# KANE COUNTY

## STORMWATER MANAGEMENT ORDINANCE



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# Chapter 9 STORMWATER MANAGEMENT

# Article 9 STORMWATER MANAGEMENT

## ARTICLE I. AUTHORITY, PURPOSE AND DEFINITIONS

#### 9-1: STATUTORY AUTHORITY:

- A. This chapter shall be known, and may be cited, as the KANE COUNTY STORMWATER MANAGEMENT ORDINANCE.
- B. The Kane County board adopts this chapter pursuant to its authority to regulate stormwater management and govern the location, width, course, and release rate of all stormwater runoff channels, streams, and basins in the county, in accordance with the Kane County comprehensive countywide stormwater management plan. The statutory authority for this chapter is contained in 55 Illinois Compiled Statutes 5/5-1041, 5/5-1042, 5/5-1049, 5/5-1062, 5/5-1063, 5/5-1104, 5/5-12003 and 5/5-15001 et seq., and 415 Illinois Compiled Statutes 5/43, and other applicable authority, all as amended from time to time.
- C. As applicable, the municipalities within the county adopt and enforce this chapter pursuant to 55 Illinois Compiled Statutes 5/5-1062; 65 Illinois Compiled Statutes 5/1-2-1, 5/11-12-12, 5/11-30-2, 5/11-30-8, and 5/11-31-2; and 615 Illinois Compiled Statutes 5/5 et seq., including 5/18g. (Ord. 01-338, 10-9-2001)

#### 9-2: KANE COUNTY COMPREHENSIVE COUNTYWIDE STORMWATER MANAGEMENT PLAN:

The Kane County comprehensive countywide stormwater management plan was recommended by the Kane County stormwater management committee and adopted by the county board, after review by the appropriate agencies and a public hearing, by ordinance 98-251 on October 13, 1998. The plan is available for public inspection in the office of the Kane County clerk. (Ord. 01-338, 10-9-2001)

#### 9-3: PURPOSES OF THIS CHAPTER:

- A. The principal purpose of this chapter is to promote effective, equitable, acceptable and legal stormwater management measures by establishing reasonable rules and regulations for development. Other purposes of this chapter include:
  - 1. Managing and mitigating the effects of urbanization on stormwater drainage throughout Kane County through planning, appropriate engineering practices and proper maintenance;
  - 2. Protecting the public health and safety and reducing the potential for loss of human life and property from flood damage;
  - 3. Protecting the public from the degradation of water quality on a watershed basis;
  - 4. Preserving and enhancing the natural hydrologic and hydraulic functions and natural characteristics of watercourses

- and floodplains to protect water quality, aquatic habitats, reduce flood damage, reduce soil erosion, provide recreational and aesthetic benefits and enhance community and economic development;
- 5. Controlling sediment and erosion in and from stormwater facilities, developments, agricultural fields, and construction sites and reducing and repairing stream bank erosion;
- 6. Requiring planning for development to provide for water resource management, taking into account natural features such as vegetation, wildlife, waterways, wetlands and topography in order to reduce the probability that new development will create unstable conditions susceptible to erosion or degrade the quality of ground and surface waters;
- 7. Protecting environmentally sensitive areas from deterioration or destruction by private or public actions;
- 8. Protecting and enhancing the quantity and quality of potable groundwater and potable surface water supplies;
- Requiring appropriate and adequate provision for site runoff control, especially when the land is developed with a large amount of impervious surface;
- 10. Requiring the design and evaluation of each site stormwater management plan to be consistent with watershed capacities;
- 11. Encouraging the use of stormwater storage and infiltration of stormwater in preference to stormwater conveyance;
- 12. Lessening the taxpayers' burden for flood related disasters, repairs to flood damaged public facilities and utilities, and flood rescue and relief operations;
- 13. Meeting the IDNR-OWR floodway permitting requirements delineated in 615 Illinois Compiled Statutes 5/18g ("an act in relation to the regulation of the rivers, lakes, and streams of the state of Illinois" (1992)), as amended from time to time:
- 14. Complying with the rules and regulations of the national flood insurance program thereby making federally subsidized flood insurance available to persons throughout the county;
- 15. Minimizing conflicts and incompatibilities between agricultural and urban drainage systems and maintaining agriculture as a viable and productive land use;
- 16. Encouraging cooperation and consistency in stormwater management activities within and between units of government having floodplain and stormwater management jurisdiction;
- 17. Restricting development in the floodplain to facilities that will not adversely affect the potential for flood damage;
- 18. Protecting and improving surface water quality and promoting beneficial uses of ponds, lakes, wetlands, rivers and streams by reducing point source and nonpoint source discharges of pollutants;
- 19. Requiring regular, planned maintenance of stormwater management facilities;
- 20. Requiring control of stormwater quantity and quality at the most site specific or local level and preventing unauthorized or unmitigated discharge of flow off site;
- 21. Protecting the quantity and quality of wetlands;
- 22. 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;
- 23. Providing a procedure by which communities throughout the county may petition the committee for authority to implement and enforce the provisions of this chapter; and
- 24. Requiring strict compliance with and enforcement of this chapter.
- B. The purposes of this chapter are consistent with and supersede the plan. (Ord. 01-338, 10-9-2001)

#### 9-4: REFERENCE TO WATERSHED PLANS:

- A. This chapter 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.
- B. Individual watershed plans or interim watershed plans which recognize the unique attributes of each watershed may be prepared and periodically updated for the major watersheds to identify management projects and establish criteria for development.
- C. Watershed plans or interim watershed plans may be adopted which contain more or less stringent requirements than those of this chapter. Watershed specific requirements established in such watershed plans or interim watershed plans will be set forth in sections 9-6 through 9-25 of this chapter. (Ord. 01-338, 10-9-2001)

#### 9-5: DEFINITIONS:

In this chapter:

ADID: Advanced identification of wetlands and aquatic resources under a study authorized and funded by the United States environmental protection agency and adopted by the county.

ADMINISTRATOR: The person designated by the permitting authority to administer and enforce this chapter.

AGRICULTURAL LAND: Land predominantly used for agricultural purposes.

AGRICULTURAL SUBSURFACE DRAINAGE: A water management technique driven by economic and safety concerns, where the rate at which surplus groundwater should be removed is determined primarily by the moisture/air requirements of the vegetation.

APPLICABLE ENGINEERING PRACTICE: Procedures, methods or materials recommended in standard engineering textbooks or references as suitable for the intended purpose.

APPLICANT: Any person who submits an application for a permit under this chapter.

APPROPRIATE USE: A use of the regulatory floodway permitted under article IV of this chapter.

BFE OR BASE FLOOD ELEVATION: The highest water surface elevation that can be expected during the base flood.

BMP OR BEST MANAGEMENT PRACTICES: A measure used to control the adverse stormwater related effects of development, and includes structural devices (for example, swales, filter strips, infiltration trenches, and site runoff storage basins), designed to remove pollutants, reduce runoff rates and volumes, and protect aquatic habitats, and nonstructural approaches, such as public education efforts to prevent the dumping of household chemicals into storm drains.

BASE FLOOD: The flood having a one percent (1%) probability of being equaled or exceeded in a given year.

BUFFER: An area of predominantly deeply rooted native vegetated land adjacent to channels, wetlands, lakes or ponds for the purpose of stabilizing banks, reducing contaminants, including sediments, in stormwater that flows to such areas.

BUILDING: A structure that is principally aboveground and is enclosed by walls and a roof; a building includes a gas or liquid storage tank, a manufactured home or prefabricated building.

BULLETIN 70: "Frequency Distributions And Hydroclimatic Characteristics Of Heavy Rainstorms In Illinois", by Floyd Huff and James Angel of the Illinois state water survey (1989).

CLOMA OR 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 floodplain outside the regulatory floodway and having no impact on

the existing regulatory floodway or base flood elevations.

CLOMR OR 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.

CERTIFIED COMMUNITY: A community certified under article XI of this chapter.

CHANNEL: Any river, stream, creek, brook, branch, natural or artificial depression, ponded area, flowage, slough, ditch, conduit, culvert, gully, ravine, wash, or natural or manmade drainageway which has a definite bed and bank or shoreline, in or into which surface, groundwater, effluent, or industrial discharges flow either perennially or intermittently.

CHANNEL MODIFICATION: Alteration of a channel by changing the physical dimensions or materials of its bed or banks, and includes damming, riprapping (or other armoring), widening, deepening, straightening, relocating, lining, and significant removal of bottom or woody rooted vegetation, but does not include the clearing of debris or removal of trash or dredging to previously documented thalweg elevations and sideslopes.

COMMERCIAL: Having the qualities associated with the transaction of business with the public at large where the traffic generated warrants construction of site improvements.

COMMITTEE: The Kane County stormwater management committee.

COMMUNITY: The county or any municipality within the county.

COMPENSATORY STORAGE: An excavated, hydrologically and hydraulically equivalent volume of storage created to offset the loss of existing flood storage.

CONTROL STRUCTURE: A structure designed to control the rate of flow that passes through the structure given a specific upstream and downstream water surface elevation.

COUNTY: Kane County, Illinois.

CRITICAL DURATION: The duration of a storm event that results in the greatest peak runoff.

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

DEPARTMENT: The Kane County department of environmental management.

DEPRESSIONAL STORAGE: The volume contained below a closed contour on a one foot (1') contour interval topographical map, the upper elevation of which is determined by the invert of a surface gravity outlet.

DEVELOPER: A person who creates or causes a development.

DEVELOPMENT: Any manmade change to the land and includes:

- A. The construction, reconstruction, or replacement of a building or an addition to a building;
- B. The installation of utilities, construction of roads, bridges or similar projects;
- C. Drilling and mining;
- D. The construction or erection of levees, walls, fences, dams, or culverts;
- E. Channel modifications, filling, dredging, grading, excavating, paving, or other nonagricultural alterations of the ground

surface;

- F. The storage of materials and the deposit of solid or liquid waste;
- G. The installation of a manufactured home on a site, the preparation of a site for a manufactured home, or the placement of a recreational vehicle on a site for more than one hundred eighty (180) days;
- H. Any wetland impact; and
- Any other activity of man that might change the direction, height, or velocity of flood or surface water, including the
  extensive removal of vegetation.

Development, however, does not include:

- A. Maintenance and repair of existing buildings or facilities;
- B. Repair or replacement of an existing parking lot outside the floodplain provided that no new impervious surfaces are added, there is no increase in peak flows, and there is no change in the location of the stormwater discharge;
- C. Resurfacing of streets and highways outside the floodplain;
- D. Resurfacing of publicly owned streets and highways within the floodplain provided the difference between the elevation of the road surface after resurfacing and the elevation of the road surface on the effective date hereof is not more than two inches (2");
- E. For agricultural uses, maintenance of existing drainage systems for the limited purpose of maintaining cultivated areas and crop production; or
- F. For agricultural uses, improvements undertaken pursuant to a written NRCS conservation plan.

DIRECTOR: The director of the department.

DRAINABLE WATER: Water that readily drains from soil under the influence of gravity.

DRAINAGE AREA: The land area above a given point that may contribute runoff flow at that point from rainfall.

EFFECTIVE DATE: January 1, 2002.

ELEVATION CERTIFICATE: A form published by FEMA used to certify the base flood elevation and the lowest elevation of usable space to which a building has been constructed.

EPHEMERAL STREAM: A stream whose bed elevation does not intersect the groundwater table and carries flow only during and immediately after a runoff producing rainfall event.

EROSION: The process whereby soil is detached by the action of water or wind.

EXISTING MANUFACTURED HOME PARK: A development for the placement of manufactured homes for which, at a minimum, the installation of utilities, the construction of streets, and either the final site grading or the pouring of concrete pads was completed before the effective date.

EXPANSION OF EXISTING MANUFACTURED HOME PARK: The installation of utilities, or the construction of streets, or final site grading, or pouring of concrete pads in connection with the development of additional lots within an existing

manufactured home park.

FBFM OR FLOOD BOUNDARY AND FLOODWAY MAP: A floodplain management map published by FEMA that depicts, based on detailed analysis, the boundaries of the base flood, the 0.2 percent probability flood and the floodway.

FEMA: The federal emergency management agency and its regulations at 44 CFR 59-79, effective September 29, 1989, as amended.

FIRM OR FLOOD INSURANCE RATE MAP: The current version of a map published by FEMA on which FEMA has delineated both the special flood hazard areas and the risk premium zones applicable to a community, together with any amendments, additions, revisions or substitutions made thereto or therefor by FEMA at any time.

FIS OR FLOOD INSURANCE STUDY: The current version of an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations (or an examination of flood related erosion hazards) for a community adopted and published by FEMA, together with any amendments, additions, revisions or substitutions made thereto or therefor by FEMA at any time.

FPE OR FLOOD PROTECTION ELEVATION: The BFE plus two feet (2') of freeboard for structures within the plan limits of the BFE; outside the plan limits, the water table or 100-year design water surface elevation of any adjacent stormwater facility, whichever is higher, plus two feet (2') of freeboard; along the Fox River and within its backwater zone the BFE plus three feet (3') of freeboard.

FQI OR FLORISTIC QUALITY INDEX: The parameter related to the number of native plant species present, as defined by Floyd Swink and Gerald Wilhelm in "Plants Of The Chicago Region", 4th edition (1994) or by Gerald Wilhelm and Linda Masters in "Floristic Quality Assessment And Application Computer Programs For The 22-County Chicago Region", conservation design forum (2000).

FARMED WETLANDS: Wetlands that have been identified as farmed wetlands in accordance with the "National Food Security Act Manual" (NFSAM) methodology and the United States army corps of engineers - Chicago district methodology.

FLOOD: A general and temporary condition of partial or complete inundation of normally dry land areas from overflow of inland or tidal waves or the unusual and rapid accumulation of runoff of surface waters from any source.

FLOOD FREQUENCY: A frequency normally expressed as a period of years, based upon a percent chance of occurrence in any given year from statistical analysis, during which a flood of a stated magnitude may be expected to be equaled or exceeded, as in the 2-year flood frequency has a fifty percent (50%) chance of occurrence in any given year and the 100-year flood frequency has a one percent (1%) chance of occurrence in any given year.

FLOOD FRINGE: That portion of the floodplain outside of the designated floodway.

FLOODPLAIN: That land typically adjacent to a body of water with ground surface elevations at or below the base flood or the 100-year frequency flood elevation and includes detached special flood hazard areas, ponding areas and the like.

FLOODPLAIN VIOLATION: The failure of a structure or other development to be in compliance with the floodplain management regulations of this chapter, including the failure to have the elevation certificate, other certificates, or other evidence of compliance required in article IV of this chapter until such time as the required documentation is provided.

FLOODPROOF: Any combination of structural and nonstructural additions, changes or adjustments to structures or property which reduce or eliminate flood damage to real estate, water and sanitary facilities, structures and their contents.

FLOODPROOFING CERTIFICATE: A form published by FEMA that is used to certify that a building has been designed and constructed to be structurally dry floodproofed to the FPE.

FLOODWAY CONVEYANCE: The measure of the flow carrying capacity of the floodway section and is defined using Manning's equation,  $K=1.49~AR^2/_3/n$ , where "n" is Manning's roughness factor, "A" is the effective area of the cross section, and "R" is the ratio of the wetted area to the wetted perimeter.

FLOODWAY OR DESIGNATED FLOODWAY: The channel, on stream lakes and that portion of the floodplain adjacent to a stream or channel which is needed to store and convey the critical duration 100-year frequency flood discharge with no more than a 0.1 foot increase in flood stage due to the loss of flood conveyance or storage, and no more than a ten percent (10%) increase in velocities.

FREEBOARD: An increment of height added to the BFE, groundwater table or 100-year design water surface elevation to provide a factor of safety for uncertainties in calculations, unknown local conditions, wave action and unpredictable effects such as those caused by ice or debris jams.

FUNCTIONAL: A facility performs its primary purpose but may not be completed.

GROUNDWATER: Water that is located within soil or rock below the surface of the earth.

GROUNDWATER CONTROL SYSTEM: A designed system which may consist of tiles, underdrains, French drains or other appropriate stormwater facilities whose purpose is to lower the groundwater table to a predictable elevation throughout the year.

HEMIMARSH: An isolated wetland dominated on the edges by tall emergent vegetation with an interior area of shallow open water.

HIGHEST ADJACENT GRADE: The highest natural elevation of the ground surface next to the proposed walls of a structure prior to construction.

HISTORIC STRUCTURE: A structure or site that is: a) listed individually in the national register of historic places, or preliminarily determined by the secretary of the interior as meeting the requirements for individual listing in the national register; b) certified or preliminarily determined by the secretary of the interior as contributing to a historic district or a district preliminarily determined by the secretary to qualify as a registered historic district; c) individually listed on the state inventory of historic places by the Illinois historic preservation agency; or d) individually listed on a local inventory of historic places that has been certified by the Illinois historic preservation agency.

HYDRAULICALLY CONNECTED IMPERVIOUS AREA: Those areas of concrete, asphalt and gravel that, along with building roof surfaces, convey flows directly to an improved drainage system consisting of storm sewers or paved channels and includes roadways drained by curb and gutter and storm sewers and driveways hydraulically connected to those roadways, but does not include roof surfaces which discharge to unpaved surfaces which absorb and filter stormwater runoff nor roadways whose primary conveyance is through open ditches and swales.

HYDRAULICALLY EQUIVALENT COMPENSATORY STORAGE: Compensatory storage either adjacent to the floodplain fill or not located adjacent to the development but which can be shown by hydrologic and hydraulic analysis to be equivalent to compensatory storage located adjacent to the development.

HYDRAULICS: The science and study of the mechanical behavior of water in physical systems and processes.

HYDROLOGICALLY DISTURBED: An area where the land surface has been cleared, grubbed, compacted or otherwise modified that changes runoff, volumes, rates or direction.

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.

IDNR-OWR: The Illinois department of natural resources, office of water resources, or its duly authorized designee.

INTERIM WATERSHED PLAN: A regional study of a watershed which does not address the entire range of purposes, goals and objectives outlined in the plan.

INTERMITTENT STREAM: A stream whose bed intersects the groundwater table for only a portion of the year on average or any stream that flows continuously for at least one month out of the year, but not the entire year.

ISOLATED WETLAND: A wetland that does not have an identifiable surface water connection to other waters of the U.S.

LOMA OR LETTER OF MAP AMENDMENT: The official determination by FEMA that a specific structure is not in a regulatory floodplain and amends the effective flood hazard boundary map, FBFM, or FIRM.

LOMR OR LETTER OF MAP REVISION: A letter from FEMA that revises BFE, flood insurance rate zones, flood boundaries or floodway as shown on an effective flood hazard boundary map, FBFM, or FIRM.

LAKE: A body of water two (2) or more acres in size which retains water throughout the year.

LINEAL WATERS OF THE U.S.: Wetlands along creeks, streams, rivers, ponds, lakes, or impoundments that are hydraulically connected to surface water.

LOWEST FLOOR: The lowest floor of the lowest enclosed area of a structure (including basement) but does not include an unfinished or flood resistant enclosure suitable solely for parking of vehicles, building access, or storage in an area other than a basement, provided, however, that such enclosure is not built so as to render the structure in violation of the applicable requirements of section <u>9-83</u> of this chapter.

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 structure transportable in one or more sections which is built on a permanent chassis and is designated for use with or without a permanent foundation when attached to the required utilities and includes park trailers, travel trailers and other similar vehicles on site for more than one hundred eighty (180) consecutive days but does not include a recreational vehicle.

MANUFACTURED HOME PARK OR SUBDIVISION: A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

MARKET VALUE: The value of a structure prior to substantial damage and/or substantial improvement. FEMA accepts several methods to determine market value. The method to determine market value shall be one approved by FEMA and the administrator.

MASS GRADING: Development in which the primary activity is a change in topography affected by the movement of earth materials.

MINOR STORMWATER SYSTEM: All infrastructure including curb, gutter, culverts, roadside ditches and swales, storm sewers and subsurface drainage systems intended to convey stormwater runoff at less than a 100-year flood frequency.

MITIGATION: Measures taken to offset negative impacts from development in waters of the U.S. including wetlands or the floodplain.

NFIP OR NATIONAL FLOOD INSURANCE PROGRAM: The federal program codified in title 44 of the code of federal regulations.

NRCS: The United States department of agriculture, natural resources conservation service.

NET BENEFIT IN WATER QUALITY: The institution of best management practices as part of a development that when compared to the predevelopment condition can be judged to reduce downstream sediment or pollutant loadings.

NET WATERSHED BENEFIT: A finding that, when compared to the existing condition, the development will substantially reduce (more than 10 percent) downstream peak discharges, will reduce downstream flood stages (more than 0.1 feet), or will reduce downstream damage to structures occurring in the predevelopment condition and must be demonstrated by detailed hydrologic and hydraulic analysis of watersheds on a regional scale as approved by the administrator.

NEW CONSTRUCTION: See definition of Development.

NEW MANUFACTURED HOME PARK: A development for the placement of manufactured homes for which the installation of utilities and the construction of streets, and either the final site grading or the pouring of concrete pads was completed before the effective date.

NONRIVERINE: Areas not riverine in character such as isolated depressional storage areas, ponds and lakes.

NUISANCE FLOW: Primarily a dry weather flow resulting from groundwater pumped by individual sump pumps and other human activities not directly related to rainfall events and surface runoff.

OHWM OR ORDINARY HIGH WATER MARK: The point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark, such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.

OBSERVATION STRUCTURES: Structures built on a field tile where the pipe inflow and outflow is visible upon removal of a lid.

OPEN CHANNEL: A conveyance system with a definable bed and banks carrying the discharge from field tiles and surface drainage, but does not include grassed swales within farm fields under agricultural production which are ephemeral in nature.

OPEN WATER: Surface water in lakes, ponds, impoundments and wetlands devoid of vegetative cover.

OVERLAND FLOW PATH: A design feature of the major stormwater system which carries flows in excess of the minor stormwater system design capacity in an open channel or swale, or as sheet flow or weir flow over a feature designed to withstand the particular erosive forces involved.

PARCEL: A separate tract of land identified by its own legal description.

PERENNIAL STREAM: A riverine watercourse whose thalweg intersects the groundwater table continuously and flows throughout the year.

PERMITTING AUTHORITY: The community having jurisdiction under this chapter to issue permits.

PERSON: An individual, partnership, corporation, limited liability company, unincorporated association, trust, municipal corporation, unit of local government or other government agency or authority, or any combination of any of the foregoing.

PLAN: The Kane County comprehensive countywide stormwater management plan adopted by the county board on October 13, 1998, as amended from time to time.

PLANT COMMUNITIES: Groups of plants with similar habitat requirements and planting regimes.

POND: A body of water less than two (2) acres in size which retains a normal water level year round.

PRIMARY GRAVITY OUTLET: The outlet structure designed to meet the release rate requirements of this chapter, the invert (lowest elevation) of which shall be considered the high water elevation for required stormwater retention.

PROFESSIONAL ENGINEER: An engineer registered in the state of Illinois under the Illinois professional engineering practice act<sup>1</sup>.

PROFESSIONAL LAND SURVEYOR: A land surveyor registered in the state of Illinois under the Illinois land surveyors act<sup>2</sup>.

PUBLIC FLOOD CONTROL PROJECT: A flood control project which will be operated and maintained by a public agency or entity to reduce flood damage to existing buildings and structures which includes a hydrologic and hydraulic study of the existing and proposed conditions of the watershed.

PUBLIC FLOOD EASEMENT: An easement acceptable to the appropriate jurisdictional body that meets the regulations of IDNR-OWR, the department and the community and 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 professional land surveyor representing the final record of the actual in place elevations, locations of structures and topography.

RECREATIONAL VEHICLE: A vehicle that is: a) built on a single chassis, b) four hundred (400) square feet or less when measured at the largest horizontal projection, c) designed to be self-propelled or permanently towable by a light duty truck; and d) designed primarily as temporary living quarters for recreational camping, travel or seasonal use and not for use as a permanent dwelling.

REDEVELOPMENT: Development on a developed site devoted to an existing urban land use the stormwater from which discharges into an existing stormwater facility either owned or maintained by a unit of local government, or discharges directly onto a regulatory floodplain; redevelopment includes the widening of an existing street or highway owned by a unit of local government.

REGISTERED STRUCTURAL ENGINEER: A person licensed under the laws of the state of Illinois as a structural engineer.

REGULATORY FLOODPLAIN: The floodplain depicted on maps recognized by IDNR-OWR for regulatory purposes.

REGULATORY FLOODWAY: Those portions of the floodplain depicted as floodway on maps recognized by IDNR-OWR for regulatory purposes.

RESTRICTIVE BRIDGE OR CULVERT: A bridge or culvert that crosses a floodplain and cannot convey the base flood without causing increases in the upstream flood profile.

RETENTION FACILITY: A facility which stores stormwater runoff without a gravity release.

RIVERINE: Related to, formed by or resembling a channel and includes creeks and rivers.

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.

SFHA OR SPECIAL FLOOD HAZARD AREA: The land in the floodplain within a community that is subject to a one percent (1%) or greater chance of flooding in any given year and has special flood, mudslide or mudflow, or flood related erosion hazards and is shown on an FHBM or FIRM as zone A, AO, A1-30, AE, A99, AH, VO, V1-30, VE, V, M or E.

SEASONAL HIGH GROUNDWATER TABLE: The upper limits of the soil temporarily saturated with water, being usually associated with spring wetness conditions which may be indicated by soil mottles with a Munsell color of two (2) chroma or less.

SEDIMENTATION: The process that deposits hydraulically moved soils, debris and other materials on other ground surfaces or in bodies of water or stormwater drainage systems.

SEDIMENTATION TRAP: A structure or area that allows for the temporary deposit and removal or disposal of sediment materials from stormwater runoff.

SEEPAGE: The movement of drainable water through soil and rock.

SITE: All of the land contemplated to be part of a coordinated development of one or more parcels.

SITE RUNOFF STORAGE FACILITY: A manmade structure for the temporary storage of stormwater runoff with a controlled release rate.

SPECIAL MANAGEMENT AREA: A floodplain, regulatory floodplain, wetland, wetlands mitigation area, stream, river, or other water body.

