

STATE OF ILLINOIS
COUNTY OF KANE

ORDINANCE NO. 68

**ORDINANCE ADOPTING AMENDMENTS TO THE KANE COUNTY STORMWATER
MANAGEMENT ORDINANCE AND TITLE XV, LAND USAGE, CHAPTER 154,
STORMWATER CONTROL AND DETENTION REGULATING SECTION 154.02,
AMENDMENT TO THE KANE COUNTRY STORMWATER MANAGEMENT
ORDINANCE**

WHEREAS the Village of East Dundee is a home rule unit of local government under and pursuant to Section 9 of Article VII of the Constitution of the State of Illinois, has the authority to exercise any power and perform any function pertaining to its government and affairs, including but not limited to the power to regulate for the protection of the public health, safety, morals and welfare; and

WHEREAS the Village of East Dundee has adopted the regulations of the Kane County Stormwater Management Ordinance 00-312, adopted by the Kane County Board on November 14, 2000 and its subsequent amendments as the Village of East Dundee's stormwater ordinance, pursuant to Title XV, Land Usage, Chapter 154: Stormwater Control and Detention Regulations, Section 154.01 Regulations Adopted; and

WHEREAS, pursuant to 55 ILCS 5/5-1062, the Kane County Board adopted Res. No. 97-07 establishing the Kane County Stormwater Management Committee, for the purpose of preparing a comprehensive countywide stormwater management plan and stormwater management ordinance (the "Ordinance"); and

WHEREAS, the Ordinance was adopted by the County Board by the passage of Ordinance No. 00-312 on November 14, 2000; and

WHEREAS, additional flood insurance and floodplain related, and other amendments to the Ordinance are necessary, pursuant to Title XV Land Usage, Chapter 154, Stormwater Control and Detention Regulations, Section 154.02 Amendment to the Kane County Stormwater Management Ordinance;

NOW, THEREFORE, BE IT ORDAINED by the Kane County Board of the Village of East Dundee, Cook and Kane Counties, as follows:

1. Section 104 is amended as follows:

§104. Definitions

In this ordinance -

- (31) **development** means any man-made change to the land and includes -

(G) the installation of a manufactured home on a site, the preparation of a site for a manufactured home, or the placement of a recreational vehicle on a site for more than 180 days;

(39) **existing manufactured home park** means a development for the placement of manufactured homes for which, at a minimum, the installation of utilities, the construction of streets, and either the final site grading or the pouring of concrete pads was completed before the effective date;

(40) **expansion of existing manufactured home park** means the installation of utilities, or the construction of streets, or final site grading, or pouring of concrete pads in connection with the development of additional lots within an existing manufactured home park;

(41) **farmed wetlands** means wetlands that have been identified as farmed wetlands in accordance with the National Food Security Act Manual (NFSAM) methodology and the United States Army Corps of Engineers - Chicago District methodology;

(47) **FIRM or Flood Insurance Rate Map** means the current version of a map published by FEMA on which FEMA has delineated both the special flood hazard areas and the risk premium zones applicable to a community, together with any amendments, additions, revisions or substitutions made thereto or therefor by FEMA at any time;

(48) **FIS or Flood Insurance Study** means the current version of an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations (or an examination of flood-related erosion hazards) for a community adopted and published by FEMA, together with any amendments, additions, revisions or substitutions made thereto or therefor by FEMA at any time;

(50) **floodplain violation** means the failure of a structure or other development to be in compliance with the floodplain management regulations of this ordinance, including the failure to have the elevation certificate, other certificates, or other evidence of compliance required in Article 4 until such time as the required documentation is provided;

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

(62) **highest adjacent grade** means the highest natural elevation of the ground surface next to the proposed walls of a structure prior to construction;

(77) **lowest floor** means the lowest floor of the lowest enclosed area of a structure (including basement) but does not include an unfinished or flood resistant enclosure suitable solely for parking of vehicles, building access, or storage in an area other than a basement. provided, however, that such enclosure is not built so as to render the structure in violation of the applicable requirements of § 407.

