honor such letter of credit at any time during its term, or if the Director or the Administrator otherwise reasonably deems the bank to be insecure, then the Director or the Administrator shall have the right to demand that the developer provide a replacement letter of credit from a bank satisfactory to the Director or the Administrator. Such replacement letter of credit shall be deposited with the Director or the Administrator not later than ten (10) days following such demand. Upon such deposit, the Director or the Administrator shall surrender the original letter of credit to the developer.
6. If the developer fails or refuses to meet fully any of its obligations under this Ordinance or the applicable waiver community ordinance, then the Director or the Administrator may, in his or her discretion, draw on and retain all or any of the funds remaining in the letter of credit. The Director or the Administrator thereafter shall have the right to take any action he or she deems reasonable and appropriate to mitigate the effects of such failure or refusal, and to reimburse the County or the waiver community from the proceeds of the letter of credit for all of its costs and expenses, including legal fees and administrative expenses, resulting from or incurred as a result of the developer's failure or refusal to fully meet its obligations under this Ordinance or the applicable waiver community ordinance. If the funds remaining in the letter of credit are insufficient to repay fully the County or

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the waiver community for all such costs and expenses, and to maintain a cash reserve equal to the required letter of credit during the entire time such letter of credit should have been maintained by the developer, then the developer shall, upon demand of the Director or the Administrator therefor, immediately deposit with the Director or the Administrator such additional funds as the Director or the Administrator determines are necessary to fully repay such costs and expenses and to establish such cash reserve.

Sec. 15-180. Long-Term Maintenance.

Subdivision site runoff storage areas, and stormwater facilities not located in dedicated rights-of-way, shall be granted or dedicated to and accepted by a public entity, or shall be conveyed by plat as undivided equal interests to each lot in the subdivision or to dedicated entities approved by the Director or the Administrator. Included in the dedication shall be a plan for continued management, operation, and maintenance of the stormwater facility, including designation of the person or persons responsible for long-term operational management and dedicated funding sources.

1. If title to the land underlying site runoff storage areas and stormwater facilities is conveyed by agreement to each of the lots in the subdivision, then:
 - a. A covenant on the face of the plat shall be provided; and
 - b. Subdivision property owners shall establish a property owner's association to provide for the maintenance of site runoff storage areas and stormwater facilities. The association shall be duly incorporated and the property owners' association agreement shall be recorded for all the lots in that subdivision; and
 - c. The proposed property owners' association by-laws and declaration shall provide for a long term maintenance agreement establishing:
 - (1) Title to the site runoff storage areas and storm water facilities to assure that each lot owner is responsible for a share of the cost of maintenance; and
 - (2) Payment of real estate property taxes for such areas to assure that site runoff storage areas and stormwater facilities are not sold to satisfy delinquent taxes; and
 - (3) Methods of perpetual maintenance, to assure that the standards of the plan for the site runoff storage areas and stormwater facilities are met. Maintenance methods shall be approved by the Director or the Administrator.
2. If title to land underlying the site runoff storage areas and stormwater facilities is conveyed by the plat to a public entity, then:
 - a. The face of the plat shall provide, if necessary, that an easement for public access for construction and maintenance purposes is reserved to the public entity; and

ARTICLE 13. PERFORMANCE SECURITY.

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- b. The public entity shall accept the dedication of the site runoff storage areas and stormwater facilities and provide for their perpetual maintenance, including capital expenses for repair and replacement.
3. If title to the land underlying the site runoff storage areas and stormwater facilities is conveyed by the plat to the owner of the land, then:
- a. The face of the plat shall provide an easement for access and maintenance purposes is reserved to the governmental unit having local jurisdiction over the Stormwater Management Plan for the area in which the property is located; and
 - b. The face of the plat shall provide the maintenance responsibilities including the schedule of perpetual maintenance, repair and replacement; and
 - c. The face of the plat shall stipulate an agreed right of the governmental unit having local jurisdiction over the Stormwater Management Plan for the area in which the property is located to come onto the property upon thirty (30) days written notice to correct any condition which causes the site runoff storage area not to function as hydraulically and hydrologically planned; and to demand payment for such costs or to place a lien against the property for the value of those costs.