START OF CONSTRUCTION: For other than new construction or substantial improvements under the coastal barrier resources act (pub. L. 97-348) with respect to new construction means the date the building permit was issued, provided the first placement of a permanent improvement on the site (such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation), or the placement of a manufactured home on a foundation, occurs within one hundred eighty (180) days; but does not include land preparation (such as clearing, grading and filling), nor the erection of temporary forms, nor the construction or installation of accessory structures such as garages or sheds not occupied as a dwelling unit and not part of the main structure; with respect to substantial improvements, start of construction means the first alteration of any wall, ceiling, floor or other structural part of a structure, whether or not the alteration affects the external dimensions of the structure.

STORMWATER FACILITY: All ditches, channels, conduits, bridges, culverts, levees, ponds, natural and manmade impoundments, wetlands, riparian environment, tile, swales, sewers or other natural or artificial structures or measures which serve as a means of draining surface water and groundwater from land.

STORMWATER MANAGEMENT PERMIT: The permit issued under article V of this chapter.

STRUCTURE: A manmade change to the land constructed on or below the ground, including the construction, reconstruction or placement of a building or any addition to a building.

SUBSTANTIAL DAMAGES: Damage caused by one or more events to a building located in the floodplain or floodway from any cause (examples include, but are not limited to, fire, flood, earthquake) on or after January 1, 2010, whereby the cumulative cost of restoring the building to its original condition from the event or events occurring after January 1, 2010, is fifty percent (50%) or more of its market value, regardless of the actual repair work performed.

SUBSTANTIAL IMPROVEMENT: A. An improvement or a series of improvements made to a structure located in the

floodplain or floodway on or after January 1, 2010, the cost of which is fifty percent (50%) or more of the structure's market value;

- B. The cumulative reconstruction or repair of a structure on or after January 1, 2010, the cost of which is fifty percent (50%) or more of the structure's market value before the start of construction of the reconstruction or repair caused by substantial damages;
- C. An addition to a structure the cost of which is fifty percent (50%) or more of the structure's market value before the start of construction of the addition or any addition that increased the floor area by more than twenty percent (20%); or
- D. Any work done to a structure that has suffered substantial damage.

Substantial improvement does not include either: a) any work done to a structure to correct existing violations of state or local health, sanitary or safety codes identified and determined by the local code enforcement official to be the minimum necessary to assure safe living conditions; or b) any work done to a structure listed on the state or federal historic register provided that alteration will not preclude the structure's continued designation as a historic structure.

SUBSURFACE DRAINAGE: The removal of excess soil water to control water table levels at predetermined elevations for structural, environmental or other reasons in areas already developed or being developed for agricultural, residential, industrial, commercial or recreational uses.

TECHNICAL MANUAL: The manual adopted by the county which refers to this chapter and provides additional explanations and examples.

THALWEG: A line along the lowest point in a channel.

TOPSOIL: The uppermost part of the soil, ordinarily moved in tillage, or its equivalent in uncultivated soils.

TRANSITION SECTION: The reaches of the stream or floodway where water flows from a narrow cross section to a wide cross section, or vice versa.

USABLE SPACE: Space used for dwelling, storage, utilities or other beneficial purposes and includes basements.

WATER TABLE: The upper limit of a free water surface in a saturated soil or underlying material.

WATERS OF THE U.S.: Is defined by COE in 33 CFR 328.3 and, for purposes of this chapter, includes wetlands, lakes, rivers, streams, creeks, bogs, fens, ponds and isolated wetlands but does not include maintained stormwater facilities.

WATERSHED: All land drained by, or contributing water to the same stream, lake, stormwater facility, or draining to a point.

WATERSHED CHARACTERISTICS: The land use, physiology, habitat, climate, drainage system and community profile of a watershed.

WATERSHED PLAN: A study and evaluation of an individual drainage basin's stormwater management, floodplain management, water quality and flood control needs capabilities adopted by the county.

WETLAND: Is defined by COE in the "1987 Corps Of Engineers Wetland Delineation Manual, Technical Report Y-87-1", U.S. army engineers waterways experiment station, Vicksburg, Mississippi (the "1987 Manual"), or other federally recognized methodology.

WETLAND IMPACT: A. The dredging or filling of any wetland having an FQI greater than twenty five (25); or

- B. The dredging or filling of any other wetland if:
  - 1. The effect would be that cumulatively, since the effective date hereof, 0.10 acre (4,356 square feet) or more of the wetlands on the site have been dredged or filled; and

- 2. Such wetland is not then regulated by COE; or
- 3. Such dredging or filling is not an approved impact under a conservation plan administered by any federal agency under the food security act, as amended (16 USC section 3801 et seq.).

WETLAND MITIGATION: The creation and long term maintenance of wetlands to offset wetland impacts from development.

WETLAND MITIGATION BANK: One or more parcels in the county approved by COE or the director where wetlands and/or other aquatic resources are restored, created, enhanced or, in exceptional circumstances, preserved expressly for the purpose of providing compensatory mitigation in advance of authorized impacts to similar resources.

WETLAND MITIGATION FACILITY: A parcel in the county specifically dedicated for the creation and long term maintenance of wetlands and other aquatic resources and includes any area designated as a compensatory storage facility when such area is used for wetland mitigation. (Ord. 01-338, 10-9-2001; Ord. 01-442, 12-11-2001; Ord. 04-392, §§ 1 - 7, 10-12-2004; Ord. 06-435, §§ 1, 2, 11-14-2006; Ord. 08-342, 11-12-2008; Ord. 09-433, 11-10-2009)

#### 9-6 - 9-25: RESERVED:

### ARTICLE II. REQUIREMENTS FOR STORMWATER MANAGEMENT

#### 9-26: GENERAL INFORMATION:

- A. Requirements: All developments shall meet the requirements of sections <u>9-27</u> and <u>9-28</u> and articles III and VI of this chapter.
- B. Additional Requirements: Developments shall comply with section 9-29 of this chapter if:
  - 1. Two (2) or more one- or two-family residences are to be constructed on a site three (3) or more acres in size;
  - 2. A single-family attached dwelling, apartment or condominium, attached townhome or other multi-family residential building comprised of more than two (2) units is to be constructed on a site one acre or more in size;
  - 3. Any nonresidential land use is to be developed on a site one acre or more in size, unless such development consists solely of the installation, repair or replacement of the underground or overhead lines of a public utility within a public right of way;
  - 4. Redevelopment after the effective date hereof on a site one acre or more in size exceeds in the aggregate twenty five thousand (25,000) square feet; or
  - 5. Road development after the effective date hereof in rights of way under the ownership or control of a unit of local government exceeds in the aggregate one acre; or
  - 6. The repair or replacement of an existing parking lot or privately owned road within the floodplain results in any additional impervious surface, an increase in peak flows, a change in the location of the stormwater discharge, or an increase in the elevation of the parking or driving surface.
- C. Redevelopment: The developer of a redevelopment may ask that a fee in lieu of site runoff storage be approved under <a href="article XIII of this chapter">article XIII of this chapter</a> and that the requirements of subsection 9-29G of this chapter be waived if:

- 1. The drainage plan will not increase peak discharges from the site, nor change the existing conveyance of off site flow; and
- 2. The drainage plan provides a net benefit in water quality compared to the existing development.
- D. Mass Grading: The developer of a development consisting only of mass grading may ask that a fee in lieu of site runoff storage be approved under <u>article XIII of this chapter</u> if:
  - 1. There is no net increase in impervious surfaces;
  - 2. No structure is constructed, reconstructed or improved; and
  - 3. The quality of site runoff is improved.
- E. BMP In Lieu Of Site Runoff Storage: Sites meeting one of the following requirements of subsections E1 through E3 of this section and requirements of subsections E4 and E5 of this section are eligible to receive credit for BMP in lieu of site runoff storage in accordance with subsection 9-29N of this chapter against the calculated site runoff storage in section 9-29 of this chapter and the requirements of subsection 9-29G of this chapter.
  - 1. The development has been approved for fee in lieu of site runoff storage and waiver of subsection <u>9-29</u>G of this chapter under subsection C of this section;
  - 2. The development has been approved for fee in lieu of site runoff storage and waiver of subsection <u>9-29</u>G of this chapter under subsection D of this section;
  - 3. The volume of site runoff storage for the proposed development calculated as prescribed in section <u>9-29</u> of this chapter is less than or equal to 1.0 acre-feet on a development which does not have an existing site runoff storage facility on the site. If the development has an existing site runoff facility, the administrator may require said site runoff facility to be expanded to meet the requirements of section <u>9-29</u> of this chapter;
  - 4. The site plan is otherwise in compliance with section 9-27 of this chapter;
  - 5. The subgrade of areas of permeable pavements and in situ soils at the bottom of rain gardens and other similar infiltration type systems shall have their infiltration capacity verified by appropriate geotechnical investigation. An opinion of the suitability of the area for the intended BMP shall be provided by a professional engineer. Verification of soil conditions prior to the start of the work may be required by the administrator. Final approval is at the sole discretion of the administrator. (Ord. 01-338, 10-9-2001; Ord. 04-392, § 9, 10-12-2004; Ord. 09-433, 11-10-2009)

#### 9-27: GENERAL STORMWATER REQUIREMENTS:

- A. No development shall:
  - 1. Result in any new or additional expense to any person other than the developer for flood protection; or
  - 2. Increase flood elevations or decrease flood conveyance capacity upstream or downstream of the site.
- B. Analysis and design of all stormwater facilities required for a development shall:
  - 1. Comply with the standards and criteria established in any applicable watershed plan or interim watershed plan;
  - 2. Be consistent with the technical manual; and
  - 3. Ensure that the site is reasonably safe from flooding.

- C. 1. Stormwater facilities shall be functional before any building permit is issued for any other construction on a site to be comprised when finished of more than one parcel.
  - 2. Building permits may be issued but stormwater facilities shall be functional where practicable before any other construction begins on a site to be comprised when finished of only one parcel.
- D. All developments shall have an overland flow path at the downstream limit of the site that will pass the base flood flow without increasing flood damage. If the upstream drainage area is less than twenty (20) acres, a storm sewer pipe and inlet sized for the base flood may be constructed in lieu of providing an overland flow path. Overland flow paths internal to the site shall be considered part of the major stormwater system and shall be designed for conveyance of a minimum of one cubic foot per second per tributary acre without damage to structures.
- E. All usable space in new buildings or added to existing buildings hydraulically connected to a major stormwater system, site runoff storage facility or overland flow path shall be elevated, floodproofed or otherwise protected to at least two feet (2') above the 100-year design elevation or current FIS elevation, whichever is greater. The design elevation is the elevation associated with the design release rate as determined in subsection 9-28 E of this chapter.
- F. The design of any development shall incorporate the following specific planning principles:
  - 1. Impervious surfaces are the minimum necessary to satisfy the intended design function. Where requirements of zoning ordinances conflict with this principle, consideration has been given to asking for a zoning variance.
  - 2. Where feasible, allow sufficient right of way and easement widths so that stormwater runoff may be conveyed in vegetated swales. Storm sewers may be used for conveyance of nuisance flows and where conveyance in vegetated swales is impractical.
  - 3. Existing open channels have been preserved and incorporated into the design.
  - 4. Best management practices have been used in the site drainage plan.
  - 5. Existing high quality wetlands have been avoided, preserved or enhanced.
  - 6. Retention and infiltration of stormwater on site have been enhanced to the extent practicable to reduce the volume of stormwater runoff and the quantity of runoff pollutants.
- G. The function of existing on site depressional storage shall be preserved as an additional volume to required site runoff storage. When the depressional storage is removed it must be compensated for in the site runoff storage facility at a one to one (1:1) ratio. Off site areas tributary to the existing depressional storage shall be routed through the site runoff storage facility unless the existing depressional storage is reserved independently. This requirement is in addition to the site runoff storage requirements of section 9-29 of this chapter. (Ord. 01-338, 10-9-2001; Ord. 08-342, 11-12-2008)

#### 9-28: SITE RUNOFF REQUIREMENTS:

- A. Stormwater facilities shall be required and designed so that runoff exits the site at the point where it exited prior to development (unless a change is required and approved in writing by the administrator) and in a manner so as not to increase flood damage downstream. Concentrated discharges from new developments must enter conveyance systems capable of carrying the design flow rate without increasing flood damage, erosion or maintenance costs downstream.
- B. Minor stormwater systems shall be sized to convey runoff from the tributary watershed under fully developed conditions consistent with the design requirements of the permitting authority.

- C. Major stormwater systems shall be sized to carry the base flood without causing additional flood damage.
- D. Stormwater systems shall properly incorporate and be compatible with existing subsurface and surface drainage systems including agricultural systems. Designs shall not cause damage to existing drainage systems or to existing adjacent or tributary agricultural land uses. The following principles and requirements shall be observed in the design:
  - 1. Off Site Outfall: Agricultural subsurface and surface drainage systems shall be evaluated with regard to their capacity and capability to properly convey low flow groundwater and site runoff storage facility release without damage to downstream structures and land uses. If the outfall drain tile and surface drainage systems prove to be inadequate it will be necessary to modify the existing systems or construct new systems which will not conflict with the existing systems and will not impact existing land uses.
  - 2. On Site: Agricultural drainage systems shall be evaluated in accordance with <u>article V of this chapter</u>. All existing on site agricultural drain tiles not serving a beneficial use shall be abandoned by trench removal prior to other development and recorded on record drawings. If any existing drain tiles continue to upland watersheds the developer must maintain drainage service during construction until new storm sewers can be installed for a permanent connection.
  - 3. Off Site Tributary: Existing drainage systems shall be evaluated with regard to existing capabilities and reasonable future expansion capacities. All existing tributary drain tiles shall be incorporated into the new stormwater system including observation structures located at the limits of the site and shall provide a free flow discharge. Agricultural tributary surface conveyance shall be accepted by the new development with consideration given to water quality and sediment filtering control.
  - 4. Preservation Of Existing Systems: New roadway construction shall preserve existing subsurface systems within the right of way. Inspection wells shall be placed at the right of way and tiles found not to be flowing between inspection wells at the end of construction shall be replaced.
- E. Design runoff rates shall be calculated using event hydrograph methods. Acceptable event hydrograph methods are HEC-HMS, HEC-1 (SCS runoff method), TR-20 or TR-55 tabular method. Event methods must incorporate the assumptions contained in subsection <u>9-29</u>C of this chapter. Design runoff rates for minor conveyance systems may be calculated using the rational method if the design watershed is less than twenty (20) acres.
- F. Any design runoff rate calculation method shall use bulletin 70 northeast sectional rainfall statistics and shall calculate flow from all tributary areas upstream of the point of design. Peak discharges for conveyance design purposes shall be based on the critical duration considering the appropriate rainfall distribution.
- G. Major and minor stormwater systems shall be located within easements or rights of way explicitly providing for public access or maintenance of such facilities. New facilities constructed off site pursuant to subsection D of this section need not comply with this requirement.
- H. Maximum flow depths for new transverse stream crossings shall not exceed one foot (1') at the crown of the road during the base flood condition. The maximum flow depth on a roadway shall not exceed six inches (6") at the crown for flow parallel to the roadway. For flow over a roadway or parallel to a roadway the product of the flow depth (in feet) and velocity (in feet per second) shall not exceed four (4) for the base flood condition.
- I. Transfers of waters between watersheds (diversions) shall be prohibited except when such transfers will not violate the provisions of subsection <u>9-27</u>A of this chapter and are otherwise lawful. Watersheds for the purposes of this section shall be the major watershed divides shown in appendix A attached to ordinance 01-338 on file in the county office.

J. Developments shall incorporate all best management practices required under the clean water act (33 USC section 1251 et seq., as amended). (Ord. 01-338, 10-9-2001)

#### 9-29: SITE RUNOFF STORAGE REQUIREMENTS (DETENTION):

- A. Hydrological Disturbance: The area of hydrological disturbance on the site shall be used to calculate the required site runoff storage volume. The tributary area of the site at the point of discharge shall be used to calculate the allowable release rate of the primary restrictor for the site runoff storage facility.
- B. Sufficient Storage Provided: Absent any applicable watershed plan or interim watershed plan, sufficient storage shall be provided such that the probability of the postdevelopment release rate exceeding 0.1 cubic foot per second per acre of development shall be less than one percent (1%) per year. Design runoff volumes shall be calculated using event hydrograph methods.
- C. Event Methods: Event hydrograph routing methods such as HEC-1, HEC-HMS, TR-20 or TR-55 tabular method using SCS curve number methodology shall be used to calculate design runoff volumes for facilities with more than five (5) acres of tributary area or when areas tributary to the facility extend off site. For facilities with less than five (5) acres of tributary area all on site, the nomograph relating "%-Impervious To Unit Area Detention" developed by NIPC may be used to calculate the volume of site runoff storage required. Event methods shall incorporate the following assumptions:
  - 1. Antecedent moisture condition equals two (2);
  - Appropriate Huff rainfall distribution except that SCS type II distribution is acceptable with TR-55 tabular method only; and
  - 3. Twenty four (24) hour duration storm with a one percent (1%) probability (100-year) of occurrence in any one year as specified by bulletin 70 northeast sectional rainfall statistics.
- D. Release Rates: For sites where the undeveloped release rate is less than the maximum release rate in subsection B of this section, the developed release rate and corresponding site runoff storage volume shall be based on the existing undeveloped release rate for the development site.
- E. Hydraulic Computations: Hydraulic computations for the release structure must assume appropriate backwater conditions considering the likelihood of concurrent flood events on the site and receiving stream.
- F. Reserved.
- G. Hydraulically Connected Impervious Area:
  - 1. The runoff from a 0.75 inch rainfall event over the hydraulically connected impervious area of the new development shall be stored below the elevation of the primary gravity outlet (retention) of the site runoff storage facility. The facility may be designed to allow for evapotranspiration or infiltration of this volume into a subsurface drainage system and shall not be conveyed through a direct positive connection to downstream areas. Wherever the retention depth is less than three feet (3') the retention facility shall be constructed by over excavating the required retention volume by one foot (1') and replacing such volume with one foot (1') of topsoil suitable for growing wetland plants. Topsoil used shall be generally free from nonnative and noxious seed bank. Native wetland plantings shall be introduced and shall not be dominated by or contain cumulatively more than twenty five percent (25%) cover of the following species: buckthorn (Rhamunus cathartica or frangula), reed canary grass (Phalaris arundinacea), purple loosestrife (Lythrum salicaria), or

giant reed (Phragmites australis). Within six (6) months of the completion of the development a qualified wetland review specialist retained by the developer shall verify compliance with this section in a report submitted to the administrator.

- 2. The hydraulically connected impervious area used in the calculation of required retention volume may be reduced by the administrator if the soils are undisturbed in situ or prepared to maximize infiltration and deep rooted grasses or other plants which help promote infiltration and transpiration are planted in areas appropriately dedicated. The reduction in hydraulically connected impervious area used in the calculation shall be equal to the area of the development meeting the above soils/planting requirement.
- 3. Residential, industrial, commercial, institutional or multi-family developments where the downstream outlet is not directly connected to a new or municipal storm sewer outletting to an open channel will also be required to meet the retention requirement of this section, except that the area of new roadway impervious area shall be used as a minimum to calculate the required volume.
- 4. Subsurface drainage systems may be designed as a component of the retention portion of the site runoff storage basin to assist in infiltration in accordance with the following criteria:
  - a. The retention volume shall be discharged at a rate no greater than that required to empty the calculated retention volume within five (5) days of the storm event.
  - b. No such subsurface drainage pipe shall be located within ten feet (10') of drainage pipes directly connected to the site runoff storage basin.
  - For purposes of meeting the maximum subsurface drainage requirements, flow control orifices and weirs may be used.
  - d. The design shall be consistent with the methodologies and intent of the technical manual.
- H. Storage Facilities: Storage facilities shall be designed and constructed with the following characteristics:
  - 1. Water surface depths two feet (2') above the base flood elevation will not damage the storage facility.
  - 2. The storage facilities shall be accessible and easily maintained.
  - 3. All design site runoff storage volume shall be provided above the seasonal high groundwater table or the invert elevation of the groundwater control system.
  - 4. Storage facilities shall facilitate sedimentation and catchment of floating material. Unless specifically approved by the administrator, concrete lined low flow ditches shall not be used in site runoff storage basins.
  - 5. Storage facilities shall minimize impacts of stormwater runoff on water quality by incorporating best management practices.
  - 6. Storage facilities shall maximize the distance between site runoff storage inlets and outlets to the extent possible.
  - 7. Storage facilities shall be designed such that the existing conditions predevelopment peak runoff rate of the 100-year, critical duration rainfall will not be exceeded assuming the primary restrictor is blocked.
  - 8. Storage facilities with single pipe outlets shall have a minimum inside diameter of twelve inches (12"). If design release rates necessitate a smaller outlet, structures such as perforated risers or flow control orifices shall be used.
  - 9. A mechanically opened outlet to draw down the permanent pool or retention area for maintenance purposes to the lowest available invert at the site boundary shall be provided.
- I. Storage Facilities; Regulatory Floodplain: Storage facilities located within the regulatory floodplain shall: 1) comply with article IV of this chapter; 2) store the required amount of site runoff to meet the release rate requirement under all stream flow and backwater conditions up to the 10-year flood elevation on the adjacent receiving watercourse; the administrator may approve designs which can be shown by detailed hydrologic and hydraulic analysis to provide a net watershed benefit not otherwise realized by strict application of the requirements set forth in this subsection; and 3) comply with subsection B of this section.

- J. Storage Facilities; Regulatory Floodway: Storage facilities located within the regulatory floodway shall: 1) meet the requirements for locating storage facilities in the regulatory floodplain; 2) be evaluated by performing hydrologic and hydraulic analysis consistent with the standards and requirements for watershed plans; 3) provide a net watershed benefit; and 4) comply with subsection B of this section.
- K. Site Runoff Storage Facilities: Site runoff storage facilities may be located off site if: 1) the off site storage facility meets all of the requirements of this article; 2) adequate storage capacity in the off site facility is dedicated to the development; and 3) the development includes means to convey stormwater to the off site storage facility.
- L. Site Runoff Storage Volume: Site runoff storage volume provided by enlarging existing regulatory floodplain storage (on stream site runoff storage) shall be allowed only as a variance.
- M. Structures: Structures built across the channel to impound water to meet site runoff storage requirements shall be prohibited on any perennial stream unless part of a public flood control project with a net watershed benefit. Those streams appearing as blue on a USGS quadrangle map shall be assumed to be perennial unless better data is provided by the developer. In all cases it must be demonstrated that all such structures will not cause short term or long term stream instability. Where such facilities are approved the applicant must also comply with subsection G of this section.
- N. BMP In Lieu Of Site Runoff Storage: The "Kane County Technical Guidance Manual BMPs" (2007) shall be used as a reference in the design of BMPs for consideration under this section.
  - 1. Permeable pavements consisting of porous concrete and asphalt surfaces; or permeable interlocking concrete pavers, shall receive credit for their effectiveness in reducing site runoff by all of the following:
    - a. When the depth of subbase provided is at least sixteen inches (16") and the void ratio of the subbase aggregates is at least thirty percent (30%), and any required underdrains are four inches (4") diameter or less, then detention and retention requirements of this section shall be considered as provided for the area of the pavement so designed. Inclusions of up to twenty five percent (25%) of the pavement area which consists of nonpermeable surface materials which drains onto the permeable pavement shall be allowed and will not be deducted from the application provided the subbase is consistent with the above requirements.
    - b. The verifiable differential in permeable pavement cross section costs compared to nonpermeable pavements may be considered as an offset payment for any remaining fee in lieu of site runoff storage calculated in accordance with <a href="article XIII">article XIII</a> of this chapter. The differential costs may include increased excavation and subbase material and the cost differential of surfaces, provided that the administrator approves the conventional pavement cross section.
  - 2. Rain gardens and rain garden infiltration trench systems shall receive credit for both their effective reduction site runoff and/or fee in lieu of storage by all of the following:

When the surface area of the rain garden or rain garden infiltration trench represents at least fifteen percent (15%) or more of the impermeable surface area draining thereto, the depth of the ponding is no greater than eighteen inches (18"), and any required underdrains are four inches (4") in diameter or less, then all of the site retention storage of subsection G of this section and one-half  $\binom{1}{2}$  of the site runoff storage requirements (detention) will be considered satisfied for those portions of the site comprising the surface area of the rain garden and the surface area of the site draining thereto. (Ord. 01-338, 10-9-2001; Ord. 04-392, § 10, 10-12-2004; Ord. 09-433, 11-10-2009)

#### 9-30 - 9-50: RESERVED:

### ARTICLE III. EROSION AND SEDIMENT CONTROL

#### 9-51: EROSION AND SEDIMENT CONTROL PLANNING:

- A. Erosion and sediment control planning shall be part of the initial site planning process. In planning the development of the site, the applicant shall consider the sensitivity of existing soils to erosion and topographical features such as steep slopes, stream corridors and special management areas which must be protected to reduce the amount of erosion and sediment which occurs. Where appropriate, existing vegetation shall be protected from disturbance during construction by fencing or other means. In the planning process the applicant shall also address the following:
  - 1. For projects that involve phased construction, existing land cover for those areas not under current development shall be addressed. If existing land cover does not consist of an appropriate dense vegetation then these phases shall be planted temporarily to reduce erosion from idle land.
  - 2. In planning the erosion and sediment control strategy, preference shall be given to reducing erosion rather than controlling sediment. In order to accomplish this the plan must carefully consider the construction sequence of the phases so that the amount of land area exposed to erosive forces is the minimum consistent with completing construction.
- B. Standards and specifications for erosion and sediment control measures shall be in accordance with the "Illinois Urban Manual" (1995, or current edition). Erosion and sediment control planning shall be in accordance with "Procedures And Standards For Urban Soil Erosion And Sedimentation Control In Illinois" (revised, July 1988), by the urban committee of the association of Illinois soil and water conservation districts (the "Green Book"), chapters 1 5. Where the "Illinois Urban Manual" conflicts with the "Green Book", the "Illinois Urban Manual" shall prevail.
- C. The runoff from disturbed areas shall not leave the site without first passing through sediment control measures or devices. This requirement shall apply to all phases of construction and shall include an ongoing process of implementation of measures and maintenance of those measures during both the construction season and any construction shutdown periods.
- D. The condition of the construction site for winter shutdown shall be addressed early in the fall growing season so that slopes and other bare earth areas may be stabilized with temporary and/or permanent vegetative cover for proper erosion and sediment control. All open areas that are to remain idle throughout the winter shall receive temporary erosion control measures including temporary seeding, mulching and/or erosion control blanket prior to the end of the fall growing season. The areas to be worked beyond the end of the growing season must incorporate soil stabilization measures that do not rely on vegetative cover such as erosion control blanket and heavy mulching.
- E. In the hydraulic and hydrologic design of major erosion control measures (those whose tributary drainage area is greater than 3 acres) such as sediment basins and traps, diversions and the like, the design frequency shall be commensurate with the risk of the design event being exceeded. The following design frequencies shall be regarded as minimum design frequencies for the construction period:
  - 1. If development is estimated to be completed in less than six (6) months, the storm event having a fifty percent (50%) chance (2-year event) of being exceeded in any year shall be used for design purposes.
  - 2. If development is estimated to be completed in more than six (6) months but less than one year, the design frequency for major sediment basins shall be a rainfall event with a twenty percent (20%) (5-year event) chance of being exceeded in any one year.
  - 3. If development is estimated to take more than one year to complete, major sediment basins shall be designed for a rainfall event with a ten percent (10%) (10-year event) chance of being exceeded in any one year.
  - 4. All sediment basins shall be designed for a minimum residence time of ten (10) hours for detained runoff and shall

include a volume for sediment storage reflective of the clean out schedule for the basin.

