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ARTICLE 1—AUTHORITY, PURPOSE AND DEFINITIONS**§ 100. Statutory authority**

(a) This ordinance shall be known, and may be cited, as the Kane County Stormwater Management Ordinance.

(b) The Kane County Board adopts this ordinance 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 ordinance is contained in 55 ILCS 5/5-1041, 5-1042, 5-1049, 5-1062, 5-1063, 5-1104, 5-12003 and 5-15001 *et seq.*, and 415 ILCS 5/43, and other applicable authority, all as amended from time to time.

(c) As applicable, the municipalities within the County adopt and enforce this ordinance pursuant to 55 ILCS 5/5-1062, 65 ILCS 5/1-2-1, 11-12-12, 11-30-2, 11-30-8, and 11-31-2; and 615 ILCS 5/5, *et seq.*, including 5/18g.

§ 101. 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 No. 98-251 on October 13, 1998. The Plan is available for public inspection in the office of the Kane County Clerk.

§ 102. Purposes of this ordinance

(a) The principal purpose of this ordinance is to promote effective, equitable, acceptable and legal stormwater management measures by establishing reasonable rules and regulations for development. Other purpose of this ordinance 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 streambank 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;

(9) 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 ILCS 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 non-point 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 offsite;

(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 insure 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 ordinance; and

(24) requiring strict compliance with and enforcement of this ordinance.

(b) The purposes of this ordinance are consistent with and supersede the Plan.

§ 103. Reference to watershed plans

(a) This ordinance recognizes the integrated nature of the watershed system and the need to study certain flood control alternatives and other stormwater management functions on a watershed-wide basis.

(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 ordinance. Watershed-specific requirements established in such watershed plans or interim watershed plans will be set forth in §§ 105 through 117 of this ordinance.

§ 104. Definitions

In this ordinance—

(1) **ADID** means 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;

(2) **Administrator** means the person designated by the permitting authority to administer and enforce this ordinance;

(3) **agricultural land** means land predominantly used for agricultural purposes;

(4) **agricultural subsurface drainage** is 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;

(5) **applicable engineering practice** means procedures, methods or materials recommended in standard engineering textbooks or references as suitable for the intended purpose;

(6) **applicant** means any person who submits an application for a permit under this ordinance;

(7) **appropriate use** means a use of the regulatory floodway permitted under Article 4;

(8) **base flood** means the flood having a one percent probability of being equaled or exceeded in a given year;

(9) **BFE** or **base flood elevation** means the highest water surface elevation that can be expected during the base flood;

(10) **BMP** or **best management practices** means 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;

(11) **building** means 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;

(12) **buffer** means 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;

(13) **Bulletin 70** means *Frequency Distributions and Hydroclimatic Characteristics of Heavy Rainstorms in Illinois*, by Floyd Huff and James Angel of the Illinois State Water Survey (1989);

(14) **certified community** means a community certified under Article 11;

(15) **channel** means 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;

(16) **channel modification** means 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;

(17) **commercial** means having the qualities associated with the transaction of business with the public at large where the traffic generated warrants construction of site improvements;

(18) **commercial redevelopment** means development on a site already devoted to a commercial use but specifically does not include additions to existing buildings and additions of new impervious surfaces after the effective date;

(19) **Committee** means the Kane County Stormwater Management Committee;

(20) **community** means the County or any municipality within the County;

(21) **compensatory storage** means an excavated, hydrologically and hydraulically equivalent volume of storage created to offset the loss of existing flood storage;

(22) **CLOMA** or **Conditional Letter of Map Amendment** means 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;

(23) **CLOMR** or **Conditional Letter of Map Revision** means 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;

(24) **COE** means the United States Army Corps of Engineers;

(25) **control structure** means a structure designed to control the rate of flow that passes through the structure given a specific upstream and downstream water surface elevation;

(26) **County** means Kane County, Illinois;

(27) **critical duration** means the duration of a storm event that results in the greatest peak runoff;

(28) **dam** means 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);

(29) **Department** means the Kane County Department of Environmental Management;

(30) **depressional storage** means the volume contained below a closed contour on a one foot contour interval topographical map, the upper elevation of which is determined by the invert of a surface gravity outlet;

(31) **developer** means a person who creates or causes a development;

(32) **development** means any manmade change to the land and includes—

(A) the construction, reconstruction, repair, 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 installation of a recreational vehicle on a site for more than 180 days;

(H) any wetland impact; and

(I) 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—

(J) maintenance of existing buildings and facilities such as re-roofing or resurfacing of roads where there is no increase in elevation;

(K) for agricultural uses, maintenance of existing drainage systems for the limited purpose of maintaining cultivated areas and crop production; or

(L) for agricultural uses, improvements undertaken pursuant to a written NRCS conservation plan;

(33) **Director** means the Director of the Department;

(34) **drainable water** means water that readily drains from soil under the influence of gravity;

(35) **drainage area** means the land area above a given point that may contribute runoff flow at that point from rainfall;

(36) **effective date** means January 1, 2002;

(37) **elevation certificate** means 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;

(38) **ephemeral stream** means a stream whose bed elevation does not intersect the groundwater table and carries flow only during and immediately after a runoff producing rainfall event;

(39) **erosion** means the process whereby soil is detached by the action of water or wind;

(40) **farmed wetlands** means wetlands that have been identified as farmed wetlands by NRCS in a Certified Wetland Determination;

(41) **FEMA** means the Federal Emergency Management Agency and its regulations at 44 CFR 59-79, effective September 29, 1989, as amended;

(42) **flood** means a general and temporary condition of partial or complete inundation of normally dry land areas from overflow of inland or tidal ways or the unusual and rapid accumulation of runoff of surface waters from any source;

(43) **FBFM** or **Flood Boundary and Floodway Map** means a floodplain management map published by FEMA that depicts, based on detailed analysis, the boundaries of the base flood, the 0.2% probability flood and the floodway;

(44) **flood frequency** means 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 two-year flood frequency has a 50% chance of occurrence in any given year and the 100-year flood frequency has a 1% chance of occurrence in any given year;

- (45) ***flood fringe*** means that portion of the floodplain outside of the designated floodway;
- (46) ***FIRM*** or ***Flood Insurance Rate Map*** means 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;
- (47) ***FIS*** or ***Flood Insurance Study*** means a study of flood discharges and flood profiles for a community adopted and published by FEMA;
- (48) ***floodplain*** means 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;
- (49) ***FPE*** or ***Flood Protection Elevation*** means the BFE plus two feet 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 of freeboard; along the Fox River and within its backwater zone the BFE plus three feet of freeboard;
- (50) ***floodproof*** means 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;
- (51) ***Floodproofing Certificate*** means 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;
- (52) ***floodway*** or ***designated floodway*** means the channel, onstream 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 10% increase in velocities;
- (53) ***floodway conveyance*** means the measure of the flow carrying capacity of the floodway section and is defined using Manning's equation, $K=1.49 AR^2/n$, 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;
- (54) ***FQI*** or ***Floristic Quality Index*** means 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 Ed. (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);
- (55) ***freeboard*** means 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;
- (56) ***functional*** means that a facility performs its primary purpose but may not be completed;
- (57) ***groundwater*** means water that is located within soil or rock below the surface of the earth;
- (58) ***groundwater control system*** means 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;
- (59) ***historic structure*** means 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 an 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;

(60) ***hemimارش*** means an isolated wetland dominated on the edges by tall emergent vegetation with an interior area of shallow open water;

(61) ***hydraulics*** means the science and study of the mechanical behavior of water in physical systems and processes;

(62) ***hydraulically connected impervious area*** means 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;

(63) ***hydraulically equivalent compensatory storage*** means 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;

(64) ***hydrologically disturbed*** means an area where the land surface has been cleared, grubbed, compacted or otherwise modified that changes runoff, volumes, rates or direction;

(65) ***hydrology*** means the science of the behavior of water, including its dynamics, composition and distribution in the atmosphere, on the surface of the earth and underground;

(66) ***IDNR-OWR*** means the Illinois Department of Natural Resources, Office of Water Resources, or its duly authorized designee;

(67) ***industrial redevelopment*** means development on an improved site already devoted to an industrial use but does not include additions to existing buildings and the addition of new impervious surfaces after the effective date;

(68) ***interim watershed plan*** means a regional study of a watershed which does not address the entire range of purposes, goals and objectives outlined in the Plan;

(69) ***intermittent stream*** means 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;

(70) ***isolated wetland*** means a wetland that does not have an identifiable surface water connection to other Waters of the U.S.;

(71) ***LOMA*** or ***Letter of Map Amendment*** means 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;

(72) ***LOMR*** or ***Letter of Map Revision*** means 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;

(73) ***lake*** means a body of water two or more acres in size which retains water throughout the year;

(74) ***lineal Waters of the U.S.*** means wetlands along creeks, streams, rivers, ponds, lakes, or impoundments that are hydraulically connected to surface water;

(75) **major stormwater system** means that portion of a stormwater facility needed to store and convey flows beyond the capacity of the minor stormwater system;

(76) **manufactured home** means 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 onsite for more than 180 consecutive days but does not include a recreational vehicle;

(77) **manufactured home park or subdivision** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale;

(78) **mass grading** means development in which the primary activity is a change in topography affected by the movement of earth materials;

(79) **minor stormwater system** means 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;

(80) **mitigation** means measures taken to offset negative impacts from development in waters of the U.S. including wetlands or the floodplain;

(81) **NFIP or National Flood Insurance Program** means the federal program codified in Title 44 of the Code of Federal Regulations;

(82) **net benefit in water quality** means the institution of best management practices as part of a development that when compared to the pre-development condition can be judged to reduce downstream sediment or pollutant loadings;

(83) **net watershed benefit** means a finding that, when compared to the existing condition, the development will substantially reduce (more than 10%) downstream peak discharges, will reduce downstream flood stages (more than 0.1 feet), or will reduce downstream damage to structures occurring in the pre-development condition and must be demonstrated by detailed hydrologic and hydraulic analysis of watersheds on a regional scale as approved by the Administrator;

(84) **non-riverine** means areas not riverine in character such as isolated depressional storage areas, ponds and lakes;

(85) **NRCS** means the United States Department of Agriculture, Natural Resources Conservation Service;

(86) **nuisance flow** means 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;

(87) **observation structures** are structures built on a field tile where the pipe inflow and outflow is visible upon removal of a lid;

(88) **open channel** means 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;

(89) **open water** means surface water in lakes, ponds, impoundments and wetlands devoid of vegetative cover;

(90) **OHWM or ordinary high water mark** means 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;

(91) **overland flow path** means 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;

(92) **parcel** means a separate tract of land identified by its own legal description;

(93) **perennial stream** means a riverine watercourse whose thalweg intersects the groundwater table continuously and flows throughout the year;

