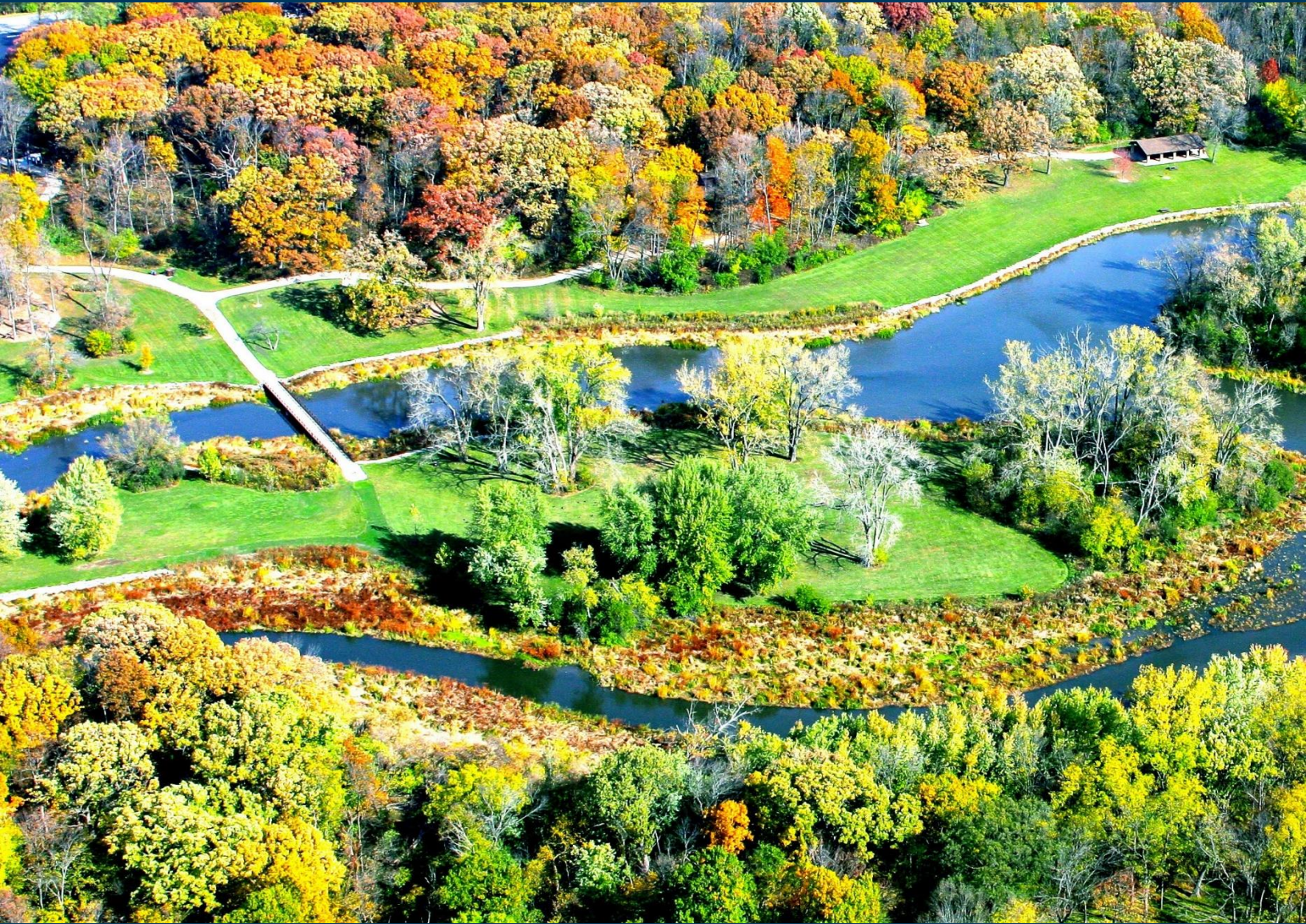




DUPAGE COUNTY



DuPage County Countywide Stormwater & Floodplain Ordinance

Prepared By:

DuPage County Stormwater Management Planning Committee
& Stormwater Management Department

September 2022



***DuPage County
Countywide Stormwater
And Floodplain Ordinance***

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

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**COUNTY OF DUPAGE,
ILLINOIS**

**COUNTYWIDE STORMWATER
AND FLOODPLAIN ORDINANCE**

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

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ARTICLE I. AUTHORITY AND PURPOSE

15-1. Statutory Authority

15-1.A This Ordinance shall be known, and may be cited, as the DuPage County Countywide Stormwater and Floodplain Ordinance.

15-1.B The DuPage County Stormwater Management Planning Committee (the "**Committee**") and the DuPage County Board promulgate this Ordinance pursuant to their authority to adopt ordinances regulating **Floodplain** management and governing the location, width, course, and release rate of all stormwater runoff **Channels**, streams, and basins in DuPage County, in accordance with the adopted DuPage County Stormwater Management **Plan** (the "**Plan**"). The statutory authority for this Ordinance is contained in 55 ILCS 5/ ¶¶ 5-1041, 5-1042, 5-1049, 5-1062, 5-1063, 5-1104, 5-12003, and 5-15001 et seq.; and 415 ILCS 5/43, and other applicable authority, all as amended from time to time.

15-1.C As applicable, the municipalities within DuPage County promulgate and enforce this and other relevant Stormwater Management Ordinances pursuant to 65 ILCS 5/1-2-1, 5/11-12-12, 11-30-2, 11-30-8, and 5/11-31-2.

15-2. DuPage County Stormwater Management **Plan**. The **Plan** was recommended by the **Committee** and adopted by the DuPage County Board, after review by the appropriate agencies and public hearing, as Ordinance No. OSM-0001-89. The **Plan** is available for public inspection in the office of the DuPage County Clerk.

15-3. Findings. The **Committee** and the DuPage County Board hereby find that:

15-3.A Inappropriate use of the **Floodplain** and **Development** have increased **Flood** risk, **Flood** damage, and environmental degradation; and

15-3.B It is necessary to consider stormwater management on a **Watershed** basis; and

15-3.C DuPage County drains poorly because of flat topography and soils of low permeability; and

15-3.D The costs of increasing **Channel** capacity are prohibitive; and

15-3.E Many land development practices upset the natural hydrologic balance of DuPage County streams; and

15-3.F Most **Flood** damage occurs to **Structures** developed adjacent to streams in the **Floodplain** or **Floodway**; and

15-3.G **Wetlands** represent a significant portion of the natural **Watershed** storage in DuPage County, and **Wetlands** play an essential role in **Flood** storage, conveyance, sediment control, and water quality enhancement; and

15-3.H Many stormwater management facilities are not adequately maintained; and

15-3.I The authority for control of **Stormwater Facilities** is widely distributed to many entities in DuPage County; and

15-3.J There are many strong local stormwater management programs; and

15-3.K Inconsistent enforcement of stormwater regulations contributes to the extent and severity of **Flood** damage.

15-4. Purposes of this Ordinance

15-4.A The principal purpose of this Ordinance is to promote effective, equitable, acceptable, and legal stormwater management measures. Other purposes of this Ordinance include:

15-4.A.1 Managing and mitigating the effects of urbanization on stormwater drainage throughout DuPage County; and

15-4.A.2 Reducing the existing potential for stormwater damage to public health, safety, life, and property; and

15-4.A.3 Protecting human life and health from the hazards of **Flooding** and degradation of water quality; and

15-4.A.4 Protecting and enhancing the quality, quantity, and availability of surface and groundwater resources; and

15-4.A.5 Preserving and enhancing existing **Wetlands, Buffers** and aquatic environments, and encouraging restoration of degraded areas; and

15-4.A.6 Controlling sediment and erosion in and from **Stormwater Facilities, Developments**, and construction sites; and

15-4.A.7 Preventing the further degradation of the quality of ground and surface waters; and

15-4.A.8 Requiring appropriate and adequate provision for site runoff control, especially when the land is developed for human activity; and

15-4.A.9 Requiring the design and evaluation of each site runoff control plan consistent with **Watershed** capacities; and

15-4.A.10 Encouraging the use of stormwater storage in preference to stormwater conveyance; and

15-4.A.11 Lessening the taxpayers' burden for **Flood**-related disasters, repairs to **Flood**-damaged public facilities and utilities, and **Flood** rescue and relief operations; and

15-4.A.12 Meeting the Illinois Department of Natural Resources, Office of Water Resources' **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"), as amended from time to time; and

15-4.A.13 Making federally subsidized **Flood** insurance available to individual communities and for property throughout the **County**; and

15-4.A.14 Complying with the rules and regulations of the National Flood Insurance Program codified in Title 44 of the Code of Federal Regulations; and

15-4.A.15 Encouraging cooperation between the **County**, communities, and other governmental entities with respect to **Floodplain** and stormwater management; and

- 15-4.A.16** Requiring cooperation and consistency in stormwater management activities within and between the units of government having stormwater management jurisdiction; and
- 15-4.A.17** Restricting future **Development** in the **Floodplain** to facilities that will not adversely affect the **Floodplain** environments or adversely affect the potential for **Flood** damage; and
- 15-4.A.18** Incorporating water quality and habitat protection measures in all stormwater management activities within DuPage County; and
- 15-4.A.19** Requiring regular, planned **Maintenance** of stormwater management facilities; and
- 15-4.A.20** Encouraging control of stormwater quantity and quality at the most site-specific or local level; and
- 15-4.A.21** Allowing the use of simple technologies whenever appropriate and realistic, but requiring the use of more sophisticated techniques when necessary to ensure the adequacy of stormwater controls; and
- 15-4.A.22** Providing a procedure by which communities throughout the **County** may petition the **Committee** to implement and enforce the provisions of this Ordinance or an ordinance consistent with, and at least as stringent as, this Ordinance; and
- 15-4.A.23** Requiring strict compliance with and enforcement of this Ordinance.

15-4.B The purposes of this Ordinance are consistent with the **Plan**.

15-4.C The purposes of this Ordinance will be implemented by its provisions.

15-5. Reference to Watershed Plans

15-5.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.

15-5.B The following six major **Watershed** divisions, shown on Exhibit 1, are identified for detailed **Watershed** studies:

- 15-5.B.1** Salt Creek Watershed; and
- 15-5.B.2** East Branch DuPage River Watershed; and
- 15-5.B.3** West Branch DuPage River Watershed; and
- 15-5.B.4** Sawmill Creek Watershed; and
- 15-5.B.5** Des Plaines River Tributaries Watershed; and
- 15-5.B.6** Fox River Tributaries Watershed.

15-5.C Watershed Plans or **Interim Watershed Plans** shall be prepared and periodically updated for these six major **Watersheds**, to identify stormwater management projects and establish criteria for **Development**. **Interim Watershed Plans** may also be developed for sub-watersheds of the six major **Watersheds** for purposes of addressing **Flood Mitigation** or water quality. With respect to this Ordinance, **Developments** identified in **Watershed Plans**, **Interim Watershed Plans**, or other studies approved by the **Committee** and adopted by the **County** Board, shall be considered certifiable provided

that and to the extent that the plan or study addressed **Certification** issues.

15-5.D Adopted **Watershed Plans** or **Interim Watershed Plans** which contain more specific criteria than the criteria established for Countywide application in this Ordinance shall govern over Countywide criteria. Such **Watershed Plans**, upon their completion, approval, and proper adoption, are hereby incorporated into this Ordinance without further act of the DuPage County Board.

15-5.E **Watershed** specific criteria established in such **Watershed Plans** or **Interim Watershed Plans** shall be set forth as a schedule to this Ordinance.

15-5.F The Countywide requirements of this Ordinance shall apply in all **Watersheds** unless superseded by more specific **Watershed Certification** criteria.

15-6. Waiver Community Enforcement – Authority. Pursuant to the authority established in 55 ILCS 5/5-1062, the provisions of this Ordinance, either in part or as a whole, shall not be enforced by the **County** in any **Community** located wholly or partly within the **County** on petition of such **Community** and after a finding of the **Committee** that such **Community** has a duly adopted stormwater management ordinance consistent with, and at least as stringent as, the **Plan** and this Ordinance, as they may be amended from time to time, or that such **Community** has duly adopted the provisions of this Ordinance.

15-7. Authority for Committee Action in a Waiver Community-Complaints

15-7.A The **Committee** may, at its discretion, direct the **Department** to investigate substantive complaints concerning the failure of a **Waiver Community** to implement or enforce its **Waiver Community Ordinance**.

15-7.B If, after investigation and hearing pursuant to the provisions of Sections 15-132 to 15-138, the **Committee** determines that such **Waiver Community** has failed in some significant way, or has repeatedly failed, to implement or enforce its **Waiver Community Ordinance**, then the **Committee** may revoke any previously granted **Partial Waiver** or **Complete Waiver**, and the provisions of this Ordinance shall have full force and effect and shall be enforced within the boundaries of such **Waiver Community** by the **County**.

15-8. Authority and Choice of Planning Jurisdiction

15-8.A Pursuant to the authority granted by 55 ILCS 5/ 5-1062(b), as amended, a **Community** that is located in more than one county has chosen, at the time of formation of the Stormwater Management Planning **Committee**, and based on **Watershed** boundaries, to participate in the stormwater management planning program of either or both of the counties.

15-8.B The following communities have expressed their intent to choose to be included within the jurisdiction of the **Plan** and this Ordinance: DuPage County portions only - Bartlett, Batavia, Bensenville, Bolingbrook, Burr Ridge, Chicago, Elk Grove Village, Hanover Park, Hinsdale, Lemont,

Naperville, Oak Brook, Roselle, Schaumburg, and Woodridge; and for the entire **Community** - Wayne. The **Committee** shall include the above-listed communities within the scope of its planning and enforcement jurisdiction.

15-9. RESERVED

15-10. RESERVED

ARTICLE II. ADMINISTRATION

15-11. Interpretation of Terms and Words

- 15-11.A** The terms and words used in this Ordinance or in a **Waiver Community Ordinance** shall be interpreted as follows:
- 15-11.A.1** Words used in the present tense include the future tense; and
- 15-11.A.2** Words used in the singular number include the plural number and words used in the plural number include the singular number; and
- 15-11.A.3** The words "shall", "will", and "must" are mandatory, not permissive; and
- 15-11.A.4** All distances, unless otherwise stated, shall be measured horizontally.
- 15-11.A.5** The phrases "**Director** or the **Administrator**", "**Director**, or the **Administrator** in a **Waiver Community**", or "**Director**, or **Administrator** in a **Complete Waiver Community**", refer to the individual responsible for the enforcement in the specific area.
- 15-11.A.6** All references to "he", "him", "his", "she", and "her" shall be construed as gender-neutral.
- 15-11.B** Definitions of terms specific to this Ordinance, and a list of acronyms and initialisms are contained in Appendix A.

15-12. Responsibility for Administration

- 15-12.A** The **Committee**, or the **Oversight Committee** in a **Waiver Community**, shall determine policy related to, and direct the enforcement of, this Ordinance or the **Waiver Community's Ordinance**, as applicable.
- 15-12.B** The **Director**, or the **Administrator** in a **Waiver Community**, shall have the authority and responsibility for the administration of this Ordinance or the **Waiver Community's Ordinance**, as applicable. In performing his or her duties, the **Director** or the **Administrator** may delegate routine responsibilities to any named designee.
- 15-12.C** Each **Community** shall remain solely responsible for its standing in the **NFIP** and for:
- 15-12.C.1** Maintaining records and submitting reports required for the **NFIP**, including **Elevation Certificates**, **Floodproofing Certificates**, and **Lowest Floor** elevations; and
- 15-12.C.2** Notifying the **Director**, and if required **FEMA**, **OWR**, **USACE**, the IEPA, and the USEPA of any proposed amendment to this Ordinance or the **Waiver Community's Ordinance**.

15-13. Duties of **Director**. The duties and functions of the **Director** shall include:

- 15-13.A** Supervising the execution of this Ordinance; and
- 15-13.B** Supervising the **Development** and revision of the appendices of the **Plan** for **Committee** and **County** Board approval and taking such actions as are reasonably necessary and proper to carry out the purposes and provisions of this Ordinance; and

- 15-13.C Authorizing **Floodplain** delineations and support documentation from **Partial Waiver** communities for any **FEMA Map Change**, which **Authorization** may be done concurrent with submittal to **OWR** or its designee and **FEMA**; and
- 15-13.D Developing and maintaining Countywide regulatory maps; and
- 15-13.E Directing the application and review of complex **Stormwater Management Certifications** for any **Community** that requests such assistance; and
- 15-13.F Performing, in Non-Waiver communities, the duties which are assigned to the **Administrator** in Waiver communities to the extent consistent with other laws; and
- 15-13.G Reviewing and authorizing proposed **Developments** referred to the **Department in Floodplain, Wetlands and Buffers** within **Partial Waiver** communities; and
- 15-13.H Keeping **USACE, OWR** and **FEMA** informed of **Community** waiver and ordinance status within 30 days after any changes in status; and
- 15-13.I Notifying the communities, and if required **FEMA, OWR, USACE**, the IEPA, and the USEPA of any amendments to the **Plan** or this Ordinance; and
- 15-13.J Maintaining and making available to **Applicants** a list of all adopted **General Certifications**; and
- 15-13.K Encouraging and conducting studies, investigations, and research relating to the physical, chemical, ecological, engineering, and other aspects of stormwater management.

15-14. Duties of Administrator in Waiver Community. The duties and functions of the **Administrator** shall include:

- 15-14.A Ensuring that copies of all stormwater related and applicable required federal, state, and regional permits or **County** approvals are received before work under a **Stormwater Management Certification** begins in those areas of a site under the jurisdiction of those agencies; and
- 15-14.B Verifying the existence of **Floodplain, Wetlands and Buffers** for each application; and
- 15-14.C Receiving **Authorization** for **Development** in **Floodplains, Wetlands, and Buffers** in **Partial Waiver** Communities prior to issuance of a **Certification**; and
- 15-14.D Reviewing and approving **Authorizations** and issuing any **Certifications** or notices required by the **Waiver Community Ordinance**; and
- 15-14.E Notifying the **Director** and owners of adjacent upstream, downstream, and potentially affected property, affected state and federal agencies, and **Watershed** basin communities, and publishing a notice in a local newspaper of any **Variance** requested from the provisions of the **Waiver Community Ordinance**; and
- 15-14.F Notifying the **Director** and all affected **Persons** defined in Section 15-14.E of this Ordinance of any alteration or relocation of a

watercourse including application for a **FEMA CLOMC** and **LOMC** as required; and

- 15-14.G** Providing for inspections of **Developments** as provided in Section 15-20 of this Ordinance under the terms of the **Waiver Community's Ordinance**; and
- 15-14.H** Investigating complaints of **Violations** of the **Waiver Community's Ordinance**; and
- 15-14.I** Notifying any **Applicant** for a **Variance** that granting the **Variance** may result in increased rates for **Flood** insurance; and
- 15-14.J** Notifying the **Director** and other jurisdictions of alleged **Violations** of their **Certification** or permit programs; and
- 15-14.K** Notifying violators within **Regulatory Floodplains** that failure to comply with **NFIP** provisions could make them ineligible to receive **Flood** insurance; and
- 15-14.L** Initiating any proceeding necessary to enforce the **Waiver Community Ordinance**; and
- 15-14.M** Encouraging and conducting studies, investigations, and research relating to the physical, chemical, ecological, engineering, and other aspects of stormwater management; and
- 15-14.N** Advise, consult and cooperate with other governmental agencies to promote the purposes of this Ordinance and the **Waiver Community's Ordinance**; and
- 15-14.O** Maintaining for public inspection copies of all applications and submittals, federal and state permit documents, variation documentation, **FEMA CLOMC** and **LOMC**, and all other documents required pursuant to Article IV and V of this Ordinance as directed under the **Waiver Community's Ordinance**; and
- 15-14.P** Sending copies of any application for a **FEMA CLOMC** and **LOMC** to the **Director**; and
- 15-14.Q** Receiving **Authorization** for **Development** in **Floodplains** from the **Director** prior to **Partial Waiver Community** approval of any **FEMA CLOMC** and **LOMC**; and
- 15-14.R** Sending a copy of any petition or request for a **Variance** from the terms of the **Waiver Community Ordinance** to the **Committee** before any such **Variance** is approved by the **Oversight Committee**; except in cases where the **Variance** from the **Waiver Community Ordinance** still meets or exceeds the requirements of this Ordinance; and
- 15-14.S** Submitting the necessary information to the **Director** relating to **Development** to maintain Countywide regulatory maps and for supervision of the Ordinance. This includes, but is not limited to, copies of any **Stormwater Management Certifications**, or **FEMA CLOMCs** and **LOMCs**; and
- 15-14.T** Maintaining documentation necessary on "cost of improvement" on **Buildings** in the **Floodplain**, relating to the **Substantial Improvements** or **Substantial Damage** requirements of this Ordinance or the **NFIP**; and
- 15-14.U** Maintaining and making available to **Applicants** a list of all **General Certifications** adopted within the **Waiver Community**.

15-15. Representative Capacity. In all cases when any action is taken by the **Director** or the **Administrator**, or his or her duly appointed designee, to enforce the provisions of this Ordinance or the **Waiver Community's Ordinance**, such action shall be taken either in the name of and on behalf of the **County** or of the **Waiver Community**, or the people of the State of Illinois, and neither the **Director** nor the **Administrator**, or his or her designee, in so acting for the **County** or the **Waiver Community** shall be rendered personally liable.

15-16. Oversight Committee

15-16.A An **Oversight Committee** shall be established to oversee the implementation and enforcement of the **Waiver Community's Ordinance** within its jurisdiction.

15-16.B The corporate authorities of a **Community**, or any representatives duly appointed by the corporate authorities, may serve as the **Oversight Committee**.

15-16.C The **Oversight Committee**, when considering appeals or **Variations**, may request an opinion from the **Director** or the MEG.

15-17. Stormwater Management Certification Review and Director Authorization

15-17.A Stormwater Management Certification Review Responsibilities in **Partial Waiver** Communities. When a **Community** petitions for and is granted a **Partial Waiver** of Enforcement of this Ordinance, such **Community** shall have the authority to review and approve applications for **Stormwater Management Certifications** in all areas under its jurisdiction, provided that:

15-17.A.1 A **Partial Waiver Community** shall send applications for **Stormwater Management Certifications** to the **Director** for review and "**Authorization**" signifying compliance with the applicable provisions of this Ordinance when a **Development** includes: sites with **Wetlands** on or within 100' of the **Development, Buffers**, and sites which include **Regulatory Floodplain**, with the following exceptions:

15-17.A.1.a. The **Administrator** in a **Partial Waiver Community** may determine that a **Development Site** does not contain a wetland, **Buffer** or **Floodplain**. Further, the **Administrator** may also determine, without obtaining **Authorization** from the **Director**, that a wetland or **Buffer** is on the **Development Site** and that it will not be impacted by the **Development** based on information submitted by the **Applicant**.

15-17.A.1.b. The **Administrator** in a **Partial Waiver Community** may review, without submittal to the **County**, applications for **Developments** on sites that contain **Regulatory Floodplain/Floodway** where no impact to the portion of the site containing **Regulatory Floodplain/Floodway** is proposed. The **Administrator** may also review site specific **Floodplain** determinations, and **Developments** in the **Floodplains**, for drainage

areas less than 640 acres where no **Floodway** has been designated.

15-17.A.2 Those applications for **Development** where the **Administrator** has submitted the application to the **County** for **Authorization** may, after the **Director** authorizes the application for **Development**, issue the **Stormwater Management Certification** if the application meets the requirements of this Ordinance or the **Waiver Community's Ordinance**, as applicable.

15-17.B Stormwater Management Certification Review Responsibilities in a **Complete Waiver Community**. When a **Community** petitions for and is granted a **Complete Waiver** of Enforcement of this Ordinance, such **Community** shall review and **Certify**, signifying compliance with this Ordinance, all applications for **Development** under all provisions of the Ordinance within the boundaries of its jurisdiction.

15-17.C Stormwater Management Certification Review Responsibilities in a Non-Waiver **Community**. When a **Community** does not petition for Waiver of Enforcement of this Ordinance, such **Community** shall have applications reviewed and certified by the **Director**, signifying compliance with all provisions of this Ordinance within the boundaries of the **Community**.

15-17.D Stormwater Management Certification Reviews. Overall responsibility for supervision of the review of all aspects of a **Stormwater Management Certification** Application under the jurisdiction of this Ordinance rests with the **Administrator**, however the **Administrator** shall ensure that technical reviews are under the supervision of a **Professional Engineer** meeting the requirements of Section 15-127.A.3.a.1 and 15-127.A.3.a.2 for **Complete Waiver** Communities and Section 15-127.A.3.b.1. for **Partial Waiver** Communities. The **Administrator** will also utilize, as the situation requires, the appropriate experts who must meet the requirements of Sections 15-127.A.3.a.3 and 15-127.A.3.a.4 for a **Complete Waiver Community** or Section 15-127.A.3.b.2 for a **Partial Waiver Community** to review those aspects of the **Development** lying outside of the **Professional Engineer's** area of expertise in accordance with the following:

15-17.D.1 In a **Partial Waiver Community** the **Professional Engineer** may utilize a **Person** with expertise in plant ecology for design review and construction observation of **PCBMP** installations which rely upon vegetation for water quality or **Runoff** volume reduction. The **Professional Engineer** may utilize a **Soil Scientist** or geotechnical engineer, or other **Person** with significant applicable soils expertise for **PCBMP** installations which rely on infiltration for water quality improvement and volume reduction. The **Professional Engineer** will coordinate review comments on an application with those from the **Director** on the same **Development**.

15-17.D.2 In a **Complete Waiver Community**, the reviewing **Professional Engineer** shall provide a written opinion that the proposed **Development** meets the minimum requirements of this Ordinance. Wetland delineation and other wetland or **Buffer** related aspects outside the expertise of the **Professional Engineer** must be reviewed by an **Environmental Scientist** employed by the **Community** in accordance with Section 15-127.A.3.a.3 who shall provide a written opinion on those matters within their area of expertise that the proposed **Development** meets the minimum requirements of this Ordinance.

15-17.D.3 In a non-waiver **Community**, the **Director**, or his designee, will determine the appropriate individuals to review the application and coordinate review comments.

15-18. Municipal Engineers Group. A Municipal Engineers Group (MEG) shall be established whose purpose will be to provide input to the **Director** for representation of communities on technical matters related to the Ordinance, recommend **General Certification** topics, review draft Ordinance revisions, review draft **General Certifications**, and discuss permitting issues where a recommendation is requested.

15-18.A The membership of the MEG shall consist of the Stormwater **Administrators**, or their designees, in each of the Communities who have opted into the DuPage County Stormwater Program. In all matters brought to the MEG for a vote, each **Community** shall have one vote exercised by the **Administrator**, or their designee.

15-18.B The MEG shall adopt bylaws covering at a minimum what constitutes a quorum and notice requirements, and meeting schedule.

15-18.C Issues considered by the MEG for a vote shall be listed on the agenda sent out in advance of the scheduled meeting. The MEG shall meet no less than once per calendar year.

15-18.D All votes by the MEG are advisory. Summaries of the discussions will be kept of all meetings.

15-19. RESERVED

15-20. Required Inspections

15-20.A Any **Development** constructed pursuant to a **Stormwater Management Certification** shall be subject to periodic inspections by the **Director** or the **Administrator** during construction to ensure conformity with **Certification** provisions and conditions.

15-20.B Unless otherwise provided by a valid and enforceable intergovernmental agreement, the **Department** shall inspect and monitor the construction and **Maintenance of Mitigation** measures prepared pursuant to Articles XI and XII of this Ordinance for all mitigated **Wetlands** and **Buffers** authorized by a **Stormwater Management Certification** in a Non-Waiver or **Authorization** in a **Partial Waiver Community**.

15-21. RESERVED

15-22. RESERVED

ARTICLE III. GENERAL PROVISIONS

15-23. Scope of Regulation

15-23.A This Ordinance, or the applicable **Waiver Community Ordinance**, shall apply to all **Development** of property within the boundaries of the **County** since February 15, 1992, including those under the control of any governmental entity, except State and Federal government agencies of higher jurisdiction or authority.

15-23.B The provisions of this Ordinance, or the applicable **Waiver Community Ordinance**, shall not apply to:

15-23.B.1 Structures and land uses existing as of February 15, 1992 except when subsequently re-developed, and except that minimum standards of the **NFIP** shall apply to all **Development**; and

15-23.B.2 Proposed **Developments** that are listed on the Official List of Exempt Developments submitted by each **Community**. All such **Developments** on the list shall have met at least one of the following criteria:

15-23.B.2.a. Building permits for such **Development** were issued prior to February 15, 1992; or

15-23.B.2.b. Engineering of all **Stormwater Facilities** for such **Development** was submitted to and approved by the **Community** engineer prior to February 15, 1992; or

15-23.B.2.c. Annexation agreements or ordinances or other agreements were recorded or executed prior to February 15, 1992 which specifically exempt such **Development** from **Community** codes; or

15-23.B.2.d. For other **Developments**, contractual agreements executed prior to February 15, 1992 which specifically exempt such **Development** from **Community** codes; or

15-23.B.2.e. Approvals resulting from judicial decrees preclude application of this Ordinance.

15-23.C The exemption granted pursuant to Section 15-23.B.2 shall extend only to the specific improvements authorized by the building permit, engineering approval, or judicial decrees, and all specific limitations agreed to in any annexation agreement or ordinance or contract shall apply. All other **Development** not previously specifically exempted shall remain subject to the provisions of this Ordinance or the applicable **Waiver Community Ordinance**.

15-23.D Plan changes which result in greater impervious coverage of the site compared to the exempted plan will be cause for the **Director** or **Administrator** to remove the **Development** from the Official List. Such a finding may be appealed to the **Committee** in accordance with Article XV for final decision.

15-23.E Nonconforming **Structures** shall not be replaced or enlarged in any manner unless such replacements or enlargements conform to the requirements of this Ordinance or the applicable **Waiver Community Ordinance**.

15-24. Official Lists of Exempt Developments

15-24.A Each revision to the Official List of Exempt Developments shall be approved by an official action of the corporate authorities of the **Community**, and shall be acknowledged in writing by the **Director** on behalf of the **Committee**.

15-24.B The **Committee** may challenge any revision of an Official List of Exempt Developments submitted by a **Community** within 60 days after proper submission of such list or revision. The **Committee** shall state in writing its reasons for rejection of any **Development** as not being in accordance with the provisions of Section 15-23.B.2 of this Ordinance.

15-24.C The **Community** may add a **Development** to, or delete a **Development** from, the Official List of Exempt Developments if an **Applicant** shows that the criteria listed in Section 15-23.B.2 of this Ordinance have been met or if the **Community** has determined that the criteria listed in Section 15-23.B.2 of this Ordinance have not been met.

15-24.D Prior to resubmitting its Official List of Exempt Development to the **Committee** deleting a **Development**, the **Community** resubmitting such list with such deletion shall notify the affected owner or **Developer** of such deletion in writing and provide such owner or **Developer** an opportunity to respond to the **Community**.

15-25. Interpretation

15-25.A This Ordinance and the **Waiver Community Ordinances** shall be liberally construed to protect the health, welfare, safety, and the environment of the residents of the **County** and to effectuate the purposes of this Ordinance and the **Waiver Community Ordinances** and the enabling legislation.

15-25.B Nothing contained in this Ordinance, or the **Waiver Community Ordinances**, shall be deemed to consent to, license, permit to locate, construct, or maintain any **Structure**, site, facility or operation, or to carry on any trade, industry, occupation, or activity.

15-25.C When provisions of this Ordinance, or any **Waiver Community Ordinance**, differ from any other applicable statute, law, ordinance, regulation, or rule, the more stringent provision shall apply.