Sec. 15-181. through 15-195. Reserved.

ARTICLE 14. ENFORCEMENT AND PENALTIES.

Sec. 15-196. Inspection and Maintenance Authority.

1. Pursuant to the authority granted by 55 ILCS 5/5-1104 & 5-1062 (1992), the County or a waiver community may, after thirty (30) days written notice to the owner or occupant, enter upon any lands or waters within the County for the purpose of inspecting or maintaining stormwater facilities or causing the removal of any obstruction to an affected watercourse.
2. The Director or the Administrator shall post the notice in a prominent place on the premises, and shall send by certified mail a copy of the notice to the property owner listed in the County property tax records. The notice shall:
 - a. State the method by which the stormwater facility will be cleaned or maintained; and
 - b. State the date upon which the proposed work will begin; and
 - c. Inform the property owner that the property owner may appeal the commencement date of the proposed maintenance work.

Sec. 15-197. Required Inspections.

1. Any development constructed pursuant to a Stormwater Management Permit shall be subject to periodic inspections by the Director or the Administrator to ensure conformity with permit provisions and conditions.
2. Unless otherwise provided by a valid and enforceable intergovernmental agreement, the Department shall inspect and monitor the construction and maintenance of mitigation measures prepared pursuant to Section 15-135 of this Ordinance for all mitigated wetlands authorized by a Stormwater Management Permit in a non-waiver or partial waiver community.

Sec. 15-198. Notice of Violations.

Whenever the Director or the Administrator determines that a violation of a permit exists, the Department or the Oversight Committee shall issue a notice of violation to the owner, developer, or person in control by posting a copy of the notice on the subject parcel and by mailing the notice to the owner, developer, or person in control. Such notice shall state the nature of the alleged violation and shall fix a date not less than ten (10) days after the date of the notice when the parcel or development will be reinspected. If the condition is not corrected upon reinspection, then, in addition to other remedies, the proper authorities of the County or the waiver community may institute any appropriate action or proceedings in the circuit court to restrain, correct, or abate such violation.

ARTICLE 14. ENFORCEMENTS AND PENALTIES.

Sec. 15-196. through 15-204.

Sec. 15-199. Revocation of Permits.

The Director or the Administrator may revoke a Stormwater Management Permit under any of the following circumstances:

1. When the application, plans, or other supporting documents required by this Ordinance or the waiver community ordinance reflect a false statement or misrepresentation as to material fact; or
2. When the permit holder fails to post or maintain security, execute covenants, or dedicate easements as required; or
3. Any violation of any relevant local, State, or Federal requirement.

Sec. 15-200. Stop-Work Order.

1. The Director or the Administrator, upon discovery of the existence of any of the circumstances established in Subsection 15-200.2 of this Ordinance, is authorized to issue an order requiring the suspension of the subject development. Such stop-work order shall be in writing, shall indicate the reason for its issuance, and shall order the action, if any, necessary to resolve the circumstances requiring the stop-work order. One copy of the stop-work order shall be posted on the property in a conspicuous place and one copy shall be delivered by mail or by personal delivery to the permit holder and to the owner of the property or his or her agent. The stop-work order shall state the conditions under which the subject development may be resumed.
2. A stop-work order shall be issued if the governmental unit having jurisdiction over Stormwater Management in that area is aware that:
 - a. Development is proceeding in a manner which creates imminent hazard of severe harm to persons or property on or off the site; or
 - b. Development has been accomplished in violation of a requirement of this Ordinance, or the waiver community ordinance, or a Stormwater Management Permit, or any other applicable law or regulation, and a period of longer than fifteen (15) calendar days has elapsed since written notice of the violation or noncompliance was posted on the property in a conspicuous place or given to the person conducting the development without the violation or noncompliance being corrected; or
 - c. Development for which a Stormwater Management Permit is required is proceeding without issuance of a Stormwater Management Permit. In such instance, the stop-work order shall indicate that the effect of the order terminates when the required Stormwater Management Permit is properly obtained.