(94) **permitting authority** means the community having jurisdiction under this ordinance to issue permits;

(95) **person** means 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;

(96) **Plan** means the Kane County Comprehensive Countywide Stormwater Management Plan adopted by the County Board on October 13, 1998, as amended from time to time;

(97) **plant communities** means groups of plants with similar habitat requirements and planting regimes;

(98) **pond** means a body of water less than two acres in size which retains a normal water level year-round;

(99) **primary gravity outlet** means the outlet structure designed to meet the release rate requirements of this ordinance, the invert (lowest elevation) of which shall be considered the high water elevation for required stormwater retention;

(100) **professional land surveyor** means a land surveyor registered in the State of Illinois under the Illinois Land Surveyors Act (225 ILCS 330/1, *et seq.*, as amended);

(101) **professional engineer** means an engineer registered in the State of Illinois under the Illinois Professional Engineering Practice Act (225 ILCS 325/1, *et seq.*, as amended);

(102) **public flood control project** means 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;

(103) **public flood easement** means 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;

(104) **record drawings** means 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;

(105) **registered structural engineer** means a person licensed under the laws of the State of Illinois as a structural engineer;

(106) **regulatory floodplain** means the floodplain depicted on maps recognized by IDNR-OWR for regulatory purposes;

(107) **regulatory floodway** means those portions of the floodplain depicted as floodway on maps recognized by IDNR-OWR for regulatory purposes;

- (108) **retention facility** means a facility which stores stormwater runoff without a gravity release;
- (109) **riverine** means related to, formed by or resembling a channel and includes creeks and rivers;
- (110) **runoff** means 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;
- (111) **seasonal high groundwater table** means 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 chroma or less;
- (112) **sedimentation** means the process that deposits hydraulically moved soils, debris and other materials on other ground surfaces or in bodies of water or stormwater drainage systems;
- (113) **sedimentation trap** means a structure or area that allows for the temporary deposit and removal or disposal of sediment materials from stormwater runoff;
- (114) **seepage** means the movement of drainable water through soil and rock;
- (115) **site** means all of the land contemplated to be part of a coordinated development of one or more parcels;
- (116) **site runoff storage facility** means a manmade structure for the temporary storage of stormwater runoff with a controlled release rate;
- (117) **SFHA** or **Special Flood Hazard Area** means an area having special flood, mudslide or mudflow, or flood related erosion hazards and which is shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, AH, VO, V1-30, VE, V, M or E;
- (118) **special management area** means a floodplain, regulatory floodplain, wetland, wetlands mitigation area, stream, river, or other water body;
- (119) **stormwater facility** means 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;
- (120) **stormwater management permit** means the permit issued under Article 5;
- (121) **structure** means 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;
- (122) **substantial improvement** means (a) an improvement made to a building the cost of which is greater than or equal to 50% of building's market value before the improvement; (b) reconstruction or repair of a building, the cost of which is greater than or equal to 50% of the building's market value before reconstruction or repair; or (c) an addition to a building the cost of which is greater than or equal to 50% of the building's market value before the addition or that increases the floor area by more than 20%;
- (123) **subsurface drainage** means 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;
- (124) **Technical Manual** means the manual adopted by the County which refers to this ordinance and provides additional explanations and examples;
- (125) **thalweg** means a line along the lowest point in a channel;

(126) **transition section** means the reaches of the stream or floodway where water flows from a narrow cross-section to a wide cross-section, or vice versa;

(127) **usable space** means space used for dwelling, storage, utilities or other beneficial purposes and includes basements;

(128) **water table** means the upper limit of a free water surface in a saturated soil or underlying material;

(129) **Waters of the U.S.** is defined by COE in 33 CFR 328.3 and, for purposes of this ordinance, includes wetlands, lakes, rivers, streams, creeks, bogs, fens, ponds and isolated wetlands but does not include maintained stormwater facilities;

(130) **watershed** means all land drained by, or contributing water to the same stream, lake, stormwater facility, or draining to a point;

(131) **watershed characteristics** means the land use, physiology, habitat, climate, drainage system and community profile of a watershed;

(132) **watershed plan** means 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;

(133) **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;

(134) **wetland impact** means—

(A) the dredging or filling of any wetland having an FQI greater than 25; or

(B) the dredging or filling of any other wetland if—

(i) such cumulative wetland dredging or filling is 0.25 acres (10,890 sq. ft.) or more in size; and

(ii) such wetland is not then regulated by COE; or

(iii) 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 U.S.C. § 3801, *et seq.*);

(135) **wetland mitigation** means the creation and long-term maintenance of wetlands to offset wetland impacts from development;

(136) **wetland mitigation facility** means 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; and

(137) **wetland mitigation bank** means 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.

(Sections 105 through 117 reserved)

ARTICLE 2—REQUIREMENTS FOR STORMWATER MANAGEMENT**§ 200. General information**

- (a) All developments shall meet the requirements of § 201, § 202 and Articles 3 and 6.
- (b) Developments shall comply with § 203 if—
 - (1) two or more one or two family residences are to be constructed on a site three or more acres in size;
 - (2) a single-family attached dwelling, apartment or condominium, attached townhome or other multifamily residential building comprised of more than two units is to be constructed on a site more than one acre in size;
 - (3) any non-residential land use is to be constructed on a site more than one acre in size;
 - (4) development after the effective date of this ordinance on a site one acre or more in size devoted to an existing multifamily or nonresidential land use exceeds in the aggregate 25,000 square feet; or
 - (5) road development after the effective date of this ordinance in rights-of-way under the ownership or control of a unit of local government exceeds in the aggregate one acre.
- (c) The developer of a commercial redevelopment or industrial redevelopment may ask that a fee-in-lieu of site runoff storage be approved under Article 13 if—
 - (1) the drainage plan will not increase existing flood damage; and
 - (2) the drainage plan provides a net benefit in water quality compared to the existing development.
- (d) The developer of a development consisting only of mass grading may ask that a fee-in-lieu of site runoff storage be approved under Article 13 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.

§ 201. 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; and
 - (2) be consistent with the Technical Manual.
- (c) Stormwater facilities shall be functional before any building permit is issued for any other construction on a site.

(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 flowpath 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 20 acres, a storm sewer pipe and inlet sized for the base flood may be constructed in lieu of providing an overland flowpath. Overland flowpaths internal to the site shall be considered part of the major stormwater system and shall be designed for conveyance of a minimum of one cfs 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 flowpath shall be elevated, floodproofed or otherwise protected to at least two feet 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 § 202(c).

(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 onsite 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 onsite 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 1:1 ratio. Offsite 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 § 203.

§ 202. 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) Offsite 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) Onsite: Agricultural drainage systems shall be evaluated in accordance with Article 5. All existing onsite agricultural drain tile 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) Offsite 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) 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 § 203(b). Design runoff rates for minor conveyance systems may be calculated using the Rational Method if the design watershed is less than 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 offsite pursuant to § 202(d) need not comply with this requirement.

(h) Maximum flow depths for new transverse stream crossings shall not exceed one foot at the crown of the road during the base flood condition. The maximum flow depth on a roadway shall not exceed six inches 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 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 § 201(a) and are otherwise lawful. Watersheds for the purposes of this section shall be the major watershed divides shown in Appendix A of this ordinance.

(j) Developments shall incorporate all best management practices required under the Clean Water Act (33 U.S.C. § 1251, *et seq.*, as amended).

§ 203. Site runoff storage requirements (detention)

(a) 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) Absent any applicable watershed plan or interim watershed plan, sufficient storage shall be provided such that the probability of the post-development release rate exceeding 0.1 cfs/acre of development shall be less than 1% per year. Design runoff volumes shall be calculated using event hydrograph methods.

(c) 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 acres of tributary area or when areas tributary to the facility extend offsite. For facilities with less than five acres of tributary area all onsite, 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) 24-hour duration storm with a 1% probability (100-year) of occurrence in any one year as specified by Bulletin 70 northeast sectional rainfall statistics.

(d) For sites where the undeveloped release rate is less than the maximum release rate in § 203(b), 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 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) 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.

(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 days of the storm event.

(B) No such subsurface drainage pipe shall be located within ten feet of drainage pipes directly connected to the site runoff storage basin.

(C) 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 shall be designed and constructed with the following characteristics:

(1) Water surface depths two feet 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 pre-development 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. 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 located within the regulatory floodplain shall (a) comply with Article 4; and (b) store the required amount of site runoff to meet the release rate requirement under all streamflow and backwater conditions up to the ten-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 (a) and (b) of this subsection.
 - (j) Storage facilities located within the regulatory floodway shall (a) meet the requirements for locating storage facilities in the regulatory floodplain; (b) be evaluated by performing hydrologic and hydraulic analysis consistent with the standards and requirements for watershed plans; and (c) provide a net watershed benefit.
 - (k) Site runoff storage facilities may be located offsite if (a) the offsite storage facility meets all of the requirements of this Article; (b) adequate storage capacity in the offsite facility is dedicated to the development; and (c) the development includes means to convey stormwater to the offsite storage facility.
 - (l) Site runoff storage volume provided by enlarging existing regulatory floodplain storage (onstream site runoff storage) will be allowed only as a variance. The applicant must demonstrate that flood damage will not be increased and the development will not increase flood flows for both the two-year and 100-year floods.
 - (m) 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 § 203(g).

ARTICLE 3—EROSION AND SEDIMENT CONTROL**§ 300. Erosion and sediment control**

(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 three 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 months, the storm event having a 50% chance (two-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 months but less than one year, the design frequency for major sediment basins shall be a rainfall event with a 20% (five-year event) chance of been 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 10% (ten-year event) chance of been exceeded in any one year.

(4) All sediment basins shall be designed for a minimum residence time of ten 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 onsite 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 (a) sedimentation basins; (b) sediment traps; (c) diversion swales; (d) silt fences; (e) temporary seeding; (f) mulching; and (g) erosion control blankets.

(g) The area of disturbance onsite at any one time shall be limited to 20 acres. An additional 20 acres (a maximum of 40 acres of disturbance at any one time) may be disturbed if necessary to balance cut and fill onsite. 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 offsite. 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 14 days of final grading or when left idle for more than seven days. Maintained haul roads and the area of sediment basins, site runoff storage facilities, utility corridors having a maximum width of 20 feet, and any permanently stabilized areas are excluded from this limitation.

(h) Erosion and sediment control plans shall be in accordance with Article 5 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 two-year and ten-year runoff rates from all offsite 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 onsite shall be inspected weekly or after a one-half inch 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 offsite 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 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 two-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.

ARTICLE 4—PROTECTION OF SPECIAL MANAGEMENT AREAS

§ 400. Reserved

§ 401. Disclaimer

Nothing in this ordinance purports to alter or affect the regulatory program administered by IDNR-OWR. Anything in this ordinance 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 ordinance 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 ordinance 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.