- F. The erosion and sediment control plan shall designate a series of practices which shall be implemented either at the direction of the applicant or the applicant's representative on site or at the direction of the administrator should an inspection of the site indicate a deficiency in soil and sediment erosion control measures. At a minimum, these measures shall include: 1) sedimentation basins; 2) sediment traps; 3) diversion swales; 4) silt fences; 5) temporary seeding; 6) mulching; and 7) erosion control blankets.
- G. The area of disturbance on site at any one time shall be limited to twenty (20) acres. An additional twenty (20) acres (a maximum of 40 acres of disturbance at any one time) may be disturbed if necessary to balance cut and fill on site. The administrator may approve a larger area of disturbance pursuant to a plan for phased construction or after development has begun, if the developer adequately demonstrates the need therefor and the administrator finds that adequate temporary and permanent erosion and sediment control measures can be maintained and that the developer is proposing an area of disturbance which at any one time is the smallest practical area consistent with the intent to limit disturbed area and minimize the risk of sediment being introduced into site runoff and being carried off site. No additional area may be disturbed without the permission of the administrator until the previously disturbed areas have been temporarily or permanently stabilized. All disturbed areas shall be stabilized within fourteen (14) days of final grading or when left idle for more than seven (7) days. Maintained haul roads and the area of sediment basins, site runoff storage facilities, utility corridors having a maximum width of twenty feet (20'), and any permanently stabilized areas are excluded from this limitation.
- H. Erosion and sediment control plans shall be in accordance with article V of this chapter and shall include the following:
  - 1. Detailed construction phasing plan identifying erosion and sediment control measures to be in place for each phase shall be submitted.
  - 2. Erosion and sediment control measures to be installed initially prior to stripping existing vegetation or mass grading shall be indicated on the plans.
  - 3. Permanent stabilization measures shall be indicated on a separate plan.
  - 4. The expected 2-year and 10-year runoff rates from all off site areas draining into the site shall be identified on the plan.
  - 5. Methods for conveying flows through the site during construction shall be indicated. These methods must include the temporary and permanent stabilization measures to be used to reduce velocity and erosion from flow through the construction zone.
  - 6. A maintenance schedule of each measure used shall be indicated on the plan. As a minimum, all erosion and sediment control measures on site shall be inspected weekly or after a one-half inch (1/2") or greater rainfall event and any required repairs shall be made to keep these measures functional as designed.
  - 7. Special management areas and any required buffers shall be indicated on the erosion and sediment control plan.
- I. To the extent practicable, proposed ditches and waterways which are to convey off site flows through the site shall be stabilized upon construction. Where new waterways are constructed they shall be stabilized to the extent practicable prior to their use to convey flood flows.
- J. Stockpiles of soil and other building materials (sand, limestone, etc.) shall not be located in special management areas or required buffers. If a stockpile is to remain in place for more than three (3) days, erosion and sediment control shall be provided.
- K. Storm sewer inlets shall be protected with sediment trapping and/or filter control devices during construction.

- L. Water pumped or which is otherwise discharged from the site during construction dewatering shall be filtered and a means provided to reduce erosion.
- M. 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 onto public or private roadways. Any soil tracked onto a public or private roadway shall be removed before the end of each workday or sooner as directed by the authority maintaining the roadway.
- N. Temporary stream crossings of intermittent and perennial streams used only for and during construction shall be designed to convey a 2-year flood (minimum), without overtopping unless a more frequent design event is allowed by the administrator and will not obstruct the portion of the channel carrying the base flow. The entire crossing shall be designed to withstand hydrodynamic and erosive forces up to the base flood event without washing out. Ephemeral streams may be crossed at temporary at grade crossings provided that the crossing point is stabilized with materials resistant to the erosive forces produced by runoff from the upstream drainage area and the design is approved by the administrator. All temporary stream crossings shall be completely removed and the stream restored to its preconstruction condition upon completion of construction. Restoration shall incorporate appropriate native vegetation. (Ord. 01-338, 10-9-2001)

#### 9-52 - 9-75: RESERVED:

### ARTICLE IV. PROTECTION OF SPECIAL MANAGEMENT AREAS

9-76: RESERVED:

(Ord. 01-338, 10-9-2001)

#### 9-77: DISCLAIMER:

Nothing in this chapter purports to alter or affect the regulatory program administered by IDNR-OWR. Anything in this chapter to the contrary notwithstanding, if under the rules and regulations administered by IDNR-OWR a submittal need not be made to IDNR-OWR, or a review, approval or permit from IDNR-OWR need not be obtained, then nothing in this chapter shall be construed to impose a requirement that such a submittal be made or that such a review, approval or permit be obtained from IDNR-OWR. Similarly, if IDNR-OWR has delegated its regulatory authority to another entity, then anything in this chapter to the contrary notwithstanding, if required by such entity, such submittal shall be made or such review, approval or permit shall be obtained from such entity. (Ord. 01-338, 10-9-2001)

#### 9-78: STATEWIDE AND REGIONAL PERMITS:

Development that qualifies for any of the self-issuing statewide or regional permits administered by IDNR-OWR (statewide permits nos. 1 through 14 and regional permit no. 3) are similarly permitted under this article. The developer need only submit to the administrator such information as shall show the administrator that the development qualifies for the particular statewide or regional permit in question under the regulations established by IDNR-OWR for such permit and no further submittal need be made under this article. All other provisions of this chapter applicable to such development, however, continue to apply. (Ord. 01-338, 10-9-2001)

#### 9-79: FLOODPLAIN MANAGEMENT:

All development shall meet the requirements set forth in table 9-79 of this section.

TABLE 9-79
SUMMARY OF REQUIREMENTS FOR DEVELOPMENT IN FLOODPLAINS

	Sec. <u>9-80</u>	Sec. <u>9-81</u>	Sec. <u>9-82</u>	Sec. <u>9-83</u>	Sec. <u>9-84</u>	Sec. <u>9-85</u>	Sec. <u>9-86</u>	Sec. <u>9-87</u>	Sec. <u>9-88</u>	Sec. <u>9-89</u>
Floodplains	All	(5) (6)	All	-	-	All	-	-	-	-
Regulatory floodplains	All	All	All	All	All	-	All <sup>1</sup>	-	-	-
Regulatory floodways	All	All	All	All <sup>2</sup>	All	-	All	All	-	-
Riverine regulatory floodplains	All	All	All	All	All	-	-	-	All	-
Bridge and culvert crossings	All	All	-	-	-	-	All <sup>3</sup>	-	-	All

#### Notes:

- 1. Riverine, floodplains only.
- 2. For buildings meeting appropriate use criteria.
- 3. See exclusion in subsection <u>9-89</u>C of this chapter.

(Ord. 01-338, 10-9-2001)

# 9-80: FLOODPLAIN, REGULATORY FLOODPLAIN, BFE AND REGULATORY FLOODWAY LOCATIONS:

- A. The BFE shall be delineated on the site topography to establish the regulatory floodplain area limits for regulation under this chapter. Regulatory floodplains shall be delineated on the site map from the current FEMA FIRM, FBFM or LOMR and include those areas of the SFHA which are not regulatory floodplains. The current version of the maps adopted and published by FEMA for regulation under the NFIP together with any amendments, additions, revisions or substitutions thereto or therefor adopted and published by FEMA at any time in the future are hereby referred to, adopted, and made part hereof as if fully set out in this chapter. A list of the current regulatory maps for the county to be consulted is maintained by the director.
- B. 1. The BFE shall be the elevation of the 100-year profile shown for the site on the current flood insurance study.
  - 2. In the case of FEMA delineated AH zones the elevation noted on the current applicable regulatory map(s) shall be the BFE.
  - 3. In the case of FEMA delineated AO zones the BFE shall be the depth number shown on the current applicable regulatory map(s) added to the highest adjacent grade, or at least two feet (2') above the highest adjacent grade if no depth number is provided.
  - 4. a. When no BFE information exists and the upstream tributary drainage area is six hundred forty (640) acres or more, the BFE shall be determined using a site specific floodplain study by a professional engineer using appropriate hydrologic and hydraulic models as follows:

- (1) Hydrologic models: TR-20, HEC-1, HEC-HMS;
- (2) Hydraulic models: HEC-2, HEC-RAS, WSP-2; or
- (3) A technique approved by the administrator and IDNR-OWR.
- b. Where a channel has a tributary drainage area of six hundred forty (640) acres or more, the above analyses shall be submitted to IDNR-OWR for approval.
- c. For a nonriverine regulatory floodplain, the historic flood of record plus three feet (3') may be used for the BFE instead of performing a detailed hydrologic and hydraulic study.
- 5. For floodplains that are not regulatory, are not draining more than six hundred forty (640) acres and for which no BFE has been determined, the administrator may require a site specific floodplain study for the purpose of establishing an FPE for the development.
- 6. The administrator may require the use of a floodplain study not yet approved by IDNR-OWR and FEMA if its use would establish a higher BFE than the approved study. This provision may necessitate that different analyses be prepared for other agencies having permitting jurisdiction over the floodplain/floodway.
- 7. When none of the above apply but the proposed development consists of more than fifty (50) lots or more than five (5) acres, a study acceptable to the administrator shall be provided for determination of a site specific BFE.
- C. 1. The location of the regulatory floodway shall be as delineated on the current applicable regulatory map(s). The location of the regulatory floodway boundary shall be scaled on the site plan using references common to both the map and the plan (typically the centerlines of adjacent roadways). Where an interpretation is needed to determine the exact location of the regulatory floodway boundary, IDNR-OWR should be contacted. If an area of the site is located in the regulatory floodway that is higher than the BFE, that area is subject to the floodway standards of section <u>9-87</u> of this chapter, including the appropriate use criteria, until such time as an LOMA/LOMR receives concurrence from IDNR-OWR and is issued by FEMA.
  - 2. General criteria for analysis of flood elevations in the regulatory floodway are as follows:
    - a. The flood profiles, flows and data from the current applicable regulatory map must be used for analysis of the base conditions. If the study data appears to be in error or conditions have changed, FEMA and IDNR-OWR shall be contacted for approval and concurrence on the appropriate base conditions data to use. The same Manning's "n" value shall be used for both existing and proposed conditions unless a recorded maintenance agreement obligates a public entity to maintain the proposed conditions or the land cover is changing from vegetative to nonvegetative. The director shall be copied on all related correspondence.
    - b. If the BFE at the site is affected by backwater from a downstream receiving stream with a larger drainage area, the proposed development shall be shown to meet the requirements of this section with the receiving stream at both the normal water elevation and BFE.
    - c. If the applicant is informed by IDNR-OWR, a local government or a private owner that a downstream or upstream restrictive bridge or culvert is scheduled to be removed, reconstructed or modified, or a regional flood control project is scheduled to be built, removed, constructed or modified within the next five (5) years, the proposed development shall be analyzed and shown to meet the requirements of this section for both the existing conditions and the expected flood profile conditions when the bridge, culvert or flood control project is built, removed or modified.
    - d. If the development will result in a change in the location of the regulatory floodway or a change in the BFE, the applicant shall submit the information required for the issuance of a CLOMR to IDNR-OWR and FEMA. A public notice inviting comment on the proposed change in the BFE or location of the regulatory floodway will be published by IDNR-OWR or its designee before a CLOMR is issued. All communities adjacent to a watercourse alteration or revocation shall be notified of the proposed development. Filling, grading, dredging or excavating may take place upon issuance of a conditional approval from IDNR-OWR and the administrator, provided that no encroachment increases the base flood elevation more than one-tenth (1/10) of one foot (1'). No further development activities shall take place in the existing or proposed floodplain until an LOMR is issued by FEMA unless such activities meet all the requirements of sections 9-79 through 9-89 of this chapter. The director shall be copied on all related correspondence.
    - e. In the circumstances listed below and located in a regulatory floodway, at a minimum, the information set forth below

shall be submitted to IDNR-OWR for its review and approval:

- (1) Analysis of the flood profile due to a proposed bridge, culvert crossing or roadway approach;
- (2) An engineer's determination that an existing bridge, culvert crossing or approach road is not a source of flood damage and the analysis indicating the proposed flood profile;
- (3) Alternative transition sections and hydraulically equivalent compensatory storage; and
- (4) Stormwater management permits issued to local units of government for regulatory floodway and floodplain development.
- (5) IDNR-OWR will issue permits for any IDNR-OWR, state, federal or community projects. (Ord. 01-338, 10-9-2001; Ord. 04-392, § 11, 10-12-2004; Ord. 06-435, § 3, 11-14-2006; Ord. 08-342, 11-12-2008)

#### 9-81: GENERAL PERFORMANCE STANDARDS:

The following general performance standards are applicable to all development in a regulatory floodplain. The standards of this section apply except when superseded by more stringent requirements in subsequent sections.

- A. No development shall be allowed in the regulatory floodplain that singularly or cumulatively creates any increase in flood stage or velocity off site, or a damaging or potentially damaging increase in flood heights or velocity on site or a threat to the public health, safety and welfare.
- B. For all projects involving a channel modification, fill, stream maintenance or a levee, the flood conveyance and storage capacity of the regulatory floodplain shall not be reduced.
- C. If the proposed development would result in a change in the regulatory floodplain or BFE the applicant shall obtain an LOMR from FEMA. No buildings may be built in the existing or proposed regulatory floodplain until the LOMR is obtained from FEMA unless the building meets all the building protection standards of section <u>9-83</u> of this chapter. Proposed changes to the regulatory floodway delineation and the BFE must be submitted to IDNR-OWR for approval.
- D. If the development is located in the Fox River a permit must also be received from IDNR-OWR.
- E. Prior to the commencement of any construction, modification or removal of a dam the developer shall obtain an IDNR-OWR dam safety permit or letter indicating a permit is not required.
- F. For public flood control projects, sections <u>9-79</u> through <u>9-89</u> of this chapter will be deemed met if the applicant demonstrates to IDNR-OWR and the committee:
  - 1. By hydraulic and hydrologic modeling that the proposed project will not singularly or cumulatively result in increased flood heights outside the project site or that any increases will be contained in easements for all flood events up to and including the base flood event;
  - 2. That the project will be operated and maintained by a public entity;
  - 3. That the project will reduce flood damage to an existing building or structure.

G. Fences within the floodplain shall not impede the base flood.

Nothing in this section precludes the design, engineering, construction or financing, in whole or in part, of a public flood control project by persons who are not public entities. (Ord. 01-338, 10-9-2001; Ord. 04-392, § 12, 10-12-2004)

#### 9-82: PUBLIC HEALTH PROTECTION STANDARDS:

- A. New and replacement water supply systems, wells and sanitary sewer lines may be permitted if all manholes or other aboveground openings located below the FPE are watertight.
- B. New on site waste disposal systems, such as septic systems, shall not be constructed within the regulatory floodplain.
- C. New, substantially improved or replacement wastewater treatment plants shall have watertight openings for those openings located below the FPE. Such facilities should be located to avoid impairment to the facility or contamination of floodwaters during the base flood. (Ord. 01-338, 10-9-2001)

#### 9-83: BUILDING PROTECTION STANDARDS:

This section applies to all buildings located in the regulatory floodplain. However, most new and replacement buildings are not appropriate uses of the regulatory floodway.

- A. The lowest floor including basements of all new residential structures, substantially improved structures and additions shall be elevated at least to the FPE. An attached garage for a structure must be elevated at least six inches (6") above the BFE.
  - 1. If placed on fill, the top of the fill for a residential structure shall be above the FPE. The top of fill for an attached garage shall be at least six inches (6") above the BFE. The fill shall be placed at that elevation for a distance of ten feet (10') out from the building unless the building design is certified by a registered structural engineer to be protected from damage due to hydrostatic pressures. Additionally, the fill shall not settle below the FPE for a residential structure and not below six inches (6") above the base flood for an attached garage, and shall be adequately protected against erosion, scour and differential settlement. An LOMR shall be obtained from FEMA removing the residential site from the floodplain.
  - 2. If elevated by means of walls, pilings, or other foundation, the building's supporting structure must be permanently open to floodwaters and not subject to damage by hydrostatic pressures of the base flood. The permanent openings shall be no more than one foot (1') above existing grade and consist of a minimum of two (2) openings. The openings must have a total net area of not less than one square inch for every one square foot of enclosed area subject to flooding below the BFE. The lowest inside grade must match the lowest existing outside grade adjacent to the structure. The foundation and supporting members shall be anchored and aligned in relation to flood flows and adjoining structures so as to minimize exposure to known hydrodynamic forces such as current, waves, ice and floating debris. All areas below the FPE shall be constructed of materials resistant to flood damage. The lowest floor (including basement) for a residential structure and all electrical, heating, ventilating, plumbing and air conditioning equipment and utility meters shall be located at or above the FPE. An attached garage must be elevated at least six inches (6") above the BFE. Water and sewer pipes, electrical and telephone lines, submersible pumps and other waterproofed service facilities may be located below the FPE. No area less than two feet (2') above the BFE shall be used for storage.
  - 3. Fully enclosed areas in new construction and substantial improvements that are subject to flooding and are used solely for parking of vehicles, building access or storage in an area other than a basement shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing the entry and exit of floodwaters. Designs shall be

certified by a registered professional engineer or have a minimum of two (2) openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding with the bottom of all openings no higher than one foot (1') above grade. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

- B. The lowest floor including the basement of all new or substantially improved nonresidential buildings shall be elevated at least to the FPE as described above or be structurally dry floodproofed to at least the FPE. A nonresidential building may be structurally dry floodproofed (in lieu of elevation) provided that a professional engineer or registered structural engineer shall certify that the building has been structurally dry floodproofed below the FPE and the structure and attendant utility facilities are watertight and capable of resisting the effects of the base flood. The building design shall take into account flood velocities, duration, rate of rise, hydrostatic and hydrodynamic forces, the effects of buoyancy and impacts from debris or ice. Floodproofing measures shall be operable without human intervention and without an outside source of electricity. Levees, berms, floodwalls and similar works are not considered floodproofing for the purpose of this subsection.
- C. Manufactured homes placed outside a manufactured home park or on a site in an existing manufactured home park in which a manufactured home has suffered substantial damage as a result of a flood shall be at or above the FPE and shall be anchored to resist flotation, collapse or lateral movement in accordance with the Illinois manufactured home tie down code (77 Ill. adm. code 870 [1999], as amended). Manufactured homes placed or substantially improved in an existing manufactured home park shall be elevated so that the chassis is supported by reinforced piers no less than thirty six inches (36") in height above grade and securely anchored. Recreational vehicles to be installed on a site for more than one hundred eighty (180) days, unless fully licensed and highway ready, shall be at or above the FPE and shall be anchored to resist flotation, collapse or lateral movement in accordance with the Illinois manufactured home tie down code (77 Ill. adm. code 870 [1999], as amended).
- D. Accessory structures such as toolsheds and detached garages which are not substantial improvements on an existing single-family lot, may be constructed with the lowest floor below the FPE in accordance with the following criteria:
  - 1. The building shall not be used for human habitation.
  - 2. All areas below the FPE shall be constructed with waterproof material. Structures located in a regulatory floodway shall meet the floodway standards of section <u>9-87</u> of this chapter.
  - 3. The structure shall be anchored to prevent flotation and movement.
  - 4. Service facilities such as electrical and heating equipment shall be elevated or floodproofed to the FPE.
  - 5. The building shall be no greater than five hundred seventy six (576) square feet in floor size and cost not more than twelve thousand dollars (\$12,000.00) to construct.
  - 6. The building shall meet the requirements of subsection A2 of this section.
  - 7. The building shall be used only for the storage of vehicles or tools and may not contain other rooms, workshops, greenhouses or similar uses.
    - Accessory structures that do not meet all of the above criteria may be constructed if they are dry floodproofed or elevated at least six inches (6") above the BFE.
- E. The lowest floor of an addition to an existing industrial use may be constructed at the BFE plus one foot (1') provided this elevation is required by the industrial process as demonstrated by the applicant and the administrator approves the elevation in writing.
- F. All new construction and substantial improvements shall employ anchoring to prevent flotation, collapse or lateral movement of the structure, use flood resistant materials, and be constructed by methods and practices that minimize flood damages.

- G. Where base flood elevation data are used within zone A on the community's FHBM or FIRM, a record of the following shall be obtained and maintained by the administrator:
  - 1. The elevation of the lowest floor (including basement) of all new structures and substantially improved structures; and
  - 2. The elevation to which the structure was floodproofed (if the structure has been floodproofed in accordance with subsections A2, B and F of this section).
- H. In FEMA zones AO and AH drainage paths shall be provided around structures on slopes to guide water around and away from proposed structures. (Ord. 01-338, 10-9-2001; Ord. 08-342, 11-12-2008)

#### 9-84: NONCONFORMING STRUCTURES:

A nonconforming structure damaged by flood, fire, wind or other disaster may be restored unless the damage is equal to or greater than fifty percent (50%) of its fair market value before it was damaged, in which case it shall conform to section <u>9-83</u> of this chapter. (Ord. 01-338, 10-9-2001)

#### 9-85: LOWEST OPENING:

For proposed structures located outside the regulatory floodplain, the lowest opening shall be above the FPE. (Ord. 01-338, 10-9-2001)

#### 9-86: COMPENSATORY STORAGE VOLUME STANDARDS:

The following standards apply within the regulatory floodplain:

- A. Hydraulically equivalent compensatory storage volume will be required for development in a riverine regulatory floodplain and shall be at least equal to the regulatory floodplain flood storage volume displaced multiplied by 1.5. The storage volume displaced below the existing 10-year frequency flood elevation must be replaced below the proposed 10-year frequency flood elevation. The storage volume displaced above the 10-year existing frequency flood elevation must be replaced above the proposed 10-year frequency flood elevation. The additional compensatory flood storage required beyond a one to one (1:1) ratio may be placed above or below the 10-year flood elevation.
- B. Compensatory storage volume for development in a nonriverine regulatory floodplain area that is also adjacent to a lake shall be equal to the storage volume displaced.
- C. Compensatory storage volume requirements for development in a nonriverine regulatory floodplain that is not adjacent to a lake shall be replaced in accordance with the requirements for the loss of depressional storage in article II, subsection <a href="9-27G">9-27G</a> of this chapter.
- D. Compensatory storage areas shall be designed to drain freely and openly to the channel and shall be located adjacent to the development. This standard does not apply to nonriverine regulatory floodplain or the replacement of depressional

storage.