15-25.D The provisions of this Ordinance and the **Waiver Community Ordinances** are cumulative and shall be considered additional limitations on all other laws and ordinances previously approved or that may hereafter be approved and that concern any subject matter included in this Ordinance or any **Waiver Community Ordinance**.

15-25.E Interpretation of technical provisions of this Ordinance shall be made by the **Director**, or the **Administrator** in a **Waiver Community** who may also consult the MEG for an advisory opinion.

15-26. Warning and Disclaimer of Liability

15-26.A The degree of **Flood** protection provided by this Ordinance or any **Waiver Community Ordinance** is considered reasonable for regulatory purposes and is based on engineering experience and scientific methods of study.

- 15-26.B** Increased **Flooding** may result from causes beyond the control of the **County** or any **Community**.
- 15-26.C** This Ordinance and the **Waiver Community Ordinances** do not, therefore, imply that areas outside the delineated **Floodplain** or permitted land uses within the delineated **Floodplain** will be free from **Flooding** and associated damages.
- 15-26.D** Neither this Ordinance nor any **Waiver Community Ordinance** shall be construed or applied in any manner to create liability on the part of or a cause of action against the **County**, any **Community**, or any elected official, officer, agent, or employee thereof, for any **Flood** damage resulting from reliance on the provisions of this Ordinance or any **Waiver Community's Ordinance** or from reading or interpreting any map that is part of this Ordinance or any **Waiver Community Ordinance**.

15-27. General Stormwater and **Floodplain** Requirements. The following general stormwater and **Floodplain** requirements shall apply to all **Development**.

- 15-27.A** **Development** shall not:
 - 15-27.A.1** Result in unreasonable new or additional expense to any **Person** other than the **Developer** for **Flood** protection or for lost environmental stream uses and functions attributable to the **Development**; nor
 - 15-27.A.2** Unreasonably increase **Flood** elevations or decrease **Flood** conveyance capacity upstream or downstream of the area under the ownership or control of the **Developer**; nor
 - 15-27.A.3** Pose any unreasonable new or additional increase in **Flood** velocity or impairment of the hydrologic and hydraulic functions of streams and **Floodplains** unless a **Watershed Benefit** is realized; nor
 - 15-27.A.4** Violate any provision of this Ordinance or any applicable **Waiver Community Ordinance** either during or after construction; nor
 - 15-27.A.5** Unreasonably or unnecessarily degrade surface or ground water quality.
- 15-27.B** For purposes of this article, changes in **Flood** elevations or changes in discharges, within the limits of modeling tolerance allowed in this Ordinance, shall be deemed acceptable.
- 15-27.C** Analysis and design of all stormwater and **Floodplain** facilities required for **Development** shall:
 - 15-27.C.1** Meet the standards and criteria established in the **Plan** and, if available, in **Watershed Plans** or in **Interim Watershed Plans**; and
 - 15-27.C.2** Be consistent with techniques specified in the **Watershed Plans** or the **Interim Watershed Plans**; and
 - 15-27.C.3** Site runoff storage and **Compensatory Storage** facilities shall be either constructed before or concurrently with general construction. The facilities shall be functional prior to or concurrent with any **Building** construction that increases a site's **Total Impervious Area**.

15-28. Building Protection

15-28.A Within the boundary of the **Regulatory Floodplain**, all **Usable Space** in new **Buildings**, or added to existing **Buildings**, shall either be elevated, **Floodproofed**, or otherwise protected such that the lowest entry shall be at least one foot above the nearest **Base Flood Elevation** to prevent the entry of surface stormwater. **Floodproofing** devices shall be operational without human intervention. If electricity is required for protection against **Flood** damage, there shall be a backup power source which will activate without human intervention. **Floodproofing** measures shall be certified by a **Professional Engineer**.

15-28.B All **Usable Space** in new **Buildings** or added to existing **Buildings**, shall be elevated, **Floodproofed**, or otherwise protected to at least one foot above the design elevation to prevent the entry of surface stormwater. The design elevation is the higher elevation of either Article X or the elevation associated with the design rate as determined in Section 15-73.A.2.

15-28.C Other **Building** protection standards for **Structures** that shall be implemented in the **Floodplain** are listed in Section 15-81.B in Article X.

15-29. RESERVED

ARTICLE IV. STORMWATER MANAGEMENT CERTIFICATIONS

15-30. Stormwater Management Certifications. Any **Person** proposing a **Development** shall obtain a **Stormwater Management Certification**, or the **Development** must fit all conditions of a **General Certification** (Section 15-32), or if applicable, obtain a **Letter of Permission** (Section 15-31) unless the **Development** meets all of the criteria of Section 15-30.A or one of the following criteria of Section 15-30.B.

15-30.A The **Development** is:

15-30.A.1 On a **Development Site** that does not include **Floodplain, Wetlands** or **Buffers**; and

15-30.A.2 The **Development** does not add 2,500 square feet or more of **Net New Impervious Area** compared to the pre-**Development** conditions, and

15-30.A.3 Does not include 5,000 square feet or more of land disturbing activities.

15-30.B The **Development Site** does not include **Wetlands, Buffers** or **Floodplains** and consists solely of one or more of the following:

15-30.B.1 Cultivation, conservation measures or gardening; or

15-30.B.2 Installation, renovation or replacement of a septic system, potable water service line, or other utility to serve an existing **Structure**; or

15-30.B.3 Excavation or removal of vegetation in rights-of-way or public utility easements for the purpose of installing or maintaining utilities; or

15-30.B.4 **Maintenance**, repair or at grade replacement of existing lawn areas not otherwise requiring a **Stormwater Management Certification** under this Ordinance.

15-31. Letters of Permission. The **Administrator**, or the **Director** in Non-Waiver Communities, shall have the option of issuing a "**Letter of Permission**" in lieu of a **Stormwater Management Certification**. A **Letter of Permission** may be issued for **Developments** that can be determined, based on review of the **Applicants** proposed plans, available documents, site inspection and judgment, to be limited in scope and complexity and fit the definition, for "**Minor Development**". The **Applicant** may propose that certain submittal requirements be waived for those **Developments** approved for processing as a **Letter of Permission**, provided that the request is in writing and in advance of the submittal, and the request is approved in writing by the **Administrator** or the **Director** in a Non-Waiver **Community**. The **Applicant**, or if applicable their design professionals, must affirm that all calculations are in accordance with standard engineering practice and have been checked for accuracy of calculation and are in compliance with the requirements of this Ordinance. The **Applicant** shall remain responsible for any errors in calculation or application of engineering methodology.

15-31.A The following are the potential modifications to submittal requirements in the form of "waiving submittal" that may be considered.

- 15-31.A.1 Supporting calculations for simple soil erosion and sediment control plans, if the **Development** is not subject to NPDES permitting;
- 15-31.A.2 Routine backup calculations such as time of concentration, runoff curve number, and storm sewer design calculations;
- 15-31.A.3 Copies of maps such as soils maps.
- 15-31.A.4 Other supporting calculations when the results used in the design appear to the **Administrator** to be within the norms of engineering practice.
- 15-31.B The following are not eligible to be “waived for submittal”
 - 15-31.B.1 Construction plans complete with all details, including soil erosion and sediment control plan must be submitted by the **Applicant**.
 - 15-31.B.2 Development Securities in the amounts and forms defined in this Ordinance, record exhibits and maintenance easements may be reduced or waived if adequate other securities are required under other building permit requirements such that the **Administrator** or **Director** in a Non-Waiver **Community** is reasonably assured that the intent of those provisions in this Ordinance is carried out.
- 15-31.C Decisions made on behalf of the **Community** by the **Administrator** or **Director** with regard to Letters of Permission applicability and submittal requirements are by permission to the **Applicant**.
- 15-31.D The **Letter of Permission** will serve in all respects as the **Stormwater Management Certification**, with the same duration, and may be combined with a **General Certification** for the parts of the **Development** to which a **General Certification** might be applicable.
- 15-31.E A **Letter of Permission** cannot be used to substantively change the technical standards of this Ordinance.

15-32. General Certifications. The **Director**, or the **Administrator** in a **Waiver Community**, may issue **General Certifications** which when adopted by the Stormwater **Committee**, **County Board**, and **Oversight Committee** and when found applicable to the particular circumstances of a **Development**, will serve as the **Stormwater Management Certification** for the **Development** activity, or a portion of the **Development** activity. **General Certifications** may provide clarification or interpretation of technical requirements and are intended to address common and generally low impact **Developments**, reducing submittal requirements, design costs and the public burden to apply for **Certification** and review such **Development** cases. The **Applicant** may be required to make a submittal and pay review fees, as described in the **General Certification** or in the **Community**’s fee schedule. As long as the **Applicant** abides by the Special Conditions as described in the **General Certification**, then the **Development** will be considered as having obtained a **Stormwater Management Certification**.

- 15-32.A Types of **Developments** for **General Certification** drafts will be recommended by the MEG, who may refer them to a committee of the MEG or **County** staff. The **Director** will present the **General**

Certification to the Stormwater **Committee** for those **General Certifications** with countywide applicability. When initiated by an **Administrator**, the **Administrator** shall obtain a recommendation from the **Director**, who will also refer it to the MEG for a recommendation. Any **General Certification** may be used by any **Community**. A **General Certification** must be adopted by the **Community** for use in that **Community** or by the **County** Board for applicability **Countywide**.

15-32.B **General Certifications** are authorized for one year and shall be automatically renewed annually unless action is taken to change the **Certification** within 60 days of expiration. An **Applicant** who relied on a **General Certification** shall have one year from the date of reauthorization to complete the **Development** under the terms of the **General Certification** as it read at the time the **General Certification** was issued.

15-33. Datum. All topographic maps or exhibits, and **Record Drawings** associated to a project shall be tied to the North American Vertical Datum of 1988 (NAVD88) of the National Spatial Reference System (NSRS) as maintained by the United States National Geodetic Survey (NGS). A minimum of two vertical geodetic control points shall be established on or adjacent to the project to tie the elevations of each project to NAVD88. The methods used by an Illinois Professional **Land Surveyor** to establish NAVD 88 elevations shall achieve a national NSRS vertical network accuracy of 0.15 of a U.S. Survey foot (5 centimeters) or better to be in compliance with **FEMA** requirements, as specified in the **FEMA** document "Guidelines and Specifications for Flood Hazard Mapping Partners" dated April 2003. The surveyor shall use one of the following two methods to achieve vertical network accuracy as well as to provide documentation to substantiate the vertical network accuracy.

15-33.A Establish vertical geodetic control at the site using a combination of GNSS measured ellipsoid heights and calculated orthometric heights using the most current available version of a reputable Geoid Model. Global Navigation Satellite System (GNSS) derived ellipsoid heights shall be determined by processing GPS field measurements through the NGS GPS Online Positioning System – Rapid Static service (OPUS-RS). The surveyor shall provide to the **County** a copy of the OPUS-RS report.

15-33.B Establish vertical geodetic control at the site by differential leveling surveying using NGS specifications for Third-Order vertical surveys. All vertical leveling must be measured relative to at least two NSRS vertical geodetic control monuments of Second-Order or better accuracy. The surveyor shall provide to the **County** a list of the two or more NGS Second-Order vertical geodetic control monuments used during the leveling survey and a copy of the leveling notes.

15-34. Requirements for **Applicants** to use **Professional Engineers** and Surveyors. Calculations for the design of **Stormwater Facilities**, determination of the **Regulatory Floodplain**, or calculations of the impact of the **Development** shall be prepared, signed and sealed by a **Professional Engineer**, or Professional **Land Surveyor** when they are legally entitled to sign. **Structures**

which are subject to a differential water pressure head of greater than three feet shall be designed under the supervision of a Licensed **Structural Engineer**, who shall sign and seal the design plans and calculations. Topographic exhibits and **Record Drawings** may alternatively be signed and sealed by a Professional **Land Surveyor**.

- 15-35.** Requirements for **Applicants** to use **Environmental Scientist**. When required, all determinations regarding the absence or presence of **Wetlands** on the **Development Site** or within one hundred (100) feet from the **Development Site** shall be performed by an **Environmental Scientist** (Section 15-85.B), unless the **Director** or **Administrator** concludes and documents otherwise in accordance with Section 15-85.A.
- 15-36.** **Professional Engineer** statement with application. Unless waived by the **Community** or by **General Certification**, a **Professional Engineer** under the employment of the **Applicant** shall provide a statement rendering an opinion that the **Development** meets the minimum criteria for stormwater management in accordance with this Ordinance, or the applicable **Waiver Community Ordinance**.
- 15-37.** Other Agency Approvals. No work may begin on a site in those areas under the jurisdiction of any other stormwater authority until the authority's permits or approvals have been obtained. Failure to obtain a permit from other required stormwater related jurisdictions will invalidate an issued **Stormwater Management Certification**. When the **Development** qualifies for and meets the special conditions of an IDNR-**OWR** General, Regional or Statewide permit, then no special approval correspondence from IDNR-**OWR** will be required.
- 15-38.** **Community Developments**. A **Community** must obtain a permit from IDNR-**OWR**, or their designee, prior to issuance of a **Stormwater Management Certification** for any **Community Development** that falls under the jurisdiction of IDNR-**OWR**, unless the **Development** qualifies for and meets the special conditions of an IDNR-**OWR** General, Regional or Statewide permit, then no special approval correspondence from IDNR-**OWR** will be required.
- 15-39.** IDNR-**OWR** reserved review. For **Development** within the **Regulatory Floodway**, the following calculations or analyses shall be submitted to and approved by IDNR-**OWR** or its designee prior to issuance of a **Stormwater Management Certification**:
- 15-39.A** **Flood** damage analysis for the replacement or modification of existing bridges or culverts;
 - 15-39.B** Hydraulic analysis of new, modified or replacement bridges or culverts;
 - 15-39.C** Analyses of alternate transition sections from those required in Section 15-82.E. of this Ordinance; and
 - 15-39.D** Analyses of hydrologically and hydraulically equivalent storage.
 - 15-39.E** Any embankment or **Structure** meeting IDNR-**OWR**'s definition of a **Dam**, including areas outside the **Regulatory Floodway**.

15-40. Certification Application Requirements and Submittals. The specific applicable technical requirements and the extent of documentation required to be submitted may vary depending on existing conditions of the **Development Site**. The **Applicant** shall combine the separate “submittals” referenced in each article into a single application package of materials. Unless superseded by application under either a **General Certification** or a **Letter of Permission**, or the **Director** or **Administrator** specifically allows a modification of the submittal requirements in writing, the following shall guide the determination that an application for **Stormwater Management Certification** is complete.

15-40.A Stormwater Submittal. All **Developments** requiring a **Stormwater Management Certification** are required to submit the information required for Minimum Submittal (Section 15-47.A). The requirement for **Record Drawings** (Section 15-47.B) applies to all **Developments** that construct **Stormwater Facilities**, or include wetland, **Buffer** or **Floodplain** onsite. Unless the **Development** fits the definition of **Minor Development**, the plans and calculations listed in Section 15-47.D will also be required (as relevant to the specific **Development**).

15-40.B Maintenance Plan. When the **Development** includes construction of a Site Runoff Storage Facility or Post Construction Best Management Practices, a maintenance plan specifying tasks and frequency shall be submitted.

15-40.C The provisions of Section 15-55 shall apply to all **Developments** except:

15-40.C.1 **Developments** classified as **Minor Developments**; or

15-40.C.2 **Developments** which do not include site stormwater storage facilities and which do not include any **Best Management Practices** with a design drainage area greater than 1-acre.

15-40.D Performance Security. Performance Security in accordance with Section 15-54 may be combined into a single instrument and is required as follows.

15-40.D.1 Development Security in accordance with Section 15-54.B. is required for all **Developments** which are not **Minor Developments**, and which include construction of a **Stormwater Facility** (Article IX), or more than 200 feet of Storm Sewer, or a Post Construction Best Management Practice (Article VIII) designed to serve more than 1-acre of drainage area.

15-40.D.2 Erosion and Sediment Control Security in accordance with Section 15-54.C is required for any **Development** disturbing more than 1-acre, or which disturbs the bed and banks of a **Channel** draining more than 100-acres, or when an Erosion and Sediment Control Plan is required because of impact to **Wetlands** or **Buffers** or **Floodplain**.

15-40.D.3 A Natural Area, Wetland and **Buffer Mitigation** Area Security shall be posted per Section 15-54.D. Whenever a natural area is being restored or a Wetland or **Buffer** is impacted and mitigated, unless **Mitigation** is provided by fee-in-lieu.

- 15-40.E** Soil Erosion and Sediment Control. All **Developments** must provide both temporary and permanent Soil Erosion and Sediment Control; however, plans for these measures must be submitted for review only where the **Development** is required to obtain a **Stormwater Management Certification** (Section 15-30). **Developments** required to make application may obtain a **Letter of Permission** (Section 15-31), even if it is not a **Minor Development**, as long as no other aspect of the **Development** requires review under Articles VIII, IX, X or XI. All other applications shall include the following based on area of land disturbance of the proposed **Development**:
- 15-40.E.1** If the land disturbance is less 1 acre and does not disturb the bed and banks of a **Channel** draining more than 100- acres, and the **Development** does not involve impact to **Buffer** or wetland or **Floodplain**, and is not part of a larger common plan, then the submittal shall be per Section 15-50.B.
- 15-40.E.2** If the land disturbance is one 1-acre or greater or disturbs the bed or banks of a **Channel** draining more than 100-acres, or the **Development** includes impact to **Buffers** or **Wetlands** or **Floodplain**, then the requirements of Sections 15-50.C and 15-50.D shall apply.
- 15-40.F** Post Construction Best Management Practices. When the impervious coverage of the **Development Site** is increased by 2,500 square feet or more compared to the **Pre-Development Site** then **PCBMPs** designed in accordance with Section 15-63 through Section 15-70 are required and submittals in accordance with Section 15-49 are required with the Application, unless one of the exceptions or exclusions listed in Section 15-63 applies.
- 15-40.G** **Floodplains** and **Floodways**. All **Developments** shall check the requirements of Section 15-80 to determine if **Floodplain** exists on a **Development Site**. Chart 3 is included in Appendix C as a guide. If **Floodplain** does exist on the **Development Site**, a **BFE** shall be established as outlined in Section 15-80.D and shall be drawn on the site topographic map. If the datum for the **BFE** determination is different from the site topographic map datum, the appropriate conversion factor shall be used. The DuPage County developed conversion factors from NGVD29 to NAVD88 per **Watershed**, shall be used when appropriate. If the proposed work is outside of the **BFE**, there shall be no additional requirements from Article X that need to be met. **Applicants** shall determine if **Floodway** exists following Section 15-80.F. For **Developments** that involve work within the **Floodplain** or, where there is **Floodway** within the disturbed area, the **Floodplain** and **Floodway** shall be delineated on the site plan.
- 15-40.G.1** For **Developments** within the **Floodplain**, document that Section 15-81 requirements are being met with a narrative and appropriate calculations, modeling, cross-sections and plans.
- 15-40.G.2** For **Developments** within the **Floodway**, document that Section 15-82 requirements are being met with a narrative and appropriate calculations, modeling, cross-sections and plans per Section 15-51.

15-40.H Wetlands. A flowchart is included in Appendix C as a guide. **Stormwater Management Certifications** are required for **Developments** where the area being disturbed, or developed, is within 100 feet of a wetland located either on-site or off-site. The application shall include the following.

15-40.H.1 A wetland delineation and report will be required unless the wetland is determined to be greater than 100 feet away from the **Development's** limit of disturbance, and Section 15-17.A.1.a is applied by the **Administrator** in a **Partial Waiver Community**, or with the concurrence of the **Administrator** in a **Complete Waiver Community**, or the **Director** in a Non-Waiver Community.

15-40.H.2 If the **Development's** proposed limit of disturbance is within 100 feet of a wetland, then,

15-40.H.2.a. A wetland delineation and report will be required (Section 15-85), unless the wetland has clearly defined boundaries and there are no proposed wetland or **Buffer Direct Impacts** or indirect wetland hydrologic impacts that exceed the thresholds found in Section 15-87.

15-40.H.2.b. If there are **Direct Impacts** to the wetland, then the wetland submittal in accordance with Section 15-48 will be required.

15-40.H.2.c. If the **Development** will cause an indirect impact to a wetland an indirect impact analysis shall be included in the Wetland Submittal.

15-40.H.2.d. If the **Development** has a direct or indirect **Permanent Wetland Impact** a hydrologic analysis of the **Mitigation** area (Section 15-88.L) and a maintenance and monitoring plan (Section 15-88.M) are required to be submitted, unless Fee in Lieu of **Mitigation** is provided.

15-40.I Buffers. See also the flowchart in Appendix C. **Direct Impacts** to **Buffers** (Section 15-92) will require a **Buffer** Submittal in accordance with Section 15-48.

15-41. Special Cases of Development. Special Cases of Development shall have differing submittal or, technical standards than other **Developments**, as summarized in Table 1.

Table 1 Note: Referenced Ordinance Sections apply to the Special Cases of Development.

	FLOODPLAIN/ FLOODWAY (Note these Sections)	POST CONSTRUCTION BEST MANAGEMENT PRACTICES	SITE RUNOFF STORAGE
ROADWAY DEVELOPMENT	15-81.A.2 15-81.D.4	15-63.A.2 (EXISTING) OR 15-63.A.1 (NEW)	POSSIBLE SITE RUNOFF STORAGE (SPECIAL) 15-72.A.4 15-72.B
BRIDGE AND CULVERT MODIFICATION	15-81.A.2, 15- 81.A.2.c, 15-81.A.2.d 15-82.A.6, 15-82.D, 15-82.F	EXEMPT 15-63.A.2	EXEMPT 15-72.C.1
STREAMBANK STABILIZATION	15-82.C.2	EXEMPT 15-63.A.4	EXEMPT 15-72.C.2
NAUTRAL AREA RESTORATION		EXEMPT 15-63.A.4	EXEMPT 15-72.C.3
WETLAND MITIGATION SITE	15-82.C.3	EXEMPT 15-63.A.4	EXEMPT 15-72.C.4
WETLAND MITIGATION BANK	15-82.C.3	EXEMPT 15-63.A.4	EXEMPT 15-72.C.4
TRAIL DEVELOPMENT, BIKEWAY, PEDESTRIAN WALKWAY	15-81.A.2.b 15-81.A.2.c	EXEMPT 15-63.A.5 (MEETING CONDITIONS)	EXEMPT 15-72.C.5 (MEETING CONDITIONS)
OPEN SPACE DEVELOPMENT	15-81.A.6 15-82.A.5 15-82.A.9	15-63 ≥2,500 S.F. NET NEW IMPERVIOUS	ONLY SITE RUNOFF STORAGE (SPECIAL) 15-72.B
WATER AND SEWER IMPROVEMENT DEVELOPMENT	15-81.C.2 15-81.C.3	EXEMPT 15-63.A.7	EXEMPT 15-72.C.6

TABLE 1: SPECIAL CASES OF DEVELOPMENT

15-42. Fees for **Certification** and **Authorization** by the **County** and other fees.

15-42.A A review and inspection fee schedule for **Stormwater Management Certifications** in Non-Waiver Communities, and for **Authorization** reviews performed by the **County** on behalf of Waiver Communities, is attached to this Ordinance as Schedule A and by this reference incorporated into this Ordinance.

15-42.B All **Certification** review and inspection fees for **Development** in Non-Waiver Communities, and in those areas of review undertaken by the **County** in Waiver Communities, shall be payable to the **Department**.

15-42.C Waiver Communities may set **Certification** review and inspection fees or set up escrow accounts for payment of review costs for **Developments** within their jurisdictions.

15-42.D All stormwater management review fees shall be paid at the time directed by the **Administrator** or **Director**.

15-42.E Any fee-in-lieu that is part of the conditions for issuance must be paid prior to issuance of the **Certification**.

15-43. Release of Performance Security and Easements. The **Record Drawings** requirements of Sections 15-47.B and the applicable requirements of 15-55 will also be required to be satisfied prior to the release of the remaining development securities in Section 15-54.

15-44. Duration and Revision to **Certifications** and **Authorizations**. **Certifications** expire December 31st of the third year from the date of **Certification** or **Authorization**, whichever is sooner.

15-44.A If the certified activity has been started but is not completed by the expiration date of the **Certification**, and the **Certification** holder intends to pursue the certified or authorized activity, then the **Certification** holder must submit a written request that the expiration date be extended. Upon receipt of such request, the **Director** or the **Administrator** may extend the expiration date in maximum increments of three years for Certified or authorized activities, provided the activity is in compliance with the then current requirements of this Ordinance or the applicable **Waiver Community Ordinance**. Expiration dates for Certified or authorized activities within **Wetlands** and **Buffers** may be extended provided that an updated delineation shows no significant change in wetland boundary or classification.

15-44.B If, after **Certification** issuance, the **Certification** holder decides to revise the approved plans, the **Certification** holder shall submit revised plans to the **Director** or the **Administrator**, along with written request for approval by the expiration date. If the **Director** or the **Administrator** determines that the revised plans are in compliance with the then current requirements of this Ordinance or the applicable **Waiver Community Ordinance**, an approval of the revised plans will be issued.

15-44.C No activity by the **Applicant** in the form of a resubmittal or follow-through on outstanding issues required for **Certification** in the 12

month period following the date of the last correspondence from the **Director**, or **Administrator**, pertaining to the Application, will be cause for considering the application withdrawn.

15-45. RESERVED

15-46. RESERVED

ARTICLE V. CERTIFICATION SUBMITTALS

15-47. Stormwater Submittals

15-47.A Minimum Submittal. Unless one of the following is specifically waived with documentation by the **Director** or the **Administrator** in a **Waiver Community**, or the **Development** is eligible for **Certification** by a **General Certification** or **Letter of Permission**, a minimum Stormwater Submittal shall be required for all **Developments** requiring **Certification**. The following constitutes a minimum Stormwater Submittal, unless modified by **Waiver Community Ordinance**:

15-47.A.1 The name and legal address of the **Applicant** and of the owner of the land; and

15-47.A.2 The common address and legal description of the site where the **Development** will take place; and

15-47.A.3 Affidavits signed by the land owner and the **Developer** attesting to their understanding of the requirements of this Ordinance or the applicable **Waiver Community Ordinance** and their intent to comply therewith, including the submittal of a record drawing in accordance with Section 15-47.B; and

15-47.A.4 A listing of all other required stormwater related permits, a brief description of how the other permits apply to the **Development**, and when requested by the **Director** or the **Administrator**, complete copies of the applications for the permits; and

15-47.A.5 A statement of opinion by a qualified professional(s) either acknowledging or denying the presence of **Floodplain** in accordance with Section 15-80, **Wetlands** in accordance with Section 15-85, and **Buffers** in accordance with Section 15-92; and

15-47.A.6 A standard engineering scaled drawing depicting any proposed major **Stormwater Facilities** on a topographic map depicting any offsite upstream drainage area and the characteristics of the downstream facilities receiving discharge from the **Development**.

15-47.A.7 An exhibit at standard engineering scale is also required that is used as the basis to determine the extent of existing **Impervious Area**, proposed developed **Impervious Area**, and extent of area to be disturbed in the construction of the **Development**.

15-47.A.8 A statement from the **Applicant** acknowledging that all stormwater submittals shall be made available for inspection and copying by the **County**, notwithstanding any exemption from inspection and copying for such materials under the Illinois Freedom of Information Act, upon the written request of either: i) the **Applicant** ii) any subsequent owner of the subject property; or iii) any governmental unit having planning or drainage jurisdiction within 1 and 1/2 mile of the subject property.

15-47.B Upon completion of the **Stormwater Facilities**, a record drawing signed and sealed by either a **Professional Engineer** or a Professional

Land Surveyor depicting the as-constructed size, rim and inverts elevations of pipes, stormwater **Structures** and culverts, and contours and **Flood** storage volumes of all required basins of the **Major Stormwater Systems** and **Minor Stormwater Systems**.

15-47.C An informational note acknowledging the presence of on-site **Wetlands, Buffers, Floodplains,** and **PCBMPs** with drainage areas 1 acre or greater, shall be recorded against the title to alert all future owners and shall reference the **Stormwater Management Certification** number.

15-47.D Documentation supporting **Certification** compliance. The following items will be submitted to demonstrate and support that the application for **Certification** is in compliance with this Ordinance. The **Administrator** or **Director** may approve, in writing, an application without some or all of these items based on the extent and complexity of the **Development**. All plans and drawings shall be at standard engineering scale.

15-47.D.1 A scaled plan or plans illustrating the major and minor conveyance system, including:

15-47.D.2 Size, type, length and inverts of conveyance **Structures** including drainage pipes, culverts, manholes, catch basins, inlets, and drain tiles.

15-47.D.3 A scaled exhibit illustrating the **Impervious Area** of the site prior to the **Certification** along with a calculation of the percentage of the site that is impervious.

15-47.D.4 A scaled exhibit illustrating the proposed impervious surfaces of the **Development**.

15-47.D.5 Calculations of the percentage of impervious surfaces after complete construction of the proposed **Development**.

15-47.D.6 Scaled plans illustrating the location of and details for site runoff storage.

15-47.D.7 Calculations that establish the required site runoff storage volume along with calculations confirming that the proposed plan achieves either the site runoff storage or the modified site runoff storage.

15-47.D.8 When site runoff storage special is required, calculations that demonstrate the specified post **Development** discharges have not exceeded the predevelopment values.

15-48. Wetland and **Buffer** Impact Submittals.

15-48.A The submittal shall include all the following information unless the **Director** or **Administrator** concludes otherwise in accordance with Sections 15-17.A.1.a or 15-85.A.

15-48.A.1 A complete wetland delineation report prepared in accordance with the Federal Methodology. The report shall also contain the following.

15-48.A.1.a. Completed **USACE** wetland delineation data forms.

15-48.A.1.b. Aerial photograph, or other exhibit, clearly showing wetland boundaries, location of wetland

delineation data points, and offsite **Wetlands** within 100' of the property.

15-48.A.1.c. A narrative describing the physical characteristics and size of each onsite wetland and **Buffer** including a floristic inventory list, calculated mean C and **Floristic Quality Index (FQI)** calculated for each onsite wetland area.

15-48.A.1.d. Representative photos of each wetland and its associated **Buffer**.

15-48.A.1.e. Copies of the below listed information shall be provided:

15-48.A.1.e.1. Floristic Inventory List.

15-48.A.1.e.2. **NRCS** DuPage County Soil Survey map with legend identifying any mapped hydric soils.

15-48.A.1.e.3. IDNR Threatened and Endangered Species consultation (EcoCAT).

15-48.A.1.e.4. National Wetland Inventory Map.

15-48.A.1.e.5. DuPage County Wetland Inventory Map.

15-48.A.1.e.6. DuPage County Regulatory Floodplain Map and Flood Insurance Rate Map.

15-48.A.1.e.7. Site location map with approximate scale.

15-48.A.2 For critical **Wetland Impacts**, complete an **Alternatives Analysis** in accordance with Section 15-86.B.

15-48.A.3 For impacts to **Regulatory Wetlands/Waters of DuPage** greater than 0.1 acre total surface area, or Corps of Engineers jurisdictional waters or wetland, complete an alternative analysis in accordance with Section 15-86.C.

15-48.B **USACE** Jurisdictional Wetland. If a **USACE** jurisdictional wetland will be impacted, a copy of a Letter of No Objection, General, Regional, or Individual Permit shall be provided prior to issuance of the **Stormwater Management Certification**, unless the **Director** or **Administrator** concludes otherwise. In which case, the **Certification** can be conditioned to state that such work may not commence within or adjacent to the waters of the United States or wetland until receipt of the necessary **USACE** authorization.

15-48.C The following support documentation is required to be submitted. The **Administrator** or **Director** may waive the requirement to provide some or all of the following support documentation when considering the complexity and extent of the proposed **Development** and its impact:

15-48.C.1 Wetland delineation plan view that includes a depiction of the **Buffer** limits (Section 15-92).