(87) **new construction** means development;

(88) **new manufactured home park** means a development for the placement of manufactured homes for which the installation of utilities and the construction of streets, and either the final site grading or the pouring of concrete pads was completed before the effective date;

(110) **recreational vehicle** means a vehicle that is (a) built on a single chassis, (b) 400 ft.² or less when measured at the largest horizontal projection, (c) designed to be self-propelled or permanently towable by a light duty truck; and (d) designed primarily as temporary living quarters for recreational camping, travel or seasonal use and not for use as a permanent dwelling;

(125) **SFHA or Special Flood Hazard Area** means the land in the floodplain within a community that is subject to a 1 % or greater chance of flooding in any given year and has special flood, mudslide or mudflow, or flood related erosion hazards and is shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, AH, VO, V1-30, VE, V, M or E;

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

(131) **substantial damage** means damage to a building from any cause whereby the cost of restoring the building to its original condition is 50% or more of its market value prior to the damage;

(132) **substantial improvement** means (a) an improvement made to a structure the cost of which is 50% or more of the structure's market value before the start of construction of the improvement; (b) the reconstruction or repair of a structure, the cost of which is 50% or more of the structure's market value before the start of construction of the reconstruction or repair; or (c) an addition to a structure the cost of which is 50% or more of the structure's market value before the start of construction of the addition, or any addition that increases the floor area by more than 20%; or (d) any work done to a structure that has suffered substantial damage: but not (i) any work done to a structure to correct existing violations of State or local health, sanitary or safety codes identified and determined by the local code enforcement official to be the minimum necessary to assure safe living conditions: or (ii) any work done to an historic structure;

2. Section 201 is amended as follows:

§ 201. General stormwater requirements

(b) Analysis and design of all stormwater facilities required for a development shall -

(3) ensure that the site is reasonably safe from flooding.

3. Section 404 is amended as follows:

§ 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. The current version of the maps adopted and published by FEMA for regulation under the NFIP together with any amendments, additions, revisions or substitutions thereto or therefor adopted and published by FEMA at any time in the future are hereby referred to, adopted, and made part hereof as if fully set out in this ordinance. A list of the current regulatory maps for the County to be consulted is maintained by the Director.

(b)

(7) When none of the above apply but the proposed development consists of more than 50 lots or more than 5 acres, a study acceptable to the Administrator shall be provided for determination of a site-specific BFE.

(c)

(2) General criteria for analysis of flood elevations in the regulatory floodway are as follows:

(D) If the development will result in a change in the location of the regulatory floodway or a change in the BFE, the applicant shall submit the information required for the issuance of a CLOMR to IDNR/OWR and FEMA. A public notice inviting comment on the proposed change in the BFE or location of the regulatory floodway will be published by IDNR/OWR or its designee before a CLOMR is issued. All communities adjacent to a watercourse alteration or revocation shall be notified of the proposed development. Filling, grading, dredging or excavating may take place upon issuance of a conditional approval from IDNR/OWR and the Administrator, provided that no encroachment increases the Base Flood Elevation more than 1/10 of 1 foot. 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.

4. Section 407 is amended as follows:

§ 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.

(3) Fully enclosed areas in new construction and substantial improvements that are subject to flooding and are used solely for parking of vehicles, building access or storage in an area other than a basement shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing the entry and exit of flood waters. Designs shall be certified by a registered professional engineer or have a minimum of two openings having a total net area of not less than 1 in.² for every square-foot of enclosed area subject to flooding with the bottom of all openings no higher than 1 foot above grade. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic entry and exit of flood waters.

(c) Manufactured homes placed outside a manufactured home park or on a site in an existing manufactured home park in which a manufactured home has suffered substantial damage as a result of a flood shall be at or above the FPE and shall be anchored to resist flotation, collapse or lateral movement in accordance with the Illinois Manufactured Home Tie-Down Code (77 Ill. Adm. Code 870 (1999), as amended.) Manufactured homes placed or substantially improved in an existing manufactured home park shall be elevated so that the chassis is supported by reinforced piers no less than 36 inches in height above grade and securely anchored. Recreational vehicles to be installed on a site for more than 180 days, unless fully licensed and highway ready, shall be at or above the FPE and shall be anchored to resist flotation, collapse or lateral movement. In accordance with the Illinois Manufactured Home Tie-Down Code (77 Ill. Adm. Code 870 (1999), as amended).