§ 402. 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 ordinance applicable to such development, however, continue to apply.

§ 403. Floodplain management

All development shall meet the requirements set forth in Table 403.

Table 403 - Summary of requirements for development in floodplains

	§ 404	§ 405	§ 406	§ 407	§ 408	§ 409	§ 410	§ 411	§ 412	§ 413
Floodplains	All	405(e) 405(f)	All	--	--	All	--	--	--	--
Regulatory Floodplains	All	All	All	All	All	--	All (Note 1)	--	--	--
Regulatory floodways	All	All	All	All (Note 2)	All	--	All	All	--	--
Riverine Regulatory Floodplains	All	All	All	All	All	--	--	--	All	--
Bridge and Culvert Crossings	All	All	--	--	--	--	All (Note 3)	--	--	All

Note 1. Riverine, floodplains only

Note 2. For buildings meeting appropriate use criteria

Note 3. See exclusion in § 413(c)

§ 404. 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 ordinance. 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. A list of the current regulatory maps for Kane County to be consulted is maintained by the Director.

(b) insurance (c) The BFE shall be the elevation of the 100-year profile shown for the site on the current flood

FEMA. A public notice inviting public comment on the proposed change in the BFE or location of the regulatory floodway will be issued by IDNR/OWR or its designee before a CLOMR is issued. Filling, grading, dredging or excavating may take place upon issuance of a conditional approval from IDNR/OWR and the Administrator. No further development activities shall take place in the existing or proposed floodplain until a LOMR is issued by FEMA unless such activities meet all the requirements of §§ 403 through 413 of this ordinance. 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:

- (i) analysis of the flood profile due to a proposed bridge, culvert crossing or roadway approach;
- (ii) 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;
- (iii) alternative transition sections and hydraulically equivalent compensatory storage; and
- (iv) stormwater management permits issued to local units of government for regulatory floodway and floodplain development.
- (v) IDNR/OWR will issue permits for any IDNR/OWR, state, federal or community projects.

§ 405. 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 offsite, or a damaging or potentially damaging increase in flood heights or velocity onsite 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 a 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 § 407. 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, §§ 403 through 413 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.

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.

§ 406. Public health protection standards

(a) New and replacement water supply systems, wells and sanitary sewer lines may be permitted if all manholes or other above-ground openings located below the FPE are watertight.

(b) New onsite 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 flood waters during the base flood.

§ 407. 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 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 above the BFE. The fill shall be placed at that elevation for a distance of ten feet 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 above the base flood for an attached garage, and shall be adequately protected against erosion, scour and differential settlement. A 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 flood waters and not subject to damage by hydrostatic pressures of the base flood. The permanent openings shall be no more than one foot above existing grade and consist of a minimum of two 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 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 above the BFE shall be used for storage.

(b) The lowest floor including the basement of all new or substantially improved non-residential buildings shall be elevated at least to the FPE as described above or be structurally dry floodproofed to at least the FPE. A non-residential 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 and recreational vehicles to be installed on a site for more than 180 days 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 tool sheds 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 § 411.

(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 576 square feet in floor size and cost not more than \$12,000 to construct.

(6) The building shall meet the requirements of § 407(a)(2).

(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 above the BFE.

(e) The lowest floor of an addition to an existing industrial use may be constructed at the BFE plus one foot provided this elevation is required by the industrial process as demonstrated by the applicant and the Administrator approves the elevation in writing.

§ 408. Non-conforming structures

A non-conforming structure damaged by flood, fire, wind or other disaster may be restored unless the damage is equal to or greater than 50% of its fair market value before it was damaged, in which case it shall conform to § 407.

§ 409. Lowest opening

For proposed structures located outside the regulatory floodplain, the lowest opening shall be above the FPE.

§ 410. 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 ten-year frequency flood elevation must be replaced below the proposed ten-year frequency flood elevation. The storage volume displaced above the ten-year existing frequency flood elevation must be replaced above the proposed ten-year frequency flood elevation. The additional compensatory flood storage required beyond a 1:1 ratio may be placed above or below the ten-year flood elevation.

(b) Compensatory storage volume for development in a non-riverine 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 non-riverine regulatory floodplain that is not adjacent to a lake shall be replaced in accordance with the requirements for the loss of depressional storage in § 201(g).

(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 non-riverine 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.

§ 411. 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% open when viewed from any one direction) built parallel to the direction of flood flows;

(6) detached garages, storage sheds, boat houses or other non-habitable 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 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 non-erosive 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 flood walls or berms around residential, commercial or industrial principal structures where the outside toe of the floodwall or berm is no more than ten feet 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 ordinance.

(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 onstream 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 horizontally for every four feet of the flooded stream's length.

(B) Flowing water will contract no faster than at a rate of one foot horizontally for every one foot of the flooded stream's length.

(C) Flowing water will not expand or contract faster than one foot vertically for every ten feet of 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 onstream 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 rip-rap or other design measures.

(4) In the case of onstream 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. 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 from the building. Compensation for lost storage and conveyance will not be required for floodproofing within the ten-foot perimeter provided flood damage to other buildings is not increased.

(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 from the building. Compensation for lost storage and conveyance will not be required for floodproofing within the ten-foot 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.

§ 412. 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 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 § 411; 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 § 410; or

(3) shows that the proposed development will meet the requirements for regulatory floodplains in §§ 406 and 407.

§ 413. Bridge and culvert standards

These standards are for the reconstruction, modification or new construction 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) Lost regulatory floodplain storage must be replaced as required in § 410 except that artificially created storage lost due to a reduction in head loss behind an existing bridge or culvert crossing shall not be required to be replaced, provided no flood damage will be incurred downstream.

(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 Ill. 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 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 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 below the top of the lowest bank;

(4) any fill in the channel shall be non-erosive material, such as rip-rap 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

§ 414. 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 onsite wetlands shall be submitted. The presence and limits of wetland areas shall be determined by a wetland delineation conducted in accordance with the 1987 Manual. The presence of farmed wetlands shall be determined by NRCS.

(b) Before any development on agricultural land, in addition to the onsite delineation required under the previous paragraph, a Certified Wetland Determination shall be obtained from NRCS.

(c) The quality of the wetlands shall be evaluated based upon the FQI.

(d) 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.

(e) The approximate location, extent and relative quality of wetlands within 50 feet of the site shall be identified and included in the written report. The location and extent of such offsite 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.

§ 415. Mitigation to be local

All wetland mitigation required under a COE § 404 permit for wetland disturbances in Kane County shall be provided in Kane County.

§ 416. 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.

§ 417. Wetland preservation during development

Preserved wetlands shall be protected during development such that an FQI calculated two years after the commencement of development will not be more than 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.

§ 418. Buffer requirements

The requirements of this section are not applicable to commercial or industrial 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 § 404 permit program (currently, less than 0.25 acres).

(a) Buffers shall be designated on development plans for all areas defined as Waters of the U.S. that are adjacent to 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 ordinance immediately adjacent to the area of impact does not apply. Immediately adjacent refers to the area within 15 feet of the area of impact. In no case shall additional wetland area be filled to provide buffer required by this ordinance.

(3) A jurisdictional Waters of the U.S., or wetland may not constitute buffer. Buffer widths are to be 50 feet wide unless otherwise determined using the criteria specified in §§ 418(a)(3)(A) and/or 418(a)(3)(B). Buffer width averaging is acceptable at the discretion of the Administrator. When using buffer width averaging, the width may not be more than 20% less, at the narrowest point, than the specified width. The buffer width may never be less than 15 feet, except in the case of Waters of the U.S. or wetlands with a calculated FQI of less than 7 where the buffer at its narrowest point may not be less than 12 feet in width.

(A) Linear buffers shall be designated along Waters of the U.S. and wetlands associated with water courses, i.e. swales, creeks, streams, rivers, etc. Refer to § 418(a)(3)(B) in cases where wetlands are adjacent to and not part of the main channel, i.e. floodplain wetland, backwater slough, oxbow, bordering wetland complex.

(i) When the lineal Waters of the U.S. have a drainage area greater than 640 acres, measured at the downstream property line, or is designated as ADID because of high biological value or an adjacent wetland has a calculated FQI greater than 16, the buffer shall be 50 feet.

(ii) When the lineal Waters of the U.S. have a drainage area less than 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. Figure 1 may be used to determine buffer widths provided the resultant width is increased to the nearest multiple of five.

(iii) If protective measures are installed along the perimeter of a buffer, the width may be reduced by up to 15% 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 20% less than originally specified. Protective measures may consist of fencing, sediment basins, biological filter strips or other methods approved by the Administrator.

(iv) 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 non-linear bodies of water meeting the definition of Waters of the U.S., including wetlands.

(i) If protective measures are installed along the perimeter of a buffer, the width may be reduced by up to 15% 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 20% less than originally specified. Protective measures may consist of fencing, sediment basins, biological filter strips or other methods approved by the Administrator.

(ii) For all non-linear water bodies or Waters of the U.S. designated as ADID or wetlands with an FQI greater than 16, a minimum buffer width must be established in accordance with Table 418(a)(3)(B)(ii).

(iii) For non-ADID wetlands with an FQI of 7 to 16 a minimum buffer width must be established in accordance with Table 418(a)(3)(B)(iii).

(iv) For non-ADID wetlands with an FQI of less than 7 a minimum buffer width must be established in accordance with Table 418(a)(3)(B)(iv).

(b) Buffers shall be replanted or reseeded using appropriate predominately native deep-rooted vegetation, appropriately managed and maintained following disturbance.

(c) The buffer area for all lineal and non-linear 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) 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 maybe reduced as specified in § 418(a)(3)(A)(iii).

(e) If a buffer area is disturbed by permitted activities during construction, the buffer strip shall be stabilized in accordance with § 300.

(f) 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) 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) 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) 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. If the path leads to a wetland, it must be a winding path to help prevent erosion.

(2) Non-habitable structures (i.e., tool shed) and impervious surfaces may occupy a maximum of 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.