15-48.C.2 Statement indicating the date of the wetland boundary verification and **OHWM** verification.

15-48.C.3 Indirect impact determination. When required, documentation including subarea **Watershed** map and

hydrologic calculations with a table summarizing results in accordance with the analysis in Section 15-87 is required.

15-48.C.4 Development narrative shall include the following applicable items:

15-48.C.4.a. Description of the functions of the impacted wetland or **Buffer**, and how the impacts will be mitigated.

15-48.C.4.b. Historic aerials, if available, to document the previous site conditions or the extent of farmed wetland.

15-48.C.4.c. Description of **Mitigation** method, location, and ratios.

15-48.C.4.d. Description of **Mitigation** area and plan objectives.

15-48.C.4.e. Description of management practices. The document shall include clarification that prescribed burns and herbicide applications must be performed by trained/licensed personnel under the proper permits.

15-48.C.4.f. Performance Standards.

15-48.C.4.g. Reporting requirements.

15-48.C.4.h. Hydrology monitoring methodology and goals.

15-48.C.4.i. Implementation schedule.

15-48.C.4.j. Native species list with quantities, size of stock, seeding rate and/or plug spacing.

15-48.C.4.k. Planting specifications and soil handling.

15-48.C.4.l. Cost estimate to include installation, management, monitoring, and reporting as anticipated to meet **Performance Standards**.

15-48.C.5 Plan view drawings and details, where applicable:

15-48.C.5.a. Existing and proposed topography.

15-48.C.5.b. Delineated wetland and **Waters of DuPage OHWM** boundary to a sub meter accuracy or better.

15-48.C.5.c. Buffer boundary.

15-48.C.5.d. Location of impacts to wetland and **Buffer**.

15-48.C.5.e. A table shall be provided on the plans listing the total acreage of the existing wetland and **Buffer** areas, and the proposed impact and **Mitigation** areas. These calculated areas should also be graphically highlighted.

15-48.C.6 Wetland and **Buffer Mitigation** plan, if applicable, shall contain the following information:

15-48.C.6.a. Delineate and label planting and seeding zones.

15-48.C.6.b. Delineate and label **Mitigation** and enhancement zones.

15-48.C.6.c. Existing and proposed topography.

15-48.C.6.d. Planting methodology and soil handling.

15-48.C.6.e. Proposed wetland and **Buffer** boundaries.

15-48.C.6.f. Native species list including size of stock, quantity, seed rate, and spacing of plugs.

15-48.C.6.g. Woody planting locations, if any.

15-48.C.6.h. Signage or physical barrier locations.

15-48.C.6.i. Monitoring well locations, if installed.

15-48.C.6.j. Permanent transect locations and photo-documentation points for monitoring, if required.

15-48.C.6.k. Maintenance and monitoring plan with **Performance Standards**.

15-49. Post Construction Best Management Practice Submittal. The Post Construction Best Management Practice (**PCBMP**) submittal shall include:

15-49.A A discussion documenting compliance with the requirements of Article VIII.

15-49.B A listing and discussion of all **PCBMPs** to be used.

15-49.C Supporting calculations documenting compliance with the volume reduction BMP requirements.

15-49.D For manufactured **PCBMPs**, the manufacturer documentation to support pollutant removal rates shall be supplied.

15-49.E A BMP specific planting/seeding plan for all areas to be vegetated which shall include:

15-49.E.1 Identified locations for all plantings (e.g., lawn, upland prairie, wet prairie, etc.), seeding and planting specifications and methodology.

15-49.E.2 A schedule for installation.

15-49.E.3 Proposed maintenance and monitoring provisions.

15-49.E.4 An opinion of probable cost to construct the **BMPs**.

15-50. Soil Erosion and Sediment Control Submittal Requirements.

15-50.A **Developments** that only require approval of the soil erosion and sediment control provisions of this Ordinance and do not require approval for any other aspect of this Ordinance shall be reviewed and processed as a **Letter of Permission (LOP)**. To be eligible for a **LOP**, in addition to the requirements of this Ordinance, the **Applicant** must certify that he is aware of the design requirements of the IEPA NPDES ILR10 permit and certify that the plan meets those requirements.

15-50.B For **Developments** with less than one acre of land disturbance that are not part of a larger common plan, a qualified designer shall certify that the **Development** meets the soil erosion and sediment control design criteria found in Article VII have been met. However, formal submittal of the information under Section 15-50.D. is unnecessary unless the **Director** or **Administrator** requests demonstration of compliance with these provisions.

15-50.C For **Developments** that disturb one or more acres of land area, or will disturb less than one acre of land, but are part of a larger common plan that will ultimately disturb one or more acre land area, the **Applicant** shall prepare and provide a copy of a SWPPP in accordance with the requirements of Illinois Environmental Protection Agency General NPDES Permit No. ILR 10, Part IV.D.1.a-f (Contents of Plan), Part IV.D.2.a-d (Controls), Part IV.D.3 (Maintenance) and Part IV.D.4.a-f (Inspections). The plan prepared for the SWPPP may be submitted as the SESC Plan for the **Development**.

15-50.D If the SESC plan does not appear adequate to comply with the design requirements of Article VII, in the opinion of the **Administrator**

or **Director**, then the **Administrator** or **Director** may require submittal of any or all of the following to demonstrate the plan's compliance. Site maps which indicate:

- 15-50.D.1** One foot contours with delineated sub-basins.
- 15-50.D.2** Approximate slopes anticipated before and after major grading activities.
- 15-50.D.3** Locations where vehicles enter or exit the site and, controls to prevent offsite sediment tracking areas, and concrete washout controls and procedures, limits of soil disturbance, and the location of major structural and nonstructural controls identified in the plan.
- 15-50.D.4** The location of areas where stabilization practices are expected to occur.
- 15-50.D.5** Surface waters (including **Wetlands**), and locations where stormwater is discharged to a surface water.
- 15-50.D.6** **Developments** that will extend through winter shall provide a description of winter specific soil erosion and sediment control measures to be implemented.
- 15-50.D.7** A description of the nature of the construction activity or demolition work.
- 15-50.D.8** A description of the intended sequence of major activities which disturb soils for major portions of the site (e.g., clearing, grubbing, excavation, grading) and construction stabilization schedule.
- 15-50.D.9** An estimate of the total area of the site, and the total area of the site that is expected to be disturbed by excavation, grading, or other activities.

15-51. Submittal Requirements for Development in the Regulatory Floodplain.

15-51.A **Developments** located in the **Regulatory Floodplain** shall, at a minimum, provide the following:

- 15-51.A.1** A copy of the effective **FIRM** drawn to scale and showing the limits of the **Regulatory Floodplain**, **Regulatory Floodway**, and the boundaries of the **Development Site**. If available, a **FIRMette** should be made for the **Development Site**. A **FIRMette** is a full-scale section of a **FEMA FIRM** that is created through **FEMA's** website.
- 15-51.A.2** Engineering calculations and designs that demonstrate the proposed **Development** meets the **Floodplain** requirements of this Ordinance. All calculations and designs shall be prepared, signed, and sealed by a **Professional Engineer**.
- 15-51.A.3** A topographical map of the **Development Site**, showing the boundaries of the **Development Site** and the limits of the existing and proposed conditions Zone A **Regulatory Floodplain** and **Regulatory Floodway**.
- 15-51.A.4** The **Applicant** shall obtain and provide copies of all required local, state, and federal permits prior to approval for a **Stormwater Management Certification**.

15-52. RESERVED

15-53. RESERVED

ARTICLE VI. PERFORMANCE SECURITY and EASEMENTS

15-54. Performance Security

15-54.A General Security Requirements.

15-54.A.1 As security to the **County** or the **Waiver Community** for the performance by the **Developer** of the **Developer's** obligations to complete the construction of any **Stormwater Facilities** required by the **Stormwater Management Certification**, to ensure that such **Stormwater Facilities** function as designed after construction, to pay all costs, fees, and charges due from the **Developer** pursuant to this Ordinance or the applicable **Waiver Community Ordinance**, and to otherwise faithfully perform the **Developer's** undertakings pursuant to this Ordinance or the applicable **Waiver Community Ordinance**, the **Developer** shall, prior to issuance of a **Stormwater Management Certification** and in accordance with Section 15-40.D, post performance security and grant easements as hereafter described.

15-54.A.2 The **Developer** shall bear the full cost of securing and maintaining the securities required by this Article VI in accordance with Section 15-40.D.

15-54.A.3 Performance Security required by this Article VI may be posted in the form of one or more surety instruments as the **Director**, or **Administrator**, deems appropriate for the proposed **Development**.

15-54.A.4 Public bodies shall not be required to post Performance Security under this Article VI for **Development** activities which involve construction, improvement, relocation, or demolition work paid for in whole or in part with public funds.

15-54.A.5 The **Developer** shall grant the **County**, or **Waiver Community**, a temporary easement which authorizes, but does not obligate, the **County**, or **Waiver Community**, to access the **Development Site** to perform or complete any act or work the **Developer** is required to do by the **Stormwater Management Certification** which may include; (i) the construction of any required **Stormwater Facilities**; (ii) restoration and/or **Mitigation** of natural areas, **Wetlands** and **Buffers**; (iii) installation and **Maintenance** of soil erosion control; (iv) planting or removal of vegetation; and (v) any other maintenance or monitoring. The term for such easements shall be of sufficient duration as necessary to allow the **County**, or **Waiver Community**, to perform and satisfactorily complete any activity or work for which the **Developer/certificate holder** has posted security under this Article VI.

15-54.B Development Security

15-54.B.1 A development security shall be posted and shall include:

15-54.B.1.a. A schedule, agreed upon by the **Developer** and the **Director** or the **Administrator**, for the completion of

the construction of any **Stormwater Facilities** required by the **Certification**; and

15-54.B.1.b. An irrevocable letter of credit, or such other adequate security as the **Director** or the **Administrator** may approve, in an amount equal to not less than one hundred ten percent (110%) of the estimated probable cost to complete the construction of any **Stormwater Facilities** required by the **Stormwater Management Certification**, which estimated probable cost shall be approved by the **Director** or the **Administrator**; and

15-54.B.1.c. A statement signed by the **Applicant** granting the **Director** or the **Administrator** the right to draw on the security and the right to enter the **Development Site** to complete required work in the event that work is not completed according to the work schedule; and

15-54.B.1.d. A statement signed by the **Applicant** that the **Applicant** shall indemnify the **Community** and the **Department** for any additional costs incurred attributable to concurrent activities of or conflicts between the **Applicant's** contractor and the **Community's** or **Department's** remedial contractor at the site.

15-54.B.2 The security required by this Section 15-54.B shall be maintained and renewed by the **Applicant**, and shall be held in escrow by the **Director** or the **Administrator** until the conditions set forth in this Section 15-54.B.2 and Section 15-55 or other applicable provision are satisfied.

15-54.B.3 After approval of **Record Drawings** and final inspection of any constructed **Stormwater Facilities** by the **Director** or the **Administrator**, not more than ninety percent (90%) of the security provided for in this Section 15-54.B or other applicable provision may be released. A minimum of ten percent (10%) of the security shall be retained after completion of construction of such **Stormwater Facilities**, for a period of time not less than one (1) year, to ensure the satisfactory performance of such **Stormwater Facilities**. The remaining Development Security shall be released after the **Director** or the **Administrator** verifies, by an inspection performed not sooner than one-year following the final construction inspection, that such **Stormwater Facilities** function as provided for in the **Certification**.

15-54.C Soil Erosion and Sediment Control Security

15-54.C.1 If a soil erosion and sediment control security is required pursuant to Section 15-40.D.2 of this Ordinance, such a security shall include:

15-54.C.1.a. An irrevocable letter of credit, or such other adequate security as the **Director** or the **Administrator** shall approve, in an amount equal to not less than one hundred ten percent (110%) of the estimated probable cost to install and maintain the erosion and sediment

control measures, which estimated probable cost shall be approved by the **Director** or the **Administrator**; and

15-54.C.1.b. A statement signed by the **Applicant** granting the **Director** or the **Administrator**, as applicable, the right to draw on the security and the right to enter the **Development Site** to complete erosion and sediment control measures in the event that such measures are not installed and maintained according to the established schedule.

15-54.C.2 The security required by this Section 15-54.C shall be maintained and renewed by the **Applicant**, and shall be held in escrow by the **Director** or the **Administrator**, as applicable, until the conditions set forth in Sections 15-54.C.3 and 15-55 are satisfied.

15-54.C.3 After establishment of vegetation, removal of all sediment from **Stormwater Facilities** unless designed otherwise, and final inspection and approval by the **Director** or the **Administrator**, as applicable, one hundred percent (100%) of the erosion and sediment control security shall be released.

15-54.D Natural Area Restoration, Wetland and **Buffer Mitigation** Area Security

15-54.D.1 Natural area restoration or wetland and **Buffer Mitigation** area security, in accordance with Section 15-40.D.3 shall be posted and shall include:

15-54.D.1.a. A schedule, agreed upon by the **Developer** and the **Director** or the **Administrator**, for the completion of a natural area restoration **Development** or completion of wetland or **Buffer Mitigation Development**; and

15-54.D.1.b. An irrevocable letter of credit, or other such adequate security as the **Director** or the **Administrator** may approve, in an amount equal to, not less than, one hundred ten percent (110%) of the estimated probable cost to plant, maintain and monitor all vegetated areas and/or complete the restoration or **Mitigation Development** for the agreed upon maintenance and monitoring period as required by the **Certification**. The estimated probable cost shall be approved by the **Director** or the **Administrator**; and

15-54.D.1.c. A statement signed by the **Applicant** granting the **Director** or the **Administrator** the right to draw on the security and the right to enter the **Development Site** to complete the work in the event that work is not completed according to the work schedule; and

15-54.D.1.d. A statement signed by the **Applicant** that the **Applicant** shall indemnify the **Community** and the **Department** for any additional costs incurred attributable to concurrent activities of, or conflicts between, the **Applicant's** contractor and the **Community's** or **Department's** remedial contractor at the site.

15-54.D.2 The security required by Section 15-54.D shall be maintained and renewed by the **Applicant**, and shall be held in escrow by the **Director** or the **Administrator** until the conditions set forth in Section 15-54.D.4 and Section 15-55, or other applicable provision are satisfied.

15-54.D.3 The natural area restoration or wetland and **Buffer Mitigation** areas security may be reduced at the discretion of the **Director** or **Administrator** as conditions are met, but must not be less than one hundred ten percent (110%) of the estimated probable cost to continue to meet all conditions or other applicable provisions

15-54.D.4 After approval by the **Director** or the **Administrator**, not more than ninety percent (90%) of the security provided for in this Section 15-54.D, or other applicable provision may be released. A minimum of ten percent (10%) of the security shall be retained for the length of the required monitoring period, which shall not be less than one (1) year from the completion of the initial restoration or **Mitigation** activities, to ensure the satisfactory establishment of any vegetated areas required by the **Certification**.

15-54.E Letters of Credit

15-54.E.1 Letters of credit posted pursuant to Section 15-54.B, 15-54.C, and 15-54.D of this Ordinance shall be in a form satisfactory to the **Director** or the **Administrator**, as applicable.

15-54.E.2 Each letter of credit shall be from a lending institution: (a) acceptable to the **Director** or the **Administrator**, as applicable; (b) having capital resources of at least ten million dollars (\$10,000,000), or such other amount acceptable to the **Director** or the **Administrator**; (c) with an office in the Chicago Metropolitan Area; and, (d) insured by the Federal Deposit Insurance Corporation.

15-54.E.3 Each letter of credit shall, at a minimum, provide that:

15-54.E.3.a. It shall not be canceled without the prior written consent of the **Director** or the **Administrator**; and

15-54.E.3.b. It shall not require the consent of the **Developer** prior to any draw on it by the **Director** or the **Administrator**; and

15-54.E.3.c. If at any time it will expire within 45 or any lesser number of days, and if it has not been renewed, and if any applicable obligation of the **Developer** for which its security remains uncompleted or is unsatisfactory, then the **Director** or the **Administrator** may, without notice and without being required to take any further action of any nature whatsoever, call and draw down the letter of credit and thereafter either hold all proceeds as security for the satisfactory completion of all such obligations or employ the proceeds to complete all such obligations and reimburse the **County** or the **Waiver Community** for any and all costs and expenses, including legal fees and

administrative costs, incurred by the **County** or the **Waiver Community**, as the **Director** or the **Administrator** shall determine.

15-54.E.4 If at any time the **Director** or the **Administrator** determines that the funds remaining in the letter of credit are not, or may not be, sufficient to pay in full the remaining unpaid cost of all **Stormwater Facility** construction or erosion and sediment control measures, then, within ten (10) days following a demand by the **Director** or the **Administrator**, the **Developer** shall increase the amount of the letter of credit to an amount determined by the **Director** or the **Administrator** to be sufficient to pay such unpaid costs. Failure to so increase the amount of the security shall be grounds for the **Director** or the **Administrator** to draw down the entire remaining balance of the letter of credit.

15-54.E.5 If at any time the **Director** or the **Administrator** determines that the bank issuing the letter of credit is without capital resources of at least ten million dollars (\$10,000,000), is unable to meet any federal or state requirement for reserves, is insolvent, is in danger of becoming any of the foregoing, or is otherwise in danger of being unable to honor such letter of credit at any time during its term, or if the **Director** or the **Administrator** otherwise reasonably deems the bank to be insecure, then the **Director** or the **Administrator** shall have the right to demand that the **Developer** provide a replacement letter of credit from a bank satisfactory to the **Director** or the **Administrator**. Such replacement letter of credit shall be deposited with the **Director** or the **Administrator** not later than ten (10) days following such demand. Upon such deposit, the **Director** or the **Administrator** shall surrender the original letter of credit to the **Developer**.

15-54.E.6 If the **Developer** fails or refuses to meet fully any of its obligations under this Ordinance or the applicable **Waiver Community Ordinance**, then the **Director** or the **Administrator** may, in his or her discretion, draw on and retain all or any of the funds remaining in the letter of credit. The **Director** or the **Administrator** thereafter shall have the right to take any action he or she deems reasonable and appropriate to mitigate the effects of such failure or refusal, and to reimburse the **County** or the **Waiver Community** from the proceeds of the letter of credit for all of its costs and expenses, including legal fees and administrative expenses, resulting from or incurred as a result of the **Developer's** failure or refusal to fully meet its obligations under this Ordinance or the applicable **Waiver Community Ordinance**. If the funds remaining in the letter of credit are insufficient to repay fully the **County** or the **Waiver Community** for all such costs and expenses, and to maintain a cash reserve equal to the required letter of credit during the entire time such letter of credit should have been maintained by

the **Developer**, then the **Developer** shall, upon demand of the **Director** or the **Administrator** therefore, immediately deposit with the **Director** or the **Administrator** such additional funds as the **Director** or the **Administrator** determines are necessary to fully repay such costs and expenses and to establish such cash reserve.

15-55. Long-Term Access for **Maintenance** and Inspections.

15-55.A Access to privately-owned land for inspection and **Maintenance** of site runoff storage facilities, **Compensatory Storage** facilities, **Major Stormwater System**, and storm sewers covered by the **Certification** shall be through a grant of easement in a form approved by the **Director**, or the **Administrator**. Other instruments may be accepted by the **Director**, or **Administrator**, provided that the access and **Maintenance** rights granted runs with the land and survives title transfers.

15-55.B Subdivision site runoff storage areas, **Compensatory Storage** facilities, **Major Stormwater System**, and storm sewers not already located in dedicated rights-of-way or easements, shall be located either: (i) on a **Parcel** granted or dedicated to, and accepted by, a public entity; or, (ii) on a **Parcel**, or **Parcels**, conveyed by plat as undivided equal interests to each lot in the subdivision or otherwise conveyed or dedicated to conservation or land preservation entities approved by the **Director**, or the **Administrator**.

15-55.C When title to the land underlying site runoff storage areas and storm sewers is conveyed in undivided equal interests to the owner(s) of each of the lots within the subdivision the following apply:

15-55.C.1 A covenant shall appear on the face of the plat of subdivision, and on each deed conveying ownership of a subdivision lot, which states that title to such site runoff storage facilities and storm sewers shall be held in undivided equal interests by each lot owner within the subdivision; and

15-55.C.2 A covenant shall appear on the face of the plat of subdivision, and on each deed conveying ownership of the subdivision lots, which states that in the event the governmental unit having easement rights under Section 15-55.A exercises its right to perform **Maintenance** to such subdivision runoff storage facilities and storm sewers, that governmental unit may lien each lot within the subdivision for the costs of any **Maintenance** work performed; and

15-55.C.3 An owners' association may be established to provide for the **Maintenance** of the facilities, payment of property taxes, and the assessment and collection of owner dues or fees to fund said activities. Such associations shall be duly incorporated and the property owners' association's declaration of covenants and bylaws shall be recorded against the title for all lots in that subdivision.

15-55.D When title to the land underlying the site runoff storage areas and storm sewers are located on privately-owned land not falling within the scope of Section 15-55.C, the following shall apply:

15-55.D.1 The **Applicant** shall reserve an easement for access for **Maintenance** and inspection purposes to any governmental unit having drainage and, or, stormwater management jurisdiction over the property; and

15-55.D.2 The **Applicant** shall record a covenant against title stating that in the event the governmental unit having easement rights under Section 15-55.A exercises its right to perform **Maintenance** to site runoff storage facilities and storm sewers on that property, that governmental unit may lien the property for the costs of any **Maintenance** work performed.

15-56. RESERVED

15-57. RESERVED

ARTICLE VII. SOIL EROSION AND SEDIMENT CONTROL REQUIREMENTS

15-58. Soil Erosion and Sediment Control General Requirements

15-58.A Soil erosion and sediment control features shall be considered as part of any **Development's** initial site planning process. Soil erosion and sediment control related measures are required to be constructed and maintained for any land disturbance activity. The following factors shall be addressed:

15-58.A.1 The susceptibility of the existing soils to erosion

15-58.A.2 Existing native and mature vegetation

15-58.A.3 Existing natural or established drainage ways

15-58.A.4 The natural contours of the land

15-58.A.5 **Development** phasing

15-58.A.6 Emphasis first on erosion control, then sediment control.

15-58.A.7 Winter shutdown

15-58.B Temporary erosion and sediment control measures shall be functional and consistent with this Article of the Ordinance and the NPDES Stormwater Permit in effect prior to land disturbance activities.

15-58.C Soil disturbance shall be conducted in a manner that minimizes erosion. Areas of the **Development Site** that will not be graded shall be protected from construction traffic or other disturbance until stabilization of the disturbed areas has been completed.

15-58.D Soil stabilization measures shall include the use of temporary or permanent measures.

15-59. Soil Erosion and Sediment Control Plan Design Criteria

15-59.A **Channels** and adjoining properties shall be protected from erosion and sedimentation. Where concentrated flow leaves a **Development Site**, effective energy dissipation shall be placed onsite at discharge locations.

15-59.B Erosion control blanket shall be required on all interior site runoff storage facilities side slopes between normal water level and high water level.

15-59.C Erosion control blanket to be placed in wetland or **Buffer** shall be 100% biodegradable, unless an alternative material is approved by the **Director** or **Administrator**. This requirement does not include turf reinforcement mats or other structural materials necessary for high erosion or scour areas.

15-59.D Land disturbance activities in streams shall be avoided, where possible. If disturbance activities are unavoidable, the following requirements shall be met:

15-59.D.1 Temporary stream crossings shall be constructed of non-erosive material.

15-59.D.2 The time and area of disturbance of a stream shall be kept to a minimum. The stream, including bed and banks, shall be restabilized within 48 hours after **Channel** disturbance is completed.

15-59.E Soil erosion and sediment control measures shall be placed where there is a potential for erosion and sized appropriately for the

tributary drainage area, and disturbed areas draining less than one acre shall, at a minimum, be protected by a **Filter Barrier** (including filter fences, which at a minimum, meet the applicable sections of the AASHTO Standard Specification 288-00, or equivalent control measures) to control all off-site runoff from disturbed areas. The **Filter Barrier** shall be designed in accordance with the following:

15-59.E.1 The use of straw bales as a **Filter Barrier** or ditch check is prohibited.

15-59.E.2 **Silt Fences** can be used to intercept sheet flow only. **Silt Fences** cannot be used as velocity checks in ditches or swales, nor can they be used where they will intercept concentrated flows.

15-59.E.3 Ditch checks shall be constructed using non-erodible materials or prefabricated devices. Straw or hay bales are not acceptable.

15-59.E.4 Reinforced **Silt Fences** (normal **Silt Fence** reinforced with woven wire fencing) can be used to intercept sheet flow **Runoff** from disturbed areas greater than one acre.

15-59.E.5 All undisturbed wetland, **Floodplain**, waters and **Buffer** areas shall, at a minimum, have a barrier of protection. The barrier shall be placed at the limits of soil disturbance and consist of :

15-59.E.5.a. A dual row of **Silt Fence**, and a row of orange construction fence; or

15-59.E.5.b. A dual **Silt Fence** barrier, with one of the fences being of high visibility material.

15-59.E.5.c. Alternative practices offering comparable protection to wetland, **Floodplain**, waters, and **Buffer** may be used to prevent impact where applicable.

15-59.E.5.d. Additional soil erosion and sediment control measures may be required to adequately protect these sites.

15-59.F Disturbed areas with drainage areas of one (1) acre or greater, but fewer than 5 acres shall, at a minimum, be protected by a **Sediment Trap** or equivalent control measure at a point downslope of the disturbed area.

15-59.G Disturbed areas with drainage areas of five (5) acres or greater, shall, at a minimum, be protected by a **Sediment Basin**, in accordance with 15-59.H, with a perforated filtered riser pipe or equivalent control measure at a point downslope of the disturbed area.

15-59.H **Sediment Basins** shall have both a permanent pool (dead storage) and additional volume (live storage) with each volume equal to the **Runoff** amount of a 2 year, 6 hour event over the onsite hydrologically disturbed tributary drainage area to the **Sediment Basin**. The available sediment volume below normal water level, in addition to the dead storage volume, shall be sized to store the estimated sediment load generated from the site over the duration of the construction period. For construction periods exceeding 1 year, the 1 year sediment load and a sediment removal schedule may be submitted. If the site runoff

storage basin for the proposed **Development** condition of the site is used for **Sediment Basin**, the above volume requirements will be explicitly met. Until the site is finally stabilized, the basin permanent pool of water shall meet the above volume requirements and have a filtered perforated riser protecting the outflow pipe.

15-59.I Pumping sediment laden water into any **Stormwater Facility** that is not designated to be a sediment control measure, **Sediment Trap**, or **Sediment Basin** either directly or indirectly without filtration is prohibited.

15-59.J Water removed from traps, basins and other water holding depressions or excavations must first pass through a sediment control or filtration device. When dewatering devices are used, discharge locations shall be protected from erosion. Discharges shall be routed through an effective sediment control measure (e.g., **Sediment Trap**, **Sediment Basin** or other appropriate measure).

15-59.K All discharges to undisturbed area, stabilized area or watercourse shall be designed at a non-erosive velocity corresponding to the soil and vegetative cover of the undisturbed area.

15-59.L All storm sewers, storm drain inlets and culverts that are, or will be functioning during construction shall be protected by sediment control measures. The sediment and erosion control measures shall be maintained until the site is stabilized.

15-59.M A stabilized construction entrance of aggregate underlain with filter cloth, or graveled road, or access drive, or parking area of sufficient width and length, and/or vehicle wash down facilities, shall be provided to prevent soil from being tracked or deposited onto public or private roadways. Any soil reaching a public or private roadway shall be removed immediately, or as warranted, and transported to a controlled sediment disposal area.

15-59.N All temporary and permanent stormwater conveyance **Channels**, including ditches, swales, diversions, and the outlets of all **Channels** and pipes shall be designed and constructed to withstand velocities that have the potential to cause damage or soil erosion.

15-59.O Earthen embankments with constructed side slopes steeper than 3H:1V must be constructed with appropriate stabilization as approved by the **Director** or the **Administrator**.

15-59.P Temporary diversions shall be constructed, as necessary, to direct all **Runoff** through an effective sediment control measure (e.g., **Sediment Trap**, **Sediment Basin** or other appropriate measure).

15-59.Q To the extent possible, soil stockpile locations shall be shown on the soil erosion and sediment control plan.

15-59.R Soil stockpiles shall not be located in a drainageway, **Floodplain** area or a designated **Buffer**, unless otherwise approved, under specific conditions to be established by the **Director** or **Administrator**.

15-59.S Stockpiles to remain in place more than three days shall be provided with soil erosion and sediment control measures.

15-59.T The **Applicant** shall provide adequate receptacles for the deposition of all construction debris generated during the **Development** process. The **Applicant** shall not cause, or permit, the dumping,

depositing, dropping, throwing, blowing, discarding or leaving of construction material debris upon or into any **Development Site, Channel, pond, Lake, wetland, Buffer or Waters of DuPage County**. The **Applicant** shall maintain the **Development Site** free of uncontrolled construction debris. Construction site operators shall implement appropriate soil erosion and sediment control, and control waste such as, discarded **Building** materials, concrete truck washout, chemicals, litter, and sanitary waste that may cause adverse impacts to water quality.

15-59.U All temporary erosion and sediment control measures shall be removed within 30 days after final stabilization is achieved. Trapped sediment and other disturbed soils resulting from temporary measures shall be properly disposed of prior to permanent stabilization.

15-59.V Design criteria, standards and specifications for erosion and sediment control shall be taken from one of the following sources:

15-59.V.1 Handbooks: Standards and specifications contained in The Illinois Urban Manual, as amended, DuPage Appendix E **Water Quality Best Management Practices Technical Guidance** Manual and the IDOT Standard Specifications for Road and Bridge Construction.

15-59.V.2 Other design criteria, standards and specifications, provided prior written approval is obtained from the **Administrator or Director**.

15-59.W **Applicant** with land disturbing activities greater than 1 acre shall provide a statement acknowledging that the site complies with the IEPA NPDES ILR10 permit, if applicable.

15-60. Inspection. Inspections, remedial work, and record keeping for all soil erosion and sediment control related work shall be performed and documented by the **Applicant** in accordance with the requirements of Illinois Environmental Protection Agency General NPDES Permit No. ILR 10 for sites that fall within that jurisdiction.

15-61. RESERVED

15-62. RESERVED

ARTICLE VIII. POST CONSTRUCTION BEST MANAGEMENT PRACTICES

15-63. PCBMPs are required to treat the stormwater runoff for pollutants of concern and reduce **Runoff** volume for all **Developments**, with the exceptions and exclusions noted below. Upon a documented finding by the **Director** or **Administrator** that providing PCBMPs is impractical, then the appropriate PCBMP fee-in-lieu shall be paid by the **Applicant** in lieu of providing full or partial PCBMPs.

15-63.A PCBMPs are waived for the following **Developments**:

15-63.A.1 When comparing the **Impervious Area** of the **Pre-Development Site** to the with-development **Impervious Area** of the same **Development Site**, excluding any areas of the **Development Site** for which PCBMPs have already been provided and maintained, and the **Net New Impervious Area** is less than 2,500 square feet in the aggregate since April 23, 2013; or

15-63.A.2 The **Development** is limited to the resurfacing of an existing roadway; or reconstruction of an existing roadway with less than 2,500 square feet of **Net New Impervious Area** per quarter mile being added compared to the pre-development condition; or the replacement of an existing culvert or bridge; or

15-63.A.3 The **Development** is a Regional Stormwater Management Development or a **Flood Control Development** which are also considered to be PCBMPs; or

15-63.A.4 The **Development** is a stream bank stabilization, natural area restoration, or **Wetlands Mitigation** bank **Development**, or off-site wetland **Mitigation** which in itself is considered a PCBMP; or

15-63.A.5 The **Development** is limited to the construction, or reconstruction, of a pedestrian walkway/bike path, in which the pedestrian walkway/bike path shall not exceed sixteen (16) feet in width, including shoulders; and is being constructed for general public use; or

15-63.A.6 The **Development** is limited to the modification of an existing stormwater management facility to incorporate **Best Management Practices** which in itself is considered PCBMPs; or

15-63.A.7 The **Development** is a Water or Sewer Improvement Development; or

15-63.A.8 The **Development** is limited to construction or **Maintenance** of an underground or overhead utility conduit or line, with supports and appurtenances. This exception does not include **Buildings**, substations, pads, parking lots or other associated utility support facilities.

