

STATE OF ILLINOIS)) SS
COUNTY OF KANE)

ORDINANCE NO. 01-_____

MINOR AMENDMENTS TO THE KANE COUNTY STORMWATER MANAGEMENT ORDINANCE

WHEREAS, the Kane County Stormwater Management Committee has recommended to the County Board several further minor amendments to the Kane County Stormwater Management Ordinance (Ordinance No. 00-312, as amended), principally concerning the administration of the provisions of Article 15 pertaining to the regulation of isolated wetlands within the County;

NOW, THEREFORE, BE IT ORDAINED BY THE Chairman and the Kane County Board as follows:

§ 1. Section 104(134) is amended to read as follows:

(134) *wetland impact* means—

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

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

(i) ~~{such wetland is}~~ 0.25 acres (10,890 sq. ft.) or more ~~{in size}~~ of such wetland has been or is to be dredged or filled, taking into account all prior dredging or filling of such wetland; and

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

(iii) such dredging or filling is not an approved impact under a conservation plan administered by any federal agency under the Food Security Act, as amended (16 U.S.C. § 3801, *et seq.*);

§ 2. Section 415 is amended to read as follows:

§ 415. Mitigation to be local

All wetland mitigation required under a COE § 404 permit for wetland disturbances in ~~{Kane}~~ the County shall be provided in ~~{Kane}~~ the County. All wetland mitigation required under this ordinance for wetland impacts in the County shall be provided in the County. All wetland

mitigation required under this ordinance for wetland impacts in any other county may be provided in such county or in the County.

§ 3. Section 800 is amended to read as follows:

§ 800. Scope of regulation

This ordinance applies to all development within the County and to all development within the corporate boundaries of any certified community, including that under the control of any governmental entity, agency, or authority. Any person undertaking a development shall obtain a stormwater management permit from the permitting authority within whose boundaries the development is located. Any person undertaking a development having a wetland impact shall obtain a permit from the Director (or Administrator in a community certified under this ordinance to administer Article 15). Any certified community undertaking development in the regulatory floodway, or regulatory floodplain where no regulatory floodway has been designated, shall obtain a permit from IDNR-OWR if required prior to issuance of a stormwater management permit. All units of local government shall obtain stormwater management permits from the permitting authority within whose boundaries the development is located.

§ 4. Section 1001 is amended to read as follows:

§ 1001. Duties of Director

The Director shall —

- (a) supervise the enforcement of this ordinance;
- (b) supervise the development, revision and implementation of the Plan for approval by the Committee and the County;
- (c) supervise the review of complex stormwater management permits for any community that requests such assistance;
- (d) notify all of the communities in the County, FEMA, IDNR-OWR, COE, NRCS, the Soil and Water Conservation District, the United States Fish and Wildlife Service, the Illinois Environmental Protection Agency, and the United States Environmental Protection Agency of any amendments to the Plan or to this ordinance;
- (e) administer the qualified engineer review specialist and qualified wetland review specialist programs;

(f) maintain a current list of all maps considered regulatory under this ordinance; and

(g) administer Article 15 **except in those communities certified under this ordinance to administer Article 15.**

§ 5. Sections 1100, 1101 and 1102 are amended to read as follows:

§ 1100. Enforcement authority

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

(a) The County shall enforce all of the provisions of this ordinance within the unincorporated areas of the County, within any County right-of-way, within any portion of an uncertified community that lies within the County, and, pursuant to intergovernmental agreement, within any portion of an uncertified community that lies outside the County.

(b) ~~{The}~~ **Unless such community has been certified under this Article to administer Article 15, the** County shall enforce the provisions of Article 15 within that portion of any certified community that lies within the County and, pursuant to intergovernmental agreement, within that portion of any certified community that lies outside the County.

(c) A community certified under this Article shall enforce all of the provisions of this ordinance ~~{with the exception of Article 15}~~ within the community **for which it has received certification.**

§ 1101. Petition for certification and waiver of enforcement

Any community that wishes to enforce the provisions of this ordinance within its borders shall file a petition for certification and waiver of enforcement (***petition for certification***), on or before ~~{December 1, 2001. After December 1, 2001}~~ **January 8, 2002.** **After January 8, 2002,** petitions for certification may be filed during the month of June of each year.