BUFFER WIDTH CALCULATION TABLES

Table 418(a)(3)(B)(ii) - High Quality Wetlands - FQI > 16

BUFFER RATIO	WETLAND AREA (Acres)	BUFFER AREA (Acres)	BUFFER WIDTH (Feet)
0.5	0.25	0.125	15.0
0.5	0.5	0.25	20.0
0.5	0.75	0.375	25.0
0.5	1	0.5	30.0
0.5	1.25	0.625	30.0
0.5	1.5	0.75	35.0
0.5	1.75	0.875	35.0
0.5	2	1	40.0
0.5	2.25	1.125	40.0
0.5	2.5	1.25	45.0
0.5	2.75	1.375	45.0
0.5	3	1.5	50.0
0.5	3.25	1.625	50.0
0.5	3.5	1.75	50.0
0.5	3.75	1.875	50.0
0.5	4	2	50.0
0.5	4.25	2.125	50.0
0.5	4.5	2.25	50.0
0.5	4.75	2.375	50.0
0.5	5 or more	2.5	50.0

Buffer Ratio = % of total wetland area
 Wetland Area = Total on and offsite area of the wetland = (%*Acres)
 Buffer Area= Area of the buffer = (%*Acres)
 Buffer Width = $[Area * 43560] / 4 / [\text{Sqrt}(Acres * 43560)]$

Table 418(a)(3)(B)(iii) - Medium Quality Wetlands - FQI > 7 <16

BUFFER RATIO	WETLAND AREA (Acres)	BUFFER AREA (Acres)	BUFFER WIDTH (Feet)
0.4	0.25	0.1	15.0
0.4	0.5	0.2	15.0
0.4	0.75	0.3	20.0
0.4	1	0.4	25.0
0.4	1.25	0.5	25.0
0.4	1.5	0.6	30.0
0.4	1.75	0.7	30.0
0.4	2	0.8	30.0
0.4	2.25	0.9	35.0
0.4	2.5	1	35.0
0.4	2.75	1.1	35.0
0.4	3	1.2	40.0
0.4	3.25	1.3	40.0
0.4	3.5	1.4	40.0
0.4	3.75	1.5	45.0
0.4	4	1.6	45.0
0.4	4.25	1.7	45.0
0.4	4.5	1.8	45.0
0.4	4.75	1.9	50.0
0.4	5 or more	2	50.0

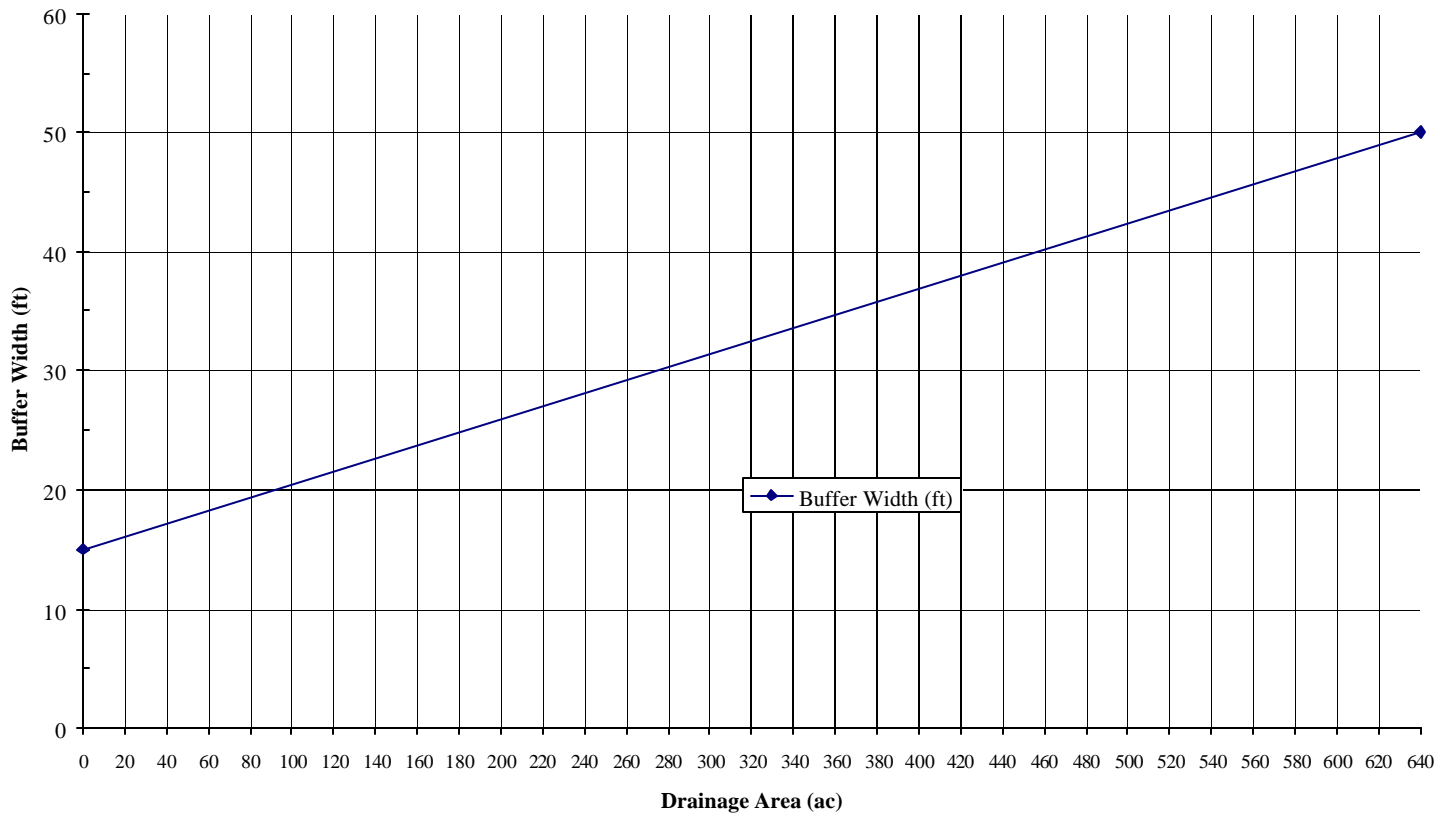
Buffer Ratio = % of total wetland area
 Wetland Area = Total on and offsite area of the wetland = (%*Acres)
 Buffer Area= Area of the buffer = (%*Acres)
 Buffer Width = $[Area * 43560) / 4] / [Sqrt (Acres * 43560)]$

Table 418(a)(3)(B)(iv) - Low Quality Wetlands - FQI < 7

BUFFER RATIO	WETLAND AREA (Acres)	BUFFER AREA (Acres)	BUFFER WIDTH (Feet)
0.3	0.25	0.075	15.0
0.3	0.5	0.15	15.0
0.3	0.75	0.225	15.0
0.3	1	0.3	20.0
0.3	1.25	0.375	20.0
0.3	1.5	0.45	20.0
0.3	1.75	0.525	25.0
0.3	2	0.6	25.0
0.3	2.25	0.675	25.0
0.3	2.5	0.75	25.0
0.3	2.75	0.825	30.0
0.3	3	0.9	30.0
0.3	3.25	0.975	30.0
0.3	3.5	1.05	30.0
0.3	3.75	1.125	35.0
0.3	4	1.2	35.0
0.3	4.25	1.275	35.0
0.3	4.5	1.35	35.0
0.3	4.75	1.425	35.0
0.3	5 or more	1.5	35.0

Buffer Ratio = % of total wetland area
 Wetland Area = Total on and offsite 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



ARTICLE 5—REQUIRED SUBMITTALS FOR STORMWATER MANAGEMENT PERMITS

§ 500. 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 5,000 square feet of ground, 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 excavation or removal of vegetation in rights-of-way or public utility easements for the purpose of installing or maintaining utilities not including storm sewers;

(C) the maintenance, repair or at grade replacement of existing lawn areas not otherwise requiring a stormwater permit under this ordinance;

(D) 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) All permit fees shall be paid at the time of application. Permit fees shall be established by separate ordinance. Fees may be established based upon all costs incurred by the permitting authority in the administration of the permit, including, without limitation, the costs of review and inspections both during and after construction within the period for the establishment of permanent cover.

(d) The design of stormwater facilities, calculations for the design of the regulatory floodplain and calculations of the impacts of development shall meet the standards of this ordinance 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 ordinance.

(2) 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 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 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 benchmarks and, if the site is more than 20 acres, to the Kane County Survey Control Network. Plats for new subdivisions more than 20 acres in size shall be submitted to the Director in one of the electronic formats designated by the County.

§ 501. 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 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 years provided the activity is in compliance with the then current requirements of this ordinance. An 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 ordinance, an amended permit may be issued.

§ 502. Required submittals

(a) Refer to Table 502 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

Table 502 - Permit submittal requirements

Type of Development	Required Submittals (refer to sections noted for specific requirements)							
	Section No./Description							
	503	504	505	506	507	508	509	510
	Application and Project Overview	Plan Set Submittal	Stormwater Submittal	Floodplain Submittal	Wetland Submittal	Performance Security	Maintenance Schedule and Funding	Record Drawings
All requiring a permit	X	X				X	X	X
All on sites with floodplain	X	X		X		X	X	X
All on sites with or adjacent to waters of the United States	X	X			X	X	X	X
All applications for variances	X	X	X	If on site	If on site	X	X	X
All requiring site runoff storage	X	X	X			X	X	X

requested.

§ 503. 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 ordinance;
- (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) copies of all other permits or permit applications as required;
- (8) a subsurface drainage investigation report; and
- (9) 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 (a) (1) and (2) above and shall contain their attestation that they have read and understand the provisions of this ordinance 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 (a)(1) and (2) above changes, an amended application containing the current information shall be filed and the permit shall be amended accordingly.

§ 504. 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 1 inch = 100 feet (or less) and accurate to +/- 0.5 feet;
 - (2) existing and proposed contours onsite (one foot maximum contour interval) and within 100 feet of the site;
 - (3) existing and proposed drainage patterns and watershed boundaries;
 - (4) delineation of pre-development regulatory floodplain and floodway limits;
 - (5) delineation of post-development regulatory floodplain and floodway limits;
 - (6) location of cross-sections and any other hydrologic or hydraulic computer modeled features;

- (7) location of all onsite 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 benchmarks 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 and required buffers;
- (11) areas of directly connected impervious areas and any off-setting landscaped areas as defined in § 203(g) 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 24-hour basis.

(d) Vicinity Topographical Map.

(1) vicinity topographical map identifying all offsite areas draining to the development and downstream to the receiving intermittent or perennial stream; (a two-foot contour map is preferred at a scale readable by the reviewer but a USGS Quadrangle map is acceptable);

(2) 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.

§ 505. 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 ordinance. 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 offsite conditions which help to identify stormwater issues considered in the design;

(b) a schedule for implementation of the site stormwater plan;

(c) onsite and offsite runoff calculations which address the following:

(1) 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;

(2) 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 onsite depressional storage;

(4) 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.

§ 506. 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 § 404. Documentation supporting a finding by the qualified review specialist that the proposed development is in compliance with § 403 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 ten-year flood elevation up to the base flood elevation:

(1) tabular summary for below and above ten-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 ordinance.

(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.

§ 507. Wetland submittal

(a) The applicant shall obtain a permit for all regulated activities involving Waters of the U.S. from the appropriate federal authorities. For any activities which will directly impact onsite Waters of the U.S. but are not regulated by federal authorities, a narrative description of the wetland size and relative quality shall be provided to the Administrator with a copy to the Director, accompanied by a written opinion from a qualified wetlands review specialist on the applicability of current federal permits and noting any special procedures which must be followed in connection with the proposed activity. The applicant shall indicate on the plan set the location of any onsite wetland mitigation required by a COE permit and, in narrative form, the location of all offsite mitigation.

