



Benjamin A. Mason
Assistant Village Manager and
Community Development Director

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January 26, 2024

Sent via email vankerkhoffmark@KaneCountyIL.gov

Kane County Development & Community Services Department
Attn: Mark VanKerkhoff, AIA, Director
Kane County Government Center
719 S. Batavia Avenue, Building A
Geneva, IL 60134

RE: Carpentersville Village Ordinance 2024-04, Amending Chapter 17.08, Subdivisions

Dear Director VanKerkhoff, and Members of the Kane County Zoning Board of Appeals;

The Village of Carpentersville, at its Village Board meeting on January 23, 2024, adopted an amendment to its Subdivisions Code, a copy of which is enclosed. This ordinance and its requirements went into effect immediately this week, with regard to development proposals within 3,000 feet of an existing subdivision within the Village's corporate boundaries.

In particular, the applicant/petitioner of **any proposed development within 3,000 feet of the Village of Carpentersville's corporate limits, shall be required to submit environmental impact reports related to identification of any hazardous substances, as well as a drain tile survey, and a traffic study**, all to ensure that the proposed extra jurisdictional development does not create hazards or other negative impacts on nearby properties in an existing Village subdivision.

As the Village has previously transmitted comments to the Kane County Zoning Board of Appeals, regarding concerns about a pending Special Use Petition for a solar farm facility proposed at 38W653 Huntley Road, **please know that that subject petition SUP 4620 shall be required to comply with the terms and requirements outlined in the ordinance enclosed.**

Please feel free to contact the Village with any questions or concerns. As we believe the County will understand and appreciate, a municipality has a general right to enforce the terms of its subdivision ordinance, beyond its municipal boundaries, into unincorporated areas, up to 1.5 miles from the municipal boundaries. The subject petition, SUP 4620, is within the purview of the requirements stated herein.

We appreciate your attention to ensuring that these additional requirements are addressed by the applicant of SUP 4620 and considered a condition precedent to proceeding with final consideration of the petition.

Community Development Department
1200 L.W. Besinger Drive
Carpentersville, IL 60110

Sincerely,

Benjamin A. Mason

Benjamin A. Mason, AICP
Assistant Village Manager &
Community Development Director

Enclosure: Carpentersville Village Ordinance 2024-04, Amending Chapter 17.08, Subdivisions

CC: James Plonczynski, Chairman, Kane Co. Zoning Board of Appeals
John P. O'Sullivan, Village Manager, Village of Carpentersville
Bradford S. Stewart, Village Attorney, Village of Carpentersville

ORDINANCE 2024-04

**AN ORDINANCE AMENDING CHAPTER 17.08, GENERAL PROVISIONS,
OF TITLE 17, SUBDIVISIONS, OF THE
VILLAGE OF CARPENTERSVILLE MUNICIPAL CODE**

WHEREAS, the Village of Carpentersville (“the Village”), Kane County, Illinois, is a home rule municipality as contemplated under Article VII, Section 6, of the Constitution of the State of Illinois, and the passage of this Ordinance constitutes an exercise of the Village’s home rule powers and functions as granted in the Constitution of the State of Illinois; and

WHEREAS, subject to said Section, a home rule unit may exercise any power and perform any function pertaining to its government and affairs for the protection of the public health, safety, morals and welfare to provide for public safety; and

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Carpentersville, Kane County, Illinois as follows:

SECTION 1: The preambles of this Ordinance are incorporated, as if fully restated herein.

SECTION 2: That TITLE 17, Subdivisions, CHAPTER 17.08, General Provisions, of the Carpentersville Municipal Code shall be amended to add a new Section 17.28.030, *Alleviating Impact of New Development on Existing Village Subdivisions*, which shall read as follows:

17.28.030 Alleviating Impact of New Development on Existing Village Subdivisions.

- A. In the event that a development is proposed to be constructed within the Village’s extraterritorial subdivision jurisdiction and within 3000 linear feet from an existing subdivision within the Village’s corporate boundaries, and hazardous substances are anticipated to be brought onto the land underlying the proposed development, the owner of the land (the “Owner”) of the proposed development shall obtain a phase I environmental audit of such land and cause same to be certified and delivered to the Village prior to the commencement of any physical activity affecting such land related to the construction of the development.

Such phase I environmental audit shall be prepared by an environmental professional meeting the minimum requirements of 415 ILCS 5/22.2(j)(6)(E)(iii) and shall evaluate whether there are any hazardous substance(s) (as defined hereinafter) on or under such land. Said environmental audit shall meet the minimum requirements for a pre-acquisition audit as set for in 415 ILCS 5/22.2(j)(6)(E)(iii)(v).