ARTICLE 14. ENFORCEMENTS AND PENALTIES.

Sec. 15-196. through 15-204.

Sec. 15-201. Fines.

1. Any person who violates, disobeys, omits, neglects, or refuses to comply with, or who resists enforcement of, any provision of this Ordinance, the applicable waiver community ordinance, or any condition in any permit issued pursuant to this Ordinance or a waiver community ordinance, shall be subject to a fine not in excess of one thousand (\$1,000) for each offense. Each calendar day a violation continues to exist shall constitute a separate offense.
2. For the purposes of this Section 15-201, the owner, any occupant, or the developer and any contractor doing development work on the land shall be jointly and severally liable for any violation of this Ordinance or the waiver community ordinance.
3. The Committee or, in a full waiver community, the Oversight Committee shall request its appropriate legal counsel to prosecute such action as a petty offense pursuant to 730 ILCS 5/5-1-17 (1992); as hereafter amended; or according to other appropriate authority in law or in equity.

Sec. 15-202. Additional Remedies for Special Flood Hazard Areas.

1. Pursuant to 55 ILCS 5/5-12003 (1992), upon the unauthorized excavation or filling of a special flood hazard area in an unincorporated area of the county, by any person, the County may petition the circuit court for an order to remove the fill and restore the parcel to its natural elevation in order to lessen or avoid the imminent threat to public health, safety, or welfare and damage to property resulting from the accumulation or runoff of stormwater or floodwater.
 - a. When, after a diligent search, the identity or whereabouts of the owner of any such parcel, including lien holders of record, are not ascertainable, notice mailed to the person in whose name the real estate was last assessed for taxes, constitutes sufficient notice under this Section 15-202.
 - b. The cost of removal of fill and restoration incurred by the County shall be recoverable from the owner of such real estate and shall be a lien against the property.
 - c. Such lien shall be superior to all other prior existing liens and encumbrances, except taxes; provided that within sixty (60) days after such removal of fill or restoration of the parcel to its natural elevation, the County Board shall file a notice of lien of such cost and expense incurred in the office of the County Recorder.
 - d. Such notice shall include a sworn statement setting out:
 - (1) A description of the real estate sufficient for identification thereof; and
 - (2) The amount of money representing the cost and expense incurred; and
 - (3) The date on which the cost was incurred.

ARTICLE 14. ENFORCEMENTS AND PENALTIES.

Sec. 15-196. through 15-204.

- e. Such lien may be enforced by proceedings of foreclosure as in the case of mortgages or mechanics' liens, which action shall be commenced within three years after the date of filing of the notice of lien.
 - f. Upon payment of the costs and expenses by the owner or persons interested in the property, the lien shall be released by the County or the waiver community and the release may be filed of record.
2. Each waiver community shall utilize all available means at law or in equity to enforce the Special Flood Hazard Area provisions of its applicable ordinance.

Sec. 15-203. Legal and Equitable Relief.

In the enforcement of this Ordinance or the applicable waiver community ordinance, the Director or the Administrator shall have the authority to institute, or cause to be instituted, in the name of the County or the waiver community, any and all actions, legal or equitable, including appeals, that are required for the enforcement of this Ordinance or the applicable waiver community ordinance.

Sec. 15-204. Injunctive Relief.

In circumstances of substantial danger to the environment, to the public health and welfare, or to the livelihood of any person, the Director or the Administrator shall have the authority to cause to be instituted a civil action for an immediate injunction to halt any discharge or other activity causing or contributing to the danger, or to require such other action as may be necessary.