(b) A wetland submittal in accordance with the detailed requirements of §§ 403, 414 and 415 shall be required. In general, the submittal will consist of the following material:

- (1) 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 onsite 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 Article 15 shall be met.

§ 508. Performance security

Performance security in accordance with Article 12 shall be required prior to permit issuance.

§ 509. Maintenance schedule and funding

A completed maintenance schedule for the stormwater management facilities and special management areas in accordance with Article 6 shall be submitted along with identification of the persons responsible for maintenance and funding and back-up funding sources for maintenance in accordance with § 605.

§ 510. 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.

§ 511. Terms of permit/denial—appeal

(a) Within 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 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 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 § 1006.

(c) Within 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 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 § 1006.

(d) Within 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 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 § 1006.

(e) From a final order of the Committee, the applicant may appeal to the courts under the Illinois Administrative Review Law.

ARTICLE 6—LONG TERM MAINTENANCE**§ 600. Long-term maintenance**

Unless maintenance responsibility has been delegated to and accepted by another person under this section, 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 homeowner's 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.

§ 601. 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 § 600(a), 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.

§ 602. Transfer to homeowner's or similar association

If any portion of the stormwater drainage system or special management areas are to be conveyed or otherwise transferred to a homeowner's or similar association under § 600(b) 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 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;
- (c) 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 ordinance;
 - (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 ordinance; 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 ordinance;

(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 ordinance; and

(6) a provision requiring the consent of the permitting authority to the dissolution of the association; and

(d) any conveyance or other instrument of transfer delivered under § 600(b) shall include a covenant affirmatively imposing upon the association the obligations set forth in this section and the association's affirmative acceptance thereof.

§ 603. 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 § 600(c), 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 § 600(c), 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.

§ 604. Incorporation of maintenance obligations in stormwater management permit

The provisions of this section 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 section. At the option of the Administrator, the stormwater management permit may be recorded.

§ 605. Funding of long-term maintenance of stormwater facilities

As a condition of approval of any application for a stormwater management permit, unless the maintenance responsibility for the stormwater drainage system and special management areas to be constructed, installed or preserved in connection therewith has been accepted by a public entity, the Administrator will require the establishment of a special service area pursuant to 35 ILCS 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. 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.

ARTICLE 7—ENFORCEMENT AND PENALTIES**§ 700. Inspection and maintenance authority**

Pursuant to the authority granted by 55 ILCS 5/5-1104 and 5-1062, the County may, upon 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.

§ 701. 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 ordinance and the terms and conditions of its permit.

§ 702. Offenses

(a) Any person who violates, disobeys, omits, neglects, refuses to comply with, or resists the enforcement of any provision of this ordinance (*ordinance violation*), or any requirement or condition in any permit issued pursuant to this ordinance (*permit violation*), and, in the case of a permit 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 ordinance.

(b) Whenever the Administrator or Director determines that a permit violation exists, he shall serve notice of the violation in the manner prescribed in § 1006 to the permittee. Such notice shall state the nature of the violation and fix a date not less than 10 days after the date of the notice when the site will be reinspected.

§ 703. Offenses - penalties; remedies

(a) Any person found guilty of an offense under this ordinance shall pay a civil fine in an amount not less than \$25 and not more than \$750. Each calendar day during which such violation continues to exist shall constitute a separate offense.

(b) In addition to any fine imposed under this section, the Administrator or the Director may revoke any stormwater management permit issued to such person.

(c) In addition to any fine imposed or permit revocation undertaken pursuant to this section, the Administrator or the 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 § 1006 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.

(d) In addition to any fine imposed under this section, the Administrator or the Director may recover all costs and expenses, including reasonable attorney fees, incurred in the enforcement of this ordinance.

(e) In the enforcement of this ordinance, the Administrator or the Director may bring any action, legal or equitable, including an action for injunctive relief, as they deem necessary.

ARTICLE 8—GENERAL PROVISIONS**§ 800. Scope of Regulation**

This ordinance 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. 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.

§ 801. Exemptions

(a) This ordinance 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 ordinance.

§ 802. Committees'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 § 803. At its next regularly scheduled meeting occurring not less than 15 days after the Directors'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 ordinance.

(b) With respect to those developments removed from the list, the Committee shall determine each development to be exempt from the provisions of this ordinance if—

- (1) 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 cfs/acre release rate standard;
 - (B) includes a designed conveyance system for flow rates up to the base flood for offsite and onsite 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 ordinance, all mitigable wetland impacts from any development occurring after the effective date shall be mitigated.

§ 803. 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
 - (2) a contractual agreement, specifically exempting the development from the stormwater regulations of the community, was entered into before January 1, 2001.
- (b) corporate authorities of the community. Prior to taking such action, the community shall publish in accordance with § 1007, 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 November 14, 2000. 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 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 ordinance 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.

§ 804. Interpretation

- (a) This ordinance shall be liberally construed to protect the health, welfare, safety, and the environment of the residents of the County and to effectuate the purposes of this ordinance and the enabling legislation.
- (b) Nothing in this ordinance 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 ordinance differ from any other applicable law, statute, ordinance, rule or regulation, the more stringent provision shall apply.
- (d) The provisions of this ordinance 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 ordinance 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 ordinance 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.

§ 805. Warning and disclaimer of liability

- (a) The degree of flood protection provided by this ordinance 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 ordinance 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 ordinance shall be construed or applied in any manner to create liability on the part of or a cause of action against the County, any 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 ordinance.

§ 806. Choice of planning jurisdiction

Pursuant to 55 ILCS 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.

§ 807. Severability

(a) The provisions of this ordinance shall be severable in accordance with the following rules:

(1) If any court of competent jurisdiction shall adjudge any provision of this ordinance to be invalid, such judgment shall not affect any other provision of this ordinance.

(2) If any court of competent jurisdiction shall adjudge to be invalid the application of any provision of this ordinance 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.

§ 808. Repealer

This ordinance 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.

§ 809. Amendments

No amendment to this ordinance may be passed without a public hearing first being held before the Committee upon notice published as provided in § 1007.

§ 810. Effective date

After its passage, approval and publication according to law, this ordinance shall take effect on January 1, 2002.

ARTICLE 9—VARIANCES

§ 900. Purpose

In order to provide a narrowly circumscribed means by which relief may be granted when strict compliance with the requirements of this ordinance is impossible or impracticable, variances from the specific provisions of this ordinance may be granted according to the standards set forth in this Article.

§ 901. Application for variance

An application for a variance, signed by at least one of the persons identified in § 503(a)(1) and (2) 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 in **Table 901**

Table 901 - Application for variance

<p>An application for variance shall set forth—</p> <ol style="list-style-type: none"> 1. the common address(es) and legal description of the site; 2. the persons identified in § 503(a)(1) and (2); 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 250 feet of the site; 5. the specific feature or features of the development that require a variance; 6. the specific provisions of this ordinance 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 ordinance; 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 904 of this ordinance.

§ 902. Application fee

With the filing of the application for a variance, the applicant shall pay a fee to be prescribed by separate ordinance.

§ 903. 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 § 1007 and served as provided in § 1006 upon the applicant, the Director, all owners of record of land within 250 feet of the site as disclosed in the application, and upon each community within the same watershed as the development. The notices given under the section shall set forth the common name, address and legal description of the development and a brief description of the variance is requested.

§ 904. Granting of variances

(a) The oversight committee shall not recommend nor shall the decision-making authority grant a variance from the provisions of this ordinance unless the variance is consistent with the purposes of this ordinance 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 ordinance 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 offsite conveyance facilities for any storm event from the two-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 an 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 an historic structure under this ordinance.

(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.

§ 905. 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 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 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 § 904 with citations to the evidence taken at the public hearing.

§ 906. Decision

The decision-making authority shall grant the variance, grant the variance with modifications or conditions, or deny the variance in writing within 45 days after receipt of the application from the oversight committee. The

failure of the decision-making authority to act within 45 days, absent the agreement of the applicant to any extension of the time, shall be deemed to be a decision approving the variance.

§ 907. 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 ordinance 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.

ARTICLE 10—ADMINISTRATION**§ 1000. Responsibility for administration**

(a) The oversight committee shall oversee the enforcement of this ordinance.

(b) The Director and Administrator shall administer this ordinance. 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 —

(1) 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; and

(2) 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 ordinance.

§ 1001. Duties of Director

The Director shall —

(a) supervise the enforcement of this ordinance;

(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 ordinance;

(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 ordinance; and

(g) administer Article 15.

§ 1002. Duties of Administrator

The Administrator shall —

(a) ensure that all required stormwater related federal, state, regional and County permits and approvals are received prior to issuing any permit under this ordinance;

(b) ascertain whether any special management areas exist on any site which is the subject of an application for a permit under this ordinance;

(c) use qualified 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 ordinance;

(d) ensure that the required notice of an application for a variance has been given and published in accordance with §§ 1006 and 1007;

- (e) notify an applicant for a variance that such variance may result in increased rates for flood insurance, if applicable;
- (f) notify the Director of an application for a CLOMR or LOMR;
- (g) provide for inspections of developments as required by this ordinance;
- (h) investigate complaints of violations of this ordinance within his or her community;
- (i) 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;
- (j) initiate any proceeding necessary to enforce this ordinance within his or her community;
- (k) advise, consult and cooperate with other governmental agencies to promote the purposes of this ordinance;
- (l) 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;
- (m) maintain documentation and data on the cost of any improvement to a structure in the floodplain in order to enforce the provisions of this ordinance pertaining to substantial improvements to such structures;
- (n) notify adjacent communities in writing 30 days prior to the issuance of a stormwater management permit involving the alteration or relocation of a watercourse; and
- (o) ensure that all wetland impacts have been mitigated.

§ 1003. Representative capacity

In all cases when any action is taken by the Director or the Administrator, or his or her duly appointed designee, to enforce the provisions of this ordinance, 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.

§ 1004. 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 ordinance within its jurisdiction and to perform the duties assigned to the oversight committee in this ordinance. 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 ordinance, may request an opinion from a qualified engineer review specialist or qualified wetland review specialist on technical issues.

§ 1005. 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 ordinance. 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 ordinance, may request an opinion from a qualified engineer review specialist or qualified wetland review specialist on technical issues.

§ 1006. Service

Unless otherwise provided herein, service of any notice or other instrument under this ordinance 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.

§ 1007. Publication

Unless otherwise provided herein, publication of any notice or other instrument under this ordinance 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 15 nor more than 30 days before the hearing or other event to which the publication relates.