§ 1102. Filing and contents of petition for certification

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

(a) the agreement of the corporate authorities of the community to adopt, if certified, this ordinance by reference;

(b) the community's plan for the implementation and enforcement of this ordinance, including proposed staffing;

(c) the agreement of the corporate authorities of the community to include in any new annexation agreement a provision requiring every other party to the agreement to affirmatively agree to comply with the provisions of this ordinance, as amended from time to time;

(d) the agreement of the corporate authorities of the community that the community will follow the rules and procedures of the Committee in any proceeding concerning its certification and be bound by the decision of the Committee in granting or failing to grant, or suspending or revoking its certification and reasserting County jurisdiction over the enforcement of this ordinance within the boundaries of the community;

(e) if a portion of the community lies outside the County **and the community has not requested, or if requested does not receive, certification to administer Article 15**, the agreement of the corporate authorities of the community to enter into, if certified **to administer the remaining provisions of this ordinance**, an intergovernmental agreement with the County providing for the County's enforcement ~~{of the provisions}~~ of Article 15 within those portions of the community lying outside the County;

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

(g) **if the community has requested certification to administer Article 15, evidence of the community's ability to do so;**

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

§ 6. Section 1203 is amended to read as follows:

§ 1203. Wetland mitigation and performance security

(a) If **mitigation for** a wetland ~~{mitigation}~~ **impact** is required under this ordinance and the applicant chooses to mitigate within a wetland mitigation facility, the applicant shall post—

(1) a statement of the estimated probable cost to install, monitor and maintain the wetland mitigation facility required by the plan for five years which estimate is subject to the approval of the Director ~~(or Administrator in a community certified to administer Article 15)~~; and

(2) An irrevocable letter of credit in favor of the County ~~(or community in a community certified to administer Article 15)~~, or such other adequate security as the Director ~~(or Administrator in a community certified to administer Article 15)~~, may approve, in an amount equal to 110% of the approved estimated probable cost.

(b) The security required by this section shall be maintained by the applicant in favor of the County ~~(or community in a community certified to administer Article 15)~~, until construction has been completed, vegetation has been established and the wetland mitigation facility has been evaluated by the Director ~~(or Administrator in a community certified to administer Article 15)~~, and found to meet the performance standards of § 1506 at which time it shall be released.

§ 7. Sections 1302 and 1303 are amended to read as follows:

§ 1302. Fee-in-lieu of wetland mitigation

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

(a) prepare a statement of the estimated probable cost to acquire the land, install, monitor and maintain a wetland mitigation facility for five years (which estimate is subject to the approval of the Director ~~}}(or Administrator in a community certified to administer Article 15))~~, as if the applicant had chosen to satisfy the mitigation requirement by mitigating within a wetland mitigation facility; and

(b) if mitigation credits are available from any wetland mitigation bank, the applicant shall also prepare a statement of the estimated probable cost of satisfying the mitigation requirement through the purchase of credits from a wetland mitigation bank (which estimate is subject to the approval of the Director ~~}}(or Administrator in a community certified to administer Article 15))~~ as if the applicant had chosen to satisfy the mitigation requirement in such manner.

(c) The fee-in-lieu of wetland mitigation to be paid under this section shall be the lesser of (a) or (b) above.

§ 1303. Procedures; use of funds

(a) An applicant's statement of its intention to satisfy the wetland mitigation requirement by the payment of a fee-in-lieu of wetland mitigation shall be in writing and filed with the Director (or Administrator in a community certified to administer Article 15), along with the estimates described in the preceding section.

(b) Fees paid in lieu of wetland mitigation shall be deposited by County (or community if certified to administer Article 15), in a separate fund created for such purpose. Provisions shall be made so that all receipts and disbursements of such funds may be accounted for according to the individual watershed in which the development for which they were paid was located.

(c) Fees paid in lieu of ~~wetland~~ mitigation for wetland impacts within the County shall be expended to plan, design, construct, improve, acquire, create or enhance wetlands within the County, or wetland mitigation facilities and wetland mitigation banks. Fees paid in lieu of mitigation for wetland impacts within any other county may be expended to plan, design, construct, improve, acquire, create or enhance wetlands within such county or within the County, or wetland mitigation facilities and wetland mitigation.

§ 8. Section 1500 is amended to read as follows:

§ 1500. General

All developments having a wetland impact shall comply with this Article. A permit for any wetland impact shall be obtained from the Director (or Administrator in a community certified to administer Article 15).

Passed by the Kane County Board this _____ day of _____, 2001.

Chairman, Kane County Board

County Clerk