E. A recorded covenant running with the land is required to maintain the compensatory storage volume in areas modified to provide compensatory storage volume. (Ord. 01-338, 10-9-2001)

#### 9-87: FLOODWAY STANDARDS:

The only development in a regulatory floodway which will be allowed are appropriate uses which will not cause an increase in flood heights or velocities for all flood events up to and including the base flood. Only those appropriate uses listed below will be allowed in the regulatory floodway. Appropriate uses do not include the construction or placement of any new structures, fill, building additions, buildings on stilts, fencing (including landscaping or planting designed to act as a fence) and storage of materials except as specifically defined below as an appropriate use. If the development is proposed for the regulatory floodway portion of the regulatory floodplain, the following standards apply in addition to the standards for the regulatory floodplain:

- A. Only the construction, modification, repair or replacement of the following appropriate uses will be allowed in the regulatory floodway:
  - 1. Public flood control structures and private improvements relating to the control of drainage and flooding of existing buildings, erosion, water quality or habitat for fish and wildlife;
  - 2. Structures or facilities relating to functionally water dependent uses such as additions, modifications and improvements to existing wastewater treatment plants and facilities (not including new wastewater treatment plants or habitable structures at existing wastewater treatment plants) and improvements relating to recreational boating;
  - 3. Storm and sanitary sewer outfalls;
  - 4. Underground and overhead utilities if sufficiently floodproofed;
  - 5. Recreational facilities such as playing fields, open pavilions, gazebos and trail systems including any related fencing (at least 50 percent open when viewed from any 1 direction) built parallel to the direction of flood flows;
  - 6. Detached garages, storage sheds, boathouses or other nonhabitable structures without sanitary facilities that are accessory to existing buildings and will not block flood flows nor reduce regulatory floodway storage;
  - 7. Bridges, culverts and associated roadways, sidewalks and railways, required for crossing the regulatory floodway or for access to other appropriate uses in the regulatory floodway and any modification thereto;
  - 8. Parking lots built at or below existing grade provided that either:
    - a. The BFE is less than one foot (1') above the proposed parking lot; or
    - b. The parking lot is accessory to short term outdoor recreational facilities and the owner agrees to restrict access during periods of inundation and agrees to accept liability for all damage caused by vehicular access during flooding events;
  - 9. Regulatory floodway grading, without fill, to create a positive nonerosive slope toward a channel;
  - 10. Floodproofing activities to protect previously existing lawful structures including the construction of watertight window wells, elevating structures or the construction of floodwalls or berms around residential, commercial or industrial principal structures where the outside toe of the floodwall or berm is no more than ten feet (10') away from the exterior wall of the existing structure and where such activities are not considered to be a substantial improvement to the structure;
  - 11. The repair, replacement or reconstruction of a damaged building, provided that none of the outside dimensions of the building are increased and such repair, replacement or reconstruction does not constitute a substantial improvement;

- 12. Modifications to an existing building such as fireplaces, bay windows, decks, patios and second story addition which do not constitute a substantial improvement, do not increase the enclosed floor area of the building below the BFE and do not block flood flows; no enclosed floor areas may be built on stilts.
- B. No change shall be made to the list of appropriate uses without the prior approval of IDNR-OWR and the committee.
- C. All development in the regulatory floodway shall require a stormwater management permit and must be in accordance with all provisions of this chapter.
- D. An appropriate use may be permitted if the proposed project meets the following engineering and mitigation criteria and is so stated in writing with supporting plans, calculations and data prepared and signed by a professional engineer:
  - 1. All effective regulatory floodway conveyance lost due to the development of appropriate uses, other than bridge or culvert crossings or on stream structures or dams, shall be replaced for all flood events up to and including the base flood.
  - 2. The following expansion and contraction ratios shall be used to determine transition sections in calculations of effective regulatory floodway conveyance:
    - a. Flowing water will expand no faster than a rate of one foot (1') horizontally for every four feet (4') of the flooded stream's length.
    - b. Flowing water will contract no faster than at a rate of one foot (1') horizontally for every one foot (1') of the flooded stream's length.
    - c. Flowing water will not expand or contract faster than one foot (1') vertically for every ten feet (10') of the flooded stream's length.
    - d. All cross sections used in the calculations shall be perpendicular to flood flows.
    - e. Transition sections must be used to determine the effective conveyance areas on adjacent properties.
  - 3. Development of an appropriate use will not result in an increase in the average channel or regulatory floodway velocities or stage. However, in the case of bridges or culverts or on stream structures built for the purpose of backing up water in the stream during normal or flood flows, velocities may be increased at the structure site if scour, erosion and sedimentation will be avoided by the use of riprap or other design measures.
  - 4. In the case of on stream structures built for the purpose of backing up water during normal or flood flows, the increase in flood stage when compared to existing conditions for all storm events up to and including the base flood event shall be contained within recorded easements or the channel banks. A dam safety permit or letter indicating a dam safety permit is not required must be obtained from IDNR-OWR for such structures.
  - 5. If floodproofing construction is required beyond the outside dimensions of an existing habitable residential or commercial building, the outside perimeter of the floodproofing construction shall be no further than ten feet (10') from the building. Compensation for lost storage and conveyance will not be required for floodproofing within the ten foot (10') perimeter provided the probability of flood damage to other buildings is not increased.
  - 6. IDNR-OWR will issue permits for all IDNR-OWR, state, federal or community projects. (Ord. 01-338, 10-9-2001)

#### 9-88: RIVERINE FLOODPLAIN:

These standards apply to riverine regulatory floodplains without a regulatory floodway. The applicant shall obtain approval from IDNR-OWR for all development, any portion of which is located within the regulatory floodplain (without a delineated regulatory floodway) with a tributary drainage area of six hundred forty (640) acres or more.

- A. The development shall not singularly or cumulatively result in an obstruction of flood flows or potential flood damages outside the site due to an increase in flood heights, velocities or loss of floodplain area storage.
- B. A professional engineer shall submit a study that:
  - 1. Determines a floodway which meets the definition of a "regulatory floodway" and demonstrates that the proposed development meets the floodway standards in section 9-87 of this chapter; or
  - 2. Determines a BFE and demonstrates that the proposed development will maintain the existing conditions conveyance, will not increase flood velocities, will not increase flood profiles and will compensate for any lost floodplain storage in accordance with section 9-86 of this chapter; or
  - 3. Shows that the proposed development will meet the requirements for regulatory floodplains in sections <u>9-82</u> and <u>9-83</u> of this chapter.
- C. If a development will alter or relocate a watercourse the applicant shall notify adjacent communities. (Ord. 01-338, 10-9-2001; Ord. 08-342, 11-12-2008)

#### 9-89: BRIDGE AND CULVERT STANDARDS:

These standards are for the construction, reconstruction or modification of bridges, culvert crossings and roadway approaches located in the regulatory floodplain:

- A. A proposed new structure shall not result in an increase of upstream flood stages greater than 0.1 foot when compared to the existing conditions for all flood events up to and including the base flood event unless contained within the channel banks or recorded easements. The evaluation must be submitted to IDNR-OWR for review and issuance of a permit.
- B. If the proposed new structure will increase upstream flood stages greater than 0.1 foot, the applicant must contact IDNR-OWR for a dam safety permit or waiver. The director shall be copied on all related correspondence.
- C. A restrictive bridge or culvert may be altered to increase the conveyance of the base flood if an impact analysis is completed and approved in writing by the administrator and the director and all other required regulatory approvals are obtained.
- D. Velocity increases must be mitigated by use of appropriate measures to avoid scour, erosion and sedimentation at the structure.
- E. For modification or replacement of existing structures in a regulatory floodway, the existing structure must first be evaluated in accordance with IDNR-OWR rules (17 III. adm. code part 3708) to determine if the existing structure is a source of flood damage. If the structure is a source of flood damage, the applicant's engineer shall justify allowing the damage to continue and evaluate the feasibility of relieving the structure's impact. Modifications to or replacement of structures, other than a restrictive bridge or culvert under subsection C of this section, shall not increase flood stages (0.0 feet) compared to the existing condition for all flood events up to and including the base flood event. The evaluation must be submitted to IDNR-OWR for review and approval before a permit is issued. The director shall be copied on all related correspondence.

- F. If any work is proposed in, near or over the Fox River, a permit or letter indicating a permit is not required must be obtained from IDNR-OWR.
- G. The hydraulic analysis for the backwater caused by the bridge showing the existing condition and proposed regulatory profile must be submitted to IDNR-OWR for concurrence that a CLOMR is not required.
- H. Construction vehicles shall cross streams by the means of existing bridges or culverts. Where an existing crossing is not available, a temporary crossing, for which a permit or waiver has been issued by IDNR-OWR, shall be constructed in which:
  - 1. The approach roads will be six inches (6") or less above existing grade;
  - 2. The crossing will allow stream flow to pass without backing up the water above the stream bank vegetation line or above any drainage tile or outfall;
  - 3. The top of the roadway fill in the channel will be at least two feet (2') below the top of the lowest bank;
  - 4. Any fill in the channel shall be nonerosive material, such as riprap or gravel; and
  - 5. The access road and temporary crossings will be removed within one year after installation, unless an extension of time is granted by the administrator. (Ord. 01-338, 10-9-2001; Ord. 04-392, §§ 13, 14, 10-12-2004; Ord. 08-342, 11-12-2008)

#### 9-90: REQUIREMENTS FOR WETLAND DELINEATION:

- A. Before any development in or near waters of the U.S., or in or near isolated wetlands or farmed wetlands, a written report identifying and evaluating the boundaries, location, limits, area and quality of all on site wetlands shall be submitted. The presence and limits of wetland areas shall be determined by a wetland delineation conducted in accordance with the 1987 corps of engineers "Wetland Delineation Manual". Wetland delineations under this section shall be valid for three (3) years.
- B. The quality of the wetlands shall be evaluated based upon the FQI.
- C. Delineations for permitting purposes shall be performed only during the period beginning on the last Monday of March and ending on the third Friday of November.
- D. The approximate location, extent and relative quality of off site wetlands within fifty feet (50') of the site shall be identified and included in the written report. The location and extent of such off site wetlands shall be determined by using the first of the following documents or procedures pertaining at the time of development:
  - 1. Site specific delineation according to the 1987 manual. If such delineation is not available, then
  - 2. Wetlands identified in watershed plans or ADID studies. If such plans are not available, then
  - 3. Wetlands identified in interim watershed plans. If such plans are not available, then
  - 4. Wetlands identified on NRCS wetlands inventory maps.

E. FQI assessments made before June 1 or after October 15 shall be considered to be preliminary. Buffer requirements based upon such assessments shall not be considered to be final unless maximum buffer widths are assumed. (Ord. 01-338, 10-9-2001; Ord. 04-392, §§ 15, 16, 10-12-2004; Ord. 08-342, 11-12-2008)

#### 9-91: MITIGATION TO BE LOCAL:

All wetland mitigation required under a COE section 404 permit for wetland disturbances in the county shall be provided in the county. All wetland mitigation required under this chapter for wetland impacts in the county shall be provided in the county. All wetland mitigation required under this chapter for wetland impacts in any other county may be provided in such county or in this county. (Ord. 01-338, 10-9-2001; Ord. 01-442, 12-11-2001)

#### 9-92: THREATENED AND ENDANGERED SPECIES CONSULTATION:

Prior to the issuance of a stormwater management permit the applicant shall consult with IDNR and the United States fish and wildlife service with respect to the presence of threatened or endangered species and shall obtain a "positive outcome" letter or other instrument of approval. (Ord. 01-338, 10-9-2001)

#### 9-93: WETLAND PRESERVATION DURING DEVELOPMENT:

Preserved wetlands shall be protected during development such that an FQI calculated two (2) years after the commencement of development will not be more than two (2) points less than the FQI originally calculated. The developer shall mitigate for any wetland not so preserved at the ratio required for the FQI originally calculated. (Ord. 01-338, 10-9-2001)

#### 9-94: BUFFER REQUIREMENTS:

The requirements of this section are not applicable to redevelopment projects on sites adjacent to the main channel of the Fox River. The requirements of this section are also not applicable to isolated wetlands or waters of the U.S. that, in either case, are below the threshold size limitations for mitigation requirements under the COE section 404 permit program (currently, less than 0.10 acre).

#### A. Buffers:

- 1. Buffers shall be identified on development plans for all areas defined as waters of the U.S. Buffer areas are divided into two (2) types, linear buffers and water body buffers. Buffer areas including the protected waters of the U.S. shall be shown to be within appropriate easements on all new plats. Additionally, the maintenance requirements for the buffer shall be noted on the plat or included as a covenant running with the land in any deed which conveys any portion of a buffer area.
- 2. Buffer widths required as a part of a COE permit supersede the widths required in this section, unless the width required herein is greater. If a COE permit is obtained to permanently fill a portion of a wetland and no buffer is required, the buffer width required by this chapter immediately adjacent to the area of impact does not apply. "Immediately adjacent" refers to the area within fifteen feet (15') of the area of impact. In no case shall additional wetland area be filled to provide buffer required by this chapter.
- 3. A jurisdictional waters of the U.S. or wetland may not constitute buffer. Buffer widths are to be fifty feet (50') wide unless otherwise determined using the criteria specified in subsections A3a and/or A3b of this section. Buffer width

averaging is acceptable at the discretion of the administrator. When using buffer width averaging, the width may not be more than twenty percent (20%) less, at the narrowest point, than the specified width. The buffer width may never be less than fifteen feet (15'), except in the case of waters of the U.S. or wetlands with a calculated FQI of less than seven (7) where the buffer at its narrowest point may not be less than twelve feet (12') in width.

- a. Linear buffers shall be designated along waters of the U.S. and wetlands associated with watercourses, i.e., swales, creeks, streams, rivers, etc. Refer to subsection A3b of this section in cases where wetlands are adjacent to and not part of the main channel, i.e., floodplain wetland, backwater slough, oxbow, bordering wetland complex.
  - (1) When the lineal waters of the U.S. have a drainage area greater than six hundred forty (640) acres, measured at the downstream property line, or are designated as ADID because of high habitat value or an adjacent wetland has a calculated FQI greater than sixteen (16), the buffer shall be fifty feet (50').
  - (2) When the lineal waters of the U.S. have a drainage area less than six hundred forty (640) acres, measured at the downstream property line, the buffer width shall be determined utilizing the formula, X = (A \* 0.0547) + 15, where "X" equals the buffer width in feet and "A" equals the drainage area in acres. The width calculated by this formula shall be rounded up to the nearest multiple of five (5). Figure 1 of this section may be used to determine buffer widths provided the resultant width is increased to the nearest multiple of five (5).
  - (3) If protective measures are installed along the perimeter of a buffer, the width may be reduced by up to ten percent (10%) immediately adjacent to the protective measure. The reduction in width that may be applied due to installation of protective measures may not be applied where buffer width averaging has been used and the buffer would be more than twenty percent (20%) less than originally specified. Protective measures may consist of fencing, sediment basins, biological filter strips or other methods approved by the administrator.
  - (4) If lineal waters of the U.S. are completely or partially relocated, the newly created portion must be constructed in a manner which will allow naturalizing to occur, for example, meandering, pools, riffles, and the like. Additionally, all disturbed areas must be replanted for stability with native vegetation where appropriate, appropriately managed and maintained and protected by an appropriately sized buffer.
- b. Water body buffers shall encompass nonlineal bodies of water meeting the definition of waters of the U.S., including wetlands.
  - (1) If protective measures are installed along the perimeter of a buffer, the width may be reduced by up to ten percent (10%) immediately adjacent to the protective measure. The reduction in width that may be applied due to installation of protective measures may not be applied where buffer width averaging has been used and the buffer would be more than twenty percent (20%) less than originally specified. Protective measures may consist of fencing, sediment basins, biological filter strips or other methods approved by the administrator.
  - (2) For all nonlineal water bodies or wetlands with an FQI greater than sixteen (16), a minimum buffer width must be established in accordance with table 9-94A of this section.
  - (3) For wetlands with an FQI of seven (7) to sixteen (16) a minimum buffer width must be established in accordance with table 9-94B of this section.
  - (4) For wetlands with an FQI of less than seven (7) a minimum buffer width must be established in accordance with table 9-94C of this section.
- B. Buffers Replanted Or Reseeded: Buffers shall be replanted or reseeded using appropriate predominately native deep rooted vegetation, appropriately managed and maintained.
- C. Buffer Areas: The buffer area for all lineal and nonlineal waters of the U.S. except wetlands shall extend from the jurisdictional limits of the waters of the U.S. ordinary high water mark. The buffer area for wetlands shall extend from the edge of the approved delineated wetland boundary. A site may contain buffer that originates from a waters of the U.S. or wetland located on another property.
- D. Stormwater Management Features: Constructed stormwater management features shall not require a buffer and may constitute buffer. The total width of the buffer required may not be reduced by the installation of a stormwater

management facility unless the facility can be considered a protective measure. If the facility can be considered to be a protective measure then the width of the buffer may be reduced as specified in subsection A3a(3) of this section.

- E. Disturbed During Construction: If a buffer area is disturbed by permitted activities during construction, the buffer strip shall be stabilized in accordance with subsection B of this section.
- F. Access Allowed When Necessary: Access through buffer areas shall be allowed when necessary for maintenance purposes. Unless otherwise dedicated for a public purpose, buffer areas shall remain private property and are not generally accessible to the public.
- G. Exemptions: The following are exempt from buffer requirements provided they do not meet the definition of "waters of the U.S.":
  - 1. Roadside drainage ditches;
  - 2. Channels;
  - 3. Conveyance systems between site runoff storage facilities;
  - 4. Excavated site runoff storage facilities, compensatory storage and sediment basins;
  - 5. Roadway crossings and their associated installations;
  - 6. Downspout and sump pump discharge; and
  - 7. Constructed stormwater management facilities.
- H. Discharge Through Buffer: Undetained stormwater which has not passed through a site runoff storage facility shall discharge through an area or structure meeting the definition of best management practices or "buffer" before entering a jurisdictional waters of the U.S. or wetland.
- I. Free From Development Once Established: All buffer areas once established shall be maintained free from development, except as follows:
  - 1. A buffer area may be used for passive recreation (e.g., birdwatching, walking, jogging, bicycling, horseback riding and picnicking) and it may contain pedestrian, bicycle or equestrian trails, provided that the created path is no wider than ten feet (10'). If the path leads to a wetland, it must be a winding path to help prevent erosion.
  - 2. Nonhabitable structures (i.e., toolshed) and impervious surfaces may occupy a maximum of fifteen percent (15%) of the portion of the required buffer that extends onto or is part of an individual property.
  - 3. Utility maintenance, and maintenance of drainage facilities and drainage easements shall be allowed provided the maintenance activity meets all other federal, state and local regulations.
  - 4. Anchoring and placement of boat docks and piers shall be allowed provided the structure meets all other federal, state and local regulations.
- J. Buffer Width Calculation Tables:

TABLE 9-94A HIGH QUALITY WETLANDS - FQI>16

Buffer Ratio	Wetland Area (Acres)	Buffer Area (Acres)	Buffer Width (Feet)	
0 .5	0 .10	0 .050	15 .0	
0 .5	0 .25	0 .125	15 .0	
0 .5	0 .50	0 .250	20 .0	
0 .5	0 .75	0 .375	25 .0	
0 .5	1 .00	0 .500	30 .0	
0 .5	1 .25	0 .625	30 .0	
0 .5	1 .50	0 .750	35 .0	
0 .5	1 .75	0 .875	35 .0	
0 .5	2 .00	1 .000	40 .0	
0 .5	2 .25	1 .125	40 .0	
0 .5	2 .50	1 .250	45 .0	
0 .5	2 .75	1 .375	45 .0	
0 .5	3 .00	1 .500	50 .0	
0 .5	3 .25	1 .625	50 .0	
0 .5	3 .50	1 .750	50 .0	
0 .5	3 .75	1 .875	50 .0	
0 .5	4 .00	2 .000	50 .0	
0 .5	4 .25	2 .125	50 .0	
0 .5	4 .50	2 .250	50 .0	
0 .5	4 .75	2 .375	50 .0	
0 .5	5.00 or more	2 .500	50 .0	

Buffer ratio	=	Percent of total wetland area	
Wetland area	=	Total on and off site area of the wetland = (% * Acres)	
Buffer area	=	Area of the buffer = (% * Acres)	
Buffer width	=	[(Area * 43560) / 4] / [Sqrt(Acres * 43560)]	

TABLE 9-94B MEDIUM QUALITY WETLANDS - 7.FQI.16

Buffer Ratio	Wetland Area (Acres)	Buffer Area (Acres)	Buffer Width (Feet)	
0 .4	0 .10	0 .04	15 .0	
0 .4	0 .25	0 .10	15 .0	
0 .4	0 .50	0 .20	15 .0	
0 .4	0 .75	0 .30	20 .0	
0 .4	1 .00	0 .40	25 .0	

0 .4	1 .25	0 .50	25 .0
0 .4	1 .50	0 .60	30 .0
0 .4	1 .75	0 .70	30 .0
0 .4	2 .00	0 .80	30 .0
0 .4	2 .25	0 .90	35 .0
0 .4	2 .50	1 .00	35 .0
0 .4	2 .75	1 .10	35 .0
0 .4	3 .00	1 .20	40 .0
0 .4	3 .25	1 .30	40 .0
0 .4	3 .50	1 .40	40 .0
0 .4	3 .75	1 .50	45 .0
0 .4	4 .00	1 .60	45 .0
0 .4	4 .25	1 .70	45 .0
0 .4	4 .50	1 .80	45 .0
0 .4	4 .75	1 .90	50 .0
0 .4	5.00 or more	2 .00	50 .0

Buffer ratio	=	Percent of total wetland area
Wetland area	=	Total on and off site area of the wetland = (% * Acres)
Buffer area	=	Area of the buffer = (% * Acres)
Buffer width	=	[(Area * 43560) / 4] / [Sqrt(Acres * 43560)]

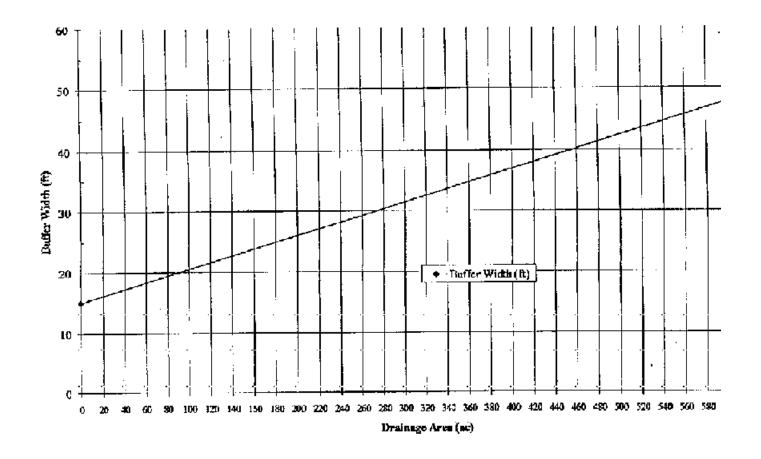
# TABLE 9-94C LOW QUALITY WETLANDS - FQI<7

Buffer Ratio	Wetland Area (Acres)	Buffer Area (Acres)	Buffer Width (Feet)
0 .3	0 .10	0 .030	15 .0
0 .3	0 .25	0 .075	15 .0
0 .3	0 .50	0 .150	15 .0
0 .3	0 .75	0 .225	15 .0
0 .3	1 .00	0 .300	20 .0
0 .3	1 .25	0 .375	20 .0
0 .3	1 .50	0 .450	20 .0
0 .3	1 .75	0 .525	25 .0
0 .3	2 .00	0 .600	25 .0
0 .3	2 .25	0 .675	25 .0
0.3	2 .50	0 .750	25 .0

0 .3	2 .75	0 .825	30 .0
0 .3	3 .00	0 .900	30 .0
0 .3	3 .25	0 .975	30 .0
0 .3	3 .50	1 .050	30 .0
0 .3	3 .75	1 .125	35 .0
0 .3	4 .00	1 .200	35 .0
0 .3	4 .25	1 .275	35 .0
0 .3	4 .50	1 .350	35 .0
0 .3	4 .75	1 .425	35 .0
0 .3	5.00 or more	1 .500	35 .0

Buffer ratio	=	Percent of total wetland area
Wetland area	=	Total on and off site area of the wetland = (% * Acres)
Buffer area	=	Area of the buffer = (% * Acres)
Buffer width	=	[(Area * 43560) / 4] / [Sqrt(Acres * 43560)]

FIGURE 1
BUFFER WIDTH CALCULATION BASED ON DRAINAGE AREA



(Ord. 01-338, 10-9-2001; Ord. 04-392, § 17, 10-12-2004; Ord. 08-342, 11-12-2008)

#### 9-95 - 9-100: RESERVED:

# ARTICLE V. REQUIRED SUBMITTALS FOR STORMWATER MANAGEMENT PERMITS

#### 9-101: GENERAL REQUIREMENTS:

- A. A stormwater management permit is required if:
  - 1. The development is located in the regulatory floodplain;
  - 2. A substantial improvement is to be located in the regulatory floodplain;
  - 3. There is any regulatory floodplain within the site; or
  - 4. The development disturbs more than five thousand (5,000) square feet of ground or two hundred fifty (250) cubic yards of soil, unless the development consists solely of:
    - a. The installation, renovation or replacement of a septic system, potable water service line or other utility serving an existing structure;
    - b. The maintenance, repair or at grade replacement of existing lawn areas not otherwise requiring a stormwater permit under this chapter;
    - c. The maintenance of an existing stormwater facility, not requiring other state or federal permits or approvals.
- B. All appropriate stormwater management related approvals and permits, including, without limitation, an IDNR-OWR floodway/floodplain construction permit, a COE 404 permit and an IDNR-OWR dam safety permit, if required, shall be obtained from all federal, state and regional authorities prior to the issuance of a stormwater management permit.
- C. A nonrefundable review fee shall be paid to cover the costs and expenses incurred by the county in performing the following work: review the stormwater permit application and supporting documents; prepare correspondence and reports; meet with the developer and his representatives; communicate and coordinate with other governmental and private entities in matters related to the project; conduct construction observations and reports; recommend and approve performance guarantee reductions; recommend and approve partial or final acceptance of the stormwater permit and supporting documents; and recommend and approve partial or final acceptance of the constructed improvements associated with the stormwater permit, all in accordance with the requirements of the stormwater ordinance. Such expenses may include, but are not limited to, the following:
  - 1. Fees of one or more professional consultants, which may include, but are not limited to, qualified review specialists, retained by the county in matters related to the review of the stormwater permit application and supporting documents and constructed improvements;
  - 2. Fees for legal counsel retained by the county for review and negotiations in connection with the stormwater permit application and supporting documents and for legal matters related to enforcing compliance with this article;
  - 3. Public recording fees;
  - 4. Legal publication fees;

5. Any other direct expense as determined by the administrator of this article.

The stormwater permit fees shall be paid when a stormwater permit application is filed based on the following project development types:

- 1. Single-family residence and related projects requiring a building permit such as pools, sheds, accessory buildings, fences, etc.
- 2. Site development projects not requiring a building permit or other approval including mass grading, pond construction, stream restoration, wetland banks, wetland mitigation, etc.
- 3. Agricultural exempt building permits.
- 4. Commercial, industrial or institutional sites.
- 5. Subdivisions based on total lot count.

The stormwater permit fees (for unincorporated Kane County and noncertified communities) are based on the following fee schedule:

		Fee Component						
Project Descripti	Application	Erosion And Sediment Control	Site Runoff Storage	Wetland Within Site	Floodplain Within Site	SA Implementation		
Single-family residen	\$ 50.00	\$ 50.00	\$ 100 .00	\$ 100 .00	\$ 100 .00	n/a		
Site development pro	oject:							
0 to 5 acres	50 .00	50 .00	100 .00	100 .00	100 .00	n/a		
5 to 40 acres	50 .00	100 .00	150 .00	150 .00	150 .00	n/a		
40 to 160 acres	100 .00	150 .00	200 .00	200 .00	200 .00	n/a		
160 or more acres	s 100 .00	200 .00	250 .00	250 .00	250 .00	n/a		
Agricultural exempt	50 .00	100 .00	150 .00	150 .00	150 .00	n/a		
Commercial, industri	al or 150 .00	150 .00	250 .00	250 .00	250 .00	\$500 .00		
Subdivision:								
Minor: 4 lots or le	ss 150 .00	150 .00	250 .00	250 .00	250 .00	500 .00		
5 to 10 lots	250 .00	250 .00	500 .00	500 .00	500 .00	500 .00		
11 to 50 lots	250 .00	500 .00	500 .00	500 .00	500 .00	750 .00		
51 to 100 lots	500 .00	500 .00	750 .00	750 .00	750 .00	750 .00		
101 or more lots	500 .00	750 .00	1,000 .00	1,000 .00	1,000 .00	750 .00		

Any project requiring renewal or extension of an issued permit shall pay an additional fee equal to twenty five percent (25%) of the original permit fee.