ARTICLE 11—CERTIFIED COMMUNITY ENFORCEMENT**§ 1100. Enforcement authority**

Pursuant to Section 5-1062 of the Counties Code (55 ILCS 5/5-1062 (1996))—

(a) The County shall enforce all of the provisions of this ordinance within the unincorporated areas of the County, within any County right-of-way, 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.

(b) The County shall enforce the provisions of Article 15 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 ordinance with the exception of Article 15 within the community.

§ 1101. Petition for certification and waiver of enforcement

Any community that wishes to enforce the provisions of this ordinance within its borders shall file a petition for certification and waiver of enforcement (*petition for certification*), on or before December 1, 2001. After December 1, 2001, petitions for certification may be filed during the month of June of each year.

§ 1102. 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 ordinance by reference;

(b) the community's plan for the implementation and enforcement of this ordinance, 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 ordinance, 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 ordinance within the boundaries of the community;

(e) if a portion of the community lies outside the County, the agreement of the corporate authorities of the community to enter into, if certified, an intergovernmental agreement with the County providing for the County's enforcement of the provisions of Article 15 within those portions of the community lying outside the County;

(f) evidence of the community's ability to comply with Article 14 pertaining to the use of qualified review specialists and qualified wetland review specialists;

(g) the list of projects to which this ordinance or some portion of this ordinance do not apply pursuant to the requirements of Article 8.

§ 1103. 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 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.

§ 1104. Standards for certification

Upon a finding of the committee that the community has complied with §§ 1101 and 1102, that the community's plan for the implementation and enforcement of this ordinance is reasonably feasible, and that the community has demonstrated the ability to comply with Article 14, 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.

§ 1105. Certified community records

(a) Every certified community shall maintain adequate records of every stormwater management permit issued and every variance granted under this ordinance 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 ordinance 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.

§ 1106. Committee review of enforcement by certified community

The Committee shall periodically review the implementation and enforcement of this ordinance by each certified community.

§ 1107. 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 ordinance. 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 ordinance, 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 ordinance.

(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 § 1006. 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 ordinance by the Director within six months immediately preceding the filing of the complaint. The community may file a written answer to the complaint within 30 days after being served.

§ 1108. Hearing on complaint

The Committee shall conduct a hearing on the complaint not less than 75 nor more than 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 § 1007. The hearing may be

continued from time to time. The Committee may adopt rules for the taking of evidence and conduct of such hearings.

§ 1109. Committee decision

Within 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 § 1006. 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 re-certified 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.

ARTICLE 12— PERFORMANCE SECURITY**§ 1200. 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 ordinance, and to fully and faithfully comply with all of the provisions of this ordinance, the applicant shall, prior to the issuance of a stormwater management permit—

(1) post the security provided in § 1201; and

(2) post the security provided in § 1202 if an erosion and sediment control plan is required under this ordinance.

(b) The applicant shall bear the full cost and responsibility of obtaining and maintaining the security required by this Article.

§ 1201. 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 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 ordinance.

(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 90% of the security be released prior to approval of record drawings and final inspection. A minimum of 10% of the original amount of the security shall be retained for a period of one year after completion of all required stormwater facilities.

§ 1202. Erosion and sediment control security

(a) If an erosion and sediment control plan is required under this ordinance 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 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 had 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.

§ 1203. Wetland mitigation and performance security

(a) If a wetland mitigation is required under this ordinance 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 years which estimate is subject to the approval of the Director; and

(2) An irrevocable letter of credit in favor of the County, or such other adequate security as the Director may approve, in an amount equal to 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 until construction has been completed, vegetation has been established and the wetland mitigation facility has been evaluated by the Director and found to meet the performance standards of § 1506 at which time it shall be released.

§ 1204. 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 \$10 million; (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 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 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 \$10 million, 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 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 ordinance 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.

ARTICLE 13—FEE-IN-LIEU OF SITE RUNOFF STORAGE AND WETLAND MITIGATION**§ 1300. Fee-in-lieu of site runoff storage**

(a) The Director or the Administrator may require, or in the limited circumstances prescribed in Article 2 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 to be paid in lieu of site runoff storage shall be the lesser of—

(1) the fee for each acre-foot or part thereof of storage otherwise required computed under a schedule adopted for such purpose by the permitting authority; or

(2) the verifiable cost of otherwise providing the required storage, including the value of the land required and all construction costs. For this purpose the land required shall be valued according to the use to which it will ultimately be put if not used to provide the required storage.

§ 1301. Procedures; use of funds

(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 with 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 within the watershed in which the development for which they were paid was located if such expenditure is consistent with a watershed or interim watershed plan or floodplain study.

§ 1302. Fee-in-lieu of wetland mitigation

If a wetland mitigation is required under this ordinance 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 years (which estimate is subject to the approval of the Director), 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) 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 (a) or (b) above.

§ 1303. Procedures; use of funds

(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 along with the estimates described in the preceding section.

(b) Fees paid in lieu of wetland mitigation shall be deposited by County 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 wetland mitigation shall be expended to plan, design, construct, improve, acquire, create or enhance wetlands within the County, wetland mitigation facilities and wetland mitigation banks.

ARTICLE 14— QUALIFIED REVIEW SPECIALISTS**§ 1400. 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 ordinance. 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.

§ 1401. 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 to this ordinance; and
- (d) file the Qualified Engineer Review Specialist Statement with the Department and pay a fee in an amount to be prescribed by separate ordinance.

§ 1402. 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 Bachelors's Degree in an earth science, biological science or engineering together with at least one of the following:
 - (1) three years (cumulative) full-time experience in the Upper Midwest Region engaged in consulting on wetland related projects; or
 - (2) the completion of 100 wetland delineations in the Upper Midwest Region; or
 - (3) six years (cumulative) full-time experience engaged in consulting on wetlands related projects; or
 - (4) 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 10 wetland mitigation areas; and
- (d) complete and sign the Qualified Wetland Review Specialist Statement in the form included as Appendix C to this ordinance; and

(e) file the Qualified Wetland Review Specialist Statement with the Department and pay a fee in an amount to be prescribed by separate ordinance.

§ 1403. Review of qualifications

(a) Within 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 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 §§ 1406 and 1407 from which the applicant may further appeal in the manner prescribed by § 1408.

(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 in an amount to be prescribed by separate ordinance in order to maintain his or her inclusion on the list.

§ 1404. Review Specialist Qualification Committee

There is hereby created a Review Specialist Qualification Committee (“*RSQC*”). The RSQC shall consist of three 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 years and the third for an initial term of three years. The members shall decide which of them shall serve for a one, two or three year term by lot at the first meeting of the RSQC. Thereafter, each member of the committee shall serve for a term of three years. No member may serve for more than two consecutive terms.

§ 1405. 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 ordinance. 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 ordinance, 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 ordinance.

(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 § 1006. 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 30 days after being served.

§ 1406. Hearing on complaint

The RSQC shall conduct a hearing on the complaint not less than 75 nor more than 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 § 1007. The hearing may be continued from time to time. The RSQC may adopt rules for the taking of evidence and conduct of such hearings.

§ 1407. Decision of the RSQC

Within 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 § 1006. 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.

§ 1408. Appeals

(a) Within 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 75 nor more than 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 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 § 1006 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.

ARTICLE 15— WETLAND IMPACTS AND MITIGATION**§ 1500. General**

All developments having a wetland impact shall comply with this Article. A permit for any wetland impact shall be obtained from the Director.

§ 1501. Unmitigable wetlands—exceptions

(a) Wetlands identified as having an FQI greater than or equal to 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 (i) have the effect of depriving the owner of all economically beneficial or productive use of the land; or (ii) 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 Article 9. If such a variance is granted mitigation for the wetland impact allowed shall be made according to §§ 1503(a) and 1503(e).

§ 1502. Mitigation required

All mitigable wetland impacts shall be mitigated as described herein with the following exceptions:

(a) A wetland impact created by the dredging of a wetland with an FQI of less than 7 need not be mitigated.

(b) A wetland impact upon manmade wetlands created by excavation or other unfinished development activities in previously non-wetlands areas need not be mitigated.

(c) Wetland impacts upon wetlands created by irrigation which would revert to non-wetlands 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 non-wetlands 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 non-wetlands 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 years need not be mitigated.

§ 1503. 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 § 1302;

(b) Wetland impacts upon wetlands with an FQI of less than 7 shall be mitigated at a ratio of 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 5 or less at the ratio of one-quarter 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 § 1506.

(c) Wetland impacts upon wetlands with an FQI of 7 or more but less than 16 shall be mitigated at a ratio of 2:1.

(d) Wetland impacts upon wetlands with an FQI of 16 or more but less than 25 shall be mitigated at a ratio of 3:1.

(e) Wetland impacts upon wetlands with an FQI of more than 25 shall be mitigated at a minimum ratio of 10:1 plus one half for each point by which the FQI exceeds 25 rounded up to the nearest whole number. For example, a wetland having an FQI of 32 shall be mitigated at a ratio of 14:1 ($(32-25)/2 = 3\frac{1}{2}$ 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 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.

§ 1504. Wetland mitigation plan

(a) In addition to the requirements of Article 5, 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 wetland plant communities (for example, wet prairie, emergent, floating vascular, forested wetland, sedge meadow, or hemi marsh); and

(2) open water shall not constitute more than 20% of the entire wetland mitigation facility.

§ 1505. Buffer requirements for wetland mitigation facilities

Wetland mitigation facilities shall be buffered according to the requirements of § 418. Reductions are allowed in accordance with § 418(a)(3)(B)(ii), 418(a)(3)(B)(iii) and 418(a)(3)(B)(iv). No buffer is required for that portion of a wetland mitigation facility which is adjacent to an existing preserved wetland.

§ 1506. 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 ordinance.

(2) All vegetated zones within any wetland mitigation facility shall achieve 85% cover.

- (3) The emergent community shall achieve 60% aerial coverage.
- (4) The floating vascular community shall meet 25% aerial coverage.
- (5) Open water shall have 0% vegetative coverage.

(b) A wetland mitigation facility designed to mitigate for impacts upon wetlands with an FQI of less than 7 shall achieve a minimum FQI 3 points greater than the FQI of the wetland impacted within the five-year monitoring period.

(c) A wetland mitigation facility designed to mitigate for impacts upon wetlands with an FQI of 7 or more but less than 25 shall achieve a minimum FQI 5 points greater than the FQI of the wetland impacted within the five-year monitoring period.

(d) A wetland mitigation facility shall not be dominated or contain cumulatively more than 25% cover of the following species: Buckthorn (*Rhamnus cathartica* or *frangula*), Reed-Canary Grass (*Phalaris arundinacea*), Purple Loosestrife (*Lythrum salicaria*), or Giant Reed (*Phragmites australii*).

§ 1507. Mitigation monitoring

The wetland mitigation facility shall be monitored and managed for five 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 § 1506, 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-year monitoring and management period, or upon acceptance by the Director, the wetland mitigation facility shall be maintained in accordance with Article 6.