Sec. 15-205. through 15-225. Reserved.

ARTICLE 15. APPEALS.

Sec. 15-226. Right to Appeal.

1. Any person directly aggrieved by any decision, order, requirement, or determination of the Director or the Administrator made pursuant to an interpretation of this Ordinance or the applicable community ordinance shall have the right to appeal such action directly to the Committee or the Oversight Committee; provided, however, that all decisions made by the Director or the Administrator pursuant to Article 14 of this Ordinance shall be deemed final and not appealable, except as otherwise specifically provided in Subsection 15-196.2 of Article 14.
2. Every applicant for an appeal shall notify the Committee or the Oversight Committee in writing of the decision being appealed, which notice shall include a short, plain statement containing the reasons why the decision is being appealed and how the applicant has been directly aggrieved by the action taken.
3. Upon receipt of such a notice of appeal, the Committee or the Oversight Committee shall set a date for a public hearing before the Committee or the Oversight Committee. Such public hearing shall commence not fewer than fourteen (14) days nor more than thirty (30) days after the date on which a properly prepared notice of appeal was received. The applicant shall be promptly notified of the public hearing date.
4. A public hearing shall be set, noticed, and conducted by the Committee in accordance with the provisions of Section 15-256 of this Ordinance.
5. The Committee or the Oversight Committee shall decide the appeal within sixty (60) days after the conclusion of the public hearing. All decisions on appeals shall be in writing and shall include a statement of the reasons for the decision. The failure of the Committee or the Oversight Committee to act within sixty (60) days shall be deemed to be a decision denying the appeal.
6. The applicant may appeal the decision of the Committee to the County Board by filing a notice thereof in the form required by Subsection 15-226.2 of this Ordinance with the County Board within fourteen (14) days after the date of decision by the Committee. Failure to properly file such notice shall render final the decision of the Committee.
7. Within thirty-five (35) days after receipt of a properly prepared and filed notice of appeal, the County Board shall, without hearing, affirm, reverse, or modify the decision of the Committee. The failure of the County Board to act within thirty-five (35) days shall be deemed to be a final decision of the County Board denying the appeal.
8. The decision of the County Board shall in all instances be considered a final decision.

Sec. 15-227. through 15-235. Reserved.

ARTICLE 15. APPEALS.

Sec. 15-226. through 15-226.

ARTICLE 16. VARIANCES.

Sec. 15-236. Authority; Applications; Standards.

1. The County Board in non-waiver communities or the corporate authorities of the waiver community shall have the authority to grant variances from the requirements of this Ordinance, but only in compliance with the procedures set forth in this Section 15-236.
2. The variance procedure is intended to provide a narrowly circumscribed means by which relief may be granted to allow development when the requirements of this Ordinance or the applicable waiver community ordinance place an undue and particular hardship on a specific developer.
3. Variance petitions may be filed either by the owner or by the developer of land specified in the application.
4. The petition for a variance shall accompany or follow an application for a Stormwater Management Permit including all necessary submittals.
5. All variance petitions filed pursuant to this Section 15-236 shall be filed with the Director or the Administrator.
6. All variance petitions filed pursuant to this Section 15-236 shall be on forms supplied by the Director or the Administrator and shall be filed in such number of duplicate copies as the Director or the Administrator may designate by administrative order.
7. Every variance petition filed pursuant to this Section 15-236 shall provide the following information:
 - a. The owner's or developer's signed consent to the filing of the petition; and
 - b. The names and addresses of all professional consultants, if any, advising the petitioner with respect to the petition; and
 - c. The name and address and the nature and extent of any economic or family interest of any officer or employee of the County in non-waiver communities, or the local municipality in a waiver community, as to: the owner, the petitioner, or the subject property or development; and
 - d. The addresses and legal description of the subject property or development; and
 - e. The specific feature or features of the proposed construction or development that require a variance; and
 - f. The specific provision of this Ordinance or the waiver community ordinance from which a variance is sought and the precise variation therefrom being sought; and
 - g. A statement of the characteristics of the subject property or development that prevent compliance with the provisions of this Ordinance or the waiver community ordinance; and