6. In the event the applicant disputes the costs and expenses invoiced by the county, the applicant shall submit his/her claim, in writing, to the administrator within thirty (30) days from the date of invoice, and the administrator shall seek to

resolve such dispute within fourteen (14) calendar days. In the event the administrator and the applicant are unable to resolve the dispute, the applicant shall be entitled to present his/her appeal before the stormwater management subcommittee of the development committee, who shall make a recommendation to the full development committee, whose decision shall be final.

- D. 1. The design of stormwater facilities, calculations for the determination of the regulatory floodplain and calculations of the impacts of development shall meet the standards of this chapter and shall be prepared, signed, and sealed by a professional engineer. The signature and seal of such professional engineer shall stand as his or her opinion that the submittals which accompany the permit application meet the requirements of this chapter.
  - 2. a. For projects which include earth embankments which are subjected to a differential water pressure the submittal shall include evidence that the embankment design and construction specifications are adequate for the design conditions. This review shall include consideration of the existing foundation soils for the embankment, the materials from which the embankment is to be constructed, compaction requirements for the embankment and protection of the embankment from failure due to overtopping. Specifications for the construction and materials for all such embankments shall be included. When directed by the administrator, or when the impounded water pressure differential exceeds three feet (3') or when appropriate considering the volume impounded and water surface elevation differential to which the embankment is subjected, these calculations may be required to be reviewed, signed and sealed by a qualified geotechnical or registered structural engineer.
    - b. For structures (not including earth embankments) that are subject to a differential water pressure greater than three feet (3') the submittal shall, at a minimum, be reviewed by a professional engineer. Such reviews shall include stability of the structure under design conditions considering the protection of downstream life and property in the event of a failure. When directed by the administrator the calculations submitted for such structures shall be reviewed, signed and sealed by a registered structural engineer.
  - 3. A topographical map of the site, record drawings and other required drawings shall be prepared, signed, and sealed by a professional land surveyor or professional engineer and referenced to the national geodetic vertical datum, 1929 adjustment, any FEMA bench marks and, if the site is more than twenty (20) acres, to the Kane County survey control network. Plats for new subdivisions more than twenty (20) acres in size shall be submitted to the director in one of the electronic formats designated by the county. (Ord. 01-338, 10-9-2001; Ord. 02-03, 1-8-2002; Ord. 04-392, § 18, 10-12-2004; Ord. 05-386, 11-8-2005)

#### 9-102: DURATION AND REVISION OF PERMITS:

- A. Permits expire on December 31 of the third year following the date of their issuance.
- B. If the permitted activity has begun but is not complete by the expiration date of the permit, the permittee may submit a written request for an extension to the administrator with a copy to the director. Upon receipt of such request, the administrator may extend the expiration date for up to three (3) years for permitted activities outside special management areas. Expiration dates for permitted activities within special management areas may also be extended for up to three (3) years provided the activity is in compliance with the then current requirements of this chapter. A permittee may apply for any number of extensions.
- C. If the permittee revises the approved plans after issuance of the permit, the permittee shall submit the revised plans to the administrator with a copy to the director, along with a written request for approval. If the administrator determines that the revised plans are in compliance with the then current requirements of this chapter, an amended permit may be issued. (Ord. 01-338, 10-9-2001)

#### 9-103: REQUIRED SUBMITTALS:

A. Refer to table 9-103 of this section for the submittals required to accompany the permit application based upon the type of development. The administrator may, in his or her discretion, modify the submittal requirements on a case by case basis considering the size, complexity and likelihood that a development will affect the discharge of stormwater. Such modifications shall be requested and approved in writing. The administrator's response shall note the relevant findings and be specific as to what submittal requirements are changed. The director shall be copied on all related correspondence. The administrator may not modify submittal requirements for any aspect of the development requiring state or federal permits or approvals, nor for any application in which any variance is requested. The director shall receive a copy of any wetland submittal under section 9-108 of this chapter whether or not the county is the permitting authority. TABLE 9-103

PERMIT SUBMITTAL REQUIREMENTS

		Required Submittals (Refer To Sections Noted For Specific Requirements)  Section Number/Description										
Type Of	9-104 Application And Project Overview	9-105 Plan Set Submittal	9-106 Stormwater Submittal	9-107 Floodplain Submittal	<u>9-108</u> Wetland Submittal	9-109 Performance Security	9-110 Maintenance Schedule	9-111 Record Drawings	Art. XV Wetland Impacts And Mitigation			
Development All requiring a			<u> </u>				And Funding					
permit	Х	Х				Х	Х	Х				
All on sites with floodplain	Х	Х		Х		Х	Х	Х				
All on sites with or adjacent to waters of the United States	×	×			х	×	x	×				
All applications for variances	х	X	х	If on site	If on site	х	х	х				
All requiring site runoff storage	х	х	Х			Х	Х	x				
All on sites having a wetland impact					X				×			

(Ord. 01-338, 10-9-2001; Ord. 04-392, § 19, 10-12-2004)

#### 9-104: APPLICATION AND PROJECT OVERVIEW:

A. The applicant shall at a minimum, provide the following information on forms or in a format approved by the administrator:

- 1. The names and legal addresses of all owners of the site;
- 2. The names and legal addresses of the developer or developers responsible for completing the development according to the plans submitted, the terms and conditions of the permit and the requirements of this chapter;
- 3. The common address, legal description and parcel identification number (PIN) of all parcels which comprise the site;
- 4. The name of the project, area of the site in acres and type of development;
- 5. A general narrative description of the development, existing and proposed conditions and project planning principles considered, including best management practices used;
- 6. A statement of opinion by a qualified person as to the presence of special management areas on the site;
- 7. A statement of opinion by a qualified wetlands review specialist as to the presence of wetlands on or near the site. This requirement may be waived if the qualified engineer review specialist determines in writing that it is obvious from the nature of the development or redevelopment that wetlands cannot be located on or near the site;
- 8. Copies of all other permits or permit applications as required;
- 9. A subsurface drainage investigation report; and
- 10. An engineer's estimate of probable construction cost of the stormwater facilities and the installation and maintenance of soil erosion and sediment control measures.
- B. The application shall be signed by all owners and developers identified in subsections A1 and A2 of this section and shall contain their attestation that they have read and understand the provisions of this chapter and agree to bind themselves to the permitting authority to comply therewith. If at any time prior to completion and final inspection and approval of the development the identity of the persons required to be disclosed in subsections A1 and A2 of this section changes, an amended application containing the current information shall be filed and the permit shall be amended accordingly. (Ord. 01-338, 10-9-2001; Ord. 04-392, § 20, 10-12-2004)

### 9-105: PLAN SET SUBMITTAL:

All applicants for a stormwater permit shall provide the following basic plan exhibits: site topographical map, general plan view drawing, sediment/erosion control plan and a vicinity topographical map. Each exhibit may be on more than one drawing for clarity. The specific information to be included on each exhibit shall be as noted below:

#### A. Site Topographical Map:

- 1. Map scales as one inch equals one hundred feet (1" = 100') (or less) and accurate to plus or minus 0.5 foot;
- 2. Existing and proposed contours on site (1 foot maximum contour interval) and within one hundred feet (100') of the site;
- 3. Existing and proposed drainage patterns and watershed boundaries;
- 4. Delineation of predevelopment regulatory floodplain and floodway limits;
- 5. Delineation of postdevelopment regulatory floodplain and floodway limits;
- 6. Location of cross sections and any other hydrologic or hydraulic computer modeled features;
- 7. Location of all on site drain tiles;
- 8. Boundaries of all wetlands, lakes, ponds, etc., with normal water elevation noted (show areas of wetlands to be impacted either under permit or otherwise if a permit is not required);

- 9. Location of all existing buildings and those to remain on the site noted;
- 10. Nearest base flood elevations;
- 11. FEMA and reference bench marks used; and
- 12. All contours used in the calculation of depressional storage highlighted.

# B. General Plan View Drawing:

- 1. Drawing at the same scale as the site topographical map;
- 2. Existing major and minor stormwater systems;
- 3. Proposed major and minor stormwater systems;
- 4. Design details for stormwater facilities (i.e., structure and outlet work detail drawings, etc.);
- 5. Scheduled maintenance program for permanent stormwater facilities including BMP;
- 6. Planned maintenance tasks and schedule;
- 7. Identification of persons responsible for maintenance;
- 8. Permanent public access maintenance easements granted or dedicated to, and accepted by, a government entity;
- 9. Proposed regulatory floodplain and floodway location (with the base flood and flood protection elevations noted);
- 10. Existing waters of the U.S. including wetlands, farmed wetlands and aquatic resources identified in ADID, and required buffers;
- 11. Areas of directly connected impervious areas and any offsetting landscaped areas as defined in subsection <u>9-29</u>G of this chapter indicated;
- 12. All plan areas at elevations below the 100-year high water elevation of site runoff storage facilities highlighted; and
- 13. Where a 500-year regulatory flood profile is available, the plan limit of the 500-year floodplain.

# C. Sediment And Erosion Control Plan:

- 1. Drawings at the same scale as the site topographical map;
- 2. Sediment and erosion control installation measures and schedule;
- 3. Existing and proposed roadways, structures, parking lots, driveways, sidewalks and other impervious surfaces;
- 4. Limits of clearing and grading;
- 5. Special management areas located;
- 6. Proposed buffer locations, existing soil types, vegetation and land cover conditions;
- 7. List of maintenance tasks and schedule for sediment and erosion control measures; and
- 8. The name, address and phone number at which the person responsible for erosion and sediment control may be reached on a twenty four (24) hour basis.

#### D. Vicinity Topographical Map:

1. Vicinity topographical map identifying all off site areas draining to the development and downstream to the receiving intermittent or perennial stream (a 2 foot contour map is preferred at a scale readable by the reviewer but a USGS

quadrangle map is acceptable);

- Watershed boundaries for areas draining through or from the development;
- 3. Soil types related to hydrologic soils group, vegetation and land cover affecting runoff upstream of the site for any area draining through the site;
- 4. Location of site within the major watershed(s); and
- 5. Shows the overland flow path from the downstream end of the development to the receiving intermittent or perennial stream. (Ord. 01-338, 10-9-2001; Ord. 04-392, § 21, 10-12-2004; Ord. 08-342, 11-12-2008)

#### 9-106: STORMWATER SUBMITTAL:

The stormwater submittal shall include a narrative discussion and calculations to support a finding by the qualified review specialist that the proposed development complies with the technical requirements of this chapter. The submittal shall consist at a minimum of the following material:

- A. A narrative description of the existing and proposed site drainage patterns and conditions; include description of off site conditions which help to identify stormwater issues considered in the design;
- B. A schedule for implementation of the site stormwater plan;
- C. On site and off site runoff calculations which address the following:
  - Documentation of the procedures and assumptions used to calculate hydrologic and hydraulic conditions for sizing major and minor systems;
  - 2. Cross section data for open channels;
  - 3. Hydraulic grade line and water surface elevations under design flow conditions; and
  - 4. Hydraulic grade line and water surface elevations under base flood flow conditions; and
- D. Site runoff storage calculations, which address the following:
  - 1. Calculation of hydraulically connected impervious area and corresponding retention volume;
  - Documentation of the procedures and assumptions used to calculate hydrologic and hydraulic conditions for determining the allowable release rate;
  - 3. Documentation of the procedures and assumptions used to calculate on site depressional storage;
  - Documentation of the procedures and assumptions used to calculate hydrologic and hydraulic conditions for determining the storage volume;
  - 5. Elevation area storage data and calculations for site runoff storage; and
  - 6. Elevation discharge data and calculations specifically related to the outlet control structure depicted in the plan exhibits. (Ord. 01-338, 10-9-2001)

# 9-107: FLOODPLAIN SUBMITTAL:

The applicant shall obtain approval from IDNR-OWR and FEMA when required for all new base flood and floodway determinations or as required in section <u>9-79</u> of this chapter. Documentation supporting a finding by the qualified review specialist that the proposed development is in compliance with section <u>9-79</u> of this chapter shall be submitted with the application. At a minimum, the following material shall be submitted for approval with the application:

- A. Regulatory floodplain boundary determination:
  - 1. Provide source of flood profile information; and
  - 2. Provide all hydrologic and hydraulic study information for site specific floodplain studies, unnumbered zone A area elevation determinations, and floodplain map revisions;
- B. Floodway hydrologic and hydraulic analyses for the following conditions:
  - 1. Existing conditions (land use and stream systems);
  - 2. Proposed conditions (land use and stream systems);
  - 3. Tabular summary of 100-year flood elevations and discharges for existing and proposed conditions;
  - 4. Calculations used for model development; and
  - 5. Hydraulic/hydrologic computer model input/output;
- C. Floodplain fill and compensatory storage calculations for below and above 10-year flood elevation up to the base flood elevation:
  - 1. Tabular summary for below and above 10-year flood elevation of fill, compensatory storage and compensatory storage ratios provided in proposed plan; and
  - 2. Cross sections used for the above calculations; and
- D. Floodproofing measures:
  - 1. Narrative discussion of floodproofing measures including material specifications, calculations, design details and operation summary; and
  - 2. Flood easements when required by this chapter; and
- E. Statewide and regional self-issuing permits (statewide permits nos. 1 through 14 and regional permit no. 3):
  - 1. Such information as shall show that the development qualifies for particular permit in question under the regulations established therefor by IDNR-OWR. (Ord. 01-338, 10-9-2001)

#### 9-108: WETLAND SUBMITTAL:

A. The applicant shall obtain a permit for all federally regulated activities involving waters of the U.S. from the appropriate federal authorities. The applicant shall obtain a permit from the county (or community certified under this chapter to administer article XV of this chapter), for all developments having a wetland impact. The applicant shall indicate on the plan set the location of any on site wetland mitigation required by a COE permit and, in narrative form, the location of all

on site mitigation.

- B. A wetland submittal in accordance with the detailed requirements of sections <u>9-79</u>, <u>9-90</u> and <u>9-94</u> of this chapter shall be required. In general, the submittal will consist of the following material:
  - Wetland delineation report (COE format);
  - 2. Calculation of required buffer (including size and quality when calculated); and
  - 3. Wetland delineation plan view drawing:
    - a. All existing and proposed impacted or undisturbed on site wetlands;
    - b. Location of buffers;
    - c. Planting plan for buffers; and
    - d. Identify all required wetland management activities.
  - 4. For all stream modifications, the following shall be submitted:
    - a. A plan and profile of the existing and proposed channel; and
    - b. Supporting calculations for channel width, depth, sinuosity, riffle locations and the like.
- C. If the development will have a wetland impact, the requirements of <u>article XV of this chapter</u> shall be met. (Ord. 01-338, 10-9-2001; Ord. 04-392, § 22, 10-12-2004)

#### 9-109: PERFORMANCE SECURITY:

Performance security in accordance with <u>article XII of this chapter</u> shall be required prior to permit issuance. (Ord. 01-338, 10-9-2001)

#### 9-110: MAINTENANCE SCHEDULE AND FUNDING:

A completed maintenance schedule for the stormwater management facilities and special management areas in accordance with <u>article VI of this chapter</u> shall be submitted along with identification of the persons responsible for maintenance and funding and backup funding sources for maintenance in accordance with section <u>9-131</u> of this chapter. (Ord. 01-338, 10-9-2001)

#### 9-111: RECORD DRAWINGS:

The permittee is required to submit record drawings of all permitted stormwater facilities. The record drawings shall be signed and sealed by a professional engineer or professional land surveyor who shall state that the project as constructed is substantially in conformance with the development as permitted. (Ord. 01-338, 10-9-2001)

# 9-112: TERMS OF PERMIT/DENIAL; APPEAL:

- A. Within ten (10) days after being served with the permit or notice that the permit has been denied, the applicant may appeal the terms or denial of the permit to the oversight committee. The appeal shall be made by filing a notice thereof with the oversight committee specifying the specific provisions appealed from and the grounds therefor. The oversight committee shall conduct a hearing on the appeal not more than sixty (60) days after the filing of the notice of appeal. The hearing shall be de novo. Notice of the hearing shall be served upon the applicant, the administrator, the director and upon all communities within the same watershed as the development to which the appeal relates. The hearing may be continued from time to time. The oversight committee may adopt rules for the taking of evidence and conduct of such hearings.
- B. Within thirty (30) days of the conclusion of the hearing, the oversight committee shall decide whether to affirm or reverse, in whole or in part, the terms or denial of the permit. The decision of the oversight committee shall be in writing and shall include the specific findings and conclusions supporting its determination. A copy of the decision and order shall be served upon all parties entitled to notice in accordance with section <u>9-232</u> of this chapter.
- C. Within ten (10) days of being served with the order of the oversight committee, the applicant may (and if the denial of the permit or any of the terms thereof have been reversed, in whole or in part, by the oversight committee, the administrator shall), further appeal to the decision making authority. The decision making authority shall decide the appeal upon the record before the oversight committee. The decision making authority shall decide the appeal within forty five (45) days of its receipt thereof. The decision making authority shall affirm the order of the oversight committee if it is supported by substantial evidence in the record. A copy of the decision and order of the decision making authority shall be served upon all parties entitled to notice in accordance with section 9-232 of this chapter.
- D. Within ten (10) days of being served with the order of the decision making authority, the applicant may (and if the effect of the decision making authority's decision is that the denial of the permit or any of the terms thereof have been reversed, in whole or in part, the administrator shall), further appeal to the committee. The committee shall decide the appeal upon the record below. The committee shall decide the appeal within forty five (45) days of its receipt thereof. The committee shall affirm the order of the decision making authority if it is supported by substantial evidence in the record. A copy of the decision and order of the committee shall be served upon all parties entitled to notice in accordance with section 9-232 of this chapter.
- E. From a final order of the committee, the applicant may appeal to the courts under the Illinois administrative review law. (Ord. 01-338, 10-9-2001)

# 9-113 - 9-125: RESERVED:

# ARTICLE VI. LONG TERM MAINTENANCE

# 9-126: LONG TERM MAINTENANCE; MANAGEMENT AND OPERATION:

The owner shall maintain that portion of a stormwater drainage system, including any special management areas, located upon his land. With the approval of the administrator the stormwater drainage system and special management areas, or specified portions thereof, may be:

A. Dedicated or otherwise transferred to and accepted by the permitting authority or other public entity; or

- B. Conveyed or otherwise transferred to and accepted by a homeowners' association, or similar entity, the members of which are to be the owners of all of the lots or parcels comprising the development; or
- C. Conveyed to one or more persons or in one or more undivided interests to one or more persons.

Except for those portions of the stormwater drainage system and special management areas to be dedicated or otherwise transferred to the permitting authority or other public entity, included in the application for a stormwater permit shall be a plan for the long term management, operation and maintenance of the stormwater drainage system and special management areas and a description of the sources of funding therefor. Amendments to the plan must be approved by the administrator. (Ord. 01-338, 10-9-2001; Ord. 04-392, § 23, 10-12-2004)

# 9-127: TRANSFER TO PERMITTING AUTHORITY OR OTHER PUBLIC ENTITY:

If any portion of the stormwater drainage system or special management areas are to be dedicated or otherwise transferred to the permitting authority or other public entity under subsection <u>9-126</u>A of this chapter, appropriate easements for ingress and egress to and maintenance of such portions shall be reserved for the benefit of such entity on the final plat. (Ord. 01-338, 10-9-2001)

#### 9-128: TRANSFER TO HOMEOWNERS' OR SIMILAR ASSOCIATION:

If any portion of the stormwater drainage system or special management areas are to be conveyed or otherwise transferred to a homeowners' or similar association under subsection 9-126B of this chapter then:

- A. Appropriate easements for ingress and egress to and maintenance of such portions shall be reserved for the benefit of such association and the permitting authority on the final plat;
- B. The final plat shall contain a legend imposing the maintenance obligations of this section upon the association and its successors in interest as a covenant running with the land and incorporating by reference the plan of long term maintenance set forth in the application for a stormwater management permit, with approved amendments;
- C. The final plat shall contain a legend reserving the right of the permitting authority to enter upon the land to perform the maintenance required in this section if the association does not do so and to place a lien against the land for the cost thereof;
- D. The association shall be duly incorporated and a copy of the certificate of incorporation, duly recorded, and bylaws, and any amendment to either of them, shall be delivered to the administrator;
- E. The bylaws of the association shall, at a minimum, contain:
  - 1. A provision acknowledging and accepting the association's obligation to maintain those portions of the stormwater drainage system and special management areas conveyed or otherwise transferred to it under this chapter;
  - 2. A mechanism for imposing an assessment upon the owners of all of the lots or parcels comprising the development sufficient, at a minimum, to provide for the maintenance of those portions of the stormwater drainage system and

special management areas conveyed or otherwise transferred to it under this chapter; and the payment of all taxes levied thereon;

- 3. A provision adopting the plan of long term maintenance set forth in the application for a stormwater management permit, with approved amendments;
- 4. A provision identifying the officer of the association responsible for carrying out the obligations imposed upon the association under this chapter;
- 5. A provision requiring the consent of the permitting authority to any amendment of the bylaws changing any of the provisions of the bylaws required by this chapter; and
- 6. A provision requiring the consent of the permitting authority to the dissolution of the association; and
- F. Any conveyance or other instrument of transfer delivered under subsection <u>9-126B</u> of this chapter shall include a covenant affirmatively imposing upon the association the obligations set forth in this section and the association's affirmative acceptance thereof. (Ord. 01-338, 10-9-2001; Ord. 04-392, § 24, 10-12-2004)

#### 9-129: CONVEYANCE TO ONE OR MORE PERSONS:

If any portion of the stormwater drainage system or special management areas are to be conveyed to one or more persons under subsection 9-126C of this chapter, then:

- A. Appropriate easements for ingress and egress to and maintenance of such portions shall be reserved for the benefit of the permitting authority on the final plat;
- B. The final plat shall contain a legend imposing the maintenance obligations of this section upon the grantee and his successors in interest as a covenant running with the land and incorporating by reference the plan of long term maintenance set forth in the application for a stormwater management permit, with approved amendments;
- C. The final plat shall contain a legend reserving the right of the permitting authority to enter upon the land to perform the maintenance required in this section if the owner does not do so and to place a lien against the land for the cost thereof; and
- D. Any conveyance delivered under subsection <u>9-126</u>C of this chapter, and any subsequent conveyance, shall include a covenant affirmatively imposing upon the grantee the obligations, restrictions and provisions set forth in this section and the grantee's affirmative acceptance thereof. (Ord. 01-338, 10-9-2001)

# 9-130: INCORPORATION OF MAINTENANCE OBLIGATIONS IN STORMWATER MANAGEMENT PERMIT:

The provisions of this article shall be incorporated by reference in the stormwater management permit and the applicant's acceptance of the permit shall be deemed to be the applicant's acceptance and assumption of the obligations imposed under this article. At the option of the administrator, the stormwater management permit may be recorded. (Ord. 01-338, 10-9-2001; Ord. 04-392, § 25, 10-12-2004)

#### 9-131: FUNDING OF LONG TERM MAINTENANCE OF STORMWATER FACILITIES:

Unless: a) a public entity has accepted primary maintenance responsibility for the stormwater drainage system and special management areas to be constructed, installed or preserved under the permit, or b) a public entity has agreed and so states in the permit, to accept maintenance responsibility in the event the person designated by the applicant as having primary maintenance responsibility fails to adequately carry out its duties, the administrator will require, as a condition of approving of any application for a stormwater management permit, the establishment of a special service area pursuant to 35 Illinois Compiled Statutes 200/27-5 et seq., either as the primary means of providing for the long term maintenance of the facilities, or as a backup vehicle in the event the person designated by the applicant as having primary maintenance responsibility fails to adequately carry out its duties. If the establishment of a special service area is required, the administrator shall make a good faith estimate of the tax rate required to produce a tax to be levied upon all taxable property within the area, sufficient for the long term maintenance of the facilities and submit the same to the permitting authority which shall incorporate such rate into its enactment of the ordinances necessary for the establishment of the area. The ordinances to be enacted by the permitting authority shall be substantially in the form set forth in appendix D attached to ordinance 01-338. On or before August 1 of each year thereafter, the administrator shall submit to the permitting authority a good faith estimate of the amount of tax required to be levied upon all taxable property within the area for the next fiscal year for the continued maintenance of the stormwater drainage system. (Ord. 01-338, 10-9-2001; Ord. 04-392, § 26, 10-12-2004)

#### 9-132 - 9-150: RESERVED:

# ARTICLE VII. ENFORCEMENT AND PENALTIES

# 9-151: INSPECTION AND MAINTENANCE AUTHORITY:

Pursuant to the authority granted by 55 Illinois Compiled Statutes 5/5-1104 and 5/5-1062, the county may, upon thirty (30) days' notice to the owner or occupant, enter upon any lands or waters within the county for the purpose of inspecting and/or maintaining any stormwater facilities or causing the removal of any obstruction to an affected watercourse. (Ord. 01-338, 10-9-2001)

#### 9-152: REQUIRED INSPECTIONS:

Any development constructed pursuant to a stormwater management permit may be periodically inspected by the administrator or director to ensure its conformity with this chapter and the terms and conditions of its permit. (Ord. 01-338, 10-9-2001)

#### 9-153: OFFENSES:

- A. Any person who violates, disobeys, omits, neglects, refuses to comply with, or resists the enforcement of any provision of this chapter (chapter violation), or any requirement or condition in any permit issued pursuant to this chapter (permit violation), or any requirement or condition contained in <a href="article IV of this chapter">article IV of this chapter</a> (floodplain violation), and, in the case of a permit violation or a floodplain violation, fails to correct such violation, omission or neglect, or cease such disobedience, refusal or resistance after notice and reinspection as provided below, shall be guilty of an offense under this chapter.
- B. Whenever the administrator or director, as the case may be, determines that a permit violation exists, he shall serve notice of the violation in the manner prescribed in section <u>9-232</u> of this chapter on the permittee. Such notice shall state

the nature of the violation and fix a date not less than ten (10) days after the date of the notice by which the violation shall be corrected and the site reinspected, except in the case of a violation of <u>article III of this chapter</u>, in which case the notice may require the correction of the violation and reinspection of the site within as little as two (2) days. (Ord. 01-338, 10-9-2001; Ord. 04-392, § 27, 10-12-2004; Ord. 08-342, 11-12-2008)