§ 1508. Mitigation required for non-performing wetland

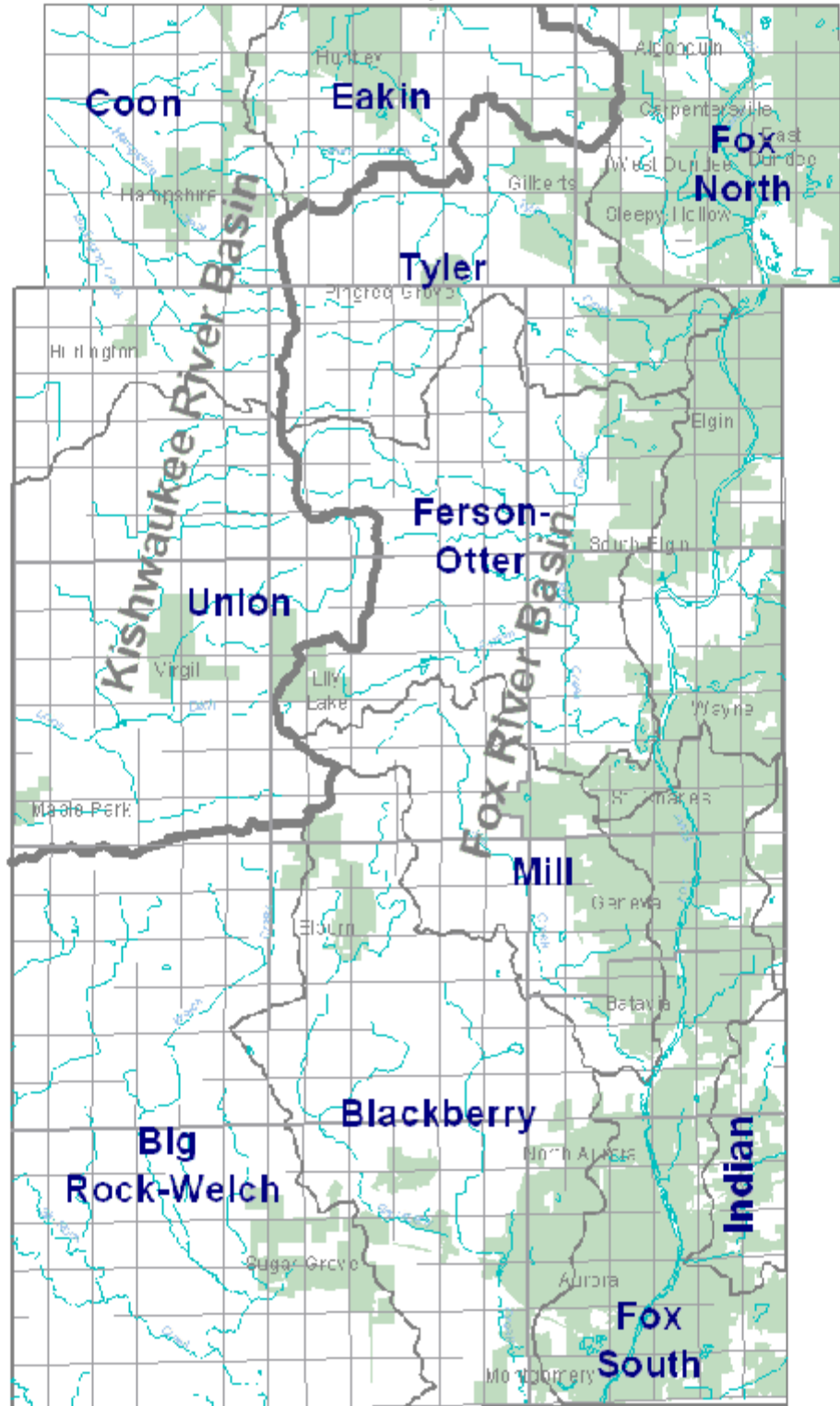
At the end of the five-year monitoring period or upon an earlier request for the release of the performance security, the Director shall evaluate the wetland mitigation facility for compliance with the performance standards of § 1506. If the Director determines that the facility meets the standards he 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 § 1303.

§ 1509. Denial of permit—appeal

The denial of a permit under this Article may be appealed in the manner described in § 511.

APPENDIX A—WATERSHED BOUNDARIES

Appendix A. Watershed Boundaries for Major Watersheds Kane County, Illinois



APPENDIX B—QUALIFIED ENGINEER REVIEW SPECIALIST STATEMENT

I, _____, of _____, with professional licensure in the State of Illinois, do hereby state that I have read and understand the Kane County Stormwater Ordinance and the Technical Manual which accompanies it, and will obtain, read and abide by any amendments thereto. I affirmatively state that I meet the requirements set forth in § 1401 of the ordinance. I will review projects for compliance with the ordinance using my expertise in stormwater management system design and permitting, floodplain and floodway policies and procedures, soil erosion and sediment control procedures and practices, and construction practices and inspections. I will exercise professional judgment with respect to projects submitted for my review in accordance with the customary standard of care applicable to persons providing similar services in the same or similar communities in order to insure substantial conformance with the ordinance. I understand that failure to adequately discharge this obligation may, with due process, result in loss of this status. It is my responsibility to provide the Director with any changes to the information provided.

Signed

P. E. Registration Number Expiration Date

(Seal)

Telephone: _____

Fax: _____

Email: _____

Employer: _____

(Attach a one-page summary of your qualifications under § 1401 of the ordinance.)

APPENDIX C—QUALIFIED WETLAND REVIEW SPECIALIST STATEMENT

I, _____, of _____, do hereby state that I have read and understand the Kane County Stormwater Ordinance and the Technical Manual which accompanies it, and will obtain, read and abide by any amendments thereto. I affirmatively state that I meet the requirements set forth in § 1402 of the ordinance. I will review projects for compliance with those sections of the ordinance pertaining to wetlands, including, without limitation, wetland delineation and the calculation of buffer widths. I will use my expertise in wetland delineations or field identification of wetland indicators in the Upper Midwest. I understand that failure to adequately discharge this obligation may, with due process, result in loss of this status. It is my responsibility to provide the Director with any changes to the information provided.

Signed _____

Telephone: _____

Fax: _____

Email: _____

Employer: _____

(Attach a one-page summary of your qualifications under § 1402 of the ordinance.)

APPENDIX D—SAMPLE SPECIAL SERVICE AREA ORDINANCES

[CITY/VILLAGE] OF _____

ORDINANCE NO. _____

**AN ORDINANCE PROPOSING THE ESTABLISHMENT OF THE
_____ SPECIAL SERVICE AREA [or SPECIAL SERVICE AREA
NO. _____] OF _____, ILLINOIS
AND THE LEVY OF TAXES FOR THE PURPOSE OF PAYING THE COST
OF PROVIDING SPECIAL SERVICES IN AN FOR SUCH AREA**

**ADOPTED BY THE
[MAYOR AND CITY COUNCIL/PRESIDENT AND BOARD OF TRUSTEES]
OF THE
[CITY/VILLAGE] OF _____**

[DATE]

ORDINANCE NO. _____

**AN ORDINANCE PROPOSING THE ESTABLISHMENT OF THE
_____ SPECIAL SERVICE AREA [or SPECIAL SERVICE AREA
NO. _____] OF _____, ILLINOIS
AND THE LEVY OF TAXES FOR THE PURPOSE OF PAYING THE COST
OF PROVIDING SPECIAL SERVICES IN AN FOR SUCH AREA**

WHEREAS pursuant to the provisions of the 1970 Constitution of the State of Illinois (the *Constitution*), the [City/Village] of _____, Kane County, Illinois (the [*City/Village*]), is authorized to create special service areas in and for the [City/Village]; and

WHEREAS special service areas are established by non-home rule¹ units pursuant to Section 7(6) of Article VII of the Constitution, which provides that—

[M]unicipalities...which are not home rule units shall have...powers...to levy or impose additional taxes upon areas within their boundaries in the manner provided by law for the provision of special services to those areas and for the payment of debt incurred in order to provide those special services;

and are established “in the manner provided by law” pursuant to the provisions of “AN ACT to provide the manner of levying or imposing taxes for the provision of special services to areas within the boundaries of home rule units and non-home rule municipalities and counties,” approved September 21, 1973, as amended, and pursuant to the Revenue Act of 1939 of the State of Illinois, as amended; and

WHEREAS it is in the public interest that the establishment of the area hereinafter described as a special service area for the purposes set forth herein and to be designated as the _____ Special Service Area [or Special Service Area No. _____], of the [City/Village] (the *Area*) be considered; and

WHEREAS the Area is compact and contiguous, totally within the corporate limits of the [City/Village]; and

WHEREAS the Area will benefit specially from the municipal services to be provided by the [City/Village] (the *Services*), and the Services are unique and in addition to the services provided to the [City/Village] as a whole, and it is, therefore, in the best interests of the [City/Village] that the establishment of the Area be considered; and

WHEREAS it is in the public interest that the levy of a direct annual *ad valorem* tax upon all taxable property within the Area be considered for the purpose of paying the cost of providing the Services; and

WHEREAS the revenue from such tax shall be used solely and only for Services for which the [City/Village] is authorized under the provisions of the Illinois Municipal Code, as amended, to levy taxes or special assessments or to appropriate the funds of the [City/Village], all of the Services to be in and for the Area and all of the necessary construction and maintenance to be on property now owned or to be acquired by the [City/Village], or property in which the [City/Village] will obtain an interest sufficient for the provision of the Services; and

WHEREAS said direct annual *ad valorem* tax shall be levied upon all taxable property within the Area for an indefinite period of time beginning for the year _____ and shall not exceed an annual rate of _____ of the assessed valuation of each tax parcel within the Area and shall be in addition to all other taxes permitted by law; and

WHEREAS a public hearing will be held at _____, on the _____ day of _____, _____, in the [City/Village] Hall, _____, _____, Illinois _____ (the *Hearing*), to consider the establishment of the Area for the purpose of providing the Services and the levy of an

¹Home rule municipalities should alter this language accordingly.

additional direct annual *ad valorem* tax for the purpose of paying the cost thereof, all as described in the Notice of Public Hearing set forth in Section 2 hereof (the *Notice*); and

WHEREAS the Notice shall be given by publication and mailing. Notice by publication shall be given by publication on a date, such date being not less than 15 days prior to the Hearing, in a newspaper published within the [City/Village] [or, of general circulation within the [City/Village], there being no newspaper published therein]. Notice by mailing shall be given by depositing the Notice in the United States Mail addressed to the person or persons in whose name the general taxes for the last preceding year were paid on each lot, block, tract, or parcel of land lying within the Area. The Notice shall be mailed not less than 10 days prior to the time set for the Hearing. In the event taxes for the last preceding year were not paid, the Notice shall be sent to the person last listed on the tax rolls prior to that year as the owner of said property.