15-63.B The following are prohibited from providing on-site infiltration PCBMPs.

15-63.B.1 Fueling and vehicle maintenance areas.

15-63.B.2 Areas within 400 feet of a known **Community** water system well as specified, or within 100 feet of a known private

well, for **Runoff** infiltrated from commercial, industrial and institutional land uses. The **Applicant** shall use their best efforts to identify such zones from available information sources, which include the Illinois State Water Survey, IEPA, USEPA, DuPage County Health Department and the local municipality or water agency.

15-63.B.3 Areas where contaminants of concern, as identified by the USEPA or the IEPA prior to **Development**, are present in the soil through which infiltration would occur. For sites with a No Further Remediation (NFR) letter from the USEPA or IEPA, the **Applicant** shall determine whether or not structural barriers are part of the **Mitigation** strategy and account for such measures in the design.

15-63.B.4 **Development** in soils classified as Hydrologic Soils Group A by the **NRCS**.

15-63.B.5 **Developments** over soils with the seasonally high groundwater table within 2 feet of the surface.

15-64. Post Construction Best Management Practices Design Criteria.

15-64.A **PCBMPs** shall provide volume and pollutant control using one of the following practices:

15-64.A.1 Infiltration of 1.25 inches for all new impervious surfaces;
or

15-64.A.2 Native vegetated wetland bottom site runoff storage basin; or

15-64.A.3 **PCBMPs** not constructed pursuant to Sections 15-64.A.1 or 15-64.A.2 shall be constructed in accordance with 15-64.C.

15-64.B Design criteria may be taken from the DuPage Appendix E **Water Quality Best Management Practices Technical Guidance** Manual or approved equivalent.

15-64.C If the practices listed under 15.64.A.1 or 15.64.A.2 are not utilized, then volume control and pollutant control shall be provided separately for all new impervious surfaces in accordance with the following criteria:

15-64.C.1 The required volume control shall be calculated as the product of the **New Impervious Area** and a 1.25" rainfall event. No abstractions are taken on the rainfall depth.

15-64.C.2 The volume calculated shall be subtracted from any volume of site runoff storage that is also required.

15-64.C.3 A control structure or underdrain, may be used provided that the draw down time is between 48 and 96 hours.

15-64.C.4 When a trench or other excavation is used, the expected void space (typically no greater than 36%) within the uniformly graded stone, sand or aggregate portion of the fill material may be included in the volume calculation. Silt sized particles (1/16 mm) or smaller may not be used to complete this calculation. The design shall incorporate measures to protect the void space from long term deposition of fine sediments. If testing is completed on samples of the proposed fill material which indicates a higher level of porosity, the **Applicant** may submit

the analysis completed on the material along with the storage calculations.

15-64.C.5 The bottom/invert of the trench shall be set above the seasonally high water table.

15-64.C.6 **Applicants** shall identify the pollutants of concern that may be generated by the proposed **Development** from the following list: Total Suspended Solids (TSS); Metals and Oils; and Nutrients consisting of nitrogen and phosphorous. Proposed **PCBMPs** shall only be required to treat those pollutants identified and agreed to by the **Director** or **Administrator**.

15-65. Required **PCBMPs** for a **Development** may be located off-site as part of a regional stormwater device, practice or system, but must be within the same major **Watershed** as the **Development**. The 6 major **Watershed** divisions within the **County** are identified in Section 15-5.B.

15-66. RESERVED

15-67. RESERVED

15-68. RESERVED

15-69. RESERVED

15-70. RESERVED

ARTICLE IX. SITE RUNOFF CONVEYANCE, STORAGE & FIELD TILES

15-71. Site Runoff Conveyance Requirements

15-71.A Minor Stormwater Systems shall be sized to convey **Runoff** from the tributary **Watershed** under fully developed conditions consistent with the design requirements of the local jurisdiction.

15-71.B Major Stormwater Systems shall be sized to carry the **Base Flood** without causing additional property damage.

15-71.C Design runoff rates shall be calculated by methodologies in general use for such purposes at the time of application. **Stormwater Facilities** draining more than 5-acres shall use event hydrograph methods. The **Director** in a Non-Waiver **Community** or the **Administrator** in a **Partial Waiver** or **Complete Waiver Community** may specify certain design tools and methodologies to be used within the respective **Community**.

15-71.D Any design runoff rate method shall use Illinois State Water Survey Bulletin 70 northeast sectional rainfall statistics, as amended from time to time in accordance with state regulations, or for continuous simulations, the National Oceanic and Atmospheric Administration continuous rainfall record from 1949 to present at the Wheaton gage, and shall calculate flow from all tributary area upstream of the point of design. Facilities with a tributary area over 100-acres will be required to perform **Critical Duration** analysis and use the highest peak discharge for conveyance design, testing events up to a 24-hour duration.

15-71.E Maximum flow depths at the crown of a roadway or the edge of pavement at the high side of a super elevated roadway shall not exceed six inches during the **Base Flood** condition. This requirement does not apply to the at-grade repair, resurfacing or in-kind replacement of a roadway existing prior to the effective date of this Ordinance.

15-71.F Transfers of waters between the major planning **Watersheds** shall be prohibited except when such transfers will not violate the provisions of Section 15-27.A.

15-71.G Stormwater Facilities for **Runoff** upstream of **Flood** protection facilities shall provide for conveyance or storage of **Flood** waters without increased potential for damage to real or personal property during **Base Flood** conditions.

15-72. Site Runoff Storage. Site runoff storage facilities, consisting of site runoff storage and a control structure with an emergency overflow shall be required for all **Developments**.

15-72.A The following cases or special conditions represent exceptions to providing site runoff storage:

15-72.A.1 When comparing the **Impervious Area** of the pre-development **Development Site** as it existed as of February 15, 1992 to the with-development **Impervious Area** of the same **Development Site**, excluding any areas of the **Development Site** for which detention has already been provided, and the **Impervious Area** has not increased by a minimum of 25,000 sq. ft cumulatively of permitted **Development**; or

- 15-72.A.2** When comparing the highest percentage of **Impervious Area** of the same **Development Site** in the 3-years immediately prior to the date of the **Stormwater Management Certification** application to the with-development **Impervious Area** the percentage will decrease by a minimum of 5%; or
- 15-72.A.3** The with-development **Impervious Area** of the same **Development Site** is less than or equal to 10%; or,
- 15-72.A.4** The **Development** is strictly limited to a **Roadway Development** intended for public use, and the with-development **Impervious Area** is less than 25,000 square feet compared to pre-development conditions.
- 15-72.B** When the **Development** is either a **Roadway Development** or an **Open Space Development**, which are “Special Cases of Development” as noted in Section 15-41, then only “Site Runoff Storage Special” is required. Site Runoff Storage Special shall be only that volume of site runoff storage required such that pre-development peak discharges for the 2-year, 24-hour duration and the 100-year, 24-hour duration rainfall events are not increased.
- 15-72.C** The following “Special Cases of Development” are not required to provide Site Runoff Storage or “Site Runoff Storage, Special”:
- 15-72.C.1** Bridge and culvert modification, repair, and replacement **Developments**; or
- 15-72.C.2** Streambank stabilization **Developments**; or
- 15-72.C.3** Natural area restoration **Developments**; or
- 15-72.C.4** Wetland **Mitigation** sites and wetland **Mitigation** banks; or
- 15-72.C.5** Trails, bikeways and pedestrian walkways that shall not exceed sixteen (16) feet in width, including shoulders; and are being constructed for general public use; or
- 15-72.C.6** **Water and Sewer Improvement Developments** and all underground utilities.
- 15-72.D** When site runoff storage is required, it will be calculated as a volume utilizing the following **Development** parameters and procedures.
- 15-72.D.1** The area for which site runoff storage is to be calculated will be the limits of grading or land cover disturbance, or a combination, whichever encompasses the greatest area of the **Development Site**, and will also include any **Development** area for which site stormwater storage was deferred in Section 15-72.A.1.
- 15-72.D.2** The **Runoff** characteristics of the area will be indexed by calculating a representative hydrologic parameter. This parameter will be the **NRCS** Curve Number unless the **Administrator** approves the use of some other generally accepted engineering practice.
- 15-72.D.3** The design rainfall depth and duration will be the 100-year, 24-hour duration ISWS Bulletin 70 rainfall depth, as amended from time to time in accordance with state regulations. Sectional statistics and rainfall distributions by Huff appropriate

for a 100-year, 24-hour event shall be used unless some other rainfall and distribution is approved by the **Administrator**.

15-72.D.4 For purposes of calculating the required volume, a control structure shall be assumed that limits the peak runoff from the site to 0.10 cfs/acre for the disturbed area.

15-72.D.5 For sites less than 5-acres in area, the unit area site runoff storage nomograph from the Northeastern Illinois Planning Commission (now known as CMAP) publication "*Investigation of Hydrologic Methods for Site Design in Northeastern Illinois*" (Dreher and Price, 1991) will be considered an acceptable calculation methodology for determining the volume of site runoff storage required in lieu of modeling.

15-72.D.6 For sites 5-acres or greater, a hydrologic model that produces a runoff hydrograph shall be utilized, and the runoff hydrograph routed through a basin which provides sufficient storage such that the combination of control structure and runoff storage volume limits the discharge to the allowable peak runoff. The calculated volume is then the required site runoff storage volume. This volume may be reduced by any volume control BMP (see Article VIII) volume if such a volume is required, and is then referred to as the Modified Required Site Runoff Storage Volume.

15-72.D.7 On **Development Sites** that have an existing site runoff storage facility, the volume of site runoff storage required, for a proposed **Development** shall not be less than the volume on-site pre-development, regardless of the provisions of this section.

15-72.E The details of the design of a site runoff storage facility, which includes a site runoff storage control structure in accordance with Section 15-73 (sideslopes, depths, etc.), will be in accordance with any applicable ordinances of the **Waiver Community** or in the unincorporated **County**, those of the **County**.

15-72.F If a **Development** is granted a **Variance** with respect to the required site runoff storage volume, then the **Applicant** shall pay a fee-in-lieu of site runoff storage per Section 15-97.

15-72.G Small areas of the disturbed area of a **Development Site** (less than 5% cumulatively) that are impractical to drain to a site runoff storage facility (backslopes of landscaping berms for example) may be allowed to drain off-site without routing through a site runoff storage facility provided that the areas are primarily vegetated and contain only incidental amounts of impervious surfaces such as sidewalks, utility appurtenances, or trails. Such areas do not "penalize" the allowable release rate by subtracting the anticipated 100-year discharge from these areas from the release rate, but may not be included in the area used for calculating the allowable release rate.

15-73. Site Runoff Storage Control Structures

15-73.A A site runoff storage facility requires a control structure to meet the peak runoff rate requirements. Its design will be as follows, unless

an alternate design meeting the intent to provide site runoff storage of a determined volume is approved by the **Administrator**.

15-73.A.1 The **Structure** shall be designed so that within the elevation range at which the site runoff storage volume is provided, the calculated discharge from the **Structure** equals the product of 0.10 cfs/acre multiplied by the disturbed site area, assuming a free discharge.

15-73.A.2 An overflow conveyance system shall also be designed to convey a minimum design rate of 1-cfs/acre multiplied by the entire upstream drainage area without damaging any **Buildings** on site with overbank **Flooding**, and shall discharge at the same location as where water leaves the site pre-development. This location may be modified by the **Administrator**. This conveyance shall begin operation at the elevation at which the site runoff storage volume is met. If 100-acres or greater drains to the emergency overflow then the overflow is part of the major drainage system and it also falls under the provisions of Article X.

15-73.B For locations draining more than 5 acres, but less than 100-acres, the combination of control structure, site runoff storage and overflow conveyance shall be tested in a with-development hydrologic model and the design shall be further modified by adding additional site runoff storage, as necessary so that the **Pre-Development Site** 2-year and 100-year, 24-hour duration peak discharges are not increased compared to the with **Development Site** condition.

15-73.C For site runoff storage facilities with a tributary area 100 acres or greater at the control structure, in addition to the above requirements, the combination of control structure, site runoff storage and overflow conveyance shall not exceed the **Pre-Development Site** peak discharge in a 2-yr and 100-yr rainfall event of **Critical Duration** up to a 24-hour duration.

15-73.D Unless approved by the **Director** or the **Administrator**, all site runoff storage control structure designs shall operate without human intervention and, when requiring electric power, shall have at least two independent and **Flood** resistant sources of power.

15-74. Storage facilities located within the **Regulatory Floodplain** shall:

15-74.A Conform to all applicable requirements specified in Article X of this Ordinance; and

15-74.B Store the required site runoff under all stream flow and backwater conditions up to the **Base Flood Elevation**; and

15-74.C Not allow design release rates to be exceeded under any stream elevation less than the **Base Flood Elevation**.

15-75. Storage facilities located within the **Regulatory Floodway** shall:

15-75.A Meet the requirements for locating storage facilities in the **Regulatory Floodplain**; and

- 15-75.B Be evaluated by performing hydrologic and hydraulic analysis consistent with the standards and requirements for **Watershed Plans**; and
- 15-75.C Provide a **Watershed Benefit**.

15-76. Storage facilities may be located off-site if the following conditions are met:

- 15-76.A The off-site storage facility meets all of the requirements of this Article IX; and
- 15-76.B Adequate storage capacity in the off-site facility is dedicated to the **Development**; and
- 15-76.C The **Development** includes provisions to convey stormwater to the off-site storage facility.

15-77. Modifications to drainage tiles.

15-77.A Any modification of a drainage tile shall comply with the Illinois Drainage Code. For the purpose of determining compliance with this provision, a modification to a drainage tile shall:

15-77.A.1 Preserve the existing tile system's drainage characteristics; and

15-77.A.2 Drain tiles located wholly on property under the control of the **Developer** may be removed or disabled provided that such removal does not cause additional **Flood** damages; and

15-77.A.3 Drain tiles may be discharged as surface flow within a **Development Site** provided that no obstruction to the predicted flow from offsite areas will occur, and the general provisions of Section 15-27.A are not violated; and

15-77.A.4 **Development** designs may only utilize, where practical and approved by the **Director** or **Administrator**, outflow locations with an existing drain tile leaving the **Development Site** with the permission of downstream landowners unless the tile is owned and maintained by a unit of government; and

15-77.A.5 A subsurface connection to the tile shall be constructed as a low flow outlet. A surface outlet shall be designed for the **Development Site** outflows based on the assumption the downstream tile will cease to function; and

15-77.A.6 Drain tiles shall be replaced or intercepted and connected to the proposed stormwater management system or a storm sewer bypass, which system or bypass shall be of an equivalent size and capacity. The capacity shall be determined by either the capacity of the existing tile flowing full, in its original condition, or the existing downstream capacity, whichever is more restrictive. A flow restrictor structure shall be required as necessary to achieve the capacity requirements; and

15-77.A.7 Drain tile systems disturbed by **Development** activities shall be reconnected unless the approved drainage plan provides otherwise.

15-77.B Existing, replaced or re-routed tiles within a **Development Site** shall be treated as part of the minor drainage system. The type, size, location and inverts shall be shown on the **Record Drawings** of the

Development and any further modification to such tiles, or the repair or removal of damaged tiles, shall require the approval of the **Director** or the **Administrator**.

15-77.C When subsurface Drainage Tiles are detected on a **Pre-Development Site** the **Applicant** shall submit the following:

15-77.C.1 A subsurface drainage inventory including the locations of identified drainage tiles by means of slit trenching and other appropriate methods performed by a qualified subsurface drainage consultant. Any drain tile lines damaged during the investigation shall be repaired to their previous working status.

15-77.C.2 A topographical map of the **Development Site** showing:

15-77.C.2.a. Location of and depth of each slit trench, to correspond with the tile investigation report and surveyed points where the tile was field staked at approximately 50 foot intervals; and

15-77.C.2.b. Location of each drain tile with a flow direction arrow, tile size, and any connection to adjoining properties. A summary of the tile investigation report showing trench identification number, tile size, material and quality, percentage of the tile filled with water, percentage of restrictions caused by silting, depth of ground cover, and working status; and

15-77.C.2.c. The qualifications of the **Person** or firm conducting tile location investigation.

15-77.D Replacement of downstream drain tiles shall be required if the **Development Site** depends on those tiles for stormwater conveyance or water surface elevation control. Replacement of the downstream drain tiles is not required if a maintainable outlet for the site exists or is installed. Drainage tiles may be maintained, replaced or repaired for agricultural land use when undertaken in compliance with **NRCS** approved farming practices without requiring **Stormwater Management Certification**.

15-78. RESERVED

15-79. RESERVED

ARTICLE X. FLOODPLAIN MANAGEMENT

15-80. Determination of **Regulatory Floodplain**, **Base Flood Elevation (BFE)**, and **Regulatory Floodway**

15-80.A The **BFE** for purposes of establishing the low opening on **New Construction** of **Buildings** shall be taken from the higher of **BFEs** established by the current regulatory profile, or elevations established and published by the **Director** which meet the following conditions:

15-80.A.1 The **Director** certifies that adequate review and quality control has been performed on the hydrologic/hydraulic modeling, and **BFEs** have been established using acceptable methodology; and

15-80.A.2 The **Director** notifies an affected **Community** within the studied reach and makes available to that **Community** working input files for the hydrologic/hydraulic model; and

15-80.A.3 The **Director** publishes notice that the model will be used for the purpose of regulating new **Building** construction.

15-80.B The **BFE** for purposes of establishing **Compensatory Storage** will be based on the current regulatory model as determined in 15-80.D.

15-80.C If neither elevation identified in this section has been established, then the **BFE** shall be determined in accordance with 15-80.D.2.

15-80.D The regulatory **BFE** shall be taken as the 1% chance storm established from **Floodplain** studies that have been completed and adopted by **FEMA** as the **Regulatory Floodplain**. When a **BFE** has not been adopted by **FEMA** as regulatory, the following hierarchy of **Floodplain** studies shall be used to determine the **BFE**:

15-80.D.1 **Floodplain** studies that have been published by the **Director** in accordance with Section 15-80.A.

15-80.D.2 If no **Regulatory Floodplain** study or model published by the **Director** is available and the **Development** includes a **Channel** with a tributary area 100 acres or greater, or a depressional storage area with 20 acres or greater of tributary area, a site specific **Floodplain** study shall be required and the **BFE** shall be determined using **FEMA**-accepted models and methodology. If the chosen model is not FEQ, the **BFE** shall be based on the **Critical Duration**.

15-80.E Where a **Channel** has a tributary drainage area equal to or greater than 640 acres, the site specific **Floodplain** study completed in Section 15-80.D.2 shall be submitted to IDNR-**OWR** for approval or other designee.

15-80.F The **Regulatory Floodway** shall be as delineated on the maps listed in Exhibit 2. Where interpretation is required to determine the exact location of the **Regulatory Floodway**, IDNR-**OWR** shall be contacted or their designee.

15-80.G If a **Floodway** is not designated on the maps in Exhibit 2 and the tributary area is one square mile or greater, IDNR-**OWR** Part 3708 rules shall apply. If a **Floodway** is not designated on the maps in Exhibit 2 and the tributary area is less than one square mile, then the **Regulatory Floodplain** shall have no designated **Floodway**.

15-80.H The **Flood Protection Elevation (FPE)** is the **BFE** plus one foot of freeboard.

15-81. Regulatory Floodplain Development Performance Standards

15-81.A General Performance Standards

15-81.A.1 No **Development** activity within the **Floodplain** shall result in an **Adverse Hydraulic Impact** to upstream or downstream properties.

15-81.A.2 Proposed **Developments** that meet the following criteria shall be exempt from the hydrologic and hydraulic modeling requirements set forth in the Ordinance:

15-81.A.2.a. A **Development** that is located in the **Regulatory Floodplain** but is located entirely outside of the **Regulatory Floodway**, provided the **Development** meets the **Compensatory Storage** requirements of Section 15-81.D.

15-81.A.2.b. The construction of an at-grade pedestrian path located within the **Regulatory Floodway**, provided the proposed **Development** meets the following requirements which results in a **Development** that does not increase the **BFE**:

15-81.A.2.b.1. The **Development** must have an at-grade intention, with a reasonable balance of cut and fill at each cross-section based on the judgment of the **Director**. Net cut over the length of the **Development** is acceptable where a balance of cut and fill at every cross-section cannot be achieved.

15-81.A.2.b.2. The maximum width of the proposed path is sixteen (16) feet of traveled lane, including shoulders.

15-81.A.2.c. The construction of a public safety feature, such as a pedestrian bridge railing or a guard rail for a roadway, provided the proposed construction of a public safety feature does not result in a loss of 10% or more of the existing conveyance cross-sectional area.

15-81.A.2.d. **Developments** replacing culverts with a hydraulically equivalent culvert(s).

15-81.A.3 A **CLOMR** shall be required for any **Development** that either: (1) revises the **Regulatory Floodway** boundary or (2) encroaches upon a **Floodplain** and causes a specified increase in the **BFE**, in accordance with **FEMA** and State regulations.

15-81.A.4 In accordance with **NFIP** Regulations, a building permit shall not be issued for construction in the **SFHA** until a **LOMR** is issued by **FEMA** unless the **Building** meets the **Building** protection standards in Section 15-81.B. A building permit for a compliant **Structure** can be issued without a **LOMC**.

15-81.A.5 A copy of an application for a **LOMC** to remove a property from the **SFHA** including all the required information,

calculations, and documents shall be submitted to the **Department** and **Waiver Community** concurrent with the application to **FEMA** or **IDNR-OWR** or its designee.

15-81.A.6 In areas outside the **Regulatory Floodway** but within the **Floodplain**, maximum flow depths on new parking lots that are used for permanent parking shall not exceed one foot during the **Base Flood** condition and shall be designed for protection against physical **Flood** damages. Parking areas that are used solely for the purpose of overflow, temporary, or short-term parking may allow **Flood** depths greater than one foot. Parking in areas below the **Base Flood Elevation** shall be clearly posted with **Flood** Hazard signs.

15-81.B Building Protection Standards

15-81.B.1 If a proposed **Building** is located in a **SFHA**, all **New Construction** and **Substantial Improvements** shall (i) be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of **Building** resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. (ii) be constructed with materials resistant to **Flood** damage, (iii) be constructed by methods and practices that minimize **Flood** damages, and (iv) be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of **Flooding**. Existing **Buildings** that have not incurred **Substantial Damage** or meet the **Substantial Improvement** criteria may also be modified based on the above criteria. All construction below the **FPE** shall be of **Flood** resistant materials and conform to provisions in **FEMA/FIA** Technical Bulletin 2. All electrical, heating, ventilation, air conditioning, plumbing, and other appliances shall be located above the **FPE**. Storage of materials shall be in accordance with Section 15-81.C.1, which states that there can be no storage of certain listed materials below the **FPE**.

15-81.B.2 **New Construction** or **Substantial Improvements** of residential **Buildings** within a **SFHA** shall have the **Lowest Floor** elevated to at least the **FPE** and that the fully enclosed areas below the **Lowest Floor** that are usable solely for parking of vehicles, **Building** access or storage in an area other than a basement and which are subject to **Flooding** shall be designed to automatically equalize hydrostatic **Flood** forces on exterior walls by allowing for the entry and exit of **Floodwaters**. Designs for meeting this requirement must either be certified by a registered **Professional Engineer** or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to **Flooding** shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens,

louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of **Floodwaters**. Adequate drainage shall be provided.

15-81.B.3 New Construction and Substantial Improvements of non-residential **Buildings** within a **SFHA** shall (i) have the **Lowest Floor** elevated to at least the **FPE** or, (ii) together with attendant utility and sanitary facilities be designed so that below the **FPE** the **Building** is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Where a non-residential **Structure** is intended to be made watertight below the **FPE**, (i) a registered **Professional Engineer** or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the applicable provisions of 44CFR60.3 and (ii) a record of such certificates which includes the specific elevation (in relation to sea level) to which such **Buildings** are **Floodproofed** shall be maintained by the official designated by the **Community** under 44CFR59.22.

15-81.B.4 Manufactured Homes that are placed or substantially improved within the **SFHA** on sites (i) outside of a **Manufactured Home Park** or subdivision, (ii) in a **New Manufactured Home Park** or subdivision, (iii) in an **Expansion to an Existing Manufactured Home Park** or subdivision, or (iv) an **Existing Manufactured Home Park** or subdivision on which a **Manufactured Home** has incurred **Substantial Damage** as the result of a **Flood** be elevated on a permanent foundation such that the **Lowest Floor** of the **Manufactured Homes** to at least the **FPE**, be securely anchored to an adequately anchored foundation system to resist floatation, collapse and lateral movement in accordance with the rules and regulations for the Illinois Mobile Home Tie-Down Act issued pursuant to 77 Ill. Adm. Code 870, provide adequate access and drainage and if pilings are used for elevation, applicable design and construction standards for pilings shall be met.

15-81.B.5 RESERVED

15-81.B.6 Recreational Vehicles placed on sites within a **SFHA** be either (i) be on the site for fewer than 180 consecutive days, (ii) be fully licensed and ready for highway use, or (iii) meet the permit requirements of 44CFR60.3(b)(1) and the elevation and anchoring requirements of Section 15-81.B.4. A **Recreational Vehicle** is ready for highway use if it is on its wheels or jacking system, is attached to the site only by a quick disconnect type utilities and security devices, and has no permanently attached additions.

15-81.B.7 Accessory Structures such as detached garages and sheds may be constructed within a **SFHA** if they meet all of the following criteria:

15-81.B.7.a. Must be non-habitable, used for the storage of vehicles and tools, and cannot be modified later into another use.

15-81.B.7.b. Shall be located outside of the **Regulatory Floodway**.

15-81.B.7.c. Shall be on a single lot and be accessory to an existing principal **Building** on the same lot.

15-81.B.7.d. When the floor of an **Accessory Structure** is below the **BFE**, the walls of the **Accessory Structure** shall include openings to allow **Floodwater** to enter the **Structure** from the adjacent grade to the **BPE**. The location of the openings and the size of each opening shall be in accordance with **FEMA** Technical Bulletin 1.

15-81.B.7.e. All electrical, heating, ventilation, air conditioning, plumbing, and other appliances, or fixed mechanical or electrical devices shall be located above the **FPE**.

15-81.B.7.f. The detached garage must be less than fifteen thousand dollars (\$15,000) in market value or replacement cost, whichever is greater, or less than five hundred and seventy six (576) square feet in size.

15-81.B.7.g. Shall be anchored to resist floatation and overturning.

15-81.B.7.h. All flammable or toxic materials (gasoline, paint, insecticides, fertilizers, etc.) shall be stored above the **FPE**.

15-81.B.7.i. All construction below the **FPE** shall be of **Flood** resistant materials.

15-81.C Public Health Protection Standards

15-81.C.1 Temporary or permanent storage in the **Floodplain** of the following are prohibited unless elevated or **Floodproofed** to one foot above the **Base Flood Elevation**:

15-81.C.1.a. Items susceptible to **Flood** damage; or

15-81.C.1.b. Unsecured buoyant materials or materials that may cause off-site damage including bulky materials, flammable liquids, chemicals, explosives, pollutants, or other hazardous materials; or

15-81.C.1.c. Landscape wastes.

15-81.C.2 On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during **Flooding**.

15-81.C.3 Sanitary sewer systems shall be designed to eliminate infiltration or inflow of **Flood** waters and minimize discharge of sewage.

15-81.D **Compensatory Storage** Volume Standards

15-81.D.1 Any placement of fill, **Structures**, or other materials above grade in the **Floodplain** shall require **Compensatory**

Storage equal to at least 1.5 times the volume of **Floodplain** storage displaced. The storage shall be provided incrementally using one of the following methods: i) between the 0 - 10-year and the 10 - 100-year **Flood** recurrence intervals; or ii) an approved equivalent, at a minimum 1:1 ratio. The remaining 0.5:1 required storage ratio can be provided at any elevation below the **BFE**. **Compensatory Storage** for fill in depressional storage areas shall be provided non-incrementally at a ratio of 1:1. Grading in wetland, **Floodplain**, or **Buffer** areas shall be done in such a manner that the effective **Floodplain** storage is maintained at all times. **Compensatory Storage** is not required for **Flood** protection of existing **Buildings** for **Floodplain** volume displaced by the **Building** and within the area of 10 feet adjacent to the **Building**.

15-81.D.2 For areas where there is no defined **Regulatory Floodway** and a tributary drainage area less than 640 acres, the **Compensatory Storage** requirements set forth in Section 15-81.D shall be waived for **Developments** that meet either of the following criteria:

15-81.D.2.a. The cross-sectional **Floodplain** area, as defined by cross-sections through the **Development Site**, is not reduced by more than 0.5% at any one cross-section; or

15-81.D.2.b. The total fill volume does not exceed 200 cubic feet.

15-81.D.3 Existing **Flood** storage that is lost due to **Channel** modification shall require **Compensatory Storage** at a 1:1 ratio.

15-81.D.4 **Floodplain** fill resulting from public **Roadway** **Developments** shall require incremental **Compensatory Storage** at a 1:1 ratio.

15-81.D.5 Any removal, replacement, or modification of **Stormwater Facilities** that has an **Adverse Hydraulic Impact** shall provide a **Watershed Benefit** and shall require **Compensatory Storage** to mitigate for any potential increases in flow or **Flood** elevations. All **Structures** and their associated low entry elevations within the created backwater of the existing **Stormwater Facility** shall be identified.

15-82. Regulatory Floodway Performance Standards

15-82.A In the **Regulatory Floodway**, all of the requirements of Article X shall apply to any proposed **Development**, and only the following **Appropriate Uses** shall be considered for **Certifications**:

15-82.A.1 **Flood** control structures, dikes, **Dams** and other public works or private improvements relating to the control of drainage, **Flooding** or erosion or water quality or habitat for fish or wildlife;

15-82.A.2 **Structures** or facilities relating to the use of, or requiring access to, the water or shoreline, such as pumping and treatment facilities, and facilities and improvements related to recreational boating, commercial shipping and other functionally dependent uses;

- 15-82.A.3 Storm and sanitary sewer outfalls;
- 15-82.A.4 Underground and overhead utilities;
- 15-82.A.5 Recreational facilities such as playing fields and trail systems including any related fencing built parallel to the direction of **Flood** flows;
- 15-82.A.6 Bridges, culverts, roadways, sidewalks, and railways, and any modification thereto;
- 15-82.A.7 **Regulatory Floodway** regrading, without fill, to create a positive slope toward a watercourse;
- 15-82.A.8 **Floodproofing** activities to protect existing **Structures** such as, but not limited to, constructing water tight window wells, and elevating, without enlarging the footprint;
- 15-82.A.9 In-ground swimming pools, without fill.
- 15-82.B Hydrologic and hydraulic impacts of proposed **Developments** located in the **Regulatory Floodway** shall be evaluated using one of the appropriate models as described in the following hierarchy:
 - 15-82.B.1 **FEMA** approved **Floodplain** study model.
 - 15-82.B.2 **Watershed Plan Models** or models published by the **Director**.
 - 15-82.B.3 **Development** specific model using **FEMA**-accepted methodology.
- 15-82.C If the hydrologic and hydraulic impacts of **Developments** located in the **Regulatory Floodway** are to be evaluated using FEQ, the following modeling guidelines shall apply:
 - 15-82.C.1 FEQ models that have been submitted to or approved by **FEMA** or FEQ models that have been published by the **Director** shall be used. Any other FEQ models considered for use in the **Certification** of a proposed **Development** is at the discretion of the **Director**.
 - 15-82.C.2 **Developments** consisting wholly of stream bank stabilization will not require the use of the FEQ model provided that the cut and fill portions of the **Development** are balanced.
 - 15-82.C.3 Use of the FEQ model to evaluate hydrologic and hydraulic impacts to **Wetlands** will only be required for wetland areas that are located within the 100-year recurrence interval **Floodplain**, where the existing FEQ model is the regulatory model.
 - 15-82.C.4 Evaluation of the results of the FEQ model will use the following thresholds to determine no adverse impact. In evaluating FEQ results, it is understood that the term “increases” as used below constitutes a numeric model tolerance and shall not be understood to endorse increasing **Flood** flows or **Flood** elevations.
 - 15-82.C.4.a. There will be no increase in elevation for any storm event greater than 0.1 feet. If this threshold is exceeded, the **Applicant** shall prepare a trend analysis to show if there are any consistent frequency (depth and duration) of storm events that cause impacts greater than 0.1 feet. If there are no trends determined, then outliers

with 0.25 feet or less shall be acceptable. If a trend is discernible, the **Development** shall be reevaluated to avoid adverse impacts within the determined trend. A trend is considered 3 or more events within 0.5 feet of depth that show increases greater than 0.1 feet.