# 9-154: OFFENSES - PENALTIES; REMEDIES:

- A. The administrator or director may pursue any one or more of the following remedies against any person found by him or her to be guilty of an offense under this chapter:
  - 1. The administrator or director may impose a civil fine upon such person in an amount not less than twenty five dollars (\$25.00) and not more than seven hundred fifty dollars (\$750.00). Each calendar day during which such violation continues to exist shall constitute a separate offense.
  - 2. The administrator or director may revoke any stormwater management permit issued to such person.
  - 3. The administrator or director may issue an order requiring the suspension of any further work on the site. Such stop work order shall be in writing, shall indicate the reason for its issuance, and shall specify the action, if any, required to be taken in order to resume work. One copy of the stop work order shall be posted on the site in a conspicuous place and one copy shall be served in the manner prescribed in section 9-232 of this chapter upon the permittee, if any, or if none, upon the person in whose name the site was last assessed for taxes as disclosed by the records of the supervisor of assessments.
  - 4. The administrator or director may require that the area impacted be fully restored to its condition existing prior to such development, disturbance or impact. In the case of a wetland impact the area's preexisting condition shall be determined by reference to a creditable wetland assessment performed within two (2) years of such impact.
  - 5. The administrator or director may require the person to apply "after the fact" for the appropriate permit for an unpermitted development, disturbance or impact. In the case of a wetland impact the FQI of the wetland impacted shall be determined by the director and mitigation shall be provided accordingly.
- B. In order to enforce any of the remedies set forth in the preceding paragraph, the administrator or the director may bring any action, legal or equitable, including an action for injunctive relief, deemed necessary. In any such action, in addition to any fine or other relief, the administrator or the director may recover all costs and expenses, including reasonable attorney fees, incurred. (Ord. 01-338, 10-9-2001; Ord. 04-392, § 28, 10-12-2004)

9-155 - 9-175: RESERVED:

# **ARTICLE VIII. GENERAL PROVISIONS**

# 9-176: SCOPE OF REGULATION:

This chapter applies to all development within the county and to all development within the corporate boundaries of any certified community, including that under the control of any governmental entity, agency, or authority. Any person undertaking a development shall obtain a stormwater management permit from the permitting authority within whose boundaries the development is located. Any person undertaking a development having a wetland impact shall obtain a permit from the director (or administrator in a community certified under this chapter to administer article XV of this chapter). Any certified community undertaking development in the regulatory floodway, or regulatory floodplain where no regulatory floodway has been designated, shall obtain a permit from IDNR-OWR if required prior to issuance of a stormwater management permit. All units of local government shall obtain stormwater management permits from the permitting authority within whose

boundaries the development is located. (Ord. 01-338, 10-9-2001; Ord. 01-442, 12-11-2001)

#### 9-177: EXEMPTIONS:

- A. This chapter does not apply to:
  - 1. Development which has been substantially completed before January 1, 2002;
  - 2. Development which has been determined to be exempt by the committee; and
  - 3. Wetland impacts occurring before the effective date.
- B. Nonconforming structures shall not be replaced or enlarged in any manner unless such replacement or enlargement conforms to the requirements of this chapter. (Ord. 01-338, 10-9-2001)

#### 9-178: COMMITTEE'S DETERMINATION OF EXEMPTION:

- A. Before January 1, 2002, each community shall submit to the director a list of proposed exempt developments prepared and adopted in accordance with section <u>9-179</u> of this chapter. At its next regularly scheduled meeting occurring not less than fifteen (15) days after the director's receipt of the list, the committee shall consider the developments listed therein. Any member of the committee may remove from the list for further consideration, any development located within the zone represented by that member on the committee. Additionally, the committee, upon motion made and seconded and passed by a majority of those members present, may remove any development from the list for further consideration. After such removals, the developments remaining on the list shall be determined to be exempt from the provisions of this chapter.
- B. With respect to those developments removed from the list, the committee shall determine each development to be exempt from the provisions of this chapter if:
  - Substantial development has commenced; or
  - 2. The stormwater plan for such development:
    - a. Provides site runoff storage which at a minimum meets a 0.15 cubic foot per second per acre release rate standard;
    - b. Includes a designed conveyance system for flow rates up to the base flood for off site and on site flows without damage to structures; and
    - c. Provides for soil erosion and sediment control in accordance with the "Illinois Urban Manual".
- C. Notwithstanding the committee's determination that a particular development is exempt from the provisions of this chapter, all mitigable wetland impacts from any development occurring after the effective date shall be mitigated. (Ord. 01-338, 10-9-2001)

# 9-179: COMMUNITY'S LIST OF PROPOSED EXEMPT DEVELOPMENTS:

- A. A community may place a development on its list of proposed exempt developments only if:
  - 1. A stormwater plan has been submitted and substantially approved by the community engineer; or
  - A contractual agreement, specifically exempting the development from the stormwater regulations of the community, was entered into before January 1, 2001.
- B. 1. A community's list of proposed exempt developments shall be adopted by an official action of the corporate authorities of the community. Prior to taking such action, the community shall publish in accordance with section <u>9-233</u> of this chapter, a notice in substantially the following form:

On [date], at [time], the [corporate authorities] of the [type of community] of [community] will consider and take formal action with respect to the approval of the following list of developments proposed as exempt from the provisions of the Kane County Stormwater Management Ordinance, adopted by the Kane County Board on October 9, 2001. Any person wishing to do so, may attend the meeting and be heard prior to the [corporate authorities] taking such action.

[List of proposed exempt developments]

- 2. In addition to the published notice, not less than fifteen (15) days prior to taking any such action, the community shall place a sign in a conspicuous place at each of the developments on the list advising the public that the development is on the list of developments proposed as exempt from the provisions of this chapter and of the date and time of the meeting at which formal action with respect to the approval of the list will be taken and of the public's right to appear to be heard prior to such approval.
- C. Once submitted, the list may not be changed except that a developer of a development inadvertently omitted from the list by the community may apply directly to the committee for a determination that the development meets all of the requirements of this article for being exempt. (Ord. 01-338, 10-9-2001)

# 9-180: INTERPRETATION:

- A. This chapter 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 chapter and the enabling legislation.
- B. Nothing in this chapter 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.
- C. When provisions of this chapter differ from any other applicable law, statute, ordinance, rule or regulation, the more stringent provision shall apply.
- D. The provisions of this chapter are cumulative of all other laws, statutes, ordinances, rules and regulations which relate to the subject matter hereof and, except as otherwise expressly provided herein, nothing in this chapter shall be construed as a limitation upon the application or enforcement of any such law, statute, ordinance, rule or regulation. To the greatest extent possible, the provisions of this chapter shall be construed to be consistent with the provisions of such other laws, statutes, ordinances, rules or regulations, and with each other, to the end that all such provisions may be given their fullest application. (Ord. 01-338, 10-9-2001)

#### 9-181: WARNING AND DISCLAIMER OF LIABILITY:

- A. The degree of flood protection provided by this chapter is considered reasonable for regulatory purposes and is based upon engineering experience and scientific methods of study. Increased flooding may result from causes beyond the control of any governmental authority. This chapter does not, therefore, guarantee that areas outside the floodplain or permitted land uses within the floodplain will be free from flooding and associated damages.
- B. Nothing in this chapter shall be construed or applied in any manner to create liability on the part of or a cause of action against the county, any municipality or other governmental authority, or any elected official, or any officer, agent, or employee of any of the foregoing, or any qualified engineer review specialist or qualified wetland review specialist for any flood damage resulting from reliance on the provisions of this chapter. (Ord. 01-338, 10-9-2001)

# 9-182: CHOICE OF PLANNING JURISDICTION:

Pursuant to 55 Illinois Compiled Statutes 5/5-1062(b), a community that is located in more than one county may choose, at the time of the formation of the committee, and based upon watershed boundaries, to participate in the stormwater management planning program of either or both of the counties. Unless the community, at the time of the formation of the committee, has chosen to participate in the stormwater management planning program of another county, the committee shall include such community within the scope of its planning and enforcement jurisdiction. (Ord. 01-338, 10-9-2001)

#### 9-183: SEVERABILITY:

- A. The provisions of this chapter shall be severable in accordance with the following rules:
  - 1. If any court of competent jurisdiction shall adjudge any provision of this chapter to be invalid, such judgment shall not affect any other provision of this chapter.
  - 2. If any court of competent jurisdiction shall adjudge to be invalid the application of any provision of this chapter to a particular parcel of land, a particular structure, or a particular development, such judgment shall not affect the application of said provision to any other land, structure or development. (Ord. 01-338, 10-9-2001)

#### 9-184: REPEALER:

This chapter repeals the original ordinance or resolution which was adopted to meet the national flood insurance program regulations, but is not intended to replace any ordinance or resolution passed in order to establish initial eligibility for the national flood insurance program. (Ord. 01-338, 10-9-2001)

#### **9-185: AMENDMENTS:**

No amendment to this chapter may be passed without a public hearing first being held before the committee upon notice published as provided in section 9-233 of this chapter. (Ord. 01-338, 10-9-2001)

#### 9-186: EFFECTIVE DATE:

After its passage, approval and publication according to law, this chapter shall take effect on January 1, 2002. (Ord. 01-338, 10-9-2001)

# 9-187 - 9-200: RESERVED:

# ARTICLE IX. VARIANCES

#### 9-201: PURPOSE:

In order to provide a narrowly circumscribed means by which relief may be granted when strict compliance with the requirements of this chapter is impossible or impracticable, variances from the specific provisions of this chapter may be granted according to the standards set forth in this article. (Ord. 01-338, 10-9-2001)

#### 9-202: APPLICATION FOR VARIANCE:

An application for a variance, signed by at least one of the persons identified in subsections <u>9-104</u>A1 and A2 of this chapter with respect to the development to which it relates, shall be filed with the administrator. No application for a variance will be accepted for filing unless it relates to a previously or contemporaneously filed application for a stormwater management permit. Applications for a variance shall be filed in such number of duplicate copies as the administrator may designate by administrative order. No action will be taken on an application for a variance unless it and the corresponding application for a stormwater management permit to which it relates are complete as determined by the administrator. The administrator shall send a copy of the complete application to the director and to all other communities within the same watershed. Applications for a variance need not be made upon any specific form, but shall contain the information set forth as follows:

- A. Application For Variance: An application for variance shall set forth:
  - 1. The common address(es) and legal description of the site;
  - 2. The persons identified in subsections 9-104A1 and A2 of this chapter;
  - 3. The names and addresses of all consultants retained in connection with the application for a variance;
  - 4. The names and addresses of all owners of record of land within two hundred fifty feet (250') of the site;
  - 5. The specific feature or features of the development that require a variance;
  - 6. The specific provisions of this chapter from which a variance is sought and the precise extent of the variance therefrom;
  - 7. A statement of the characteristics of the development that prevent compliance with the provisions of this chapter;
  - 8. A statement that the variance requested is the minimum variance necessary to permit the development;
  - 9. A statement as to how the variance requested satisfies the standards set forth in section <u>9-205</u> of this chapter. (Ord. 01-338, 10-9-2001)

# 9-203: APPLICATION FEE:

With the filing of the application for a variance, the applicant shall pay a fee in the amount of four hundred fifty dollars (\$450.00). (Ord. 01-338, 10-9-2001; Ord. 01-434, 12-11-2001)

#### 9-204: PUBLIC HEARING:

When the application is complete, the administrator will so notify the applicant and will schedule a public hearing on the application before the oversight committee. Notice of the hearing shall be published as provided in section <u>9-233</u> of this chapter and served as provided in section <u>9-232</u> of this chapter upon the applicant, the director, all owners of record of land within two hundred fifty feet (250') of the site as disclosed in the application, and upon each community within the same watershed as the development. The notices given under this section shall set forth the common name, address and legal description of the development and a brief description of the variance as requested. (Ord. 01-338, 10-9-2001)

# 9-205: GRANTING OF VARIANCES:

- A. The oversight committee shall not recommend nor shall the decision making authority grant a variance from the provisions of this chapter unless the variance is consistent with the purposes of this chapter and meets the following standards based upon substantial evidence submitted at the hearing:
  - 1. The variance will not increase the probability of flood damage or create an additional threat to the public health, safety and welfare.
  - 2. The variance is the minimum required considering each of the following statements of policy underlying this chapter and there are no means other than the requested variance by which the demonstrated hardship can be avoided or remedied to a degree sufficient to permit the reasonable continuation of the development:
    - a. Site runoff storage of stormwater shall also contribute to the improvement of the quality of stormwater runoff.
    - b. The volume of site runoff storage provided in open air vegetated facilities is maximized consistent with other site constraints on land use, including zoning requirements essential for the proposed development.
    - c. Conveyance of stormwater shall not disproportionately absorb the design capacity of existing off site conveyance facilities for any storm event from the 2-year to the 100-year flood frequency.
    - d. High quality natural areas shall be preserved on the site, including, without limitation, stands of native trees, existing wetlands, natural floodplain storage or other valuable environmental and biological resources.
  - 3. The variance is not requested solely for the purpose of increasing the density of the development nor impervious areas on the site.
  - 4. The variance is not requested solely as a result of economic hardship.
  - 5. If applicable, the variance is required due to unique, natural topographical features of the site.
  - 6. The applicant's circumstances are not self-imposed.
- B. Variances requested in connection with the restoration of a historic structure may be granted using criteria more permissive than those set forth above provided that:
  - 1. The repair or rehabilitation is the minimum necessary to preserve the historic character and design of the historic structure; and
  - 2. The repair or rehabilitation will not result in the structure no longer meeting the definition of a "historic structure" under this chapter.

- C. No variance shall be granted for any development in the regulatory floodway, regulatory wetlands or critical wetlands, the effect of which would be to create regulations less restrictive than the federal or state minimum standards applicable to development in such areas.
- D. When a variance would lessen the degree of protection to any structure, the administrator shall notify the applicant that the variance, if granted, may result in increased rates for flood insurance. (Ord. 01-338, 10-9-2001)

#### 9-206: RECOMMENDATIONS:

- A. The administrator shall review the application for a variance and present his or her written recommendations to the oversight committee at the public hearing.
- B. Not more than forty five (45) days after the close of the hearing, the oversight committee shall forward the application with its written recommendations to the decision making authority. If the oversight committee fails to act within forty five (45) days, it shall be deemed to have forwarded the application with no recommendation to the decision making authority. The written recommendations of the oversight committee, when forwarded, shall be accompanied by written findings of fact with respect to each of the elements set forth in section <u>9-205</u> of this chapter with citations to the evidence taken at the public hearing. (Ord. 01-338, 10-9-2001)

# 9-207: **DECISION**:

The decision making authority shall grant the variance, grant the variance with modifications or conditions, or deny the variance in writing within forty five (45) days after receipt of the application from the oversight committee. The failure of the decision making authority to act within forty five (45) days, absent the agreement of the applicant to any extension of the time, shall be deemed to be a decision approving the variance. (Ord. 01-338, 10-9-2001)

### **9-208: CONDITIONS:**

- A. 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.
- B. In granting a variance, the decision making authority may impose such specific conditions and limitations on the applicant concerning any matter relating to the purposes and objectives of this chapter as may be necessary or appropriate.
- C. Whenever any variance is granted subject to any condition to be met by the applicant, upon meeting such condition, the applicant shall file evidence to that effect with the administrator. (Ord. 01-338, 10-9-2001)

#### 9-209 - 9-225: RESERVED:

# **ARTICLE X. ADMINISTRATION**

# 9-226: RESPONSIBILITY FOR ADMINISTRATION:

A. The oversight committee shall oversee the enforcement of this chapter.
B. The director and administrator shall administer this chapter. In performing their duties, the director and the administrator may delegate routine responsibilities to any named designee.
C. Each community shall remain solely responsible for its standing in the national flood insurance program, including:
<ol> <li>The maintenance of all records and the submission of all reports required for eligibility in the program, including elevation certificates, floodproofing certificates, and lowest floor elevations;</li> </ol>
<ol><li>The notification of the director, FEMA, IDNR-OWR, COE, NRCS, the soil and water conservation district, the United States fish and wildlife service, the Illinois environmental protection agency, and the United States environmental protection agency of any proposed amendment to this chapter; and</li></ol>
3. The adoption pursuant to subsection <u>9-253</u> A of this chapter of the most current version of the maps adopted and published by FEMA for regulation under the NFIP and the automatic adoption of any amendments, additions, revisions or substitutions thereto or therefor. (Ord. 01-338, 10-9-2001; Ord. 06-435, § 5, 11-14-2006; Ord. 08-342, 11-12-2008)
9-227: DUTIES OF DIRECTOR:
The director shall:
A. Supervise the enforcement of this chapter;
B. Supervise the development, revision and implementation of the plan for approval by the committee and the county;
C. Supervise the review of complex stormwater management permits for any community that requests such assistance;
D. Notify all of the communities in the county, FEMA, IDNR-OWR, COE, NRCS, the soil and water conservation district, the United States fish and wildlife service, the Illinois environmental protection agency, and the United States environmental protection agency of any amendments to the plan or to this chapter;
E. Administer the qualified engineer review specialist and qualified wetland review specialist programs;
F. Maintain a current list of all maps considered regulatory under this chapter; and

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G. Administer article XV of this chapter except in those communities certified under this chapter to administer article XV of

this chapter.

H. A minimum of forty five (45) days prior to the Kane County board's consideration of a revision(s) to the Kane County stormwater ordinance, the director shall notify and provide a copy of said revision(s) to every certified community (the certified community's stormwater administrator and city/village engineer), and the proposed date said revision(s) will be presented to the Kane County board's stormwater committee. Stormwater administrators or their designees shall be allowed to present oral or written comments to the Kane County board's stormwater committee expressing their comments relating to said stormwater ordinance revision(s). (Ord. 01-338, 10-9-2001; Ord. 01-442, 12-11-2001; Ord. 09-433, 11-10-2009)

#### 9-228: DUTIES OF ADMINISTRATOR/STAFF:

#### A. The administrator shall:

- 1. Ensure that all required stormwater related federal, state, regional and county permits and approvals are received prior to issuing any permit under this chapter;
- 2. Ascertain whether any special management areas exist on any site which is the subject of an application for a permit under this chapter;
- 3. Use qualified engineer review specialists and qualified wetland review specialists for the review of permit applications and consider their recommendations in granting or denying any permit under this chapter, unless the review of the developer's qualified wetland review specialist indicates that there are no wetlands on site in which case the administrator may rely upon that review without having it independently verified;
- 4. Ensure that the required notice of an application for a variance has been given and published in accordance with sections 9-232 and 9-233 of this chapter;
- 5. Notify an applicant for a variance that such variance may result in increased rates for flood insurance, if applicable;
- 6. Notify the director of an application for a CLOMR or LOMR;
- 7. Provide for inspections of developments as required by this chapter;
- 8. Investigate complaints of violations of this chapter within his or her community;
- 9. Notify violators within regulatory floodplains that failure to comply with the provisions of the national flood insurance program could make them ineligible to receive flood insurance;
- 10. Initiate any proceeding necessary to enforce this chapter within his or her community;
- 11. Advise, consult and cooperate with other governmental agencies to promote the purposes of this chapter;
- 12. Maintain copies of all applications and submittals, federal and state permits, variances, CLOMR, LOMR, CLOMA, LOMA and all documentation associated with any of the foregoing for public inspection;
- 13. Maintain documentation and data on the cost of any improvement to a structure in the floodplain in order to enforce the provisions of this chapter pertaining to substantial improvements to such structures;
- 14. Notify adjacent communities in writing thirty (30) days prior to the issuance of a stormwater management permit involving the alteration or relocation of a watercourse;
- 15. Ensure that all wetland impacts have been mitigated; and
- 16. Maintain records of the lowest floor and floodproofing elevations for new construction and substantial improvements where BFE data are used in FEMA zone A.

B. The director of the water resources shall enforce all of the provisions of this chapter within the unincorporated areas of the county, within any portion of an uncertified community that lies within the county, and, pursuant to intergovernmental agreement, within any portion of an uncertified community that lies outside the county.

The director of transportation shall enforce all the provisions of this chapter within all county or township rights of way. (Ord. 01-338, 10-9-2001; Ord. 02-63, 3-12-2002; Ord. 04-392, § 29, 10-12-2004; Ord. 08-342, 11-12-2008)

#### 9-229: 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 chapter, such action shall be taken either in the name of the county or the certified community, as the case may be, and neither the director nor the administrator, nor his or her designee, in so acting shall be rendered personally liable. (Ord. 01-338, 10-9-2001)

#### 9-230: OVERSIGHT COMMITTEE:

The corporate authorities of each certified community within the county shall establish an oversight committee to oversee the implementation and enforcement of this chapter within its jurisdiction and to perform the duties assigned to the oversight committee in this chapter. The oversight committee may be comprised of the corporate authorities or any committee thereof, plan commission, zoning board of appeals, or other existing body, or the corporate authorities may, according to their own rules and procedures, establish a separate oversight committee. The executive committee of the county board shall designate the oversight committee for the county. The oversight committee, when considering an appeal or request for a variance under this chapter, may request an opinion from a qualified engineer review specialist or qualified wetland review specialist on technical issues. (Ord. 01-338, 10-9-2001)

# 9-231: DECISION MAKING AUTHORITY:

The corporate authorities of each certified community within the county shall by separate resolution designate a decision making authority to perform the duties assigned to the decision making authority in this chapter. The decision making authority may be comprised of the corporate authorities or any committee thereof, plan commission, zoning board of appeals, or other existing body, or the corporate authorities may, according to their own rules and procedures, establish a separate decision making authority. The development committee of the county board shall act as the decision making authority for the county. The decision making authority, when considering an appeal or request for a variance under this chapter, may request an opinion from a qualified engineer review specialist or qualified wetland review specialist on technical issues. (Ord. 01-338, 10-9-2001)

#### 9-232: SERVICE:

Unless otherwise provided herein, service of any notice or other instrument under this chapter may be made upon any person:

- A. By first class mail, postage prepaid, addressed to address then on file for such person, if any, or if none, to such person's last known address: or
- B. By any method prescribed under the Illinois code of civil procedure. (Ord. 01-338, 10-9-2001)

#### 9-233: PUBLICATION:

Unless otherwise provided herein, publication of any notice or other instrument under this chapter shall be made by publishing such notice or other instrument once in a newspaper published within the community having jurisdiction over the matter to which the publication relates (or, if no newspaper is published within the community, then a newspaper published in the county and having a general circulation within the community), such publication being not less than fifteen (15) nor more than thirty (30) days before the hearing or other event to which the publication relates. (Ord. 01-338, 10-9-2001)

#### 9-234 - 9-250: RESERVED:

# ARTICLE XI. CERTIFIED COMMUNITY ENFORCEMENT

## 9-251: ENFORCEMENT AUTHORITY:

- A. The county shall enforce all of the provisions of this chapter within: 1) the unincorporated areas of the county, 2) the limits of any county highway, county right of way or any highway or right of way upon which the county is constructing or causing to be constructed a highway improvement or appurtenance, 3) in connection with the development of any site owned by the county, 4) any portion of an uncertified community that lies within the county, and 5) pursuant to intergovernmental agreement, within any portion of an uncertified community that lies outside the county. For the purposes of this section the terms "highway" and "right of way" shall have the meanings ascribed to them under the Illinois highway code<sup>1</sup>.
- B. Unless such community has been certified under this article to administer <u>article XV of this chapter</u> before January 1, 2006, the county shall enforce the provisions of <u>article XV of this chapter</u> within that portion of any certified community that lies within the county and, pursuant to intergovernmental agreement, within that portion of any certified community that lies outside the county.
- C. A community certified under this article shall enforce all of the provisions of this chapter within the community for which it has received certification. (Ord. 01-338, 10-9-2001; Ord. 01-442, 12-11-2001; Ord. 04-392, § 30, 10-12-2004)

# 9-252: PETITION FOR CERTIFICATION AND WAIVER OF ENFORCEMENT:

Any community that wishes to enforce the provisions of this chapter within its borders shall file a petition for certification and waiver of enforcement (petition for certification), on or before January 8, 2002. After January 8, 2002, petitions for certification may be filed during the month of June of each year. (Ord. 01-338, 10-9-2001; Ord. 01-442, 12-11-2001)

# 9-253: FILING AND CONTENTS OF PETITION FOR CERTIFICATION:

A petition for certification shall be filed with the director. The petition need not be on any particular form but, at a minimum, shall set forth and be accompanied by:

- A. The agreement of the corporate authorities of the community to adopt, if certified, this chapter by reference, including in such chapter language expressing the intent of the corporate authorities of the community to automatically adopt by reference all amendments to this chapter adopted by the county at any time in the future, and specifically to automatically adopt by reference the most current version of the maps adopted and published by FEMA for regulation under the NFIP;
- B. The community's plan for the implementation and enforcement of this chapter, including proposed staffing;
- C. The agreement of the corporate authorities of the community to include in any new annexation agreement a provision requiring every other party to the agreement to affirmatively agree to comply with the provisions of this chapter, as amended from time to time;
- D. The agreement of the corporate authorities of the community that the community will follow the rules and procedures of the committee in any proceeding concerning its certification and be bound by the decision of the committee in granting or failing to grant, or suspending or revoking its certification and reasserting county jurisdiction over the enforcement of this chapter within the boundaries of the community;
- E. If a portion of the community lies outside the county and the community has not requested, or if requested does not receive, certification to administer <u>article XV of this chapter</u>, the agreement of the corporate authorities of the community to enter into, if certified to administer the remaining provisions of this chapter, an intergovernmental agreement with the county providing for the county's enforcement of <u>article XV of this chapter</u> within those portions of the community lying outside the county;
- F. Evidence of the community's ability to comply with <u>article XIV of this chapter</u> pertaining to the use of qualified review specialists and qualified wetland review specialists;
- G. The list of projects to which this chapter or some portion of this chapter do not apply pursuant to the requirements of <a href="mailto:article VIII of this chapter">article VIII of this chapter</a>. (Ord. 01-338, 10-9-2001; Ord. 01-442, 12-11-2001; Ord. 04-392, § 31, 10-12-2004; Ord. 06-435, § 4, 11-14-2006; Ord. 08-342, 11-12-2008)