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- h. A statement of the minimum variance of the provisions of this Ordinance or the waiver community ordinance that would be necessary to permit the proposed construction or development; and
 - i. A statement of how the variance sought satisfies the standards set forth in Subsection 15-236.10 of this Ordinance.
8. No public hearing will be scheduled on a variance petition unless the petition is filed in proper form and number and contains all required information.
9. Whenever supplemental data in connection with a previously filed variance petition is required or offered by the applicant, it shall be submitted at least five (5) days prior to the date on which it is to be considered at a hearing or acted upon in connection with such petition. The filing of such data shall, in the discretion of the body hearing the petition, be cause to delay a requested or scheduled hearing date.
10. The Committee or the Oversight Committee shall consider, and the County Board or the corporate authorities of the waiver community may grant, such petition for a variance only when it is consistent with the general purpose and intent of this Ordinance or the waiver community ordinance and when the development meets the requirements specified in Section 15-112 of this Ordinance as well as the following conditions:
- a. Granting the variance shall not alter the essential character of the area involved, including existing stream uses; and
 - b. Carrying out the strict letter of the provisions of this Ordinance or the waiver community ordinance would create an undue or particular hardship or difficulty on a specific developer or owner; and
 - c. The relief requested is the minimum necessary and there are no means other than the requested variance by which the alleged hardship can be avoided or remedied to a degree sufficient to permit the reasonable continuation of the development; and
 - d. The applicant's circumstances are unique and do not represent a general condition or problem; and
 - e. The subject development is exceptional as compared to other developments subject to the same provision; and
 - f. A development proposed for a Special Management Area could not be constructed if it were limited to areas outside the Special Management Area.
11. No variance shall be granted for any development in the regulatory floodway, regulatory wetlands, and critical wetlands from any provision of this Ordinance or a waiver community ordinance the effect of which variance would be to create regulation less restrictive or stringent than federal and/or

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state required minimum standards for development in such areas. Subject to this standard, a variance may be granted in accordance with this Section 15-236 from provisions of this Ordinance or a waiver community ordinance more restrictive or stringent than the federal and/or state required minimum standards for development in such areas.

12. When a variance from the requirements of this Ordinance or the waiver community ordinance would lessen the degree of protection to a structure, the Director or the Administrator shall notify the applicant that the variance, if granted, may result in increased rates for flood insurance.
13. The Director or the Administrator shall give written notice of any variance petition, including the date and time of the public hearing, to the Committee, the Director, and all watershed planning area community Administrators. Such notice shall be sent no less than twenty-one (21) days in advance of the date of the public hearing by regular U.S. mail or its equivalent. In addition, the permit application and variance petition including all permit submittals and support documentation shall be sent to the Director.

Sec. 15-237. Public Hearing Required.

A public hearing shall be set, noticed, and conducted by the Committee or the Oversight Committee in accordance with the provisions of Section 15-256 of this Ordinance.

Sec. 15-238. Review and Recommendation.

1. The Director or the Administrator shall review all requests or petitions for a variance and shall present written findings of the review to the Committee or the Oversight Committee.
2. Within thirty-five (35) days after the close of the public hearing, the Committee or the Oversight Committee shall make a written recommendation to the County Board or the corporate authorities of the waiver community to grant or deny the variance petition. The failure of the Committee or the Oversight Committee to act within thirty-five (35) days shall be deemed to be a recommendation to deny the variation.
3. The written recommendation of the Committee or the Oversight Committee whether to grant or deny the requested variance shall be accompanied by written findings of fact specifying the reasons for the decision, which written findings shall be distributed to the members of the County Board or the corporate authorities of the waiver community before the County Board or the corporate authorities of the waiver community votes to grant or deny the variance petition.