15-82.C.4.b. No increase in flow greater than 10%.

15-82.C.4.c. No increase in velocity greater than 10%, unless there is either protection to prevent erosion or evidence that the proposed velocity will be non-erosive.

15-82.D All **Developments** shall preserve effective **Floodway Conveyance** such that there will be no increases in 100-year **Flood** elevations, flows, or **Floodway** velocity, unless any such increases are contained in a **Public Flood Easement** and a **Watershed Benefit** is provided. Increases in **Flood** elevations of 0.1 feet or less associated with bridge and culvert construction are allowable, in accordance with IDNR-OWR Part 3700 and 3708 rules.

15-82.E Transition sections within the **Regulatory Floodway** are required for the calculation of effective conveyance including the modification and the replacement of existing bridge and culvert **Structures**, or to compensate for lost conveyance for other **Appropriate Uses**. The following ratios shall be used to calculate transition sections:

15-82.E.1 Water will expand no faster than one foot horizontal for every four feet of **Flooded** stream length.

15-82.E.2 Water will contract no faster than one foot horizontal for every one foot of **Flooded** stream length.

15-82.E.3 Water will not expand or contract faster than one foot vertical for every 10 feet of **Flooded** stream length.

15-82.F For bridge and culvert replacements within the **Regulatory Floodway** where a hydraulic analysis of the **Floodplain** is required, a separate **Floodway** analysis shall not be required provided that the pre- and post-construction **BFE** is not increased based on the hydraulic analysis of the **Floodplain**.

15-82.G For proposed **Developments** that require a **Floodway** construction permit, the **County** has been delegated the authority to issue **Floodway** construction permits on behalf of IDNR-OWR. However, a permit application must still be submitted to IDNR-OWR. The **County** does not have delegated authority for specific types of permitting, including:

15-82.G.1 Permitting of **Developments** undertaken by federal or state agencies including those that are funded, planned, or designed by federal or state agencies.

15-82.G.2 Permitting of **Developments** undertaken by the **Department**, including those in which the **Department** is involved in the planning or design.

15-82.G.3 Permitting of jurisdictional **Dams**.

15-82.G.4 Permitting of work in public bodies of water, as defined by IDNR-OWR.

15-82.G.5 State approval of new or revised **Regulatory Floodway** limits or regulatory flood profiles.

15-82.G.6 State certification of **Flood** discharges.

15-82.G.7 State approval of **BFE** determinations where no regulatory **BFE**'s currently exist and the drainage area of the watercourse is one square mile or greater.

15-83. RESERVED

15-84. RESERVED

ARTICLE XI. WETLANDS

15-85. Requirements for Wetland Delineation

15-85.A The following should be completed as part of an onsite procedure, unless the **Director** or **Administrator** concludes otherwise. The decision shall be based on review of available resources, current or prior site knowledge, a site visit, or staff recommendations, or the results of Section 15-85.B.1. The basis for the decision shall be documented and placed in the **Development** file.

15-85.B The boundaries, extent, **Hydrology**, function and quality of all wetland areas on the subject property shall be determined by an **Environmental Scientist** in accordance with the Federal wetland delineation methodology. All **Development Site** wetland boundaries shall be demarcated in the field and verified by an **Environmental Scientist** representing the **County**, or the **Complete Waiver Community** where the wetland is located. Verified wetland boundaries are valid for two years after the date of verification.

15-85.B.1 If an **Environmental Scientist** confirms that no **Wetlands** are present on or within 100 feet of the **Development Site**, the **Director**, or **Administrator** within a **Complete Waiver Community**, shall document those findings.

15-85.B.2 If **Wetlands** or waters are determined to be present, a delineation report shall be prepared documenting boundaries, extent, function, and quality of wetland, waters, and **Buffers** in compliance with all methodologies and definitions set forth in this Ordinance, or the applicable **Waiver Community Ordinance**.

15-85.C The boundaries, extent, **Hydrology**, function, and quality of all wetland areas on sites in agricultural production shall be determined by an **Environmental Scientist** in accordance with the current methodology. Agricultural areas that have been abandoned for five, or more, consecutive years shall be delineated in accordance with the current Federal wetland delineation methodology authorized under Section 404 of the Clean Water Act.

15-85.D The approximate location, extent, and relative quality of off-site **Wetlands** within one hundred (100) feet of the **Development** shall be identified by using the first of the following documents or procedures applicable at the time of delineation:

15-85.D.1 Site specific delineation according to the procedures specified in accordance with the Federal wetland delineation methodology.

15-85.D.2 Wetland signatures identifiable from historic and current aerial photography, as determined by an **Environmental Scientist**.

15-85.D.3 DuPage County Wetland Inventory Maps.

15-85.D.4 US Fish and Wildlife Service, National Wetland Inventory Maps.

15-85.D.5 **Wetlands** identified in **Interim Watershed Plans**.

15-85.D.6 **Wetlands** identified in **Watershed Plans**.

- 15-85.E Wetlands** shall be classified as either critical or regulatory based on the evaluation of the entire wetland complex. Critical wetland status shall be assigned to those **Wetlands** that have been determined to satisfy one of the following Sections 15-85.E.1 through 15-85.E.5 below:
- 15-85.E.1** Calculate the wetland Qualitative Value using the Modified Michigan Department of Natural Resources Method. A score of 5 or higher will be considered a critical wetland. Alternatively, the mean rated wildlife quality (MRWQ) can be calculated using the Ludwig Wildlife Habitat Evaluation Method. A score of 8 or higher will be considered critical wetland. If both methods are completed, the MRWQ shall prevail.
 - 15-85.E.2** The plant community within the wetland is determined to have a native floristic quality index (nFQI) of 20 or higher during a single growing season assessment or a native mean C-value of 3.5 or greater, as calculated by the Swink & Wilhelm methodology.
 - 15-85.E.3** The wetland is known to be inhabited by a State listed threatened or endangered species based on the consultation with the Illinois Department of Natural Resources.
 - 15-85.E.4** An evaluation of the wetland completed in accordance with current United States Fish and Wildlife Service review procedure that confirms the presence or use by listed threatened or endangered species.
 - 15-85.E.5** If the wetland is identified as a critical wetland in the **County's** wetland inventory, confirmation of the Critical status shall be completed through an evaluation of Sections 15-85.E.1 through 15-85.E.4 above. If the wetland evaluation does not confirm a critical status, the wetland shall be considered "regulatory" for purposes of this Ordinance.

15-86. Requirements for Development Affecting Wetlands

- 15-86.A Development** affecting **Wetlands** may not occur without **Certification**, or letter of permission, if applicable.
- 15-86.B Development** proposing to affect **Critical Wetlands** must demonstrate through an **Alternatives Analysis** that the presence of **Critical Wetlands** precludes all economic use of the entire **Parcel**, and that no **Practicable Alternative** to wetland modification exists, and that the proposed **Development** represents the least damaging alternative while still achieving the **Basic Development Purpose**. If the impact is determined to be allowable, the impacted area shall be mitigated in accordance with Section 15-88.
- 15-86.C Development** proposing to affect a **Regulatory Wetland** must demonstrate through an **Alternatives Analysis** that the proposed **Development** represents the least damaging alternative while still achieving the **Basic Development Purpose**. If the impact is determined to be allowable, the impacted area shall be mitigated in accordance with Section 15-88. The following exception applies:
 - 15-86.C.1** The **Director**, or **Administrator** in a **Complete Waiver Community**, shall waive the requirement for completion of a

Alternatives Analysis or the need to provide wetland **Mitigation** for **Developments** proposing, in the aggregate, 0.10 acre or less **Direct Impact** to **Wetlands** provided:

15-86.C.1.a. the wetland(s) is regulatory; and

15-86.C.1.b. none of the wetland(s) to be impacted is over 0.1 acres in size; and

15-86.C.1.c. the wetland(s) to be impacted are not jurisdictional under the **USACE**; and

15-86.C.1.d. the wetland(s) to be impacted are located entirely within the **Development's** platted lot(s), and

15-86.C.1.e. There will be no indirect impacts to remaining wetland area(s), and

15-86.C.1.f. The wetland(s) to be impacted are not part of a wetland **Mitigation Development**, and

15-86.C.1.g. The impact is in line with the **Basic Development Purpose**.

15-86.D **Development** proposing to temporarily affect a **Regulatory Wetland** is allowable provided the impacted wetland is restored pursuant to Section 15-88.D.

15-86.E Vegetative Maintenance within wetland may be allowed through issuance of a Letter of Permission under the following conditions. A written description of the **Development** goals, objectives, and management plan must be provided for approval to the **Director** or **Administrator** of a **Waiver Community**. As long as the **Development** does not require **Stormwater Management Certification** for any other aspect of the **Development**, the **Director** or **Administrator** of a **Waiver Community** may issue a Letter of Permission to allow the **Maintenance** activity.

15-87. Indirect Impacts to Wetlands

15-87.A The **Applicant** must demonstrate that the **Development** or hydraulic alteration will not cause an **Indirect Wetland Impact** unless one of the following exceptions apply:

15-87.A.1 The **Wetlands** occur at or below the **OHWM** of a waterway on which the hydraulics will not be changed; or,

15-87.A.2 The **Development** is a streambank stabilization project; or,

15-87.A.3 The **Director** or **Administrator** in a **Complete Waiver Community** concurs that there is no potential for adverse impact.

15-87.B A **Development** or hydraulic alteration is considered to have an indirect impact if one of the following thresholds are exceeded:

15-87.B.1 An Increase or decrease in the high water level of more than 3 inches in the 6-month, 1-yr, and 2-yr, twenty-four (24) hour rainfall events; or

15-87.B.2 Changes in the wetland's draw down time resulting in an increase or decrease of greater than 48 hours from the peak elevation to the normal water level. The draw down times must be calculated for the 6-month, 1-yr, and 2-yr, twenty-four (24)

hour rainfall event for both the existing and proposed conditions;
or

15-87.B.3 An increase in the duration of inundation of more than 20% from existing to proposed conditions for the 25-yr and 100-yr, twenty-four (24) hour rainfall event. A minimum increase of 48 hours is allowed for these storm events.

15-87.B.4 The **Director**, or **Administrator** in a **Complete Waiver Community**, can, based on a review of the submitted information, determine that proposed impacts outside of the above limits will not affect the existing plant communities, and therefore, would be allowable.

15-87.B.5 If FEQ analysis is used to determine if the thresholds of 15-87.B are exceeded, the Director shall make available a small subset of historical storm events considered equivalent to the steady state rainfall events established in 15-87.B.1 through 15-87.B.3 that must be simulated in FEQ. Alternate rainfall distributions may be considered at the discretion of the Director, or Administrator in a Complete Waiver Community.

15-87.C Under certain circumstances, the **Director**, or **Administrator** in a **Complete Waiver Community**, may allow minor variations to the normal water level if it can be demonstrated by an **Environmental Scientist** to be an ecological benefit to the wetland system.

15-87.D When the dominant plant community or wetland type is known to be sensitive to relatively small changes in depth and duration of inundation (e.g., sedge meadow, vernal pool), then the thresholds as outlined in 15-87.B may be reduced by the **Director**, or **Administrator** in a **Complete Waiver Community**.

15-88. Wetland Mitigation Requirements

15-88.A **Mitigation** for **Wetland Impacts** shall take place in the same **Watershed Planning Area** as the affected wetland. For the purpose of Section 15-88, the three **Watershed Planning Areas** are defined as the Salt Creek (including the Des Plaines River and Sawmill Creek), East Branch DuPage River and West Branch DuPage River, as shown on Exhibit 1. If **Mitigation** is not practicable within the same **Watershed**, the **Director** or **Administrator** may allow out of **Watershed Mitigation**, following a request in writing by the **Applicant**. The designs and analyses of all wetland **Mitigation** measures shall meet the applicable standards of the **Plan**.

15-88.B **Mitigation** for **Permanent Wetland Impacts** shall be provided as follows:

15-88.B.1 Three to one (3:1) for permanent **Development** impacts within **Critical Wetlands**.

15-88.B.2 One and one half to one (1.5:1) for permanent **Development** impacts within **Regulatory Wetlands**,

15-88.B.3 Natural area restoration **Developments** shall provide wetland **Mitigation** for **Permanent Wetland Impacts** at a minimum proportional rate of one to one (1:1).

- 15-88.B.4** **Developments** that contain both **Development** and restoration components shall mitigate at the ratios listed above applicable to each type of impact.
- 15-88.B.5** If a wetland **Mitigation** area is disturbed prior to acceptance, the impact shall be mitigated at a one to one (1:1) rate. Restoration of the impacted area can constitute fulfillment of the one to one requirement. If a wetland **Mitigation** area is impacted following acceptance, the impact must be mitigated at the appropriate critical or regulatory proportional rate.
- 15-88.B.6** In order to be eligible for credit, the **Mitigation** must meet the **Performance Standards** referenced by the **Stormwater Management Certification**.
- 15-88.C** The **Director** or **Administrator** may allow partial **Mitigation** credit for the following, provided that wetland creation for **Permanent Wetland Impacts** does not fall below a 1:1 ratio. A credit may not be counted twice.
- 15-88.C.1** Enhancement or restoration of an existing wetland will be credited at a ratio of 0.5:1.
- 15-88.C.2** Enhancement, restoration, or creation of **Buffer** will be credited at a ratio of 0.25:1.
- 15-88.D** **Temporary Wetland Impacts** shall be restored in place. The disturbed area must be returned to its original contour and general soil profile, be restored to a comparable wetland community type, and exhibit an **FQI** no lower than that of the original wetland in accordance with the approved **Performance Standards**. The **Director** or **Administrator** in a **Complete Waiver Community** shall make a determination as to whether the proposed impacts will be considered temporary.
- 15-88.E** The **Applicant** may request an alternative community type, if the **Development** is part of a natural area restoration **Development**, and documentation is provided describing the restoration plan and goals.
- 15-88.F** **Mitigation** for depression storage lost within **Wetlands** shall be provided in accordance with Section 15-81.D of this Ordinance.
- 15-88.G** Wetland creation shall only take place within areas that are currently non-wetland.
- 15-88.H** **Development** or the removal of **Native Vegetation** in the existing wetland shall be initiated only after a plan has been approved and adequate securities are provided as specified in Article VI of this Ordinance.
- 15-88.I** Wetland **Mitigation** areas shall incorporate native, non-invasive species and be designed to duplicate or improve the hydrologic and biologic function of the original wetland.
- 15-88.J** A native **Buffer** is required to protect the **Mitigation** wetland from surrounding land uses. **Buffers** shall be 100' for **Mitigation** adjacent to **Critical Wetlands** and 50' adjacent to **Regulatory Wetlands**, unless the **Director** or **Administrator** concludes otherwise.
- 15-88.K** Evaluation of Wetland Hydrology for **Mitigation**. **Hydrology** for wetland **Mitigation** shall be evaluated by the **Applicant** to establish the depth and duration of inundation and soil saturation for the wetland plant

community design. The **Applicant** shall identify the sources of wetland hydration including surface **Runoff**, groundwater, and overbank **Flooding**.

15-88.L **Applicants** shall submit **Hydrology** information for the proposed wetland **Mitigation** area to demonstrate sustainability using the best available data.

15-88.M The **Mitigation** must meet **Certification** requirements and associated **Performance Standards**, and shall undergo a maintenance and monitoring period as required in the **Stormwater Management Certification**.

15-88.M.1 Upon inspection, if the **Mitigation** meets **Certification** requirements and **Performance Standards** during or at the end of the monitoring period, the **Director**, or **Administrator** in a **Complete Waiver Community** shall issue regulatory signoff.

15-88.M.2 If the permit requirements are met early and it appears that the cessation of the maintenance and monitoring period will not jeopardize the area's continuing compliance, the **Director** or **Administrator** in a **Complete Waiver Community** may consider granting early signoff when requested.

15-88.M.3 If the **Mitigation** area is not considered a success within the approved monitoring period, additional measures shall be required to bring the site into compliance.

15-88.N **Mitigation** is considered separate from other **Development** components, and requires a performance security be established in accordance with Article VI for the completion of the **Mitigation Development**.

15-88.O The **Certification** holder shall provide annual monitoring reports documenting progress towards meeting the approved **Performance Standards**. The monitoring reports shall include relevant data and observations during the growing season and shall be submitted no later than January 31st of the following year until **Performance Standards** are met and accepted.

15-88.P If property ownership is changed during the management and monitoring period, the **Applicant** shall provide formal written notification to the **Director** or **Administrator**. The notification shall contain complete contact information including **Certification** number(s), owner(s) name(s), street address(es), phone number(s) (office, fax, mobile), email address(es), etc. The **Certification** holder must notify the future owner(s) of their obligations regarding **Certification** conditions and maintenance and monitoring requirements for the subject **Development** as they relate to the **Stormwater Management Certification** and to submit written confirmation from the receiving party accepting these responsibilities.

15-88.Q **Development** within or affecting a wetland begun prior to **Authorization** under this Ordinance, or other unauthorized impact to a wetland, shall presume the wetland was critical and provide **Mitigation** at a 3:1 replacement ratio, and shall be processed in one of the following two ways:

15-88.Q.1 If the unauthorized **Wetland Impact** can be considered a temporary impact, the **Director** or **Administrator** may process the resolution of this **Violation** outside of the normal **Certification** program, through preparation of a Letter of Permission which would be countersigned by the **Applicant** committing them to specific site restoration and management requirements and timeframes.

15-88.Q.2 If the unauthorized **Wetland Impact** cannot be considered a **Temporary Wetland Impact**, the **Applicant** shall enter into a formal **Stormwater Management Certification** process, and meet all requirements of the Ordinance.

15-89. Wetland Banking

15-89.A Where **Development** affecting wetland meets the requirements of Article XI and the long term preservation of existing wetland functions or characteristics is unlikely as a result of existing or proposed land use practices in adjacent upland areas, then the **Director** or **Administrator** may provide that **Mitigation** for **Development** within or affecting **Wetlands** be accomplished wholly or in part through investment in an established wetland banking **Development** in lieu of constructing new **Wetlands**.

15-89.B Such wetland banking shall be allowed only if no long term net loss of **Wetlands** results within each **Watershed Planning Area** as defined in Article XI and if the adverse impacts of **Development** in **Regulatory Wetlands** or **Critical Wetlands** are fully mitigated.

15-89.C Wetland banking for **Development** impacts within a **Critical Wetland** or **Regulatory Wetland** shall take place within an established wetland banking **Development** approved by the **Committee**, or the **Oversight Committee**, and shall:

15-89.C.1 Include a wetland enhancement, restoration, and construction plan approved by the **Committee** and the **County Board**, or by the **Oversight Committee** and the corporate authorities; and

15-89.C.2 Include a capital improvements plan containing an estimate of the total per acre cost of wetland **Mitigation**, including operation and **Maintenance** costs; and

15-89.C.3 Include a formula to determine that any investment in a wetland bank shall be at least equal to the cost of planning, acquiring of lands, constructing, operating, and maintaining mitigated **Wetlands** of equivalent or greater functional value than those lost to **Development**.

15-89.D If **Development** impacts to a wetland meets all the conditions for **Mitigation** in a wetland banking **Development**, a payment may be made into the wetland banking program and shall be determined by multiplying the acres of required **Mitigation** times the first of the following applicable costs:

15-89.D.1 The investment cost of the closest wetland banking **Development** to the **Development** that is in the **Watershed**

Planning Area that has the greatest wetland deficit, as defined in Section 15-89.D.3; or

15-89.D.2 The investment cost of the closest wetland banking **Development** within the same **Watershed Planning Area** as the proposed **Wetland Impact**; or

15-89.D.3 The investment cost of the closest wetland bank to the **Development** that is outside the **Watershed Planning Area** where the **Development** is proposed. However, the area of **Mitigation** available within a wetland banking **Development** for **Mitigation** from outside the **Watershed Planning Area** shall not exceed 15% of the bank's total wetland area. This amount of wetland **Mitigation** is considered a wetland deficit in the **Watershed Planning Area** where the **Development** occurs. The **Watershed Planning Area** that receives the wetland **Mitigation** shall pay back the wetland deficit in accordance with Section 15-89.D.1.

15-89.E If **Development** impacts to a wetland meet all the conditions for **Mitigation** in the wetland banking program, and there is not a wetland banking **Development** available per Section 15-89.D, a payment may be made to the **County** for deposit into a specific wetland banking **Development** or in a wetland bank suspense account equal to \$175,000 per acre of required **Mitigation**.

15-89.F All funds deposited in the wetland banking program shall be maintained in accounts designated solely for a particular wetland banking **Development** or in a wetland bank suspense account if collected under Section 15-89.E. At the option of the **Director** or **Administrator**, funds may be transferred to the account of another wetland banking **Development** in the same **Watershed Planning Area**, or if one is not available, in an off-site **Mitigation** area meeting the requirements in Section 15-89, if that particular wetland banking **Development** is not constructed within 10 years after the date on which such funds were deposited. Upon approval of a wetland banking **Development** within a **Watershed Planning Area** for which payments have been deposited in accordance with Section 15-89.E, such payments shall be immediately transferred into that wetland banking **Development**. Any portion of the payment paid in excess of the actual fee established for said wetland banking **Development** shall be refunded to the then current property owner or his/her/its designee.

15-89.G The **County** Board or the corporate authorities in a **Waiver Community** shall audit annually all funds deposited in wetland banking accounts and shall account for such funds on a first-in, first-out basis.

15-90. RESERVED

15-91. RESERVED

ARTICLE XII. BUFFERS

15-92. Identification of Buffers

15-92.A Buffer areas for **Wetlands** shall extend from the edge of the delineated wetland. **Buffer** for those portions of non-wetland **Waters of DuPage** shall extend from the **Ordinary High Water Mark (OHWM)**:

15-92.A.1 A property may contain a **Buffer** area that originates from another property.

15-92.A.2 Buffer widths for wetland shall be as follows:

15-92.A.2.a. One hundred (100) feet for **Critical Wetlands**, except as noted in Section 15-92.B.2.

15-92.A.2.b. Fifty (50) feet for **Regulatory Wetlands**, except as noted in Section 15-92.B.2.

15-92.B Buffer for non-wetland **Waters of DuPage** shall be a minimum width of fifteen (15) feet and a maximum width matching the **Regulatory Floodplain**. Width shall be determined as follows for the following situations:

15-92.B.1.a. Where there is no **Regulatory Floodplain** study, and the drainage area is over one hundred (100) acres, then the required site specific **BFE** study in Section 15-80 will define a 100-yr **Flood** elevation for the site and that elevation shall be used to set the **Buffer** width, except as noted in Section 15-92.B.2.

15-92.B.1.b. Waters of DuPage which have a drainage area of less than one hundred (100) acres and no **Flood** study has been performed will have a **Buffer** of fifteen (15) feet from the **OHWM**, except as noted in Section 15-92.B.2.

15-92.B.1.c. For purposes of regulation under this Ordinance, the **Applicant** may choose to accept the 100-year **Floodplain** limit as the **Buffer**, or he may submit documentation addressing the **Buffer** functions and request that a narrower **Buffer** limit between the 100-year **Floodplain** and one hundred (100) feet from **OHWM** should be allowed by the **Administrator** in a **Complete Waiver Community** or the **Director**, in accordance with 15-94.B.

15-92.B.2 Buffer does not include impervious non-vegetated surfaces, permanent **Structures** or **Buildings**. In addition, non-wetland **Waters of DuPage** County **Buffer** does not include maintained lawn or associated maintained landscape plantings within the limits of the 100 year **Floodplain** that are more than fifty (50) feet from the limits of the waters.

15-93. RESERVED.

15-94. Development Affecting a Buffer

15-94.A Vegetative Maintenance within **Buffer** may be allowed through issuance of a Letter of Permission under the following conditions:

- 15-94.A.1** A written description of the **Development** goals, objectives, and management plan must be provided for approval to the **Director**, or **Administrator** in a **Waiver Community**. As long as the **Development** does not require **Stormwater Management Certification** for any other aspect of the **Development**, the **Director** or **Administrator** of a **Waiver Community** may issue a Letter of Permission to allow the **Maintenance** activity.
- 15-94.A.2** The **Maintenance** activity will result in an enhancement of **Buffer** functions in accordance with 15-94.C.
- 15-94.A.3** Maintained lawn or landscape planting beds have limited **Buffer** function and may be replaced in kind.
- 15-94.B** **Development** of **Buffer**, or a reduction in width, function, or the removal of **Native Vegetation**, shall not occur without **Mitigation**.
- 15-94.B.1** **Mitigation** for **Buffer** impact does not require one for one replacement of the area impacted. Replacement of impacted function takes precedent over replacement of area.
- 15-94.B.2** Impacts to **Buffers** shall consider the effectiveness of the natural functions and mitigate those functions to the extent practicable.
- 15-94.C** **Buffer Mitigation** design shall incorporate native, non-invasive species and be designed to duplicate or improve the hydrologic and biologic function of the original **Buffer** unless documentation is provided to support establishment of alternative communities. When native plantings are required as part of a **Mitigation Development**, the plantings shall be native to Northeastern Illinois as defined by *Plants of the Chicago Region*.
- 15-94.D** **Buffer Mitigation** shall meet **Certification** requirements, associated **Performance Standards**, and shall undergo a maintenance and monitoring period, as required in the **Stormwater Management Certification**. **Performance Standards** are found in Appendix B. **Applicants** may choose to use the **Performance Standards** found in Appendix B, or the **Applicant** may prepare and submit individualized site specific standards for review and approval.
- 15-94.D.1** Upon inspection, if the **Buffer Mitigation** meets **Certification** requirements and **Performance Standards** during or at the end of the monitoring period, the **Director**, or **Administrator** in a **Complete Waiver Community**, shall issue regulatory signoff.
- 15-94.D.2** If the **Buffer Mitigation** area is not considered a success within the approved monitoring period, additional measures shall be required to bring the site into compliance.
- 15-94.E** **Development** affecting a wetland **Buffer** shall be initiated only after a **Mitigation** plan has been approved and adequate securities are provided as specified in Article VI of this Ordinance.
- 15-94.F** **Mitigation** is considered separate from other **Development** components, and requires a performance security be established in accordance with Article VI for the completion of the **Mitigation Development**.

15-94.G The **Certification** holder shall provide annual monitoring reports documenting progress towards meeting the approved **Performance Standards**. The **Director** or **Administrator** may require the **Certification** holder to undertake remedial action to bring the area into compliance with the **Mitigation** plan. The monitoring reports shall include relevant data and observations taken during the growing season and shall be submitted no later than January 31st of the following year until **Performance Standards** are met and accepted.

15-94.H If property ownership is changed during the management and monitoring period, the **Applicant** shall provide formal written notification to the **Director** or **Administrator**. The notification shall contain complete contact information including **Certification** number(s), owner(s) name(s), street address(es), phone number(s) (office, fax, mobile), email address(es), etc. The **Certification** holder must notify the future owner(s) of their obligations regarding **Certification** conditions and maintenance and monitoring requirements for the subject **Development** as they relate to the **Stormwater Management Certification** and to submit written confirmation from the receiving party accepting these responsibilities.

15-94.I Features of a naturalized stormwater management system, such as stormwater **Structures**, infiltration trenches, vegetated swales, filter strips, site runoff storage ponds, and **Compensatory Storage** areas may be within the **Buffer** area, provided the system is set back to a minimum of fifty percent (50%) of the required **Buffer** width, and the **Buffer** functions, if impacted, are mitigated.

15-94.J Access through **Buffer** areas shall be allowed, when necessary, for **Maintenance** purposes.

15-95. RESERVED

15-96. RESERVED

ARTICLE XIII. FEE-IN-LIEU PROGRAMS

15-97. Site Runoff Storage Variance Fee Program

15-97.A Where a **Variance** to the site runoff storage requirements of Section 15-72 is granted, payment into a site runoff storage variance fee program shall be made prior to the issuance of a **Stormwater Management Certification** as a condition of the **Variance**.

15-97.B All **Developments** shall participate in the **County's** fee in lieu program, unless the **Development** is within a **Waiver Community** with its own ordinance and fee in lieu program.

15-97.B.1 Payment of a site runoff storage **Variance** fee for the varied storage shall be made to the **County** and is determined by applying the first applicable criteria as follows:

15-97.B.1.a. Where the program has an established off-site storage facility(ies) the fee shall be calculated by multiplying the per acre-foot cost of the closest off-site storage facility times the varied storage where:

15-97.B.1.a.1. A design concept plan for the facility has been approved by the **Committee** and the **County** Board containing an estimate of the per acre-foot cost of constructing the storage, including operation and **Maintenance** costs; and

15-97.B.1.a.2. A formula has been developed to determine that any investment in the facility shall be at least equal to the cost of planning, acquiring of lands, constructing, operating, and maintaining the facility; and

15-97.B.1.a.3. The facility is located in the same **Watershed Planning Area** as the **Variance**.

15-97.B.1.b. Where the program has not established off-site storage facility(ies) in accordance with sub-parts B.1.a.1 through B.1.a.3, above, detention variance fee shall be charged in accordance with an adopted fee schedule, attached to this Ordinance as Schedule B and by this reference incorporated into this Ordinance. The fees set forth in Schedule B shall identify reasonable and rational costs to provide site runoff storage in the same **Watershed Planning Area** as the subject **Variance**. The detention variance fee shall include the cost of planning, acquiring land, construction, operation, and **Maintenance**.

15-97.B.2 Fee in lieu funds collected shall be accounted for in separate **Development** or **Watershed Planning Area** accounts. Funds shall be used in the same **Community** or **Watershed Planning Areas** as collected to enhance existing site runoff storage facilities and related components, construct off-site facilities and related components, provide **Maintenance** of **Stormwater Facilities**, or undertake other **Development** that

provides a **Watershed Benefit**. Funds may not be used to fulfill permit requirements.

15-97.B.3 Each authority administering a fee-in-lieu program shall provide an annual accounting of all funds deposited in each **Development** or watershed planning accounts and shall account for each fund on a first-in, first-out basis.

15-97.B.4 Each authority administering a fee-in-lieu program may prioritize and allocate funds on an annual basis within each **Watershed Planning Area** account. Communities may make a request to the **Committee** by June 30th of each year for funds within the watershed planning accounts for uses identified in Section 15-97.B.2.