NOW, THEREFORE, Be it Ordained by the [Mayor and City Council/President and the Board of Trustees] of the [City/Village] of _____, Kane County, Illinois, as follows:

§1. Incorporation of preambles

The preambles of this ordinance are hereby incorporated into this text as if set out herein in full.

§2. Notice

The [Mayor and City Council/President and Board of Trustees] determine that the Notice is in the proper statutory form as set forth as follows:

NOTICE OF PUBLIC HEARING
[City/Village] OF _____, KANE COUNTY, ILLINOIS
_____ SPECIAL SERVICE AREA [or NO. _____]

NOTICE IS HEREBY GIVEN that on _____, at _____, in the [City/Village] Hall, _____, _____, Illinois, a public hearing (the *Hearing*) will be held by the [Mayor and City Council/President and Board of Trustees] of the [City/Village] of _____, Kane County, Illinois (the [City/Village]), to consider the establishment of the _____ Special Service Area [No. _____], (the *Area*), of the [City/Village], consisting of the following described territory:

SEE ATTACHED EXHIBIT A

Said territory consists of approximately ___ acres lying [insert general description of location]. An accurate map of said territory is on file in the office of the [City/Village] Clerk and is available for public inspection.

The purpose of the establishment of the Area is to provide the following special services (the *Services*) to the Area: the operation, maintenance, repair, rehabilitation, replacement and reconstruction of any storm water site runoff storage 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.

All of the Services are to be on property now owned or to be acquired by the [City/Village], or property in which the [City/Village] will obtain an interest sufficient for the provision of the Services.

The levy of a direct annual *ad valorem* tax upon all taxable property within the Area for the purpose of paying the cost of the Services will also be considered at the Hearing. The tax shall be levied upon all taxable property within the Area for an indefinite period of time beginning for the year _____ and shall not exceed an annual rate of _____ of the assessed valuation of each tax parcel within the Area and shall be in addition to all other taxes permitted by law.

All interested persons affected by the establishment of the Area or tax levy, including all owners of real estate located within the Area, will be given an opportunity to be heard at the Hearing regarding the establishment of the Area and the tax levy and an opportunity to file objections to the establishment of the Area or the tax levy.

At the Hearing, any interested persons affected by the Area may file with the [City/Village] Clerk written objections to and may be heard orally in respect to any issues embodied in this notice. The [Mayor and City Council/President and Board of Trustees] shall hear and determine all protests and objections at the Hearing, and the Hearing may be adjourned to another date without further notice other than a motion to be entered upon the minutes fixing the time and place of its adjournment.

If a petition signed by at least 51% of the electors residing within the Area and by at least 51% of the owners of record of the land included within the boundaries of the Area is filed with the [City/Village] Clerk within 60 days following the final adjournment of the Hearing objecting to the creation of the Area or the levy or imposition of a tax for the provision of the Services to the Area, no such Special Service Area may be created or no tax may be levied or imposed.

By order of the [Mayor and City Council/President and Board of Trustees] of the [City/Village] of _____, Kane County, Illinois.

DATED this _____ day of _____, _____.

/s/

[City/Village] Clerk, [City/Village] of _____,
Kane County, Illinois

§3. Miscellaneous

The [City/Village] agrees to produce or file such forms, statements, proceedings and supporting documents as may be required and in a timely manner in order to establish the Area and levy the taxes and, if deemed necessary or advisable by its officers, to employ and pay fiscal agents, financial advisors, attorneys and other persons to assist the [City/Village] in these endeavors.

§4. Repealer; effective date

All ordinances, orders and resolutions and parts thereof in conflict herewith be and the same are hereby repealed, and this ordinance be in full force and effect forthwith upon its passage, approval and publication as provided by law.

DATED: _____.

<i>Alderman/Trustee</i>	<i>Aye</i>	<i>Nay</i>	<i>Absent</i>	<i>Abstain</i>
Totals				

Approved:

[Mayor/President]

Attested, Filed in my office, and published in pamphlet form on _____, 20__:

Clerk of the [City/Village] of _____,
Kane County, Illinois

[CITY/VILLAGE] OF _____

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING THE
_____ SPECIAL SERVICE AREA [OR NO. _____]
OF _____, ILLINOIS
AND PROVIDING FOR THE LEVY OF TAXES FOR THE PURPOSE OF
PAYING THE COST OF PROVIDING SPECIAL SERVICES
IN AND FOR SUCH AREA

ADOPTED BY THE
[MAYOR AND CITY COUNCIL/PRESIDENT AND BOARD OF TRUSTEES]
OF THE
[CITY/VILLAGE] OF _____

[DATE]

ORDINANCE NO. _____

**AN ORDINANCE ESTABLISHING THE
 _____ SPECIAL SERVICE AREA [or NO. ____] OF
 _____, ILLINOIS
 AND PROVIDING FOR THE LEVY OF TAXES FOR THE PURPOSE OF
 PAYING THE COST OF PROVIDING SPECIAL SERVICES
 IN AND FOR SUCH AREA**

WHEREAS, pursuant to the provisions of the 1970 Constitution of the State of Illinois (the *Constitution*), the [City/Village] of _____, Kane County, Illinois (the *[City/Village]*), is authorized to create special service areas in and for the [City/Village]; and

WHEREAS, special service areas are established by non-home rule² units pursuant to Section 7(6) of Article VII of the Constitution, which provides that—

municipalities...which are not home rule units shall have only the powers granted to them by law and the powers...(6) to levy or impose additional taxes upon areas within their boundaries in the manner provided by law for the provision of special services to those areas and for the payment of debt incurred in order to provide those special services;

and

WHEREAS, special service areas are established “in the manner provided by law” pursuant to the provisions of “AN ACT to provide the manner of levying or imposing taxes for the provision of special services to areas within the boundaries of home rule units and non-home rule municipalities and counties,” approved September 21, 1973, as amended (the *Act*), and pursuant to the provisions of the Revenue Act of 1939 of the State of Illinois, as amended; and

WHEREAS, it is in the public interest that the area hereinafter described be established as the _____ Special Service Area [or No. _____] of the [City/Village] for the purposes set forth herein (the *Area*); and

WHEREAS, the Area is compact and contiguous and totally within the boundaries of the [City/Village]; and

WHEREAS, the Area will benefit specially from the services to be provided by the [City/Village] (the *Services*), and the Services are unique and in addition to the services provided to the [City/Village] as a whole, and it is, therefore, in the best interests of the [City/Village] that the Area be established; and

WHEREAS, the cost of providing the Services shall be paid by the levy of a direct annual *ad valorem* tax upon all taxable property within the Area; and

WHEREAS, said direct annual tax shall be levied upon all taxable property within the Area for an indefinite period of time beginning for the year _____ and shall not exceed an annual rate of _____ of the assessed valuation of each tax parcel within the Area and shall be in addition to all other taxes permitted by law; and

WHEREAS, the establishment of the Area was proposed by the [City Council/Board of Trustees] of the [City/Village] (the *[Council/Board]*) pursuant to Ordinance No. _____, entitled:

AN ORDINANCE proposing the establishment of the _____ Special Service Area [or No. _____] of _____, Illinois, and the levy of

²Home rule units should alter this language accordingly.

taxes for the purpose of paying the cost of providing special services in and for such Area.

(the *Proposing Ordinance*), duly adopted on _____, and was considered at a public hearing (the *Hearing*) held by the [Council/Board] on _____; and

WHEREAS, notice of the Hearing was given by publication at least once not less than 15 days prior to the Hearing in _____, the same being a newspaper published in the [City/Village] [or, of general circulation with the [City/Village], there being no newspaper published therein]; and

WHEREAS, mailed notice of the Hearing was given by depositing notice in the United States mails addressed to the person or persons in whose name the general taxes for the last preceding year were paid on each lot, block, tract or parcel of land lying within the Area not less than 10 days prior to the time set for the Hearing, and in the event taxes for the last preceding year were not paid, the notice was sent to the person or persons last listed on the tax rolls prior to that year as the owner or owners of said property; and

WHEREAS, said notice complied with all of the applicable provisions and requirements of the Act; and

WHEREAS, all interested persons affected by the establishment of the Area or the levy of the tax to pay the cost of providing the Services, including all owners of real estate located within the Area, were given an opportunity to be heard at the Hearing regarding the establishment of the Area and the levy of said tax and an opportunity to file objections to the establishment of the Area or the levy of said tax; and

WHEREAS, at the Hearing, all interested persons affected by the Area were permitted to file with the [City/Village] Clerk written objections to and to be heard orally in respect to any issue embodied in the notice given of the Hearing; and

WHEREAS, the Council/Board has determined and does hereby determine that it is in the public interest and in the interest of the [City/Village] and the Area that the Area be established;

NOW, THEREFORE, Be It Ordained by the [Mayor and City Council/President and Board of Trustees] of the [City/Village] of _____, Kane County, Illinois, as follows:

§1. Incorporation of preambles

The preambles of this ordinance are hereby incorporated into this text as if set out herein in full.

§2. Final adjournment of Hearing

The Hearing was finally adjourned on _____.

§3. Establishment of Area

(a) The _____ Special Service Area [or No. _____] of the [City/Village] is hereby established in and for the [City/Village] and shall consist of the territory legally described in Exhibit A attached.

(b) Said territory consists of approximately _____ acres lying [insert a general description of the location of the area] in the [City/Village]. An accurate map of the Area is attached hereto and made a part hereof.

§4. Purpose of the establishing the Area

The purpose of establishing the Area is to provide the Services to the Area, including the operation, maintenance, repair, rehabilitation, replacement and reconstruction of any site runoff storage 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 and all of said

construction and improvements to be on property now owned or to be acquired by the [City/Village], or property in which the [City/Village] will obtain an interest sufficient for the provision of the Services.

§5. Tax Levy

The cost of the Services shall be paid by 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 _____ and shall not exceed an annual rate of _____ of the assessed valuation of each tax parcel within the Area and shall be in addition to all other taxes permitted by law.

§6. Filing

The [City/Village] Clerk is hereby directed to file a certified copy of this ordinance, including an accurate map of the Area, in the office of the Kane County Clerk and in the office of the Kane County Recorder forthwith after its adoption and approval.

§7. Repealer

All ordinances, orders and resolutions and parts thereof in conflict herewith be and the same are hereby repealed, and this ordinance be in full force and effect forthwith upon its adoption.

DATED: _____.

<i>Alderman/Trustee</i>	<i>Aye</i>	<i>Nay</i>	<i>Absent</i>	<i>Abstain</i>
Totals				

Approved:

[Mayor/President]

Attested, Filed in my office and published in pamphlet form on _____, 20__:

Clerk of the [City/Village] of _____,
Kane County, Illinois