Sec. 15-239. Decision.

The County Board or the corporate authorities of the waiver community shall grant the variation, grant the variation with modifications or conditions, or deny the variation within forty-five (45) days after receipt of the recommendation of the Committee or the Oversight Committee. The failure of the County Board or the corporate authorities of the waiver community to act within forty-five (45) days, or such additional time as the applicant may agree, shall be deemed to be a decision denying the variation.

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Sec. 15-240. Conditions.

1. A variance less than or different from that requested may be granted when the record supports the applicant's right to some relief but not to the relief requested.
2. The County Board or the corporate authorities of the waiver community may impose such specific conditions and limitations concerning any matter relating to the purposes and objectives of this Ordinance or the waiver community ordinance on the development benefited by a variance as may be necessary or appropriate.
3. Whenever any variance authorized pursuant to this Ordinance or the waiver community ordinance is made subject to conditions and limitations to be met by the developers, the applicant shall, upon meeting such conditions, file an affidavit with the Director or the Administrator so stating.
4. For any variance to Section 15-114, a fee shall be required pursuant to Section 15-115 to compensate for any site runoff storage not being provided.

Sec. 15-241. through 15-255. Reserved.

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Sec. 15-236. through 15-240.

ARTICLE 17. MISCELLANEOUS PROVISIONS.

Sec. 15-256. Public Hearings.

1. When the provisions of this Ordinance or the waiver community ordinance require a public hearing in connection with any application, petition, or appeal, the Committee or the Oversight Committee shall, upon receipt of a properly completed application, petition, or notice, fix a reasonable time and place for such hearing or meeting; provided, however, that such hearing or meeting shall be commenced no later than sixty (60) days, and shall be concluded no later than one hundred twenty (120) days, following the submission of the subject application, or petition, unless the hearing or meeting agenda of the body is completely committed during that time.
2. All hearings shall be open to the public and shall be held before the Committee or the Oversight Committee.
3. The Committee or the Oversight Committee shall cause notice to be given of public hearings in the form and manner and to the persons herein specified.
4. Such notice shall contain a description of the subject matter to be heard or considered at the hearing, the address or particular location of the subject development, and the time, place, and date of the hearing. The notice shall also contain a reference to the particular sections of this Ordinance or the waiver community ordinance involved.
5. Notice of every hearing shall be given by mail or personal delivery to the applicant or petitioner. Notice by mail shall be mailed no fewer than fourteen (14) days in advance of the hearing by regular U.S. mail, except as otherwise specifically provided in this Ordinance or the waiver community ordinance.
6. The Committee or the Oversight Committee shall publish notice of the public hearing at least once, not less than fourteen (14) days before the date for the hearing, in a newspaper of general circulation in the geographic area where the property that is the subject of the hearing is located.
7. Any interested person may appear and testify at a public hearing, either in person or by a duly authorized agent or attorney, and may submit documentary evidence; provided, however, that the Committee, and the Oversight Committee, may exclude irrelevant, immaterial, or unduly repetitious evidence.
8. Subject to the discretion of the Committee, and the Oversight Committee, the applicant or petitioner, or any other party to the hearing, may be allowed any or all of the following rights:
 - a. To present witnesses on their behalf.
 - b. To cross-examine all witnesses testifying in opposition to the application, petition, or appeal.
 - c. To examine and reproduce any documents produced at the hearing.

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- d. To have subpoenas issued by the body in charge of the hearing as may be provided by Illinois law for persons to appear at the hearings and for examination of documents by the person requesting the subpoena either before or during the hearing, where such persons or documents are shown to have a substantial evidentiary connection with:
 - (1) The development to which the request applies; or
 - (2) Facts that would support or negate the legal standards for granting or denying the request or appeal.
- e. To a continuance, upon request, for the purpose of presenting evidence to rebut evidence introduced by any other person.