15-97.B.5 Detention variance fees shall be refunded to the **Person** who paid the fee, or to that **Person's** successor in interest, in accordance with Sec. 15-97.B.6, whenever the program **Administrator** fails to encumber fees collected within 10 years from the date on which such fees were collected.

15-97.B.6 Refunds shall be made provided that the appropriate party files a petition with the program **Administrator** within one year from the date on which such fees are required to be encumbered.

15-97.C A **Waiver Community** may adopt its own fee schedule and designate off-site facilities. Funds collected in a **Waiver Community** program shall be used within the **Waiver Community**, or within the **Watershed Planning Area** in which such fee was collected. A **Waiver Community's** accounting records shall be made available to the **Committee** upon request.

15-98. Post Construction BMP Fee-in-Lieu Program

15-98.A With the approval of the **Administrator**, or the **Director** in a Non-Waiver **Community**, and provided the conditions of Section 15-63 apply, the **Applicant** may be allowed or required to pay a **PCBMP** fee-in-lieu payment. Payment into a **PCBMP** fee-in-lieu program shall be made prior to the issuance of a **Stormwater Management Certification**.

15-98.B **Development** in a Non-Waiver **Community** or in a **Waiver Community** that has not adopted a **PCBMP** fee-in-lieu program shall participate in the **County's** program where:

15-98.B.1 **PCBMP** fee-in-lieu payment shall be made to the appropriate fee-in-lieu program. A **PCBMP** fee-in-lieu payment shall be calculated by applying the adopted fee schedule, attached to this Ordinance as Schedule B and by this reference incorporated into this Ordinance, that identifies reasonable and rational cost to construct and maintain similar **PCBMPs** for those areas of the **Development** that remain without effective **PCBMP** treatment.

15-98.B.2 **PCBMP** funds collected shall be separately accounted for in **Watershed Planning Area** accounts. Funds shall be used in the same **Watershed Planning Areas** as collected solely to

design, construct, and maintain water quality or **Runoff** volume reduction improvements. Funds may not be used to fulfill obligations required by the Ordinance.

15-98.B.3 The program **Administrator** shall provide accounting on an annual basis of all funds deposited in each watershed planning account and shall account for each fund on a first-in, first-out basis.

15-98.B.4 Each authority administering a fee-in-lieu program may prioritize and allocate funds on an annual basis within each **Watershed Planning Area** account. Communities may make a request to the **Committee** by March 30th of each year for funds within the watershed planning accounts for uses as identified in Section 15-98.B.2.

15-98.B.5 All **PCBMP** fee-in-lieu payments shall be refunded to the **Person** who paid the fee, or to that **Person's** successor in interest, in accordance with Section 15-98.B.6, when the program **Administrator** fails to encumber that **Development's** fees collected within ten (10) years of the date on which such fees were collected.

15-98.B.6 Refunds shall be made provided that the appropriate party files a petition with the program **Administrator** within one year from the date on which such fees are required to be encumbered.

15-98.C **Development** in a **Waiver Community** shall participate in the **Waiver Community's PCBMP** fee-in-lieu program where the corporate authority has adopted a program that is consistent with Section 15-98.B. A **Waiver Community** may adopt its own fee schedule and designate off-site facilities. Funds collected in a **Waiver Community** program shall be used within the **Waiver Community**, or within the **Watershed Planning Area** in which such fee was collected. A **Waiver Community's** accounting records shall be made available to the **Committee** upon request.

15-99. Wetland **Mitigation** Fee in Lieu. If **Development** impacts to a wetland meet all the conditions for **Mitigation** in the wetland banking program, and there is no wetland banking **Development** available under the criteria set forth in Article XI, the **Applicant** may make a fee-in-lieu payment to the **County** in the sum of \$175,000 per acre of required **Mitigation** area.

15-100. RESERVED

15-101. RESERVED

ARTICLE XIV. PROHIBITED ACTS/ENFORCEMENT/PENALTIES

15-102. Prohibited Acts

15-102.A It shall be unlawful for any **Person** to undertake any **Development** within the **County** or within a **Waiver Community Ordinance** without first securing a **Stormwater Management Certification** as required by this Ordinance or the applicable **Waiver Community Ordinance**.

15-102.B It shall be unlawful for any **Person** to violate, disobey, omit, neglect, or refuse to comply with, or to resist enforcement of, any provision of this Ordinance, or an applicable **Waiver Community Ordinance**, or any condition of any **Stormwater Management Certification** or **Variance** required by this Ordinance, or a **Waiver Community Ordinance**.

15-102.C It shall be unlawful for the **Person** owning or exercising control over any property, or **Development** thereon, to permit or allow that property, or any **Development** thereon, or any condition thereof, to violate, or remain in **Violation** of, any provision of this Ordinance, or a **Waiver Community Ordinance**, or fail to comply with, abide by or satisfactorily complete any condition of any **Stormwater Management Certification** or **Variance** granted to, or issued for, that property or **Development**.

15-102.D It shall be unlawful for any **Person** to continue any work on a property after having been served with a stop work order issued pursuant to Sec. 15-108, except such work as that **Person** is directed, or authorized, to perform by the **Director** or **Administrator** necessary to remove a **Violation** having a temporary impact or to abate an unsafe condition.

15-103. Prosecution of **Violations**. Upon finding the existence of any **Violation** of this Ordinance or a **Waiver Community Ordinance**, the **Director** or the **Administrator** shall have the authority and duty to take or direct all actions necessary or appropriate to abate and redress such **Violation**. The **Director** or the **Administrator** shall also initiate proceedings, as necessary, to enforce this Ordinance or the **Waiver Community Ordinance**. A code enforcement adjudication program may be used to prosecute **Violations** of this Ordinance, or a **Waiver Community Ordinance**.

15-104. Notice of Violations

15-104.A Whenever the **Director** or the **Administrator** determines that a **Violation** of the Ordinance exists, the **Director** or the **Administrator** shall issue a Notice of Violation in any of the following manner:

15-104.A.1 By posting a copy on the subject property in a conspicuous place, or

15-104.A.2 By personally delivering or mailing a copy to the **Person**, firm, or corporation responsible for the unlawful act or omission or condition which forms the basis for the **Violation**, or

15-104.A.3 By personally delivering or mailing a copy to any adult who resides at, occupies, uses, leases, manages or maintains the property on which the **Violation** is located, or

15-104.A.4 By personally delivering or mailing a Notice of Violation to any owner in title to the property on which the **Violation** is located.

15-104.B If a notice, or order, is issued in accordance with Sec. 15-104.A.1 or if the party to whom the Notice of Violation was issued was in accordance with Sec. 15-104.A.2 or 15-104.A.3 is not also the property owner, a copy of the notice shall also be mailed to the "owner of record" as indicated on the latest Tax Assessor's records at the last address to which a tax bill was mailed.

15-104.C A Notice of Violation shall contain the following:

15-104.C.1 A brief statement setting forth the type and nature of the **Violation**; and

15-104.C.2 The section, or sections, of the Ordinance violated and, if applicable, the identity of any order, permit, plan or statement of specifications violated; and

15-104.C.3 The date the **Violation** was observed; and

15-104.C.4 The address and/or PIN of the property on which the **Violation** was observed; and

15-104.C.5 A statement directing the discontinuance of the illegal action or condition and abatement of the **Violation**; and

15-104.C.6 A statement informing the violator, and/or owner, that they may contest the Notice of Violation by requesting in writing and within fourteen (14) days of issuance of the notice, an administrative appeal; and

15-104.C.7 A statement informing the violator, and/or owner, that they may correct the **Violation** within fourteen (14) days. A violator may remedy the **Violation** by either;

15-104.C.7.a. Correcting, abating or removing the **Violation**, or the condition(s) which cause the **Violation**, and have such remediation verified by an inspection; or

15-104.C.7.b. Applying to the **County**, or **Waiver Community**, for any necessary **Certification** (s), or to revise or amend any previously issued **Certification**, or revise or amend any previously approved plan, drawing or specifications, as applicable.

15-104.C.8 A warning that if the violator fails to comply with the Ordinance and remedy the **Violation** within the time specified the **County**, or **Waiver Community**, shall institute appropriate legal proceedings against the violator.

15-104.C.9 A statement that the Ordinance authorizes fines of up to one thousand dollars (\$1,000.00), per day, for each day a **Violation** remains uncorrected, plus additional court costs, which fines and costs may be assessed in addition to other remedies at law including a court order enjoining further **Violations** and ordering the offender to cease, correct, repair, abate or otherwise remedy the offending condition.

15-104.D If a party to which a Notice of Violation has been issued requests an extension of time to comply with the Ordinance, or perform any act necessary to remedy a **Violation**, the **Director** or **Administrator** may allow an extension of time for such compliance or act, which extension shall not be more than forty five (45) days. The **Director** or **Administrator** shall not extend the period of time in which a party may request an administrative hearing

15-104.E The issuance of a Notice of Violation shall not be required as a condition of the **County**, or a **Waiver Community**, commencing legal action to enforce a stop work order issued pursuant to Sec. 15-108, or where the a **Violation** presents an imminent risk of harm to the health, life or safety of any **Person**, or an injunctive suit brought pursuant to Sec. 15-111.

15-105. Inspection and **Maintenance** Authority

15-105.A Pursuant to the authority granted by 55 ILCS 5/5-1104 & 5-1062, the **County** may, after thirty (30) days written notice to the owner or occupant, in a non-emergency situation enter upon any lands or waters within the **County** for the purpose of inspecting or maintaining **Stormwater Facilities** or causing the removal of any obstruction to an affected watercourse.

15-105.B The **Director** or the **Administrator** shall post the notice in a prominent place on the premises, or shall send by certified mailing a copy of the notice to the property owner listed in the **County** property tax records. The notice shall:

15-105.B.1 State the method by which the **Stormwater Facility** will be cleaned or maintained; and

15-105.B.2 State the date upon which the proposed work will begin; and

15-105.B.3 Inform the property owner that the property owner may appeal the commencement date of the proposed **Maintenance** work.

15-105.C Where an obstruction is within a water course and is obstructing flow, the **County** or a **Waiver Community** may, with 10-days notice, enter upon the property and remove the obstruction.

15-106. Requirements for Immediate Remedial Action. Whenever the **Director** or **Administrator** determines that a **Violation** has a temporary impact to a **Floodplain**, wetland, **Buffer** or **PCBMP**, which may be corrected, abated, or removed, in whole or in part, or where the adverse effects of the **Violation** can be ameliorated by immediate action, the **Director** or **Administrator** may authorize the violator, in writing, to perform remedial action at the **Violation** site without **Certification**:

15-106.A Unauthorized **Wetland Impacts** that are intended to be permanent are required to proceed through the normal **Stormwater Management Certification** process to determine if the impact will be allowed to remain, or

15-106.B Remedial action may include, as the **Director** or **Administrator** deems appropriate for the situation, the following:

15-106.B.1 Removal of fill or other materials from the impacted area; and

15-106.B.2 The area, and/or volume of fill or material removal, the manner of such removal and method of disposal for such fill or material; and

15-106.B.3 A restoration and/or **Mitigation** plan for the impacted area setting forth **Performance Standards**, management and monitoring requirements as necessary, and implementation schedule.

15-106.C When the **Director** or **Administrator** authorizes remedial action under this Section, such remedial acts shall:

15-106.C.1 Focus of the restoration of floristic communities and function of the impacted area; and

15-106.C.2 Undergo a minimum of one year of management and monitoring, when applicable, to verify successful restoration. Failure to achieve the **Performance Standards** established as part of a restoration or **Mitigation** plan shall result in additional years of management and monitoring being required.

15-106.D In all cases the **Director** or **Administrator** shall document the nature of **Violation** and the basis for his determination that the impact was temporary.

15-107. Revocation and Suspension of **Certifications**.

15-107.A The **Director** or the **Administrator** may revoke a **Stormwater Management Certification** under any of the following circumstances:

15-107.A.1 When the application, plans, or other supporting documents submitted by the **Applicant** reflect a false statement or misrepresentation as to material fact; or

15-107.A.2 The **Development** violates any relevant local, State, or Federal requirement.

15-107.A.3 When the security, access rights or covenants posted by the **Certification** holder do not comply with the requirements of this Ordinance, or a **Waiver Community Ordinance**.

15-108. Stop-Work Order

15-108.A The **Director** or the **Administrator**, upon discovery of the existence of any of the circumstances established in Section 15-107.A.2. of this Ordinance, is authorized to issue an order requiring the suspension of the subject **Development**. Such stop-work order shall be in writing, shall indicate the reason for its issuance, and shall order the act(s), if any, necessary to resolve the circumstances requiring the stop-work order.

15-108.B A stop-work order shall be issued when:

15-108.B.1 **Development** is proceeding in a manner which creates imminent hazard of severe harm to **Persons** or property on or off the site; or

15-108.B.2 **Development** has been accomplished in **Violation** of a requirement of this Ordinance, or the **Waiver Community Ordinance**, or a **Stormwater Management Certification**, or

any other applicable law or regulation, and a period of longer than fifteen (15) calendar days has elapsed since written notice of the **Violation** or noncompliance was issued and the **Violation** or noncompliance has not been corrected, abated or rectified; or

15-108.B.3 Development for which a **Stormwater Management Certification** is required is proceeding without issuance of a **Stormwater Management Certification**. In such instance, the stop-work order shall indicate that the effect of the order terminates when the required **Stormwater Management Certification** is properly obtained.

15-108.C If the **Director** or **Administrator** discovers that work on any property is being conducted contrary to the provisions of this Ordinance, or in an unsafe and dangerous manner, such work shall be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property involved, to the owner's agent, to the **Person** doing the work, or posted on the subject property; and shall state the appropriate code section(s) in **Violation**.

15-108.D Upon receipt of a stop work order, the property owner has fourteen (14) days to resolve the **Violation** or apply for a **Stormwater Management Certification**. Failure to comply within this timeframe may result in prosecution and/or fines as outlined in Section 15-109.

15-109. Fines

15-109.A Any **Person** who violates, disobeys, omits, neglects, refuses to comply with, or resists enforcement of any provision of this Ordinance, the applicable **Waiver Community Ordinance**, or any condition in any **Certification** issued pursuant to this Ordinance or a **Waiver Community Ordinance**, shall be subject to a fine not less than one hundred dollars (\$100.00) nor in excess of one thousand (\$1,000) for each offense. Each calendar day a **Violation** continues to exist shall constitute a separate offense.

15-109.B For the purposes of this Section 15-109, the owner, any occupant, the **Developer**, and/or any contractor doing **Development** work on the land shall be jointly and severally liable for any **Violation** of this Ordinance or the **Waiver Community Ordinance**.

15-109.C The **Committee**, or in a **Complete Waiver Community** the **Oversight Committee**, shall request its appropriate legal counsel to prosecute such action as a petty offense pursuant to 730 ILCS 5/5-1-17 (1992); as hereafter amended; or according to other appropriate authority in law or in equity.

15-110. Additional Remedies for Special Flood Hazard Areas

15-110.A In accordance with state law, the **County** may petition the circuit court for an order to remove any unauthorized fill placed in a **Special Flood Hazard Area** and to restore the subject property to its natural elevation(s) in order to lessen or avoid the imminent threat to public health, safety, or welfare and damage to property resulting from the accumulation or **Runoff** of stormwater or **Floodwater**.

15-110.A.1 When, after a diligent search, the identity or whereabouts of the owner of any such **Parcel**, including lien holders of record, are not ascertainable, notice mailed to the **Person** in whose name the real estate was last assessed for taxes, constitutes sufficient notice under Section 15-104.

15-110.A.2 The cost of removal of fill and restoration incurred by the **County** shall be recoverable from the owner of such real estate and shall be a lien against the property.

15-110.A.3 Such lien shall be superior to all other prior existing liens and encumbrances, except taxes; provided that within sixty (60) days after such removal of fill or restoration of the **Parcel** to its natural elevation, the **County** Board shall file a notice of lien of such cost and expense incurred in the office of the **County** Recorder.

15-110.A.4 Such notice shall include a sworn statement setting out:

15-110.A.4.a. A description of the real estate sufficient for identification thereof; and

15-110.A.4.b. The amount of money representing the cost and expense incurred; and

15-110.A.4.c. The date on which the cost was incurred.

15-110.A.5 Such lien may be enforced by proceedings of foreclosure as in the case of mortgages or mechanics' liens, which action shall be commenced within three years after the date of filing of the notice of lien.

15-110.A.6 Upon payment of the costs and expenses by the owner or **Persons** interested in the property, the lien shall be released by the **County** or the **Waiver Community** and the release may be filed of record.

15-110.B Each **Waiver Community** shall utilize all available means at law or in equity to enforce the **Special Flood Hazard Area** provisions of its applicable ordinance.

15-111. Legal and Equitable Relief. In the enforcement of this Ordinance or the applicable **Waiver Community Ordinance**, the **Director** or the **Administrator** shall have the authority to institute, or cause to be instituted, in the name of the **County** or the **Waiver Community**, any and all actions, legal or equitable, including appeals, that are required for the enforcement of this Ordinance or the applicable **Waiver Community Ordinance**. Article XV shall not be construed to limit or otherwise restrict a **Waiver Community** from adopting differing or supplemental enforcement procedures, or setting differing fine amounts, pursuant to their statutory or home-rule authority.

15-112. Injunctive Relief. In circumstances of substantial danger to the environment, to the public health and welfare, or to the livelihood of any **Person**, the **Director** or the **Administrator** shall have the authority to cause to be instituted a civil action for an immediate injunction to halt any discharge or other activity causing or contributing to the danger, or to require such other action as may be necessary.

15-113. RESERVED

ARTICLE XV. APPEALS

15-114. Right to Appeal

15-114.A Any **Person** directly aggrieved by any decision, order, requirement, or determination of the **Director**, or the **Director** acting as the **Administrator** in a Non-Waiver **Community**, made pursuant to an interpretation of this Ordinance shall have the right to appeal such action to the **Committee**. Any **Person** directly aggrieved by any decision, order, requirement, or determination of the **Administrator** in a **Waiver Community** made pursuant to an interpretation of a Waiver Ordinance shall have the right to appeal such action to the **Oversight Committee**.

15-114.B Every **Applicant** for an appeal shall notify the **Committee** or the **Oversight Committee** in writing of the decision being appealed, which notice shall include a short, plain statement containing the reasons why the decision is being appealed and how the **Applicant** has been directly aggrieved by the action taken.

15-114.C Upon receipt of such a notice of appeal, the **Committee** or the **Oversight Committee** shall set a date for a public hearing before the **Committee** or the **Oversight Committee**. Such public hearing shall commence not fewer than fourteen (14) days not more than sixty (60) days after the date on which a properly prepared notice of appeal was received. The **Applicant** shall be promptly notified of the public hearing date.

15-114.D A public hearing shall be set, noticed, and conducted by the **Committee** in accordance with the provisions of Section 15-139 of this Ordinance. **Oversight Committees** may conduct public hearings in accordance with each **Community's** own public hearing procedures, which procedures need not strictly comply with this Article XV and Section 15-139.

15-114.E The **Committee** or the **Oversight Committee** shall decide the appeal within sixty (60) days after the conclusion of the public hearing. All decisions on appeals shall be in writing and shall include a statement of the reasons for the decision. The failure of the **Committee** or the **Oversight Committee** to act within sixty (60) days shall be deemed to be a decision denying the appeal.

15-114.F A party may appeal the decision of the **Committee** to the **County Board** by filing a notice thereof in the form required by Section 15-114.B of this Ordinance with the **County Board** within fourteen (14) days after the date of decision by the **Committee**. Failure to properly file such notice shall render final the decision of the **Committee**. A party may appeal the decision of an **Oversight Committee** to the corporate authorities of the **Waiver Community** by filing a notice thereof with that body within fourteen (14) days after the date of decision by the **Oversight Committee**.

15-114.G Within thirty-five (35) days after receipt of a properly prepared and filed notice of appeal, the **County Board**, or the Waiver Communities' corporate authorities, shall, without further hearing, affirm, reverse, or modify the decision of the **Committee**, or **Oversight**

Committee. The failure of the **County** Board, the Waiver Communities' corporate authorities, to act within thirty-five (35) days shall be deemed to be a final decision of that body denying the appeal and affirming the decision of the **Committee**, or **Oversight Committee**.

15-114.H The decision of the **County** Board, or the Waiver Communities' corporate authorities, shall in all instances be considered a final decision.

15-115. RESERVED

15-116. RESERVED

ARTICLE XVI. VARIANCES

15-117. Authority; Applications; Standards

15-117.A The **County** Board in Non-Waiver Communities or the corporate authorities of a **Waiver Community** shall have the authority to grant **Variances** from the requirements of this Ordinance, or the **Waiver Community Ordinance**, but only in compliance with the procedures set forth in this Article XVI.

15-117.B The **Variance** procedure is intended to provide a narrowly circumscribed means by which relief may be granted to allow **Development** when the requirements of this Ordinance or the applicable **Waiver Community Ordinance** place an undue and particular hardship on a specific **Developer**.

15-117.C **Variance** petitions may be filed either by the owner or by the **Developer** of land specified in the application.

15-117.D The petition for a **Variance** shall accompany or follow an application for a **Stormwater Management Certification** including all necessary submittals.

15-117.E All **Variance** petitions filed pursuant to this Article XVI shall be filed with the **Director** or the **Administrator**.

15-117.F All **Variance** petitions filed pursuant to this Article XVI shall be on forms supplied by the **Director** or the **Administrator** and shall be filed in such number of duplicate copies as the **Director** or the **Administrator** may designate by administrative order.

15-117.G Every **Variance** petition filed pursuant to this Article XVI shall provide the following information:

15-117.G.1 The owner's or **Developer's** signed consent to the filing of the petition; and

15-117.G.2 The names and addresses of all professional consultants, if any, advising the petitioner with respect to the petition; and

15-117.G.3 The name and address and the nature and extent of any economic or family interest of any officer or employee of the **County** in Non-Waiver Communities, or the local municipality in a **Waiver Community**, as to: the owner, the petitioner, or the subject property or **Development**; and

15-117.G.4 The addresses and legal description of the subject property or **Development**; and

15-117.G.5 The specific feature or features of the proposed construction or **Development** that require a **Variance**; and

15-117.G.6 The specific provision of this Ordinance or the **Waiver Community Ordinance** from which a **Variance** is sought and the precise variation there from being sought; and

15-117.G.7 A statement of the characteristics of the subject property or **Development** that prevent compliance with the provisions of this Ordinance or the **Waiver Community Ordinance**; and

15-117.G.8 A statement of the minimum **Variance** of the provisions of this Ordinance or the **Waiver Community Ordinance** that would be necessary to **Certify** the proposed construction or **Development**; and

- 15-117.G.9** A statement of how the **Variance** sought satisfies the standards set forth in Section 15-27 of this Ordinance.
- 15-117.H** No public hearing will be scheduled on a **Variance** petition unless the petition is filed in proper form and number and contains all required information.
- 15-117.I** Whenever supplemental data in connection with a previously filed **Variance** petition is required or offered by the **Applicant**, it shall be submitted at least five (5) days prior to the date on which it is to be considered at a hearing or acted upon in connection with such petition. The filing of such data shall, in the discretion of the body hearing the petition, be a cause to delay a requested or scheduled hearing date.
- 15-117.J** The **Committee** or the **Oversight Committee** shall consider, and the **County** Board or the corporate authorities of the **Waiver Community** may grant, such petition for a **Variance** only when it is consistent with the general purpose and intent of this Ordinance or the **Waiver Community Ordinance** and when the **Development** meets the requirements specified in Section 15-27 of this Ordinance as well as the following conditions:
- 15-117.J.1** Granting the **Variance** shall not alter the essential character of the area involved, including existing stream uses; and
- 15-117.J.2** Carrying out the strict letter of the provisions of this Ordinance or the **Waiver Community Ordinance** would create an undue or particular hardship or difficulty on a specific **Developer** or owner; and
- 15-117.J.3** The relief requested is the minimum necessary and there are no means other than the requested **Variance** by which the alleged hardship can be avoided or remedied to a degree sufficient to permit the reasonable continuation of the **Development**; and
- 15-117.J.4** The **Applicant's** circumstances are unique and do not represent a general condition or problem; and
- 15-117.J.5** The subject **Development** is exceptional as compared to other **Developments** subject to the same provision; and
- 15-117.J.6** When the **Variance** request involves the standards for **Wetlands** and **Floodplains**, the **Development** proposed for a wetland or **Floodplain** could not be constructed if it were limited to areas outside the wetland or **Floodplain**.
- 15-117.K** No **Variance** shall be granted for any **Development** in the **Regulatory Floodway**, **Regulatory Wetlands**, and **Critical Wetlands** from any provision of this Ordinance or a **Waiver Community Ordinance** where the effect of such **Variance** would be to create regulation less restrictive or stringent than Federal or State required minimum standards for **Development** in such areas. Subject to this standard, a **Variance** may be granted in accordance with this Article XVI from provisions of this Ordinance or a **Waiver Community Ordinance** more restrictive or stringent than the federal and/or state required minimum standards for **Development** in such areas.

15-117.L When a **Variance** from the requirements of this Ordinance or the **Waiver Community Ordinance** would lessen the degree of protection to a **Structure**, the **Director** or the **Administrator** shall notify the **Applicant** that the **Variance**, if granted, may result in increased rates for **Flood** insurance.

15-117.M The **Director** or the **Administrator** shall give written notice of any **Variance** petition, including the date and time of the public hearing, to the **Committee**, the **Director**, and all **Watershed Planning Area Community Administrators**. Such notice shall be sent no less than twenty-one (21) days in advance of the date of the public hearing by regular U.S. mail or its equivalent. In addition, the **Certification** application and **Variance** petition including all **Certification** submittals and support documentation shall be sent to the **Director**.

15-118. Public Hearing Required. A public hearing shall be set, noticed, and conducted by the **Committee** or the **Oversight Committee** in accordance with the provisions of Section 15-139 of this Ordinance.

15-119. Review and Recommendation

15-119.A The **Director** or the **Administrator** shall review all requests or petitions for a **Variance** and shall present written findings of the review to the **Committee** or the **Oversight Committee**.

15-119.B Within thirty-five (35) days after the close of the public hearing, the **Committee** or the **Oversight Committee** shall make a written recommendation to the **County** Board or the corporate authorities of the **Waiver Community** to grant or deny the **Variance** petition. The failure of the **Committee** or the **Oversight Committee** to act within thirty-five (35) days shall be deemed to be a recommendation to deny the variation.

15-119.C The written recommendation of the **Committee** or the **Oversight Committee** whether to grant or deny the requested **Variance** shall be accompanied by written findings of fact specifying the reasons for the decision, which written findings shall be distributed to the members of the **County** Board or the corporate authorities of the **Waiver Community** before the **County** Board or the corporate authorities of the **Waiver Community** votes to grant or deny the **Variance** petition.

15-119.D Decision. The **County** Board or the corporate authorities of the **Waiver Community** shall grant the variation, grant the variation with modifications or conditions, or deny the variation within forty-five (45) days after receipt of the recommendation of the **Committee** or the **Oversight Committee**. The failure of the **County** Board or the corporate authorities of the **Waiver Community** to act within forty-five (45) days, or such additional time as the **Applicant** may agree, shall be deemed to be a decision denying the variation.

15-119.E Conditions.

15-119.E.1 A **Variance** less than or different from that requested may be granted when the record supports the **Applicant's** right to some relief but not to the relief requested.

15-119.E.2 The **County** Board or the corporate authorities of the **Waiver Community** may impose such specific conditions and limitations concerning any matter relating to the purposes and objectives of this Ordinance or the **Waiver Community Ordinance** on the **Development** benefited by a **Variance** as may be necessary or appropriate.

15-119.E.3 Whenever any **Variance** authorized pursuant to this Ordinance or the **Waiver Community Ordinance** is made subject to conditions and limitations to be met by the **Developers**, the **Applicant** shall, upon meeting such conditions, file an affidavit with the **Director** or the **Administrator** so stating.

15-119.E.4 For any **Variance** to Section 15-72, a fee shall be required pursuant to Section 15-97 to compensate for any site runoff storage not being provided.

15-120. RESERVED

15-121. RESERVED

ARTICLE XVII. WAIVER COMMUNITIES

15-122. Notice of Intent to Petition for Waiver

15-122.A Any **Community** that desires to enforce, either partially or completely, within its borders the provisions of this Ordinance or its own stormwater management ordinance, (**Waiver Community Ordinance**), that is consistent with, and at least as stringent as, the **Plan** and this Ordinance, shall provide the **Committee** with written notice of that intent within 60 days after the date of enactment of this Ordinance, or in accordance with the provisions of Section 15-122.B.

15-122.B Following the effective date of this Ordinance and every June 1st thereafter, any **Community** may request a change in waiver status by providing the **Committee** with written notice of intent that such **Community** intends to petition for such a change of waiver status. The **Committee** shall consider any such petition pursuant to the provisions of this Article and Article IV of this Ordinance.

15-123. Filing and Contents of Petition

15-123.A A petition to the **Committee** for a **Partial Waiver** or a **Complete Waiver** of enforcement of this Ordinance shall be filed by the **Community** with the **Committee**. Each petition shall include a duly adopted resolution or ordinance of the corporate authorities of the **Community** including:

15-123.A.1 Adoption of, or an agreement to adopt the provisions of this Ordinance or an ordinance consistent with, and at least as stringent as, the **Plan** and this Ordinance; and

15-123.A.2 A proposed schedule indicating how the minimum criteria of this Ordinance will be implemented, including proposed staffing; and

15-123.A.3 An agreement to include a provision in any new annexation or pre-annexation agreement that requires every **Developer** to comply with the stormwater standards as currently adopted or as amended from time to time with regard to any proposed **Development** for which a plat of subdivision has not yet been recorded; and

15-123.A.4 An agreement that the **Community** will be bound by the rules and procedures governing the petition, including without limitation the **Committee's** procedures for reasserting **County** jurisdiction over stormwater management within **Waiver Community** boundaries; and

15-123.A.5 Documentation indicating the intent and ability to comply with Section 15-127.A.3 of this Ordinance.

15-123.B Each petition shall specify whether the **Community** seeks a **Partial Waiver** or a **Complete Waiver** of enforcement.

15-124. RESERVED

15-125. Committee Consideration of Petition. The **Committee** shall consider each properly filed petition for either a **Partial Waiver** or a **Complete Waiver**

of **County** enforcement of this Ordinance at a regular or special call meeting. The **Committee** may take comments from interested parties, and the **Committee** shall have the right by rule to establish procedures for the conduct of such meetings.

15-126. RESERVED

15-127. Standards for Grant of Petition

15-127.A The **Committee** shall grant a petition for waiver of **County** enforcement of this Ordinance upon finding that:

15-127.A.1 The **Community's** stormwater ordinance is consistent with, and at least as stringent as, the **Plan** and this Ordinance, as they may be amended from time to time; and

15-127.A.2 The **Community** has complied with the requirements of this Article and Article III of this Ordinance; and

15-127.A.3 By the effective date of the **Community's** stormwater ordinance, the **Community** shall provide reasonable assurance that it has available and will utilize experts with the following qualifications:

15-127.A.3.a. In a **Complete Waiver Community**:

15-127.A.3.a.1. A **Professional Engineer** with two years experience in stormwater and **Floodplain** management; and

15-127.A.3.a.2. A **Professional Engineer** with two years experience in the application of continuous **Hydrology** and fully dynamic hydraulic models; and

15-127.A.3.a.3. A **Environmental Scientist**, and

15-127.A.3.a.4. A **Soil Scientist**; or,

15-127.A.3.b. In a **Partial Waiver Community**:

15-127.A.3.b.1. A **Professional Engineer** with two (2) years experience in stormwater and **Floodplain** management; and

15-127.A.3.b.2. An environmental engineer or **Environmental Scientist**; or a request for assistance from the **Director** to review for **PCBMPs**.