(f) All new construction and substantial improvements shall employ anchoring to prevent flotation, collapse or lateral movement of the structure, use flood resistant materials, and be constructed by methods and practices that minimize flood damages.

(g) Where base flood elevation data are used within Zone A on the community's FHBM or FIRM, a record of the following shall be obtained and maintained by the Administrator:

(1) The elevation of the lowest floor (including basement) of all new structures and substantially improved structures; and

(2) The elevation to which the structure was floodproofed (if the structure has been flood proofed in accordance with §§ 407(a)(2), 407(b) and 407(f).)

(h) In FEMA Zones AO and AH drainage paths shall be provided around structures on slopes to guide water around and away from proposed structures.

5. Section 412 is amended as follows:

§ 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.

(c) If a development will alter or relocate a watercourse the applicant shall notify adjacent communities.

6. Section 413 is amended as follows:

§ 413. Bridge and culvert standards

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

7. Section 414 is amended as follows:

§ 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 Corps of Engineers Wetland Delineation Manual. Wetland delineations under this section shall be valid for three years.

8. Section 418 is amended as follows:

§ 418. Buffer requirements

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

- (a)
- (3)
- (B)

(ii) For all non-linear water bodies 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 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 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.

(e) If a buffer area is disturbed by permitted activities during construction, the buffer strip shall be stabilized in accordance with subsection (b) of this section.

9. Tables 418(a)(3)(B)(ii), 418(a)(3)(B)(iii) and 418(a)(3)(B)(iv) are amended as follows:

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	0.10	0.050	15.0
0.5	0.25	0.125	15.0
0.5	0.50	0.250	20.0
0.5	0.75	0.375	25.0
0.5	1.00	0.500	30.0
0.5	1.25	0.625	30.0
0.5	1.50	0.750	35.0
0.5	1.75	0.875	35.0
0.5	2.00	1.000	40.0
0.5	2.25	1.125	40.0
0.5	2.50	1.250	45.0
0.5	2.75	1.375	45.0
0.5	3.00	1.500	50.0
0.5	3.25	1.625	50.0
0.5	3.50	1.750	50.0
0.5	3.75	1.875	50.0
0.5	4.00	2.000	50.0
0.5	4.25	2.125	50.0
0.5	4.50	2.250	50.0
0.5	4.75	2.375	50.0
0.5	5.00 or more	2.500	50.0

Buffer Ratio = % 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)(iii) - Medium Quality Wetlands FQI > J < FQI < 16

BUFFER RATIO	WETLAND AREA (Acres)	BUFFER AREA (Acres)	BUFFER WIDTH (Feet)
0.4	0.10	0.04	15.0
0.4	0.25	0.10	15.0
0.4	0.50	0.20	15.0
0.4	0.75	0.30	20.0
0.4	1.00	0.40	25.0
0.4	1.25	0.50	25.0
0.4	1.50	0.60	30.0
0.4	1.75	0.70	30.0
0.4	2.00	0.80	30.0
0.4	2.25	0.90	35.0
0.4	2.50	1.00	35.0
0.4	2.75	1.10	35.0
0.4	3.00	1.20	40.0
0.4	3.25	1.30	40.0
0.4	3.50	1.40	40.0
0.4	3.75	1.50	45.0
0.4	4.00	1.60	45.0
0.4	4.25	1.70	45.0
0.4	4.50	1.80	45.0
0.4	4.75	1.90	50.0
0.4	5.00 or more	2.00	50.0

Buffer Ratio = % of total wetland area

Wetland Area = Total on and offsite area of the wetland

Buffer Area = (%*Acres) = Area of the buffer = (%*Acres)