In determining whether to grant or withhold such rights, the discretion of the Committee, and the Oversight Committee, shall be governed by the goal of securing all information and opinion relevant and material to its deliberations. Such rights shall not be granted, however, when undue and unwarranted delay would result or when to do so would tend to produce no new evidence to aid the hearing body in reaching its decision.

- 9. The Committee, and the Oversight Committee, may at any time, on its own motion or at the request of any person, adjourn the hearing for a reasonable time and to a fixed date, time, and place, for the purpose of giving further notice, taking further evidence, gathering further information, deliberating further, or for such other reason as the Committee, and the Oversight Committee, may find sufficient. Proper notice of such a recess shall be given to all parties to the hearing, and any other person designated by the Committee, and the Oversight Committee.
- 10. All testimony at every hearing shall be given under oath.
- 11. Any person may at any time prior to the commencement of a hearing hereunder, or during such hearing, or within such time as may be allowed by the Committee, and the Oversight Committee, following such hearing, submit written statements in support of or in opposition to the application, petition, or appeal being heard.
- 12. All other matters pertaining to the conduct of hearings shall be governed by the provisions of this Ordinance or the waiver community ordinance pertaining to, and the rules promulgated by, the Committee or the Oversight Committee.
- 13. The record of the public hearing shall include:
 - a. All notices and responses thereto; and
 - b. A transcript or notes, if any, of all oral testimony received, the cost of which transcription shall be the responsibility of the party requesting that the record be transcribed, and all written information, if any, submitted by parties or the public; and
 - c. Any recommendation or report by the hearing body; and

- d. All Department memoranda or data submitted to the hearing body in connection with its consideration of the subject matter of the hearing.

14. The decision or recommendation of the Committee or the Oversight Committee shall be in writing and shall include findings of fact specifying the reasons for the decision. The copy of the written decision shall be provided to the applicant or petitioner and transmitted to the County Board or the corporate authorities of a waiver community.

Sec. 15-257. Severability.

1. The several provisions of this Ordinance or the waiver community ordinance shall be severable in accordance with the following rules:
 - a. If any court of competent jurisdiction shall adjudge any provision of this Ordinance or the waiver community ordinance invalid, such judgment shall not affect any other provisions of this Ordinance or the waiver community ordinance.
 - b. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this Ordinance, or the waiver community ordinance, to a particular parcel of land, a particular structure, or a particular development, such judgment shall not affect the application of said provisions to any other land, structure, or development.
2. All such unaffected provisions of this Ordinance or the waiver community ordinance shall remain in full force and effect.

Sec. 15-258. Most Restrictive Provisions Apply.

The provisions of this Ordinance and all applicable waiver community ordinances shall be interpreted to be cumulative of, and to impose limitations in addition to, all other ordinances, laws, codes, and regulations in existence or which may be passed governing any subject matter of this Ordinance or the waiver community ordinances. To the greatest extent possible, the provisions of this Ordinance and the waiver community ordinances shall be construed to be consistent with, and not in conflict with, the provisions of such other ordinances, laws, codes, and regulations, and with each other, to the end that all such provisions may be given their fullest application.

This Ordinance is intended to repeal the original ordinance or resolution which was adopted to meet the National Flood Insurance Program regulations, but is not intended to repeal any resolution which the applicable governmental entity passed in order to establish initial eligibility for the National Flood Insurance Program.

Sec. 15-259. Amendments.

This Ordinance may be amended in accordance with the adopted rules of the Committee and the DuPage County Board. Amendments to this Ordinance shall only take effect after a public hearing is held before the Committee and the amendment is adopted by the DuPage County Board.

Sec. 15-260. Effective Date.

This Ordinance shall take effect for all purposes, and its effective date shall be, February 15, 1992.

Sec. 15-261. through 15-265. Reserved.

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