15-128. Decision; Findings and Decision in Writing. The **Committee** shall decide, based upon all of the facts and circumstances: whether to deny the petition; whether to grant the petition and approve a **Partial Waiver**; or, whether to grant the petition and approve a **Complete Waiver**. The **Committee's** findings and decision shall be in writing, and shall specify whether a **Partial Waiver** or a **Complete Waiver** has been approved or whether the petition has been denied, and shall specify the reasons for granting or denying the petition.

15-129. Final Action Required By **Committee**. If the **Committee** fails to take final action on a **Community's** petition within 75 days after the petition for

application has been properly completed and filed with the **Committee**, such petition shall be deemed to be granted; provided, however, that the **Committee** may, on its own motion, extend such 75-day period for not more than one additional 60-day period, during which additional 60-day period this Ordinance shall not be enforced by the **County** in such **Community**.

15-130. Waiver Community Records

15-130.A Each **Waiver Community** shall maintain records of every **Stormwater Management Certification** issued and every **Variance** granted for **Development** within its borders.

15-130.B Each **Waiver Community** shall maintain **Record Drawings** of all **Structures** erected or constructed pursuant to a **Stormwater Management Certification** issued or **Variance** granted by such **Community**.

15-130.C Each **Waiver Community** shall maintain such records for periodic inspection by the **Department**.

15-130.D Each **Waiver Community** shall send to the **Department** a copy of each **Variance** granted by such **Community**, together with a copy of those documents required by Article XVI of this Ordinance.

15-131. Committee Review of Waiver Community Programs. The **Department** shall review the implementation and enforcement of each **Waiver Community's** stormwater program on a schedule adopted by the **Committee**.

15-132. Complaints

15-132.A Any **Person** may file a written complaint with the **Committee** alleging that a **Waiver Community** or the **Department** has failed in some significant way, or has repeatedly failed, to implement or enforce the applicable stormwater management ordinance.

15-132.B Such complaint shall contain a short statement of facts describing how the **Waiver Community** or the **Department** has so failed in some significant way, or has repeatedly failed, to implement or enforce the **Waiver Community Ordinance** or this Ordinance.

15-133. Complaint Investigation and Review

15-133.A Upon receipt of a complaint, the **Department** shall notify, and provide a copy of the complaint to, any **Community** named in the complaint. When a complaint involves the **Department's** failure to implement or enforce this Ordinance, the **Committee** shall designate a third-party to act in place of **Department** personnel for the purpose of carrying out the requirements of Sections 15-133.B through 15-133.E and Section 15-134.

15-133.B The **Department** shall conduct a preliminary investigation of the complaint, including without limitation:

15-133.B.1 An inspection of all relevant records related to the implementation and enforcement of the **Waiver Community Ordinance** or this Ordinance by the **Community** or the **Department**; and

15-133.B.2 Field inspections of relevant **Developments, Structures, or Stormwater Facilities.**

15-133.C The **Department** shall compile such information as necessary to determine whether there has been any failure in some significant way, or a repeated failure, to implement or enforce the **Waiver Community Ordinance** or this Ordinance.

15-133.D If the **Department** determines that there has been any failure in some significant way, or a repeated failure, to implement or enforce the **Waiver Community Ordinance** or this Ordinance, then it shall prepare a report of its findings and determinations and file such report with the **Committee.**

15-133.E The **Department** shall provide a copy of its report to the complainant and the **Community.**

15-134. Formal Complaint of Committee

15-134.A After receipt of the **Department** report specified in Section 15-133.E of this Ordinance, the **Committee** may request the State's Attorney, by his assistant, to issue and serve on the **Department** or the **Community** that is the subject of the investigation a written notice of charges together with a formal complaint.

15-134.B The formal complaint shall specify the manner in which the **Community** or the **Department** has failed in some significant way, or has repeatedly failed, to implement or enforce the applicable Stormwater Ordinance.

15-134.C The complaint shall also advise the **Community** or the **Department** of its right to answer the charges specified therein at a public hearing before the **Committee.** The date, time, and place of such hearing shall be specified in the written notice.

15-134.D A copy of the written notice and formal complaint shall also be sent to **OWR, FEMA,** adjacent communities within the same **Watershed Planning Area,** and to any **Person** that has filed a complaint about the **Community** or the **Department** within the six months immediately preceding the date of the complaint.

15-135. Answer and Time for Filing. The **Community** or the **Department** shall have the right to file a written answer to the allegations contained in the formal complaint at least seven days prior to the date for which the public hearing is first scheduled. No written answer shall be allowed to be filed less than seven days prior to the date for which the public hearing is first scheduled except by leave of the **Committee.** In lieu of filing an answer, the **Community** or the **Department** may waive the public hearing and submit to a final determination of the **Committee** issued in accordance with Sections 15-135 and 15-136.

15-136. Public Hearing. Any public hearing required by this Article shall be set, noticed, and conducted by the **Committee** in accordance with the provisions of Section 15-139 of this Ordinance. Such hearing shall be commenced not less than 30 days nor more than 45 days after the date of service of the written notice.

15-137. Committee Decision

15-137.A After due consideration of all written and oral statements, testimony, and arguments submitted at the public hearing, or upon default in appearance of the **Community** or the **Department** on the hearing day specified in the notice, the **Committee** shall issue a final determination, as it shall deem appropriate under the circumstances.

15-137.B The **Committee** shall file a written opinion, within thirty-five (35) days of the conclusion of the public hearing, stating the facts and reasons leading to its decision.

15-137.C The **Committee** shall immediately notify the **Community** or the **Department** of the **Committee's** opinion and order, if any, in writing.

15-137.D If the **Committee** determines that a fine or other penalty other than reduction or rescission of waiver status is to be sought, then it shall request the State's Attorney to file a complaint for such in a court of competent jurisdiction.

15-137.E If the **Committee** determines that reduction or rescission of waiver status is mandated then such reduction or rescission shall occur at the direction of the **Committee**. The **Committee's** opinion and determination may be appealed in a court of competent jurisdiction. Any such appeal must be filed within thirty (30) days of issuance of the **Committee's** written determination.

15-138. Committee Determinations. The **Committee** may by final determination revoke any **Partial Waiver** or **Complete Waiver** of **County** enforcement of this Ordinance previously granted, specifying the date on which the revocation will be effective; or the **Committee** may issue any other order directing the **Community** or the **Department** to take such actions or measures as the **Committee** deems are necessary and appropriate to assure cooperation and proper enforcement of the **Waiver Community Ordinance** or this Ordinance.

ARTICLE XVIII. MISCELLANEOUS PROVISIONS

15-139. Public Hearings

15-139.A When the provisions of this Ordinance or the **Waiver Community Ordinance** require a public hearing in connection with any application, petition, or appeal, the **Committee** or the **Oversight Committee** shall, upon receipt of a properly completed application, petition, or notice, fix a reasonable time and place for such hearing; provided, however, that such hearing shall be commenced no later than sixty (60) days, and shall be concluded no later than one hundred twenty (120) days, following the submission of the subject application, or petition, unless hearing dates of the body are completely committed during that time.

15-139.B All hearings shall be open to the public and shall be held before the **Committee** or the **Oversight Committee**.

15-139.C The **Committee** or the **Oversight Committee** shall cause notice to be given of public hearings in the form and manner and to the **Persons** herein specified.

15-139.C.1 Such notice shall contain a description of the subject matter to be heard or considered at the hearing, the address or particular location of the subject **Development**, and the time, place, and date of the hearing. The notice shall also contain a reference to the particular sections of this Ordinance or the **Waiver Community Ordinance** involved.

15-139.C.2 Notice of every hearing shall be given by mail or personal delivery to the **Applicant** or petitioner. Notice by mail shall be mailed no fewer than fourteen (14) days in advance of the hearing by regular U.S. mail, except as otherwise specifically provided in this Ordinance or the **Waiver Community Ordinance**.

15-139.C.3 The **Committee** or the **Oversight Committee** shall publish notice of the public hearing at least once, not less than fourteen (14) days before the date for the hearing, in a newspaper of general circulation in the geographic area where the property that is the subject of the hearing is located.

15-139.D Any interested **Person** may appear and testify at a public hearing, either in **Person** or by a duly authorized agent or attorney, and may submit documentary evidence; provided, however, that the **Committee**, and the **Oversight Committee**, may exclude irrelevant, immaterial, or unduly repetitious evidence.

15-139.E Subject to the discretion of the **Committee**, and the **Oversight Committee**, the **Applicant** or petitioner, or any other party to the hearing, may be allowed any or all of the following rights:

15-139.E.1 To present witnesses on their behalf.

15-139.E.2 To cross-examine all witnesses testifying in opposition to the application, petition, or appeal.

15-139.E.3 To examine and reproduce any documents produced at the hearing.

15-139.E.4 To have subpoenas issued by the body in charge of the hearing as may be provided by Illinois law for **Persons** to appear at the hearings and for examination of documents by the **Person** requesting the subpoena either before or during the hearing, where such **Persons** or documents are shown to have a substantial evidentiary connection with:

15-139.E.4.a. The **Development** to which the request applies;
or

15-139.E.4.b. Facts that would support or negate the legal standards for granting or denying the request or appeal.

15-139.E.5 To a continuance, upon request, for the purpose of presenting evidence to rebut evidence introduced by any other **Person**. In determining whether to grant or withhold such rights, the discretion of the **Committee**, and the **Oversight Committee**, shall be governed by the goal of securing all information and opinion relevant and material to its deliberations. Such rights shall not be granted, however, when undue and unwarranted delay would result or when to do so would tend to produce no new evidence to aid the hearing body in reaching its decision.

15-139.F The **Committee**, and the **Oversight Committee**, may at any time, on its own motion or at the request of any **Person**, adjourn the hearing for a reasonable time and to a fixed date, time, and place, for the purpose of giving further notice, taking further evidence, gathering further information, deliberating further, or for such other reason as the **Committee**, and the **Oversight Committee**, may find sufficient. Proper notice of such a recess shall be given to all parties to the hearing, and any other **Person** designated by the **Committee**, and the **Oversight Committee**.

15-139.G All testimony at every hearing shall be given under oath.

15-139.H Any **Person** may at any time prior to the commencement of a hearing hereunder, or during such hearing, or within such time as may be allowed by the **Committee**, and the **Oversight Committee**, following such hearing, submit written statements in support of or in opposition to the application, petition, or appeal being heard.

15-139.I All other matters pertaining to the conduct of hearings shall be governed by the provisions of this Ordinance or the **Waiver Community Ordinance** pertaining to, and the rules promulgated by, the **Committee** or the **Oversight Committee**.

15-139.J The record of the public hearing shall include:

15-139.J.1 All notices and responses thereto; and

15-139.J.2 A transcript or notes, if any, of all oral testimony received, the cost of which transcription shall be the responsibility of the party requesting that the record be transcribed, and all written information, if any, submitted by parties or the public; and

15-139.J.3 Any recommendation or report by the hearing body; and

15-139.J.4 All **Department** memoranda or data submitted to the hearing body in connection with its consideration of the subject matter of the hearing.

15-139.K The decision or recommendation of the **Committee** or the **Oversight Committee** shall be in writing and shall include findings of fact specifying the reasons for the decision. The copy of the written decision shall be provided to the **Applicant** or petitioner and transmitted to the **County** Board or the corporate authorities of a **Waiver Community**.

15-140. Severability

15-140.A The several provisions of this Ordinance or the **Waiver Community Ordinance** shall be severable in accordance with the following rules:

15-140.A.1 If any court of competent jurisdiction shall adjudge any provision of this Ordinance or the **Waiver Community Ordinance** invalid, such judgment shall not affect any other provisions of this Ordinance or the **Waiver Community Ordinance**.

15-140.A.2 If any court of competent jurisdiction shall adjudge invalid the application of any provision of this Ordinance, or the **Waiver Community Ordinance**, to a particular **Parcel** of land, a particular **Structure**, or a particular **Development**, such judgment shall not affect the application of said provisions to any other land, **Structure**, or **Development**.

15-140.B All such unaffected provisions of this Ordinance or the **Waiver Community Ordinance** shall remain in full force and effect.

15-141. Most Restrictive Provisions Apply

15-141.A The provisions of this Ordinance and all applicable **Waiver Community Ordinances** shall be interpreted to be cumulative of, and to impose limitations in addition to, all other ordinances, laws, codes, and regulations in existence or which may be passed governing any subject matter of this Ordinance or the **Waiver Community Ordinances**. To the greatest extent possible, the provisions of this Ordinance and the **Waiver Community Ordinances** shall be construed to be consistent with, and not in conflict with, the provisions of such other ordinances, laws, codes, and regulations, and with each other, to the end that all such provisions may be given their fullest application.

15-141.B This Ordinance is intended to repeal the original ordinance or resolution which was adopted to meet the National Flood Insurance Program regulations, but is not intended to repeal any resolution which the applicable governmental entity passed in order to establish initial eligibility for the National Flood Insurance Program.

15-142. Amendments. This Ordinance may be amended in accordance with the adopted rules of the **Committee** and the DuPage County Board. Amendments to this Ordinance shall take effect after the amendment is adopted by the DuPage County Board. Unless otherwise noted, complete **Stormwater Management Certification** Applications that are accepted prior to the effective date of an amendment will not be subject to that amendment.

15-143. Effective Date. This Ordinance shall take effect for all purposes, and its effective date shall be, February 15, 1992.

15-144. RESERVED

15-145. RESERVED

APPENDIX A – ACRONYMS, INITIALISMS AND DEFINITIONS

ACRONYMS AND INITIALISMS

AASHTO	American Association of State Highway and Transportation Officials
BFE	Base Flood Elevation
BMP	Best Management Practice
CLOMC	Conditional Letter of Map Change
CMAP	Chicago Metropolitan Agency for Planning
CORS	Continuously Operating Reference Station
EPA	United States Environmental Protection Agency
FEMA	Federal Emergency Management Agency
FEQ	Full Equation model
FIA	Flood Insurance Administration
FIRM	Flood Insurance Rate Map
FPE	Flood Protection Elevation
FQI	Floristic Quality Index
GNSS	Global Navigation Satellite System
GPS	Global Positioning System
IDNR-OWR	Illinois Department of Natural Resources - Office of Water Resources
IDOT	Illinois Department of Transportation
IDPH	Illinois Department of Public Health
IEPA	Illinois Environmental Protection Agency
LOMC	Letter of Map Change
LOP	Letter of Permission
MEG	Municipal Engineers Group
MRWQ	Mean Rated Wildlife Quality
NARI	Natural Area Rating Index
NFIP	National Flood Insurance Program
NGS	National Geodetic Survey
NPDES	National Pollutant Discharge Elimination System
OHWM	Ordinary High Water Mark
OPUS – RS	Online Positioning System – Rapid Static service
OWR	Illinois Department of Natural Resources - Office of Water Resources
PCBMP	Post Construction Best Management Practices
SESC	Soil Erosion and Sediment Control
SFHA	Special Flood Hazard Area
SWPPP	Storm Water Pollution Prevention Plan
TSS	Total Suspended Solids
USACE	United States Army Corps of Engineers
USEPA	United States Environmental Protection Agency

DEFINITIONS

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

Accessory Structure. A structure which is on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure. Accessory structures are also referred to as appurtenant structures.

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

Adverse Hydraulic Impact. An increase of 0.10' or more to the modeled flood profile for a given storm event due to a proposed development activity.

Alternatives Analysis. The process of comparing and evaluating two or more courses of action of the various technical aspects of a development with the intent of selecting the action that best meets the stated Basic Development Purpose, while minimizing environmental effects and costs. A practicable alternatives study should consider possible alternative sites, a reduction in the scale of the development, and rearrangement of the proposed facilities. This study assesses actions such as fill site locations, partial and full avoidance of habitats, restoration and enhancement of habitats, and development economics.

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

Appropriate Use. The only uses of the regulatory floodway that may be considered for a Stormwater Management Certification. See Section 15-82 of this Ordinance.

Authorization. A notice issued by the County to a Partial Waiver Community that those aspects submitted to the County for review have been found to be in compliance with this Ordinance.

Base Flood. The flood having a one percent probability of being equaled or exceeded in a given year. It is also known as the 1% chance or 100-year flood. It has been adopted by the NFIP as the basis for mapping, insurance rating, and regulating new construction.

Base Flood Elevation (BFE). The height of the base flood in relation to North American Vertical Datum of 1988 (NAVD 88). DuPage County has developed appropriate conversion factors to transform BFE's from NGVD 29 to NAVD 88 datum.

Basic Development Purpose. The fundamental, essential function of the proposed activity.

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

Buffer. The predominately vegetated area with a defined width adjacent to those areas that meet the definition of wetland and waters of DuPage for the purpose of eliminating or minimizing adverse impacts to those areas. Buffer may function to:

- reduce flood flow rates, velocity and volume,
- promote bank stability, filter sediment, nutrients and other pollutants,
- insulate and moderate daily water temperatures,
- promote groundwater infiltration,
- provide habitat corridors for aquatic and terrestrial fauna and flora.

Building. A structure that is constructed or erected partially or wholly above ground and is enclosed by walls and a roof. The term "building" includes manufactured homes and includes both the above-ground and the below-ground portions of the structure. Free standing signs or structures, such as kiosks are not considered to be buildings regulated in this Ordinance.

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

Channel. Any river, stream, creek, brook, branch, natural or artificial depression, ponded area, lake, flowage, slough, ditch, conduit, culvert, gully, ravine, swale, wash, or natural or man-made drainageway, in or into which surface or groundwater flows, either perennially or intermittently.

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

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

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

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

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

Complete Waiver. The authority granted to a community pursuant to Articles I, II, III, and XVII of this Ordinance whereby a community acquires complete jurisdiction over reviewing applications for and granting Stormwater Management Certifications.

County. The County of DuPage, Illinois.

Critical Duration. The duration of a storm event that results in the greatest peak runoff.

Critical Wetlands. Wetlands of the highest value by virtue of one or more high ranking characteristics that result in a uniquely valuable environment. See Sections 15-85.E of this Ordinance.

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

Department. The DuPage County Department of Economic Development and Planning, or successor department or agency.

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

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

Development Site. The contiguous parcels of land under the Ownership or Control of the land owner or developer who is making Application for a Stormwater Management Certification. When the development includes subdivision of a parcel, the development site includes all land prior to subdivision. When the owner or developer controls only a portion of a larger development which has already been constructed, the Administrator may consider the larger, previously developed site as the "development site" if it was developed under a Stormwater Management Permit issued after February 15, 1992.

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

Direct Impact. Physical impact within wetland, waters, or buffer.

Dry Land. Land that is not a waters of the DuPage, which does not contain hydric soil, or can be shown through a review of historic aerial photos spanning at least 4 decades leading up to development that an area in question did not contain wetland area, but for an incidental construction activity that caused the area to become wet.

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

Environmental Scientist. A professional with a four-year degree in an earth or life science curriculum and four years of professional experience in which the scientist has spent more than 50% or their work time on wetland/environmental related tasks with an emphasis on wetland delineation, ecology, restoration, and botany.

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

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

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

FEMA. The Federal Emergency Management Agency.

FEMA Map Change. Any one or more of the following: CLOMR, LOMR, LOMA, CLOMR-F, LOMR-F and physical map changes and other designations of map change as developed under the NFIP.

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

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

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

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

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

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

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

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

Flood Protection Elevation (FPE). The base flood elevation plus one foot of freeboard. If an approved FEQ **Watershed Plan Model** produces a higher elevation than the regulatory BFE, the FPE shall be the FEQ flood of record elevation plus one foot of freeboard.

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

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

Floristic Quality Index (FQI). A quantitative measure to determine the quality of a plant community as calculated by the methodology contained in *Plants of the Chicago Region* (Swink, F. and G. Wilhelm. The Morton Arboretum, Lisle, Illinois).

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

Indirect Wetland Impact. A change in hydraulics or hydrology that causes a change in plant community that reduces or eliminates wetland function without directly filling or excavating wetland.

Impervious Area. Land cover that is including but not limited to non-porous asphalt or asphalt sealants, non-porous concrete, roofing materials except planted rooftops designed to reduce runoff, and gravel surfaces used as roadways or parking lots. Graveled surfaces used for storage of materials may be counted only 60% impervious provided aggregate gradation has a high porosity. Ponded water shall be considered impervious area (at its normal water elevation), but vegetated wetlands or constructed wetland basins shall not be considered impervious area. The impervious area of a development site pre-development is the maximum extent of the impervious surfaces that existed on the development site at the same time in any of the 3 -years pre-dating the date of the application.

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

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

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

Letter of Permission (LOP). A request for approval to proceed with an action that is believed to have met certain specified criteria as defined within the Ordinance.

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

LOMC. A Letter of Map Change. A Letter of Map Amendment or a Letter of Map Revision.

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

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

Maintenance. The selective removal of woody material and accumulated debris from, or repairs to, a stormwater facility so that such facility will perform the functions for which it was designed and constructed. Partial reconstruction or any resurfacing of existing roadways, walkways, trails, and bicycle routes will be considered a form of maintenance.

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

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

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

Minor Development. The following parameters define Minor Development. The area proposed to be disturbed by the development activities can be defined and limited in the field to three acres or less, and;

- Does not involve any work within a wetland, buffer, or within 100 feet of a wetland boundary; and
- Does not involve any work within a regulatory floodplain; and
- Does not involve 2,500 square feet or more of **Net New Impervious Area**. A development may also qualify as minor, with the prior concurrence of the Administrator or Director in a Non-Waiver Community if it exceeds 2,500 square feet of **Net New Impervious Area** but does not meet the thresholds for providing site runoff storage listed in Section 15-72.

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

Mitigation. Measures taken to offset negative impacts by development to wetland, buffer or floodplain areas. When a development unavoidably requires impact or loss of natural resources, that impact must be offset (compensated or mitigated) by replacing or providing substitute resources or environments. Mitigation shall take into consideration functions wetlands and buffers may provide.

Native Vegetation. Plants indigenous to northeastern Illinois as defined within *Plants of the Chicago Region* (Swink and Wilhelm. The Morton Arboretum, Lisle, Illinois).

Natural Areas Restoration Development. A development for which the basic development purpose is the restoration or creation of natural areas including streambank or shoreline restoration.

Net New Impervious Area. The difference between the Impervious Areas associated with an application for Stormwater Management Certification, and the Impervious Areas existing on the pre-development site.

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

New Impervious Area. Impervious areas constructed under the set of plans associated with an application for Stormwater Management Certification.

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

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

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

Open Space Development. Developments which create only incidental amounts of impervious area, such as trails, picnic shelters, or playgrounds that involve grading and vegetation removal, but do not alter significantly the pattern of stormwater runoff compared to the **Pre-Development Site**. Open space developments are limited to 20% impervious coverage in the With Development condition.

Ordinary High Water Mark (OHWM). The line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank (scour line), shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.

Oversight Committee. A committee appointed by a Waiver Community to oversee the implementation and enforcement of the Waiver Community's Ordinance.

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

Parcel. Contiguous land under single ownership or control.

Partial Waiver. Authority granted to a community pursuant to Articles I, II, III, and XVII of this Ordinance whereby the Waiver Community acquires limited jurisdiction over reviewing applications for, and issuing, Stormwater Management Certifications.

Performance Standards. A set of criteria which a wetland, buffer, or natural areas development must meet in order to obtain approval as outlined in a Stormwater Management Certification.

Permanent Wetland Impact. The permanent conversion of wetland to non-wetland through direct or indirect activities.

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

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

Post Construction BMPs. Features or infrastructure permanently installed onsite to treat stormwater runoff for pollutants of concern and to reduce runoff volume, following construction, for the life of the development.

Practicable Alternative. A development that is available and capable of being completed after taking into consideration cost, existing technology, and logistics in light of the overall basic development purpose. A study of practicable alternatives should consider possible alternative sites, a reduction in the scale of the development and rearrangement of the proposed facilities. This study assesses actions such as fill site locations, partial and full avoidance of habitats, and restoration and enhancement of habitats and development economics. See also **alternatives analysis**.

Pre-Development Site. On the date of application, the Pre-Development site consists of those existing site features that were either permitted or did not require permits at the time of their construction, or were constructed prior to February 15, 1992. Specifically, such features

as pervious and impervious (paved or roof) surfaces, and existing drainage facilities, as well as wetlands, floodplains/floodways and buffers are important pre-development site features.

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

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

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

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

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

Regulatory Floodplain. The floodplain as determined by the base flood elevation used as the basis for regulation in this Ordinance.

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

Regulatory Wetlands. All wetlands other than critical wetlands.

Roadway Development. A development on an essentially linear property holding including easements, not a part of a larger development project involving adjacent land holdings, and for the purpose of building a new roadway, expanding the impervious footprint of an existing roadway, or completely reconstructing an existing roadway.

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

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

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

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

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

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

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

Stormwater Facility. All ditches, channels, conduits, bridges, culverts, levees, ponds, natural and man-made impoundments, field tiles, swales, sewers, BMPS or other structures or measures which serve as a means of draining surface and subsurface water from land.

Stormwater Management Certification. A certification established by this Ordinance or by a Waiver Community's Stormwater Ordinance; and issued by the Department or a Waiver Community signifying acceptance of measures identified for proposed development to comply with this Ordinance and the Plan.

Structure. The term "structure" includes, without limitation: buildings, manufactured homes, tanks, dams.

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

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

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

minimum necessary to assure safe living conditions or (2) any alteration of a historic building that will not preclude the building's continued designation as a historic building.

Temporary Wetland Impact. A wetland impact that would result in a short-term loss of wetland function. Temporary wetland impacts do not result in a permanent conversion of wetland to non-wetland. Temporary impacts do not include relocation of wetland, or conversion of a vegetated community to open water, unless the conversion is part of an overall wetland restoration/creation program that is submitted for review and approved. Additionally, for the impact to be considered temporary, wetland soil profiles shall be able to be restored to a similar pre-disturbance condition and elevation, vegetative communities shall have the capability of being restored to same or higher quality, function; and the restoration must occur within one year of the disturbance.

Total Impervious Area. The sum of the impervious area on a site.

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

USACE. United States Army Corps of Engineers.

Variance. An Authorization recommended by the Committee or an Oversight Committee, and granted by the DuPage County Board or the corporate authorities of a Waiver Community, that varies certain requirements of this Ordinance or a Waiver Community Ordinance in a manner in harmony with the application of such ordinance's general purpose and intent, which variance shall be granted only in a case where there are practical difficulties or particular hardships.

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

Waiver Community. A community that has been granted either a Partial Waiver or a Complete Waiver from County enforcement of this Ordinance. See Article XVII of this Ordinance.

Waiver Community Ordinance. An approved, valid, and effective stormwater management ordinance of a Waiver Community. See Articles XVII of this Ordinance.

Water and Sewer Improvement Development. A development to construct, replace or upgrade infrastructure to meet current IEPA requirements for public water supply or pollution control (water or sewer system improvements). This definition does not include buildings, substations, pads, parking lots or other associated utility support facilities.

Water Quality Best Management Practices Technical Guidance. This document is a standalone guidance manual intended to be placed in Appendix E of the DuPage County Countywide Stormwater and Flood Plain Ordinance (March 2008). The Guidance was published in March 2008.

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

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

Watershed Benefit. A decrease in flood elevations or flood damages or an improvement in water quality, upstream or downstream of the development site.

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

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

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

Waters of DuPage. All waters such as lakes, rivers, streams (including intermittent streams), mudflats, wetlands, sloughs, wet meadows, or natural ponds.

Tributaries of waters identified above.

For clarification, waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the Clean Water Act (other than cooling ponds as defined in 40 CFR 123.11(m) which also meet the criteria of this definition) are not Waters of DuPage.

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

- Drainage, irrigation and roadside ditches excavated on dry land.
- Artificially irrigated areas that would revert to upland if the irrigation ceased.
- Artificial lakes, ponds or wetlands created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stormwater storage, stock watering, irrigation, settling basins, or sediment traps.
- Artificial bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.
- Waterfilled depressions created in dry land incidental to construction activity and pits or quarries excavated in dry land for the purpose of obtaining fill, stone, aggregate, sand, or gravel unless and until the construction or excavation operation is abandoned for a period of 5 years or more and the resulting body of water meets the definition of waters of DuPage.

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

Wetland Impact. Development affecting the function of any wetland.

With-Development Site. The site features illustrated on the final certified plans for a development, including unchanged areas or facilities of the pre-development site.

APPENDIX B – PERFORMANCE STANDARDS

TABLE 1. BUFFERS, WETLAND ENHANCEMENT, STREAMBANK STABILIZATION AND NATIVE PLANTED PCBMPs (See Footnote 1)

Monitoring and Management Period as Required by Certification	Temporary Vegetative Cover/ Permanent Soil Stabilization*	Percent Cover Native Vegetation*	Floristic Quality Index (FQI)***	Coefficient of Conservatism (Ĉ)***	None of Three Most Dominant Species are Non-native or Invasive**	Survival Rate for Trees and Shrubs****
Year 1	Must meet NPDES standards	10%	—	—	Cover crop acceptable	100%
Year 2	No unvegetated areas >1m ²	25%	—	—	Required	100%
Year 3	No unvegetated areas >1m ²	75%	20	3.5	Required	100%

TABLE 2. WETLAND CREATION

Monitoring and Management Period as Required by Certification	Temporary Vegetative Cover/ Permanent Soil Stabilization *	Percent Cover Native Vegetation*	Percent Cover of Species as Listed on Approved Plant Mixes *	Floristic Quality Index (FQI)	Coefficient of Conservatism (Ĉ)	None of Three Most Dominant Species are non-native or invasive**	Survival Rate for Trees and Shrubs****
Year 1	Must meet NPDES standards	10%	10%	—	—	Cover crop acceptable	100%
Year 2	No unvegetated areas >1m ²	25%	25%	—	—	Required	100%
Year 3	No unvegetated areas >1m ²	50%	50%	15	3.0	Required	100%
Year 4	No unvegetated areas >1m ²	60%	60%	—	—	Required	100%
Year 5	No unvegetated areas >1m ²	80%	75%	20	3.5	Required	100%

* As measured by aerial coverage, excluding the emergent zone. The emergent zone must achieve a minimum of 50% vegetative cover.

** Species include, but are not limited to: *Typha angustifolia*, *Typha X glauca*, *Phragmites australis*, *Lythrum salicaria*, *Salix interior*, *Phalaris arundinacea*, *Cirsium arvense*, *Melilotus sp.*, *Poa pratensis*, *Dipasacus sp.*

*** FQI and/or (Ĉ) can be adjusted downward when taking the context of the location into consideration. PCBMPs are not required to meet FQI or (Ĉ).

**** Percentage can be adjusted downward based on quantities planted and when taking the context of the location into consideration.

Note: 1) Performance standards shall be applied to and achieved in each separate plant community zone and do not apply to designated open water areas.

2) Upon final acceptance, it is the expectation that the PCBMP will continue to be maintained as specified in the Stormwater Management Certification in perpetuity or until modified by a subsequent Stormwater Management Certification.

Footnote 1: BMP standards are only for BMPs with a tributary area greater than 1 acre. There are no performance standards for BMPs with tributary areas areas of less than 1 acre.