Buffer Width = $[\text{Area} * 43560] / 4 / [\text{Sqrt}(\text{Acres} * 43560)]$

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

BUFFER RATIO	WETLAND AREA (Acres)	BUFFER AREA (Acres)	BUFFER WIDTH (Feet)
0.3	0.10	0.030	15.0
0.3	0.25	0.075	15.0
0.3	0.50	0.150	15.0
0.3	0.75	0.225	15.0
0.3	1.00	0.300	20.0
0.3	1.25	0.375	20.0
0.3	1.50	0.450	20.0
0.3	1.75	0.525	25.0
0.3	2.00	0.600	25.0
0.3	2.25	0.675	25.0
0.3	2.50	0.750	25.0
0.3	2.75	0.825	30.0
0.3	3.00	0.900	30.0
0.3	3.25	0.975	30.0
0.3	3.50	1.050	30.0
0.3	3.75	1.125	35.0
0.3	4.00	1.200	35.0
0.3	4.25	1.275	35.0
0.3	4.50	1.350	35.0
0.3	4.75	1.425	35.0
0.3	5.00 or more	1.500	35.0

Buffer Ratio = % of total wetland area

Wetland Area = Total on and offsite area of the wetland = (%*Acres)

Buffer Area = Area of the buffer = (%*Acres)

Buffer Width = $\lceil \text{Area} * 43560 \rceil^{1/2}$ [Sqrt (Acres * 43560)]

10. Section 504 is amended as follows:

§ 504. Plan set submittal

(b) General Plan View Drawing:

(10) existing Waters of the U.S. including wetlands, farmed wetlands and aquatic resources identified in ADID, and required buffers;

11. Section 702 is amended as follows:

§ 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**), or any requirement or condition contained in Article 4 (**floodplain violation**), and, in the case of a permit violation or a floodplain violation, fails to correct such violation, omission or neglect, or cease such disobedience, refusal or resistance after notice and reinspection as provided below, shall be guilty of an offense under this ordinance.

12. Section 1000 is amended as follows:

§ 1000. Responsibility for administration

(c) Each community shall remain solely responsible for its standing in the National Flood Insurance Program, including-

(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- ; and

(3) The adoption pursuant to §404(a) of the most current version of the maps adopted and published by FEMA for regulation under the NFIP and the automatic adoption of any amendments, additions, revisions or substitutions thereto or therefor.

13. Section 1002 is amended as follows:

§ 1002. Duties of Administrator

The Administrator shall -

(o) ensure that all wetland impacts have been mitigated- ; and

(p) maintain records of the lowest floor and floodproofing elevations for new construction and substantial improvements where BFE data are used in FEMA Zone A.

14. Section 1102 is amended as follows:

§ 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, including in such ordinance of adoption language expressing the intent of the corporate authorities of the community to automatically adopt by reference all amendments to this ordinance adopted by the County at any time in the future. and specifically to automatically adopt by reference the most current version of the maps adopted and published by FEMA for regulation under the NFIP;

15. The caption of Article 13 is amended as follows:

ARTICLE 13 - FEE-IN-LIEU OF SITE RUNOFF STORAGE OR WETLAND MITIGATION

16. Section 1503 is amended as follows:

§ 1503. Mitigation requirements

(i)The applicant may propose an alternative mitigation plan combining wetland creation, purchase of credits from a wetland mitigation bank, payment of a fee-in-lieu of wetland mitigation, and/or enhancing existing wetlands either onsite or offsite. The Administrator in a community certified to administer Article 15, shall notify the Director of the proposal of an alternate mitigation plan and the Director shall determine if the proposed alternative mitigation plan meets the requirements of this section and his or her decision shall be final.

Adopted this 3rd day of Nov, 2008, pursuant to a roll call vote as

follows:

AYES: Ruffalo, Gorman, Carlini, Lynam,
Cichowski, Mahony, Pres. O'Leary

NAYES: _____

ABSENT: _____

Approved by me this 3rd day of Nov, 2008.

Dan O'Leary
DAN O'LEARY, President

Published in pamphlet form this 5th day of Nov, 2008, under the authority of the President and Board of Trustees.

ATTEST:

Susan Norton
SUSAN NORTON, Village Clerk

Recorded in the Village Records on Nov. 5, 2008.