#### 9-254: COMMITTEE CONSIDERATION OF PETITION FOR CERTIFICATION:

The committee shall consider each properly filed petition for certification at a regular or special meeting called for such purpose not later than sixty (60) days after the filing of the petition. The meeting may be continued from time to time. The committee may adopt rules for the taking of evidence and conduct of such meetings. (Ord. 01-338, 10-9-2001)

# 9-255: STANDARDS FOR CERTIFICATION:

Upon a finding of the committee that the community has complied with sections <u>9-252</u> and <u>9-253</u> of this chapter, that the community's plan for the implementation and enforcement of this chapter is reasonably feasible, and that the community has demonstrated the ability to comply with <u>article XIV of this chapter</u>, the committee shall grant the petition for certification. The committee's decision shall be in writing, and shall specify the reasons for granting or denying the petition. (Ord. 01-338, 10-9-2001)

#### 9-256: CERTIFIED COMMUNITY RECORDS:

- A. Every certified community shall maintain adequate records of every stormwater management permit issued and every variance granted under this chapter for development within its borders.
- B. Every certified community shall retain record drawings of all improvements made pursuant to a stormwater management permit issued or variance granted by such community.
- C. The records of each certified community maintained under this chapter may be periodically inspected by the department.
- D. Every certified community shall report annually to the director on forms provided by the department concerning stormwater management permits issued in the preceding year. (Ord. 01-338, 10-9-2001)

#### 9-257: COMMITTEE REVIEW OF ENFORCEMENT BY CERTIFIED COMMUNITY:

The committee shall periodically review the implementation and enforcement of this chapter by each certified community. (Ord. 01-338, 10-9-2001)

# 9-258: INVESTIGATIONS; COMPLIANCE:

- A. The director upon his own initiative or at the request of any person may conduct an investigation into a certified community's implementation and enforcement of this chapter. Such investigation may include, but is not limited to, an examination of all relevant records maintained by the community and field inspections of relevant developments, structures or stormwater facilities. If upon such investigation, the director determines that the community has failed in some significant way, or has repeatedly failed, to implement or enforce this chapter, then he shall prepare a report of his findings along with a complaint for the suspension, revocation or partial revocation of the community's certification and file them with the committee. The complaint shall contain a short and plain statement describing how the certified community has failed in some significant way, or has repeatedly failed, to implement or enforce this chapter.
- B. Upon receipt of a written complaint, the committee shall serve a copy thereof along with a copy of the report of the director upon the community named therein in accordance with section 9-232 of this chapter. A copy of the complaint and report shall also be served upon IDNR-OWR, FEMA, all communities within the same watershed, and upon any person who has requested an investigation of the community's enforcement of this chapter by the director within six (6) months immediately preceding the filing of the complaint. The community may file a written answer to the complaint within thirty (30) days after being served. (Ord. 01-338, 10-9-2001)

## 9-259: HEARING ON COMPLAINT:

The committee shall conduct a hearing on the complaint not less than seventy five (75) nor more than one hundred twenty (120) days after service of the complaint upon the community. Notice of the hearing shall be served upon the community and all parties which received a copy of the complaint and published in accordance with section 9-233 of this chapter. The hearing may be continued from time to time. The committee may adopt rules for the taking of evidence and conduct of such hearings. (Ord. 01-338, 10-9-2001)

#### 9-260: COMMITTEE DECISION:

Within thirty (30) days of the conclusion of the hearing, the committee shall decide whether or not to suspend or to revoke in whole or in part the certification of the community. The decision of the committee shall be in writing and shall include the specific findings and conclusions supporting its determination. A copy of the decision and order shall be served upon the community and all parties which received a copy of the complaint in accordance with section 9-232 of this chapter. The decision of the committee to suspend or to revoke the certification of the community in whole or in part is final and may not be appealed to any court. If the community's certification is suspended, the community shall automatically become recertified upon the expiration of the period of suspension. If the community's certification is revoked in whole or in part, the community may reapply for certification at or after such time as the committee shall specify in its order of revocation. (Ord. 01-338, 10-9-2001)

### 9-261 - 9-275: RESERVED:

# ARTICLE XII. PERFORMANCE SECURITY

#### 9-276: GENERAL SECURITY REQUIREMENTS:

- A. To secure the performance of the developer's obligation to complete the construction of the stormwater facilities required by the stormwater management permit, and to pay all costs, fees and charges due under this chapter, and to fully and faithfully comply with all of the provisions of this chapter, the applicant shall, prior to the issuance of a stormwater management permit:
  - 1. Post the security provided in section 9-277 of this chapter; and
  - 2. Post the security provided in section <u>9-278</u> of this chapter if an erosion and sediment control plan is required under this chapter; and
  - 3. Post the security provided in section <u>9-279</u> of this chapter if mitigation for a wetland impact is required under this chapter and the applicant chooses to mitigate within a wetland mitigation facility.
- B. The applicant shall bear the full cost and responsibility of obtaining and maintaining the security required by this article. (Ord. 01-338, 10-9-2001; Ord. 04-392, § 32, 10-12-2004)

#### 9-277: DEVELOPMENT SECURITY:

A. In all cases the applicant shall post:

- 1. A schedule, agreed upon by the applicant and the administrator for the completion of any stormwater facilities required by the permit;
- 2. A statement of the estimated probable cost to complete the construction of any stormwater facilities required by the permit which estimate is subject to the approval of the administrator; and
- 3. An irrevocable letter of credit in favor of the permitting authority, or such other adequate security as the administrator may approve, in an amount equal to one hundred ten percent (110%) of the approved estimated probable cost to complete the construction of any required stormwater facilities.

- B. The security required by this section shall be maintained by the applicant in favor of the permitting authority until all stormwater facilities required by the permit have been completed, all conditions set forth in the permit have been satisfied and the applicant has complied with all of the provisions of this chapter.
- C. The administrator may approve periodic reductions in the amount of the security based upon the progress of construction. At no time, however, shall more than ninety percent (90%) of the security be released prior to approval of record drawings and final inspection. A minimum of ten percent (10%) of the original amount of the security shall be retained for a period of one year after completion of all required stormwater facilities. (Ord. 01-338, 10-9-2001)

#### 9-278: EROSION AND SEDIMENT CONTROL SECURITY:

- A. If an erosion and sediment control plan is required under this chapter the applicant shall post:
  - 1. A statement of the estimated probable cost to install and maintain the erosion and sediment control measures required by the plan which estimate is subject to the approval of the administrator; and
  - 2. An irrevocable letter of credit in favor of the permitting authority, or such other adequate security as the administrator may approve, in an amount equal to one hundred ten percent (110%) of the approved estimated probable cost to install and maintain the required erosion and sediment control measures.
- B. The security required by this section shall be maintained by the applicant in favor of the permitting authority until construction has been completed, vegetation has been established, sediment has been removed from all stormwater facilities and the development has been finally inspected and approved by the administrator at which time it shall be released. (Ord. 01-338, 10-9-2001)

#### 9-279: WETLAND MITIGATION AND PERFORMANCE SECURITY:

- A. If mitigation for a wetland impact is required under this chapter and the applicant chooses to mitigate within a wetland mitigation facility, the applicant shall post:
  - 1. A statement of the estimated probable cost to install, monitor and maintain the wetland mitigation facility required by the plan for five (5) years which estimate is subject to the approval of the director (or administrator in a community certified to administer article XV of this chapter); and
  - 2. An irrevocable letter of credit in favor of the county (or community in a community certified to administer <u>article XV of this chapter</u>), or such other adequate security as the director (or administrator in a community certified to administer <u>article XV of this chapter</u>), may approve, in an amount equal to one hundred ten percent (110%) of the approved estimated probable cost.
- B. The security required by this section shall be maintained by the applicant in favor of the county (or community in a community certified to administer article XV of this chapter), until construction has been completed, vegetation has been established and the wetland mitigation facility has been evaluated by the director (or administrator in a community certified to administer article XV of this chapter), and found to meet the performance standards of section 9-357 of this chapter at which time it shall be released. (Ord. 01-338, 10-9-2001; Ord. 01-442, 12-11-2001)

#### 9-280: LETTERS OF CREDIT:

- A. Letters of credit posted pursuant to this article shall be in a form satisfactory to the administrator.
- B. Each letter of credit shall be drawn on an institution: 1) acceptable to the administrator; 2) having assets of at least ten million dollars (\$10,000,000.00); 3) having an office in the Chicago metropolitan area; and 4) that is a member of the federal deposit insurance corporation.
- C. Each letter of credit shall provide that:
  - 1. It is irrevocable;
  - 2. The consent of the applicant is not required prior to its presentment for payment; and
  - 3. If at any time it will expire within forty five (45) or any lesser number of days, and if it has not been renewed and the renewal submitted to the administrator, and if any obligation of the applicant for which it stands as security remains uncompleted or is unsatisfactory, then the administrator may, without notice and without being required to take any further action of any nature whatsoever, present the letter of credit for payment 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 permitting authority for any and all costs and expenses, including legal fees and administrative costs, incurred by the permitting authority.
- D. If the administrator at any time determines that the amount of the letter of credit is not, or may not be, sufficient to pay in full the remaining unpaid cost of the construction of all stormwater facilities or the installation and maintenance of all erosion and sediment control measures, then, within ten (10) days following a demand by the administrator, the applicant shall increase the amount of the letter of credit to the amount determined by the administrator to be sufficient to pay such unpaid costs. Failure to increase the amount of the letter of credit shall be grounds for the administrator to present the letter of credit for payment.
- E. If at any time the administrator determines that the bank issuing the letter of credit is without assets of at least ten million dollars (\$10,000,000.00), 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 administrator otherwise reasonably deems the permitting authority to be insecure, then the administrator shall have the right to demand that the applicant provide a replacement letter of credit from a bank meeting the requirements of this section. Such replacement letter of credit shall be deposited with the administrator not less than ten (10) days following such demand. Upon such deposit, the administrator shall surrender the original letter of credit to the applicant.
- F. If the applicant fails or refuses to fully meet any of its obligations under this chapter then the administrator may, in his or her discretion, present the letter for payment 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 or otherwise mitigate the effects of such failure or refusal and may reimburse the permitting authority for any and all costs and expenses, including legal fees and administrative costs, incurred by the permitting authority. If as a result of such default, the remaining amount of the letter of credit is less than the amount otherwise required to be then maintained under this article, then the applicant shall, upon demand of the administrator therefor, immediately deposit with the administrator such additional funds as the administrator determines to be required to be then maintained. (Ord. 01-338, 10-9-2001)

# 9-281 - 9-300: RESERVED:

# ARTICLE XIII. FEE IN LIEU OF SITE RUNOFF STORAGE OR WETLAND MITIGATION

## 9-301: FEE IN LIEU OF SITE RUNOFF STORAGE:

A. The director or the administrator may require, or in the limited circumstances prescribed in <u>article II of this chapter</u> an applicant may request approval of, the payment of a fee in lieu of site runoff storage to fulfill all or part of the site runoff storage requirement for a development. The fee in lieu of on site runoff storage for each acre-foot or pro rata part thereof is hereby established as ninety thousand dollars (\$90,000.00) for land areas under the jurisdiction of Kane County and the township road districts. (Ord. 01-338, 10-9-2001; Ord. 01-435, 12-11-2001)

# 9-302: PROCEDURES; USE OF FUNDS (SITE RUNOFF STORAGE):

- A. An applicant's request for approval of the payment of a fee in lieu of site runoff storage shall be submitted to the administrator with a copy to the director. The administrator shall grant or deny the request within forty five (45) days, unless the applicant agrees to an extension.
- B. Fees paid in lieu of site runoff storage shall be deposited by the community in a separate fund created for such purpose. Provisions shall be made so that all receipts and disbursements of such funds may be accounted for according to the individual watershed in which the development for which they were paid was located.
- C. Fees paid in lieu of site runoff storage may be expended to plan, design, construct or improve stormwater management systems. A preference will be given to projects within the watershed for which fee was paid.
- D. Offset payments calculated in accordance with subsection <u>9-29</u>N of this chapter shall be considered as payments received and disbursed in accordance with subsections A through C of this section. (Ord. 01-338, 10-9-2001; Ord. 04-392, § 33, 10-12-2004; Ord. 09-433, 11-10-2009)

# 9-303: FEE IN LIEU OF WETLAND MITIGATION:

If a wetland mitigation is required under this chapter and the applicant chooses to satisfy the mitigation requirement by paying a fee in lieu of mitigation, the applicant shall:

A. Prepare a statement of the estimated probable cost to acquire the land, install, monitor and maintain a wetland mitigation facility for five (5) years (which estimate is subject to the approval of the director [or administrator in a community certified to administer <a href="article XV">article XV</a> of this chapter]), as if the applicant had chosen to satisfy the mitigation requirement by mitigating within a wetland mitigation facility; and

- B. If mitigation credits are available from any wetland mitigation bank, the applicant shall also prepare a statement of the estimated probable cost of satisfying the mitigation requirement through the purchase of credits from a wetland mitigation bank (which estimate is subject to the approval of the director [or administrator in a community certified to administer <a href="article XV of this chapter">article XV of this chapter</a>]) as if the applicant had chosen to satisfy the mitigation requirement in such manner.
- C. The fee in lieu of wetland mitigation to be paid under this section shall be the lesser of subsection A or B of this section. (Ord. 01-338, 10-9-2001; Ord. 01-442, 12-11-2001)

# 9-304: PROCEDURES; USE OF FUNDS (WETLAND MITIGATION):

- A. An applicant's statement of its intention to satisfy the wetland mitigation requirement by the payment of a fee in lieu of wetland mitigation shall be in writing and filed with the director (or administrator in a community certified to administer article XV of this chapter) along with the estimates described in the preceding section.
- B. Fees paid in lieu of wetland mitigation shall be deposited by county (or administrator in a community certified to administer article XV of this chapter) in a separate fund created for such purpose. Provisions shall be made so that all receipts and disbursements of such funds may be accounted for according to the individual watershed in which the development for which they were paid was located.
- C. Fees paid in lieu of mitigation for wetland impacts within the county shall be expended to plan, design, construct, improve, acquire, create or enhance wetlands within the county, or wetland mitigation facilities and wetland mitigation banks. Fees paid in lieu of mitigation for wetland impacts within any other county may be expended to plan, design, construct, improve, acquire, create or enhance wetlands within such county or within this county, or wetland mitigation facilities and wetland mitigation. (Ord. 01-338, 10-9-2001; Ord. 01-442, 12-11-2001)

#### 9-305 - 9-325: RESERVED:

# ARTICLE XIV. QUALIFIED REVIEW SPECIALISTS

# 9-326: GENERAL:

The review of an application for a stormwater management permit shall be performed by a qualified engineer review specialist and a qualified wetland review specialist. The qualified engineer review specialist and qualified wetland review specialist together with the administrator shall determine whether the permit application meets the requirements of this chapter. The director shall maintain a list of qualified engineer review specialists and qualified wetland review specialists together with the categories of review in which they have obtained qualification. Review of wetland submittals by a qualified wetland review specialist may be waived if a COE permit is required. (Ord. 01-338, 10-9-2001)

# 9-327: REQUIREMENTS FOR QUALIFIED ENGINEER REVIEW SPECIALISTS:

In order to be included on the list of qualified engineer review specialists an applicant must:

- A. Be a professional engineer registered in Illinois;
- B. Have expertise either by training or significant experience in the following areas:
  - 1. Design and permitting of stormwater management facilities;
  - 2. Identification of floodplains and floodways, familiarity with FEMA and IDNR-OWR floodplain maps and their policies and procedures;
  - 3. Erosion and sediment control practices and procedures; and
  - 4. Construction practices and inspection procedures;
- C. Complete, sign, and professionally seal the qualified engineer review specialist statement in the form included as appendix B attached to ordinance 01-338 on file in the county office; and
- D. File the qualified engineer review specialist statement with the department and pay a fee of fifty dollars (\$50.00), twenty five dollars (\$25.00) if the applicant is employed by a unit of local government. (Ord. 01-338, 10-9-2001; Ord. 01-337, 10-9-2001)

#### 9-328: REQUIREMENTS FOR QUALIFIED WETLAND REVIEW SPECIALISTS:

In order to be included on the list of qualified wetland review specialists an applicant must:

- A. Complete a COE approved or other wetland delineation course approved by the director; and
- B. Have a bachelor's degree in an earth science, biological science or engineering together with at least one of the following:
  - 1. Three (3) years' (cumulative) full time experience in the upper midwest region engaged in consulting on wetland related projects; or
  - 2. The completion of one hundred (100) wetland delineations in the upper midwest region; or
  - 3. Six (6) years' (cumulative) full time experience engaged in consulting on wetland related projects; or
  - 4. Three hundred (300) hours spent in field review of wetland indications in the upper midwest region; and
- C. Have personally been involved with the design of at least ten (10) wetland mitigation areas; and
- D. Complete and sign the qualified wetland review specialist statement in the form included as appendix C attached to ordinance 01-338 on file in the county office; and
- E. File the qualified wetland review specialist statement with the department and pay a fee of fifty dollars (\$50.00), twenty

five dollars (\$25.00) if the applicant is employed by a unit of local government. (Ord. 01-338, 10-9-2001; Ord. 01-337, 10-9-2001)

# 9-329: REVIEW OF QUALIFICATIONS:

- A. Within thirty (30) days of filing of the application, the director will notify the applicant of his or her inclusion on the list of qualified engineer review specialists and/or qualified wetland review specialists, as the case may be. If the applicant is not accepted for inclusion in the list, the director shall specify the reasons for his decision. Within thirty (30) days of his receipt of the decision of the director, the applicant may appeal to the RSQC by filing a notice thereof with the department. The RSQC shall conduct a hearing on the appeal in the manner prescribed by sections 9-332 and 9-333 of this chapter from which the applicant may further appeal in the manner prescribed by section 9-334 of this chapter.
- B. Once accepted, the applicant, no later than January 1 of each year, shall resubmit the qualified engineer review specialist statement and/or qualified wetland review specialist statement together with an annual maintenance fee of fifty dollars (\$50.00), twenty five dollars (\$25.00) if the applicant is employed by a unit of local government, in order to maintain his or her inclusion on the list. (Ord. 01-338, 10-9-2001; Ord. 01-337, 10-9-2001)

#### 9-330: REVIEW SPECIALIST QUALIFICATION COMMITTEE:

There is hereby created a review specialist qualification committee ("RSQC"). The RSQC shall consist of three (3) members, one of them designated as chairman, appointed by the chairman of the county board with the approval of the county board. Each member shall be a qualified engineer review specialist or qualified wetland review specialist. One member of the committee shall serve for an initial term of one year, another for an initial term of two (2) years and the third for an initial term of three (3) years. The members shall decide which of them shall serve for a one, two (2) or three (3) years term by lot at the first meeting of the RSQC. Thereafter, each member of the committee shall serve for a term of three (3) years. No member may serve for more than two (2) consecutive terms. (Ord. 01-338, 10-9-2001)

# 9-331: INVESTIGATION; COMPLIANCE:

- A. The director upon his own initiative or at the request of any person may conduct an investigation into the qualifications of a qualified engineer review specialist or qualified wetland review specialist, or such specialist's performance of permit reviews under this chapter. Such investigation may include, but is not limited to, an examination of all relevant records maintained by the community and field inspections of relevant developments, structures or stormwater facilities. If upon such investigation, the director determines that the specialist has failed in some significant way, or has repeatedly failed to conduct such reviews in conformance with this chapter, then he shall prepare a report of his findings along with a complaint for the suspension or revocation of the specialist's certification and file them with the RSQC. The complaint shall contain a short and plain statement describing how the specialist has failed in some significant way, or has repeatedly failed to conduct such reviews in conformance with this chapter.
- B. Upon receipt of a written complaint, the RSQC shall serve a copy thereof along with a copy of the report of the director upon the specialist named therein in accordance with section <u>9-232</u> of this chapter. A copy of the complaint and report shall also be served upon every community for whom the specialist has conducted permit reviews. The specialist may file a written answer to the complaint within thirty (30) days after being served. (Ord. 01-338, 10-9-2001)

#### 9-332: HEARING ON COMPLAINT:

The RSQC shall conduct a hearing on the complaint not less than seventy five (75) nor more than one hundred twenty (120) days after service of the complaint upon the specialist. Notice of the hearing shall be served upon the specialist and upon any community which received a copy of the complaint and published in accordance with section <u>9-233</u> of this chapter. The hearing may be continued from time to time. The RSQC may adopt rules for the taking of evidence and conduct of such hearings. (Ord. 01-338, 10-9-2001)

#### 9-333: DECISION OF THE RSQC:

Within thirty (30) days of the conclusion of the hearing, the RSQC shall decide whether or not to remove, either temporarily or permanently, the name of the specialist from the list of qualified review specialists. The decision of the RSQC shall be in writing and shall include the specific findings and conclusions supporting its determination. A copy of the decision and order shall be served upon the specialist and upon any community which received a copy of the complaint in accordance with section 9-232 of this chapter. If the specialist's name is to be temporarily removed from the list, the specialist shall automatically become requalified upon the expiration of the designated period. If the specialist's name is to be permanently removed, the specialist may apply for qualification at or after such time as the RSQC shall specify in its order. (Ord. 01-338, 10-9-2001)

#### 9-334: APPEALS:

- A. Within thirty (30) days after being served with the order of the RSQC, the specialist may appeal to the committee. The appeal shall be made by filing a notice thereof with the department. The committee shall conduct a hearing on the appeal not less than seventy five (75) nor more than one hundred twenty (120) days after the filing of the notice of appeal. The hearing shall be de novo. Notice of the hearing shall be served upon all parties as for the hearing before the RSQC. The hearing may be continued from time to time. The committee may adopt rules for the taking of evidence and conduct of such hearings.
- B. Within thirty (30) days of the conclusion of the hearing, the committee shall decide whether to affirm or reverse, in whole or in part, the order of the RSQC. The decision of the committee shall be in writing and shall include the specific findings and conclusions supporting its determination. A copy of the decision and order shall be served upon all parties in accordance with section 9-232 of this chapter as for the hearing before the RSQC.
- C. From a final decision of the committee, the specialist may appeal to the courts under the Illinois administrative review law. (Ord. 01-338, 10-9-2001)

#### 9-335 - 9-350: RESERVED:

# ARTICLE XV. WETLAND IMPACTS AND MITIGATION

#### 9-351: GENERAL:

All developments having a wetland impact shall comply with this article. A permit for any wetland impact shall be obtained from the director (or administrator in a community certified to administer this article).

- A. For the filing of an application for a permit for a wetland impact, a nonrefundable filing fee of fifty dollars (\$50.00) plus:
  - 1. If the application contemplates mitigation for the wetland impact by the payment of a fee in lieu of mitigation, a cash deposit of one thousand dollars (\$1,000.00);
  - 2. If the application contemplates mitigation for the wetland impact by the purchase of credits from a wetland mitigation bank, a cash deposit of one thousand dollars (\$1,000.00);
  - 3. If the application contemplates mitigation for the wetland impact within a proposed wetland mitigation facility, a cash deposit of two thousand five hundred dollars (\$2,500.00);
  - 4. If the application contemplates more than one type of mitigation for the wetland impact, a cash deposit of two thousand five hundred dollars (\$2,500.00).

The cash deposit shall be in the form of a certified or bank check or money order made payable to Kane County treasurer.