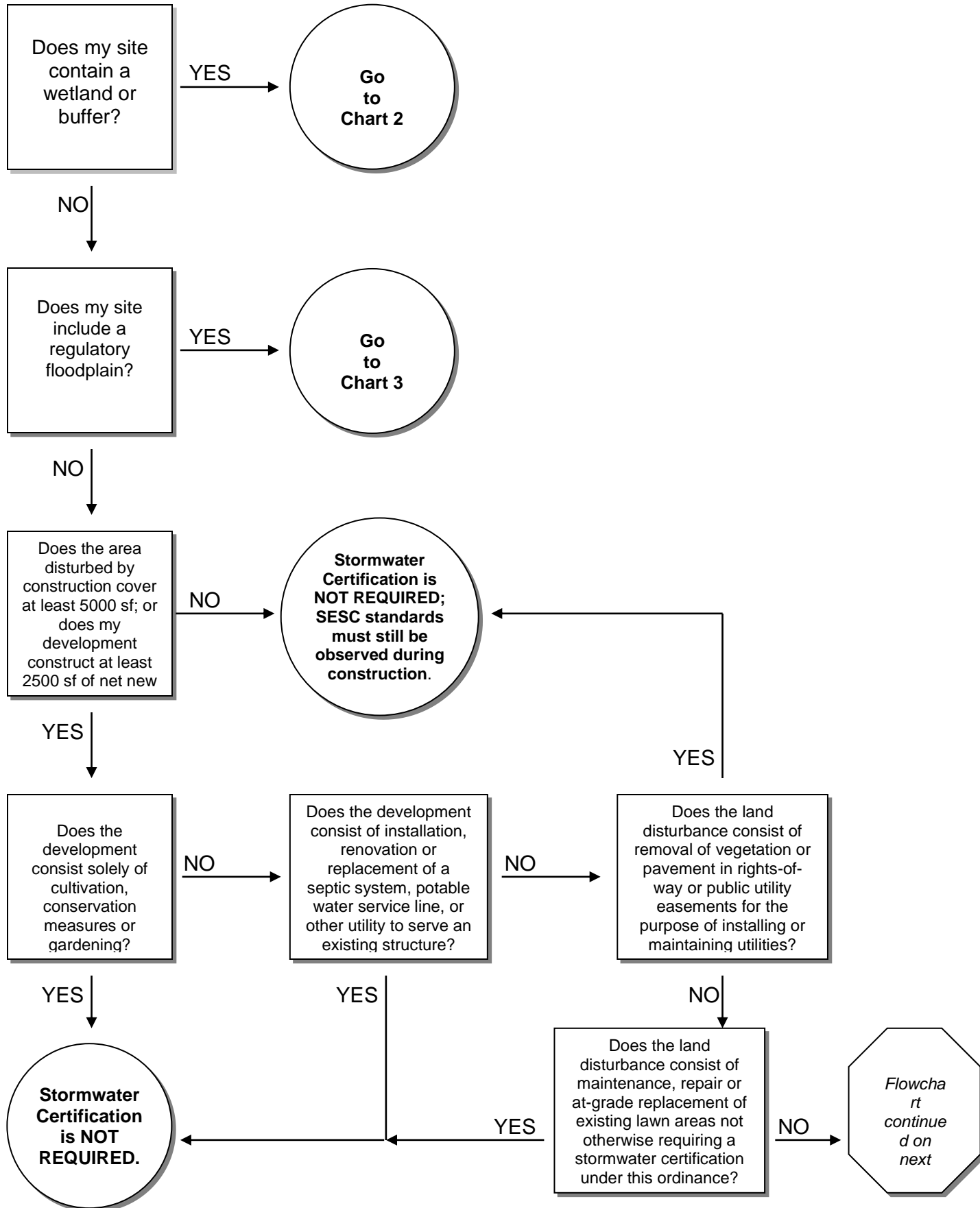
APPENDIX C – CERTIFICATION FLOW CHARTS

Chart 1- Is a Stormwater Certification Required?

Chart 2 – Wetland Requirements

Chart 3 – Floodplain Requirements

CHART 1: IS A STORMWATER CERTIFICATION REQUIRED?



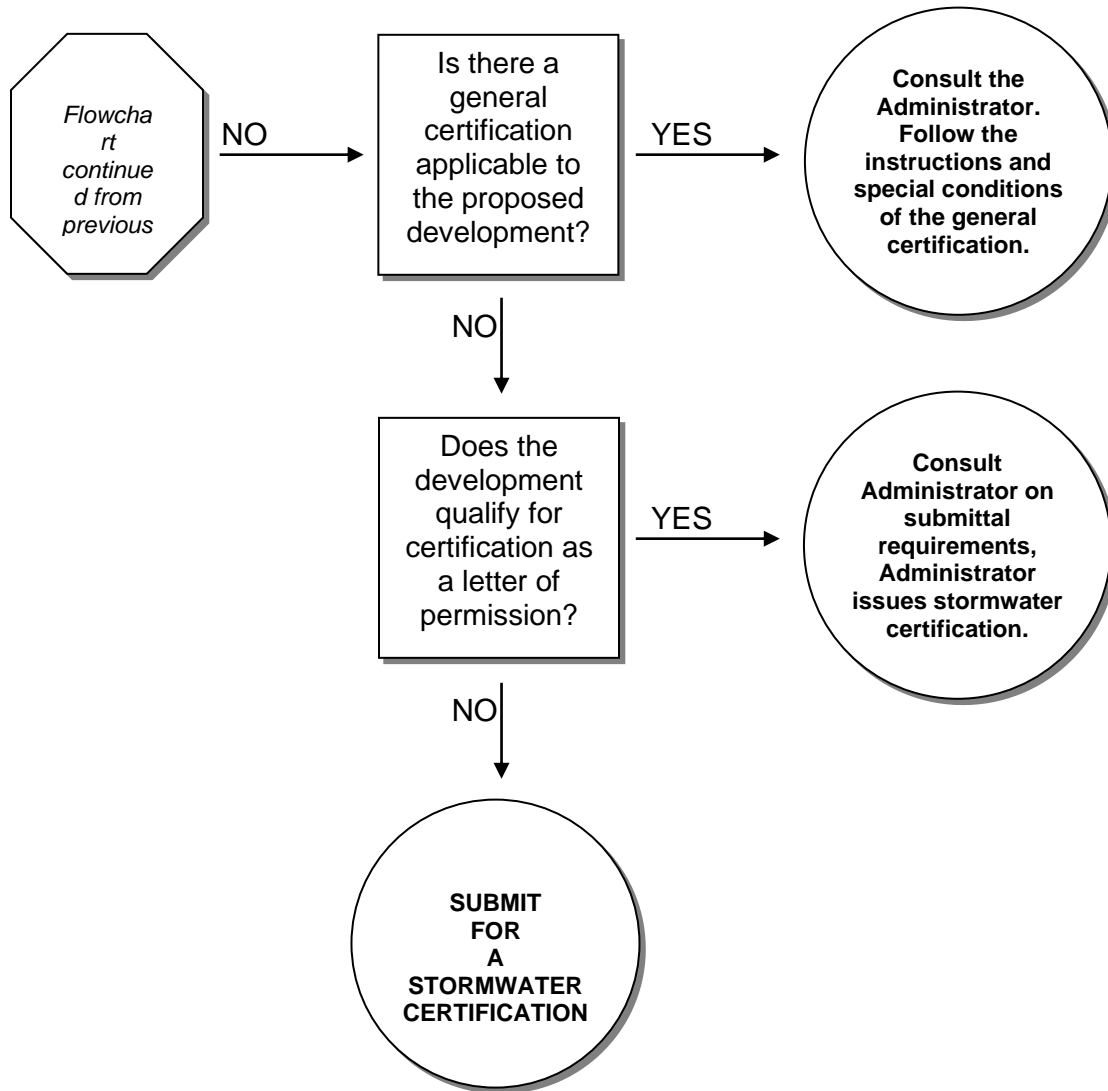


CHART 2: WETLAND REQUIREMENTS

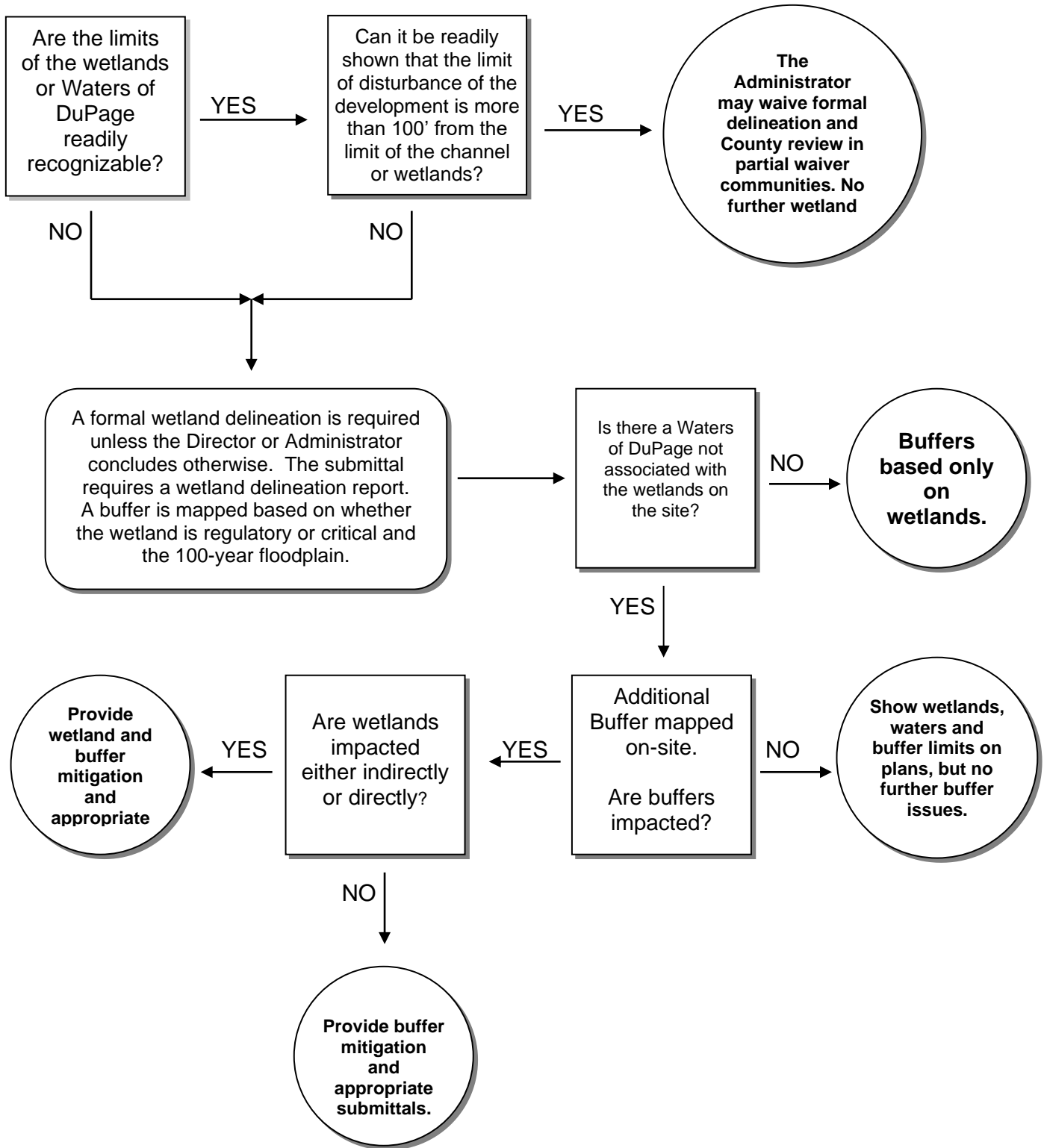


CHART 3: FLOODPLAIN REQUIREMENTS

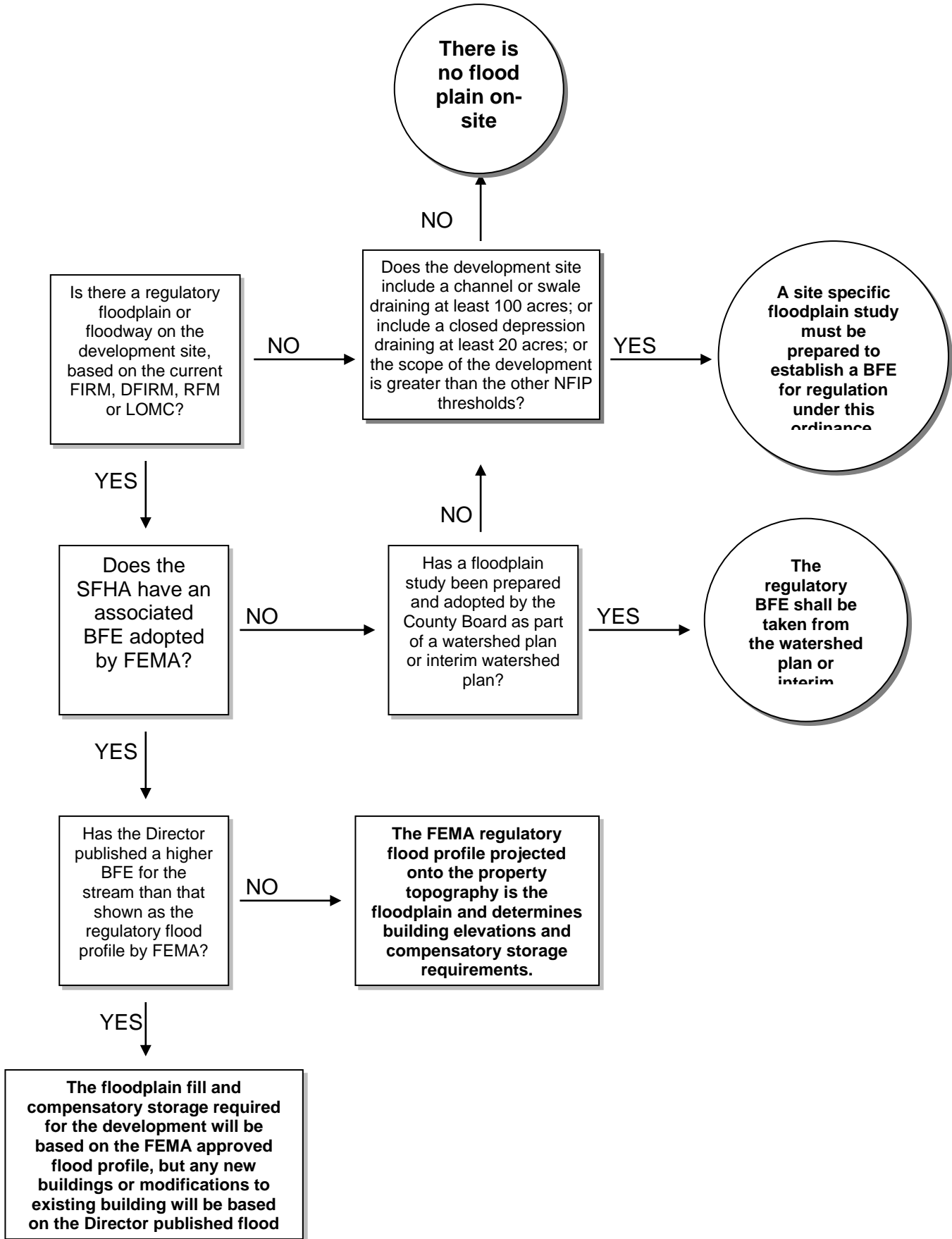
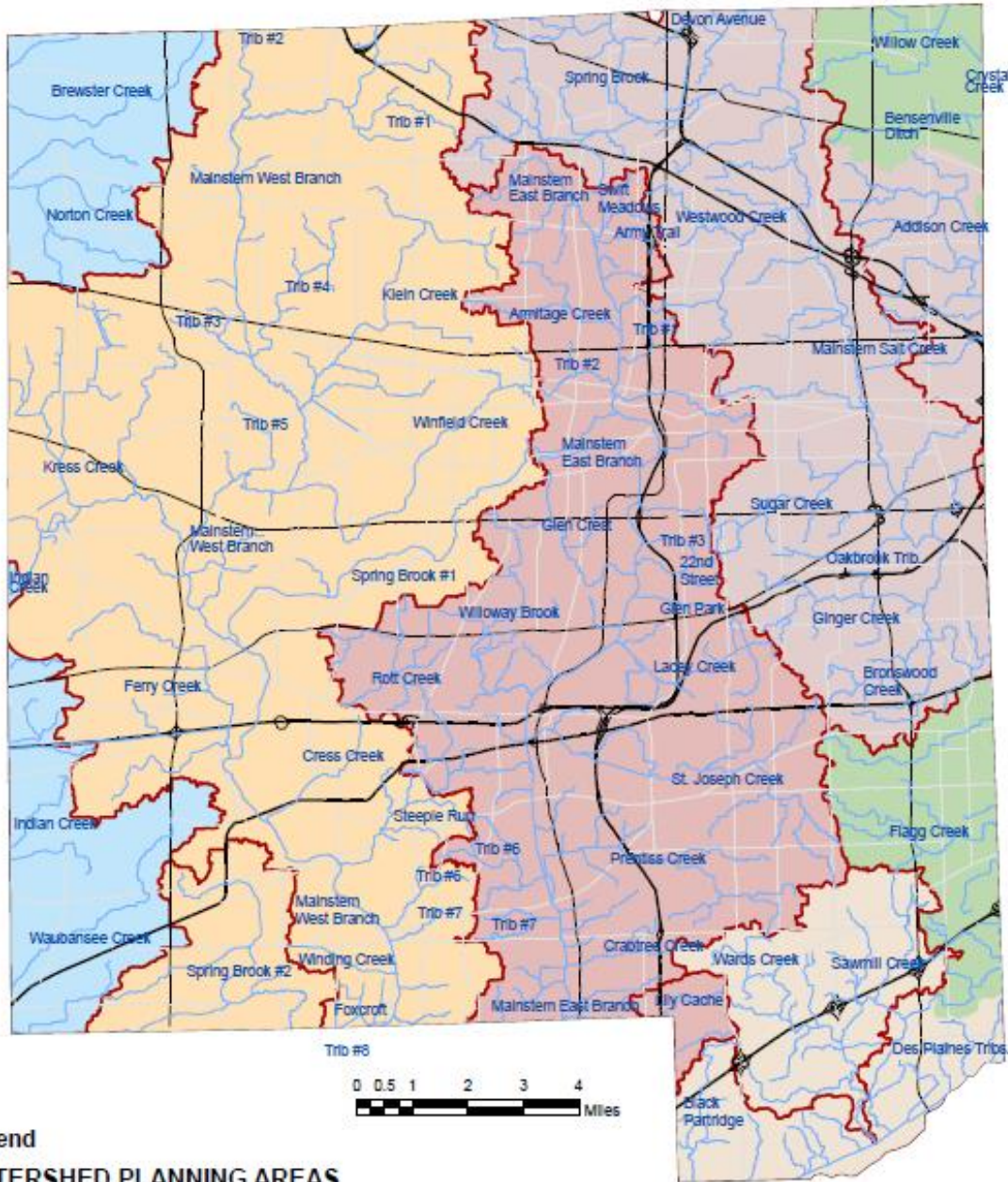


EXHIBIT 1 DuPage County Watershed Planning Areas



- Legend**
- WATERSHED PLANNING AREAS**
- Salt Creek Watershed
 - Fox River Tributaries Watershed
 - Sawmill Creek Watershed
 - West Branch Dupage River Watershed
 - East Branch Dupage River Watershed
 - Des Plaines River Tributaries Watershed
 - Rivers & Streams
 - Riverbasins



For more information, contact:
DUPAGE COUNTY, ILLINOIS
STORMWATER MANAGEMENT
 421 North County Farm Road
 Wheaton, IL 60187-3978
 Phone - (630) 407-8800



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Exhibit 2: DuPage County Communities and Floodplain Map Panels, Effective date: August 1, 2019

COMMUNITY NAME	Community Number	LOCATED ON PANEL(S)	Initial NFIP Map Date	Initial FIRM Date	Most Recent FIRM Panel Date
ADDISON, VILLAGE OF	170198	0058, 0059, 0066, 0067, 0078, 0079, 0086, 0087, 0088*	October 26, 1973	March 15, 1979	August 1, 2019
AURORA, CITY OF	170320	0109*, 0117, 0119*, 0128, 0129, 0136, 0137, 0138, 0139, 0207, 0226, 0227	June 14, 1974	June 15, 1979	August 1, 2019
BARTLETT, VILLAGE OF	170059	0007, 0026, 0027, 0028, 0029, 0031, 0032, 0033	April 12, 1974	June 15, 1981	August 1, 2019
BATAVIA, CITY OF	170321	0107	September 10, 1976	September 2, 1981	August 1, 2019
BENSENVILLE, VILLAGE OF	170200	0076, 0077, 0079, 0083, 0087, 0091	April 12, 1974	February 4, 1981	August 1, 2019
BLOOMINGDALE, VILLAGE OF	170201	0034, 0052, 0053, 0054, 0058, 0061, 0062, 0066	March 1, 1974	April 15, 1981	August 1, 2019
BOLINGBROOK, VILLAGE OF	170812	0256, 0259	April 12, 1974	October 15, 1980	August 1, 2019
BURR RIDGE, VILLAGE OF	170071	0191, 0193, 0277, 0279, 0281, 0283	March 15, 1974	October 15, 1981	August 1, 2019
CAROL STREAM, VILLAGE OF	170202	0033, 0034, 0041, 0042, 0044, 0053, 0061, 0063, 0064	April 12, 1974	June 15, 1978	August 1, 2019
CHICAGO, CITY OF	170074	0077, 0079, 0081, 0083	August 23, 1974	June 1, 1981	August 1, 2019
CLARENDON HILLS, VILLAGE OF	170203	0186, 0187	March 8, 1974	July 2, 1980	August 1, 2019
DARIEN, CITY OF	170750	0169, 0188, 0189, 0257, 0259, 0276, 0277, 0278	November 29, 1974	February 1, 1980	August 1, 2019
DOWNERS GROVE, VILLAGE OF	170204	0158, 0159, 0166, 0167, 0168, 0169, 0178, 0186, 0188, 0276	March 15, 1974	April 15, 1981	August 1, 2019
ELK GROVE, VILLAGE OF	170088	0076, 0077	November 2, 1973	June 15, 1979	August 1, 2019

ELMHURST, CITY OF	170205	0087, 0088*, 0089, 0091, 0093*, 0177, 0181	May 3, 1974	February 4, 1981	August 1, 2019
GLEN ELLYN, VILLAGE OF	170207	0064, 0068, 0152, 0154 ,0156, 0157, 0158	May 3, 1974	January 17, 1979	August 1, 2019
GLENDALE HEIGHTS, VILLAGE OF	170206	0053, 0054, 0061, 0062, 0063, 0064, 0066, 0068	June 28, 1974	August 1, 1978	August 1, 2019
HANOVER PARK, VILLAGE OF	170099	0031, 0032, 0033, 0034, 0051	April 12, 1974	November 15, 1978	August 1, 2019
HINSDALE, VILLAGE OF	170105	0179, 0183, 0187, 0191, 0193	February 1, 1974	January 16, 1981	August 1, 2019
ITASCA, VILLAGE OF	170210	0056, 0057, 0058, 0059, 0076, 0078	November 16, 1973	November 2, 1977	August 1, 2019
LEMONT, VILLAGE OF	170117	0259, 0267, 0278, 0279, 0286, 0287	August 4, 1988	August 4, 1988	August 1, 2019
LISLE, VILLAGE OF	170211	0153, 0161, 0162, 0163, 0164, 0166	March 15, 1974	September 17, 1980	August 1, 2019
LOMBARD, VILLAGE OF	170212	0066, 0067, 0068, 0069, 0088*, 0156, 0157, 0158, 0159, 0176, 0178	July 19, 1974	October 17, 1978	August 1, 2019
NAPERVILLE, CITY OF	170213	0129, 0133, 0134, 0136, 0137, 0138, 0139, 0141, 0142, 0143, 0144, 0153, 0161, 0163, 0164, 0227, 0231, 0232, 0251, 0252	April 12, 1974	March 1, 1979	August 1, 2019
OAK BROOK, VILLAGE OF	170214	0176, 0177, 0178, 0179, 0181, 0183	August 16, 1974	February 18, 1981	August 1, 2019
OAKBROOK TERRACE, CITY	170215	0176, 0177	March 29, 1974	February 18, 1981	August 1, 2019
ROSELLE, VILLAGE OF	170216	0032, 0051, 0052, 0053, 0054, 0056	September 7, 1973	May 19, 1981	August 1, 2019
SCHAUMBURG, VILLAGE OF	170158	0051, 0052	December 6, 1974	February 15, 1979	August 1, 2019
ST. CHARLES, CITY OF ²	170330	0017, 0036	March 15, 1974	September 2, 1981	August 1, 2019
VILLA PARK, VILLAGE OF	170217	0069, 0086, 0087, 0088*, 0089, 0176, 0177	March 8, 1974	February 4, 1981	August 1, 2019

WARRENVILLE, CITY OF	170218	0127, 0129, 0133, 0134, 0137, 0141, 0142	May 24, 1974	September 29, 1978	August 1, 2019
WAYNE, VILLAGE OF	170865	0009, 0017, 0028, 0029, 0036, 0037	August 15, 1975	December 1, 1981	August 1, 2019
WEST CHICAGO, CITY OF	170219	0017, 0019, 0036, 0037, 0038, 0039, 0041, 0043, 0107, 0126, 0127, 0131	April 12, 1974	November 15, 1979	August 1, 2019
WESTMONT, VILLAGE OF	170220	0178, 0179, 0186, 0187, 0188, 0189	May 17, 1974	January 16, 1981	August 1, 2019
WHEATON, CITY OF	170221	0044, 0063, 0064, 0132, 0134, 0151, 0152, 0153, 0154	April 5, 1974	June 15, 1979	August 1, 2019
WILLOWBROOK, VILLAGE OF	170222	0187, 0189, 0193, 0277, 0281	May 17, 1974	January 16, 1980	August 1, 2019
WINFIELD, VILLAGE OF	170223	0043, 0044, 0131, 0132	May 10, 1974	February 15, 1979	August 1, 2019
WOOD DALE, CITY OF	170224	0059, 0076, 0077, 0078, 0079	November 23, 1973	September 30, 1977	August 1, 2019
WOODRIDGE, VILLAGE OF	170737	0164, 0168, 0252, 0256, 0257, 0259, 0267	April 5, 1974	June 15, 1979	August 1, 2019
UNINCORPORATED DUPAGE COUNTY	170197	0007, 0009, 0017, 0026, 0027, 0028, 0029, 0031, 0032, 0033, 0034, 0036, 0037, 0038, 0039, 0041, 0042, 0043, 0044, 0051, 0052, 0053, 0054, 0057, 0058, 0059, 0061, 0062, 0063, 0064, 0066, 0067, 0068, 0069, 0076, 0077, 0078, 0079, 0083, 0086, 0087, 0088*, 0089, 0091, 0107, 0109*, 0117, 0119*, 0126, 0127, 0128, 0129, 0131, 0132, 0133, 0134, 0136, 0137, 0138, 0139, 0141, 0142, 0143, 0144, 0151, 0152, 0153, 0154, 0156, 0157, 0158, 0159, 0161, 0162, 0163, 0164, 0166, 0167, 0168, 0169,	May 13, 1977	April 15, 1982	August 1, 2019

		0176, 0177, 0178, 0181, 0186, 0187, 0188, 0189, 0191, 0193, 0193, 0207, 0226, 0227, 0231, 0232, 0251, 0252, 0256, 0257, 0259, 0267, 0276, 0277, 0278, 0279, 0281, 0283, 0286			
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* Panel not printed

²Special Flood Hazard Areas have been identified in this community, however none exist within the portion of the community located in DuPage County.

Notes:

- 1.) LOMA's and LOMR's for unincorporated areas are available at DuPage County, Stormwater Management.

- 2.) LOMA's and LOMR's may have been obtained which will affect flood elevations and limits, and/or floodway locations. The local communities will have records of these changes.

- 3.) Flood Insurance Study - DuPage County, Illinois and Incorporated Areas, August 1, 2019

EXHIBIT A
STORMWATER REVIEW PERMIT FEES
 Effective August 14, 2018

Application Fee -- \$265

***In addition to the application fee, the following fees will apply as appropriate:
 (permit fees are non-refundable once review has begun)***

<u>REVIEW CATEGORY</u>	<u>FEE</u>	<u>REVIEW CATEGORY</u>	<u>FEE</u>
Stormwater Submittals		Wetland and Buffer Submittal	
S.F. Home on a single parcel and/or >5000 sq. ft. disturbed	\$65	Wetland and Buffer Review (includes the review of the delineation, status determination, and development impact to the wetland)	
Small Site - no detention required (<1 acre non-residential or <3 acre residential)	\$1,175	Developments < 1 acre	\$610
		Developments 1-10 acres	\$940
Small Site - detention required (1-5 acre non-residential or 3-10 acre residential)	\$2,925	Developments 10-50 acres	\$1,270
		Developments > 50 acres	\$1,585
Large Site - no detention required (1-5 acre non-residential or 3-10 acre residential)	\$1,585	Wetland and Buffer Mitigation Plans (on site or off site)	
	(plus \$12/ac over thresholds)	Mitigation Sites <0.5 acres	\$2,325
Large Site - detention required (>5 acre non-residential subdivision or PUD, and >10 acre residential subdivision)	\$4,680	Mitigation Sites 0.5 - 2.0 acres	\$3,255
	(plus \$40/ac over thresholds)	Mitigation Sites 2 - 5 acres	\$4,165
		Mitigation Sites > 5 acres	\$5,090
		Wetland banking option	**
Roads (per linear mile)	\$140 + \$660/mile (1 mile minimum)	**based on the area to be banked and the acre cost of the individual bank	
PCBMP Submittals		Other Administrative Fees	
Post Construction Best Management Practice S.F. home on a single parcel	\$525	Pre-application meetings:	
		Initial meeting	\$0
Post Construction Best Management Practice Multiple parcel residential or non-residential	\$1,056	Each additional meeting - varies depending on requested staff members (assume 1 hr., 2 staff members)	\$130
		Permit Review Submittals	
		First rejection	10% of permit fee
		Second rejection	20% of permit fee
		Third or more rejections	60% of permit fee
Flood Plain Submittals			
S.F. Home, flood plain (includes flood plain model review)	\$650	Permit Violations/enforcement (after-the-fact permits, not built according to approved plans, etc. -- Any required wetland delineation will be accomplished by a County approved consultant at the cost of the applicant)	2 times normal permit fee
Small site, flood plain (development in regulatory flood plain, outside the regulatory floodway - i.e. comp. storage)	\$1,585		
Flood Plain Model Review (outside regulatory floodway limits)	\$4,225	Certification/Authorization Extension	25% of original permit fee
Development in the regulatory floodway Channel modifications, bridges, dams, on-line detention, filling, and any development which affects flood elevations or floodway limits or requires FEQ analysis	\$8,395	Flood plain & wetland map requests	\$85
		Wetland Determination	\$200
		Wetland Boundary Verification ≤5 acres Parcel(s)	\$300
		Wetland Boundary Verification >5 acres parcel(s)	\$500
Flood Plain, Wetland, or Buffer Submittals			
Minor Development not requiring modeling (General Certification, utility crossing at existing grade, sediment and erosion plan only, flood protection activities, and other minor reviews)	\$480	Variance	\$1,795
		misc. staff time	\$65/hr
No Impact Determination	\$265	Appeals Refundable if upheld	\$1,795

SCHEDULE B
DETENTION VARIANCE FEE AND BMP FEE-IN-LIEU SCHEDULE
April 2013

Detention Variance Fee

Salt Creek	\$133,000 per acre-foot
East Branch DuPage River	\$106,000 per acre-foot
West Branch DuPage River	\$ 94,000 per acre-foot
Sawmill Creek	\$ 87,000 per acre-foot
Des Plaines River Tributaries	\$133,000 per acre-foot
Fox River Tributaries	\$ 81,000 per acre-foot

The fee is calculated by multiplying the varied storage amount by the cost per acre-foot for the watershed planning area where the development is located.

BMP Fee-in-lieu

\$500 per 1,000 square feet of new impervious area