- B. The applicant shall pay all of the costs and expenses incurred by the department of environmental management (the "department") in connection with its review and issuance of the permit. Such expenses include, but are not limited to, a fee for the time spent by the staff of the department on the application calculated at one hundred forty percent (140%) of the hourly rate or pro rata salary of the department personnel involved, the fees of one or more qualified review specialists retained by the department to review the application and prepare a report finding that the application meets the requirements of this chapter, the fees of counsel retained by the department to review the application for compliance with this chapter, public recording fees, and any other direct expense as determined by the director of the department.
- C. As expenses are incurred by the department in connection with the application, they may be paid from the cash deposit. Accompanying the permit when issued or the department's notice of the denial of the permit if denied shall be an invoice itemizing all of the expenses incurred by the department in connection with its review of the application and charged to the cash deposit. If the cash deposit exceeds the invoiced amount, a check for the surplus shall be sent to the applicant within thirty (30) days. If at any time during the review process the cash deposit is in the opinion of the director likely to be insufficient to cover the costs of the department, the director may request the applicant to make an additional cash deposit in an amount determined by the director to be sufficient and, until such additional deposit has been made, the department may suspend its review of the application. (Ord. 01-338, 10-9-2001; Ord. 01-337, 10-9-2001; Ord. 01-442, 12-11-2001)

# 9-352: UNMITIGABLE WETLANDS; EXCEPTIONS:

- A. Wetlands identified as having an FQI greater than or equal to twenty five (25) shall not be filled or dredged as part of any development. The FQI shall be based solely on the wetland vegetation. Buffers and adjacent plant communities shall not be included in the calculation.
- B. If the application of this section would: 1) have the effect of depriving the owner of all economically beneficial or productive use of the land; or 2) make the construction or installation of an essential public improvement by a public entity impossible or highly impracticable the applicant may apply for a variance from the requirements of this section under <a href="article IX">article IX</a> of this chapter. If such a variance is granted mitigation for the wetland impact allowed shall be made according to subsections <a href="9-354">9-354</a>A and <a href="9-354">9-354</a>E of this chapter. (Ord. 01-338, 10-9-2001)

# 9-353: MITIGATION REQUIRED:

All mitigable wetland	l impacts shall be	mitigated as	described herein	with the f	ollowina (	exceptions:

- A. A wetland impact created by the dredging of a wetland with an FQI of less than seven (7) need not be mitigated.
- B. A wetland impact upon manmade wetlands created by excavation or other unfinished development activities in previously nonwetlands areas need not be mitigated.
- C. Wetland impacts upon wetlands created by irrigation which would revert to nonwetlands areas if irrigation were to cease need not be mitigated.
- D. Wetland impacts upon wetlands created by the construction of manmade stormwater management facilities in previously nonwetlands areas need not be mitigated. Proof may be required to verify the purpose and use of the facility.
- E. Wetland impacts created by the construction of manmade ponds in previously nonwetlands areas need not be mitigated.
- F. Wetland impacts occurring on agricultural land that has been enrolled in any program under the food security act for the previous three (3) years need not be mitigated. (Ord. 01-338, 10-9-2001)

#### 9-354: MITIGATION REQUIREMENTS:

- A. For all mitigable wetland impacts:
  - 1. Mitigation may be made within a wetland mitigation facility;
  - 2. Mitigation may be made by the purchase of credits from a wetland mitigation bank;
  - 3. Mitigation may be made by the payment of a fee in lieu of mitigation under section 9-303 of this chapter.
- B. Wetland impacts upon wetlands with an FQI of less than seven (7) shall be mitigated at a ratio of one to one (1:1). The applicant may request permission to mitigate within the site runoff storage facility area. The applicant may earn wetland credits by enhancing preserved wetlands with an FQI of five (5) or less at the ratio of one-fourth (1/4) wetland credit per one acre of wetland enhanced. If this option is chosen the entire wetland shall be enhanced even if credit in excess of that required for the development is generated. The enhanced wetland shall meet the performance standards of section 9-357 of this chapter. For purposes of this section, a farmed wetland is assumed to have an FQI less than seven (7).
- C. Wetland impacts upon wetlands with an FQI of seven (7) or more but less than sixteen (16) shall be mitigated at a ratio of two to one (2:1).
- D. Wetland impacts upon wetlands with an FQI of sixteen (16) or more but less than twenty five (25) shall be mitigated at a ratio of three to one (3:1).
- E. Wetland impacts upon wetlands with an FQI of more than twenty five (25) shall be mitigated at a minimum ratio of ten to one (10:1) plus one-half ( $^{1}/_{2}$ ) for each point by which the FQI exceeds twenty five (25) rounded up to the nearest whole number. For example, a wetland having an FQI of thirty two (32) shall be mitigated at a ratio of fourteen to one (14:1) ((32-25)/2 =  $3^{1}/_{2}$  rounded up to the nearest whole number = 4); 10 + 4 = 14.
- F. Wetland impacts upon wetlands inhabited by a threatened or endangered species shall be mitigated at a ratio of three to one (3:1).
- G. Mitigation for wetland impacts upon more than one wetland within a site shall meet the standards applicable to the highest quality wetland impacted.
- H. FQI assessments made before June 1 or after October 15 shall be considered to be preliminary. Mitigation requirements based upon such preliminary assessments shall not be considered to be final unless an FQI of sixteen (16) is assumed or the director (or administrator in a community certified to administer this article), accepts such security as he shall deem appropriate to ensure that the required mitigation will be achieved.
- I. The applicant may propose an alternative mitigation plan combining wetland creation, purchase of credits from a wetland mitigation bank, payment of a fee in lieu of wetland mitigation, and/or enhancing existing wetlands either on site or off site. The administrator in a community certified to administer this article shall notify the director of the proposal of an alternate mitigation plan and the director shall determine if the proposed alternative mitigation plan meets the requirements of this section and his or her decision shall be final. (Ord. 01-338, 10-9-2001; Ord. 04-392, §§ 34, 35, 36, 10-12-2004; Ord. 08-342, 11-12-2008)

#### 9-355: WETLAND MITIGATION PLAN:

- A. In addition to the requirements of <u>article V of this chapter</u>, if wetland mitigation is required a wetland mitigation plan shall be submitted. At a minimum the plan shall contain:
  - 1. A narrative of the proposed plan including a description of the proposed hydrologic regime, soils and site geomorphology, where applicable;
  - 2. Drawings depicting each wetland impacted and each wetland mitigation facility together with an individual listing contained in a summary table;
  - 3. Specifications for rough and final grading, soil types, soils placement, plant procurement, water control structures and a planting plan that lists the plant materials by scientific and common name, seeding rate or spacing distance and special planting provisions; and
  - 4. Maintenance and monitoring provisions including an annual work schedule describing each task in detail and time of year when it will be performed.
- B. The wetland mitigation plan shall be designed so that:
  - 1. Every wetland mitigation facility shall contain at least two (2) wetland plant communities (for example, wet prairie, emergent, floating vascular, forested wetland, sedge meadow, or hemimarsh); and
  - 2. Open water shall not constitute more than twenty percent (20%) of the entire wetland mitigation facility. (Ord. 01-338, 10-9-2001)

#### 9-356: BUFFER REQUIREMENTS FOR WETLAND MITIGATION FACILITIES:

Wetland mitigation facilities shall be buffered according to the requirements of section <u>9-94</u> of this chapter. Reductions are allowed in accordance with subsections <u>9-94</u>A3b(2), A3b(3) and A3b(4) of this chapter. No buffer is required for that portion of a wetland mitigation facility which is adjacent to an existing preserved wetland. (Ord. 01-338, 10-9-2001)

# 9-357: WETLAND MITIGATION PERFORMANCE STANDARDS:

- A. All wetland mitigation facilities shall meet the following performance standards:
  - 1. They shall meet the definition of a "wetland" under this chapter.
  - 2. All vegetated zones within any wetland mitigation facility shall achieve eighty five percent (85%) cover.
  - 3. The emergent community shall achieve sixty percent (60%) aerial coverage.
  - 4. The floating vascular community shall meet twenty five percent (25%) aerial coverage.
  - 5. Open water shall have zero percent (0%) vegetative coverage.
- B. A wetland mitigation facility designed to mitigate for impacts upon wetlands with an FQI of less than seven (7) shall achieve a minimum FQI three (3) points greater than the FQI of the wetland impacted within the five (5) year monitoring period.

- C. A wetland mitigation facility designed to mitigate for impacts upon wetlands with an FQI of seven (7) or more but less than twenty five (25) shall achieve a minimum FQI five (5) points greater than the FQI of the wetland impacted within the five (5) year monitoring period.
- D. A wetland mitigation facility shall not be dominated or contain cumulatively more than twenty five percent (25%) cover of the following species: buckthorn (Rhamnus cathartica or frangula), reed canary grass (Phalaris), purple loosestrife (Lythrum salicaria), or giant reed (Phragmites australis australii). (Ord. 01-338, 10-9-2001; Ord. 04-392, § 37, 10-12-2004)

#### 9-358: MITIGATION MONITORING:

The wetland mitigation facility shall be monitored and managed for five (5) years beginning on the day the wetland planting is completed. The procedures for monitoring wetland mitigation facilities shall be those set forth in the current Chicago district protocol promulgated by COE. An annual report shall be filed with the director by February 15 of each year for every wetland mitigation facility under permit. Once a wetland mitigation facility reaches its required FQI and meets the performance standards of section 9-357 of this chapter, a request for the release of the performance security may be made to the director. A release of the performance security may be requested of the director as early as the end of the third full growing season. At the end of the five (5) year monitoring and management period, or upon acceptance by the director, the wetland mitigation facility shall be maintained in accordance with article VI of this chapter. (Ord. 01-338, 10-9-2001)

#### 9-359: MITIGATION REQUIRED FOR NONPERFORMING WETLAND:

At the end of the five (5) year monitoring period or upon an earlier request for the release of the performance security, the director shall evaluate the wetland mitigation facility for compliance with the performance standards of section <u>9-357</u> of this chapter. If the director determines that the facility meets the standards he shall release the performance security. If the director determines that the facility does not meet the standards he shall make an estimate of the probable cost of mitigating for the shortfall in performance. The director shall reduce so much of the performance security to cash as is required to mitigate for the shortfall in performance and shall release the remainder. The amount withheld for mitigation shall be deposited in the fund created under and expended in the manner described in section <u>9-304</u> of this chapter. (Ord. 01-338, 10-9-2001)

# 9-360: DENIAL OF PERMIT; APPEAL:

The denial of a permit under this article may be appealed in the manner described in section <u>9-112</u> of this chapter. (Ord. 01-338, 10-9-2001)

# ARTICLE XVI. SPECIAL SERVICE AREAS

#### 9-361: PURPOSE OF ESTABLISHING THE AREA:

The purpose of establishing the area is to provide the services to the area, which services are unique and in addition to the services generally provided to the county as a whole, in the event the homeowners' association fails to adequately carry out its duties to maintain the stormwater drainage system and special management areas. The services to be provided on a backup basis may include, but are not limited to, the following: the operation, maintenance, repair, rehabilitation, replacement and reconstruction of any stormwater detention and/or retention area, drainageway, ditch, swale, storm sewer or other

stormwater facility; costs of design, engineering and other consulting services, surveying and permits, public liability insurance, and all administrative, legal and other costs or expenses incurred in connection therewith and with the administration of the area, including the repayment of any loan or debt incurred for the provision of any of such services, all of the services to be in and for the area. (Ord. 04-07, § 4, 1-13-2004)

#### 9-362: TAX LEVY:

The cost of the services, which are to be provided in the event the homeowners' association fails to adequately carry out its duties, shall be paid by the revenue from the levy of a direct annual ad valorem tax upon all taxable property within the area for an indefinite period of time beginning for the year stated in section 9-363 of this chapter and shall not exceed an annual rate of 0.50 percent (\$0.50 per \$100.00) of the equalized assessed valuation of each tax parcel within the area, and shall be in addition to all other taxes permitted by law. (Ord. 04-07, § 5, 1-13-2004)

#### 9-363: ESTABLISHMENT OF AREAS:

- A. The following are brief descriptions of the specific special service areas taxable beginning with the year 2004:
  - 1. The Blackberry Crossing special service area (or special service area no. SW-1) of Kane County, Illinois, is hereby established in and for the county and shall consist of approximately 62.2 acres lying northwest of the intersection of Keslinger and Harley Roads in Kane County, Illinois. An accurate map and legal description of the area are attached as exhibits D and E to ordinance 04-07.
  - 2. The Saddlebrook unit 3 special service area (or special service area no. SW-2) of Kane County, Illinois, is hereby established in and for the county and shall consist of approximately 23.4 acres lying south and west of the intersection of Corron and Bowes Roads in Kane County, Illinois. An accurate map and legal description of the area are attached as exhibits D and E to ordinance 04-08.
  - 3. The Fox Creek special service area (or special service area no. SW-3) of Kane County, Illinois, is hereby established in and for the county and shall consist of approximately ninety (90) acres lying southwest of the intersection of Old LaFox Road and State Route 64 in Kane County, Illinois. An accurate map and legal description of the area are attached as exhibits D and E to ordinance 04-09.
  - 4. The Mission Hills Estates special service area (or special service area no. SW-4) of Kane County, Illinois, is hereby established in and for the county and shall consist of approximately twenty five (25) acres lying north of the intersection of Bolcum and Crane Roads in Kane County, Illinois. An accurate map and legal description of the area are attached as exhibits D and E to ordinance 04-10.
  - 5. The Prestidge division of Hemmingsford Hills special service area (or special service area no. SW-5) of Kane County, Illinois, is hereby established in and for the county and shall consist of approximately 18.6 acres lying northwest of the intersection of Highland and McCornack Roads in Kane County, Illinois. An accurate map and legal description of the area are attached as exhibits D and E to ordinance 04-11.
- B. The following are brief descriptions of the specific special service areas taxable beginning with the year 2005:
  - 1. The Prairie Lakes special service area (or special service area no. SW-6) of Kane County, Illinois, is hereby established in and for the county and shall consist of approximately two hundred twenty four (224) acres lying southeast of the intersection of Bolcum and Old Burlington Roads in Kane County, Illinois. An accurate map and legal description of the area are on file with the county clerk as exhibits D and E.
  - 2. The Davis Subdivision special service area (or special service area no. SW-7) of Kane County, Illinois, is hereby established in and for the county and shall consist of approximately 4.93 acres lying west of The Landings subdivision at the end of Barko Parkway, north of Powers Road in Kane County, Illinois. An accurate map and legal description of the area are on file with the county clerk as exhibits D and E.

- 3. The Leuer Farm View special service area (or special service area no. SW-8) of Kane County, Illinois, is hereby established in and for the county and shall consist of approximately 14.5 acres lying west of the Old Oak Estates Subdivision at the end of Old Oaks Road in Kane County, Illinois. An accurate map and legal description of the area are on file with the county clerk as exhibits D and E.
- 4. The Blackberry Ridge I special service area (or special service area no. SW-9) of Kane County, Illinois, is hereby established in and for the county and shall consist of approximately 40.8 acres lying north of Donnyhill Meadows along the north side of Smith Road in Kane County, Illinois. An accurate map and legal description of the area is on file with the county clerk as exhibits D and E.
- 5. The Cranston North special service area (or special service area no. SW-10) of Kane County, Illinois, is hereby established in and for the county and shall consist of approximately 4.89 acres lying south of McDonald Road and at the end of Brittany Court in the Cranston Meadows North Subdivision in Kane County, Illinois. An accurate map and legal description of the area are on file with the county clerk as exhibits D and E.
- 6. The Fawn's Cove special service area (or special service area no. SW-11) of Kane County, Illinois, is hereby established in and for the county and shall consist of approximately 6.17 acres lying north and east of the corner of Dean Street and Pheasant Run Drive in Kane County, Illinois. An accurate map and legal description of the area are on file with the county clerk as exhibits D and E.
- 7. The Burr Road Estates special service area (or special service area no. SW-14) of Kane County, Illinois, is hereby established in and for the county and shall consist of approximately 10.5 acres lying north of and east of Burr Road in Kane County, Illinois. An accurate map and legal description of the area are on file with the county clerk as exhibits D and E.
- 8. The Mumma Cove special service area (or special service area no. SW-15) of Kane County, Illinois, is hereby established in and for the county and shall consist of approximately 8.0 acres lying east of Illinois Route 25 at the intersection of Lambert Road and Illinois Route 25 in Kane County, Illinois. An accurate map and legal description of the area are on file with the county clerk as exhibits D and E.
- 9. The Corron Estates special service area (or special service area no. SW-16) of Kane County, Illinois, is hereby established in and for the county and shall consist of approximately 44.5 acres lying south and west of the intersection of Corron and Silver Glen Roads in Kane County, Illinois. An accurate map and legal description of the area are on file with the county clerk as exhibits D and E.
- 10. The Bella Vista special service area (or special service area no. SW-17) of Kane County, Illinois, is hereby established in and for the county and shall consist of approximately 10.7 acres lying west of the intersection of Roberts and Campton Hills Road on the north side of Campton Hills Road in Kane County, Illinois. An accurate map and legal description of the area are on file with the county clerk as exhibits D and E.
- 11. The Deer Pond Estates special service area (or special service area no. SW-18) of Kane County, Illinois, is hereby established in and for the county and shall consist of approximately 21.6 acres lying south and west of the intersection of Red Gate Road and Randall Road in Kane County, Illinois. An accurate map and legal description of the area are on file with the county clerk as exhibits D and E.
- 12. The Ridgefield special service area (or special service area no. SW-19) of Kane County, Illinois, is hereby established in and for the county and shall consist of approximately 73.0 acres lying north and west of the intersection of Powers Road and Freeman Road in Kane County, Illinois. An accurate map and legal description of the area are on file with the county clerk as exhibits D and E.
- 13. The Landmark special service area (or special service area no. SW-20) of Kane County, Illinois, is hereby established in and for the county and shall consist of approximately 52.0 acres lying east of the intersection of Berner Road and Romke Road in Kane County, Illinois. An accurate map and legal description of the area are on file with the county clerk as exhibits D and E.
- 14. The Prairie Wood Estates special service area (or special service area no. SW-21) of Kane County, Illinois, is hereby established in and for the county and shall consist of approximately 10.5 acres lying north and west of the intersection of Crane Road and Randall Road in Kane County, Illinois. An accurate map and legal description of the area are on file with the county clerk as exhibits D and E.
- 15. The Saddlebrook Trails special service area (or special service area no. SW-22) of Kane County, Illinois, is hereby established in and for the county and shall consist of approximately 9.3 acres lying south and west of the intersection of Corron and Bowes Roads in Kane County, Illinois. An accurate map and legal description of the area are on file with the county clerk as exhibits D and E.

- 16. The Ridgefield Meadows special service area (or special service area no. SW-24) of Kane County, Illinois, is hereby established in and for the county and shall consist of approximately 26.7 acres lying north of the intersection of Powers Road and Freeman Road in Kane County, Illinois. An accurate map and legal description of the area are on file with the county clerk as exhibits D and E.
- 17. The Eva Estates special service area (or special service area no. SW-25) of Kane County, Illinois, is hereby established in and for the county and shall consist of approximately 80.3 acres lying west of the intersection of Powers Road and Freeman Road in Kane County, Illinois. An accurate map and legal description of the area are on file with the county clerk as exhibits D and E.
- 18. The Emerald Creek special service area (or special service area no. SW-26) of Kane County, Illinois, is hereby established in and for the county and shall consist of approximately 20.0 acres lying north and east of the intersection of Bolcum and Crane Roads in Kane County, Illinois. An accurate map and legal description of the area are on file with the county clerk as exhibits D and E.
- 19. The Kenmar Woods special service area (or special service area no. SW-27) of Kane County, Illinois, is hereby established in and for the county and shall consist of approximately 5.6 acres lying north and east of the intersection of Kenmar Drive and Illinois Route 47 in Kane County, Illinois. An accurate map and legal description of the area are on file with the county clerk as exhibits D and E.
- C. The following are brief descriptions of the specific special service areas taxable beginning with the year 2006:
  - 1. The Deer Pond Woods special service area (or special service area no. SW-12) of Kane County, Illinois, is hereby established in and for the county and shall consist of approximately 70.8 acres lying south and west of the intersection of Red Gate Road and Randall Road in Kane County, Illinois. An accurate map and legal description of the area are on file with the county clerk as exhibits D and E.
  - 2. The Whitmore Place special service area (or special service area no. SW-13) of Kane County, Illinois, is hereby established in and for the county and shall consist of approximately 44.4 acres lying north and west of Illinois Route 25 in Kane County, Illinois. An accurate map and legal description of the area are on file with the county clerk as exhibits D and E.
  - 3. The Hawthorn Woods special service area (or special service area no. SW-23) of Kane County, Illinois, is hereby established in and for the county and shall consist of approximately 8.4 acres lying on the south side of McDonald Road between Illinois Route 47 and Kendall Road in Kane County, Illinois. An accurate map and legal description of the area are on file with the county clerk as exhibits D and E.
  - 4. The Long's Meadow special service area (or special service area no. SW-28) of Kane County, Illinois, is hereby established in and for the county and shall consist of approximately 70.0 acres lying on the east side of Dauberman Road south of the intersection with Main Street in Kane County, Illinois. An accurate map and legal description of the area are on file with the county clerk as exhibits D and E.
- D. The following are brief descriptions of the specific special service areas taxable beginning with the year 2007:
  - 1. The Whispering Pines special service area (or special service area no. SW-29) of Kane County, Illinois, is hereby established in and for the county and shall consist of approximately 12.0 acres lying along the east side of Denker Road south of the intersection with Splitrail Lane in Kane County, Illinois. An accurate map and legal description of the area are on file with the county clerk as exhibits D and E.
  - 2. The Blackberry Ridge Estates special service area (or special service area no. SW-30) of Kane County, Illinois, is hereby established in and for the county and shall consist of approximately 22.0 acres lying along the north side of Smith Road east of Green Road in Kane County, Illinois. An accurate map and legal description of the area are on file with the county clerk as exhibits D and E.
  - 3. The McCannon Farm Acres special service area (or special service area no. SW-31) of Kane County, Illinois, is hereby established in and for the county and shall consist of approximately 59.1 acres lying north and west of the intersection of Raymond Road and Dugan Road in Kane County, Illinois. An accurate map and legal description of the area are on file with the county clerk as exhibits D and E.
  - 4. The Hurstwoods Subdivision special service area (or special service area no. SW-32) of Kane County, Illinois, is

hereby established in and for the county and shall consist of approximately 6.5 acres lying south and east of the intersection of Brookhaven Lane and Silver Glen Road in Kane County, Illinois. An accurate map and legal description of the area are on file with the county clerk as exhibits D and E.

- 5. The "The Falls Of Plato" special service area (or special service area no. SW-33) of Kane County, Illinois, is hereby established in and for the county and shall consist of approximately 69.9 acres lying north and east of the intersection of Russell Road and Muirhead Road in Kane County, Illinois. An accurate map and legal description of the area are on file with the county clerk as exhibits D and E.
- 6. The Meadow Place Estates special service area (or special service area no. SW-34) of Kane County, Illinois, is hereby established in and for the county and shall consist of approximately 8.4 acres lying north and east of the intersection of May Lane and Illinois Route 25 in Kane County, Illinois. An accurate map and legal description of the area are on file with the county clerk as exhibits D and E.
- E. The following are brief descriptions of the specific special service areas taxable beginning with the year 2009:
  - 1. The Sunvale special service area (or special service area no. SW-37) of Kane County, Illinois, is hereby established in and for the county and shall consist of all platted lots in Sunvale unit 1 and Sunvale unit 2, Elgin Township in Kane County, Illinois. An accurate map and legal description of the area are on file with the county clerk as exhibits E and F.
  - 2. The Middlecreek special service area (or special service area no. SW-38) of Kane County, Illinois, is hereby established in and for the county and shall consist of lots 19 and 20 of Middlecreek unit 1, St. Charles Township, Kane County, Illinois. A legal description of the area is on file with the county clerk as exhibit E.
  - 3. The Shirewood special service area (or special service area no. SW-39) of Kane County, Illinois, is hereby established in and for the county and shall consist of lot 8 of Shirewood Farm unit 1, Hampshire Township, Kane County, Illinois. A legal description of the area is on file with the county clerk as exhibit D.
- F. The following are brief descriptions of the specific special service areas taxable beginning with the year 2010:
  - 1. The Royalton Preserve special service area (or special service area no. SW-35) of Kane County, Illinois, is hereby established in and for the county and shall consist of approximately 11.6 acres lying on the south side of Main Street between Illinois Route 47 and I-88 in Kane County, Illinois. An accurate map and legal description of the area are on file with the county clerk as exhibits D and E.
  - 2. The Richardson Subdivision special service area of Kane County, Illinois, is hereby established in and for the county and shall consist of Richardson's Fox River Subdivision and Richardson's Second Fox River Subdivision in the township of Dundee in Kane County, Illinois. An accurate map and legal description of said territory are on file in the office of the Kane County recorder's office as exhibits D and E.
  - 3. The Wildwood West special service area (or special service area no. SW-41) of Kane County, Illinois, is hereby established in and for the county and shall consist of the territory legally described in exhibit D on file with the county clerk.
  - 4. The Ogden Gardens special service area (or special service area no. SW-40) of Kane County, Illinois, is hereby established in and for the county and shall consist of the territory legally described in exhibit D on file with the county clerk.
  - 5. The Savanna Lakes special service area (or special service area no. SW-42) of Kane County, Illinois, is hereby established in and for the county and shall consist of the territory legally described in exhibit E on file with the county clerk.
- G. The following are brief descriptions of the specific special service areas taxable beginning with the year 2011:
  - The Cheval De Selle special service area no. 1 Venetian Way (or special service area no. SW-43) of Kane County, Illinois, is hereby established in and for the county and shall consist of the territory legally described in exhibit D on file with the county clerk.
  - 2. The Cheval De Selle special service area 2 Faireno Drive (or special service area no. SW-44) of Kane County, Illinois,

is hereby established in and for the county and shall consist of the territory legally described in exhibit D on file with the county clerk.

- 3. The Plank Road Estates special service area (or special service area no. SW-45) of Kane County, Illinois, is hereby established in and for the county and shall consist of all lots as platted in Plank Road Estates Subdivision units 1, 2 and 3 in Plato Township, Kane County, Illinois. An accurate map and legal description of said territory are on file in the office of the Kane County water resources division as exhibit D.
- 4. The Exposition View special service area (or special service area no. SW-47) of Kane County, Illinois, is hereby established in and for the county and shall consist of the territory legally described in exhibit E on file with the county clerk.
- H. The following are brief descriptions of the specific special service areas taxable beginning with the year 2012:
  - 1. The Pasadena Drive special service area (or special service area no. SW-48) of Kane County, Illinois, is hereby established in and for the county and shall consist of the territory legally described in exhibit E on file with the county clerk. (Ord. 04-07, § 3, 1-13-2004; Ord. 04-08, § 3, 1-13-2004; Ord. 04-09, § 3, 1-13-2004; Ord. 04-10, § 3, 1-13-2004; Ord. 04-11, § 3, 1-13-2004; Ord. 04-93, § 3, 3-9-2004; Ord. 04-94, § 3, 3-9-2004; Ord. 04-95, § 3, 3-9-2004; Ord. 04-188, § 3, 5-11-2004; Ord. 04-189, § 3, 5-11-2004; Ord. 04-190, § 3, 5-11-2004; Ord. 04-413, § 3, 11-9-2004; Ord. 04-414, § 3, 11-9-2004; Ord. 04-415, § 3, 11-9-2004; Ord. 04-416, § 3, 11-9-2004; Ord. 04-462, § 3, 12-14-2004; Ord. 04-463, § 3, 12-14-2004; Ord. 05-305, § 3, 9-13-2005; Ord. 05-306, § 3, 9-13-2005; Ord. 05-428, § 3, 12-13-2005; Ord. 06-06, § 3, 1-10-2006; Ord. 06-07, § 3, 1-10-2006; Ord. 06-223, § 3, 6-13-2006; Ord. 06-316, § 3, 8-8-2006; Ord. 06-317, § 3, 8-8-2006; Ord. 06-318, § 3, 8-8-2006; Ord. 06-433, § 3, 11-14-2006; Ord. 07-10, § 3, 1-9-2007; Ord. 07-73, § 3, 3-13-2007; Ord. 07-74, § 3, 3-13-2007; Ord. 07-75, § 3, 3-13-2007; Ord. 07-155, § 3, 5-8-2007; Ord. 07-156, § 3, 5-8-2007; Ord. 07-331, § 3, 10-9-2007; Ord. 09-370, § 3, 10-13-2009; Ord. 09-371, § 3, 10-13-2009; Ord. 09-372, § 3, 10-13-2009; Ord. 09-416, 11-10-2009; Ord. 09-454, § 3, 12-8-2009; Ord. 10-100, § 3, 4-13-2010; Ord. 10-222, § 3, 8-10-2010; Ord. 11-196, 7-11-2011; Ord. 11-195, 7-12-2011; Ord. 12-245, 8-14-2012)