In the event the phase I environmental audit concludes there is a presence or likely presence of a release or substantial threat of a release of hazardous substance(s) or pesticide on or under such land, the Owner at the Owner’s cost shall furnish to the Village a Phase II Environmental Audit as set forth in 415 ILCS 5/22.2(j)(6)(E)(iii)(vi), including a soil toxicity analysis and any recommendation from said environmental professional, to the Village, meeting the minimum requirements of 415 ILCS

5/22.2(j)(6)(E)(iii), as to whether there is any presence or likely presence of a release or substantial threat of a release of hazardous substance(s) on or under such land. Such phase III environmental audit shall be certified and delivered to the Village prior to the commencement of any physical activity affecting such land related to the construction of the development.

Hazardous substance(s) includes without limitation:

1. Those substances included in the definitions of hazardous substances, extremely hazardous substances, hazardous materials, toxic substances; toxic chemicals, toxic wastes, hazardous chemicals, hazardous wastes, solid waste and pesticides in CERCLA, SARA, RCRA, HSWA, TSCA, OSHA, FWPCE, Illinois Pesticides Act (415 ILCS 60/1 *et seq.*), Illinois Responsible Property Transfer Act (765 ILCS 90/1 *et seq.*) and the Illinois Hazardous Materials Transportation Act (430 ILCS 30/1 *et seq.*), 49 U.S.C. Section 1.801 *et seq.*, as amended, and as they may be amended in the future, and in the regulations promulgated pursuant to said laws.
 2. Those substances defined in Section 1003 of the Illinois Environmental Protection Act and in the regulations promulgated pursuant to said act or other Illinois laws pertaining thereto.
 3. Those substances listed in the U.S. Department of Transportation Table (49 CFR 172.101 and amendments thereto) or by the Environmental Protection Agency (or any successor agency) as hazardous-substances (40 CFR Part 302 and amendments thereto).
 4. Such other substances, materials and wastes which are to become regulated under applicable local, state or federal law, or which are classified as hazardous or toxic under federal, state or local laws, ordinances or regulations.
 5. Any material waste or substance which is: (a) asbestos; (b) polychlorinated biphenols; (c) designated as a hazardous substance pursuant to Section 311 of the Clean Water Act, 33 U.S.C. Section 1251 *et seq.* (33 U.S.C. Sec. 1321) or listed pursuant to Section 307 of the Clean Water Act (33 U.S.C. Sec. 1317); (d) explosives; or (e) radioactive materials.
 6. For purposes of this Agreement, hazardous substances shall include petroleum or its byproducts as regulated under RCRA and any applicable state law or regulations.
- B. In the event that a development is proposed to be constructed within 3,000 linear feet from an existing subdivision within the Village's extraterritorial subdivision jurisdiction, the Owner shall cause to be made a topographical study as well as a drain tile survey of the land which is the subject of the proposed development prepared by a professional hydrologist setting forth the topography of the land, its existing drainage patterns and how

the flow of stormwater exits the land as well as the existence of drain tile, if any, under the land, as well as any drainage outlets on such land and setting forth whether such drain tiles and outlets are operable, impaired or otherwise damaged. The Owner shall also cause to be delivered drainage plans showing how the land which is the subject will be drained upon completion of the development which shall be signed and sealed by an Illinois licensed engineer. Such topography study, drain tile and outlet survey and drainage plans shall be delivered to the Village prior to the commencement of any physical activity affecting such land related to the construction of the development.

- C. In the event that a proposed development of land within 3000 linear feet of an existing subdivision within the Village' corporate boundaries is anticipated to generate traffic on any road adjacent to an existing subdivision within the Village's corporate boundaries and within 3000 linear feet of the proposed development, the Owner shall be responsible for preparing a traffic study certified to the Village analyzing the traffic impact upon the portion of the road which is adjacent to the existing subdivision from the proposed development, including the type and amount of traffic that is anticipated to be generated by the proposed development, including construction traffic and anticipated traffic upon the completion of the proposed development that is anticipated to be utilizing the road under Village jurisdiction. Such traffic study shall be delivered to the Village prior to the commencement of any physical activity affecting such land related to the construction of the development.
- D. In the event that it is determined that it is more likely than not that construction traffic from the proposed development will utilize one or more roads under Village jurisdiction, the Owner shall will be responsible for securing a bond in the amount of \$50,000 to be deposited with the Village indemnifying the Village against any damage caused by construction traffic related to the proposed development which shall be delivered to the Village prior to any physical activity related to construction on the land which is the subject of the proposed development. The form of the bond shall set forth timeframes for the surety issuing the bond to perform its obligations under the bond and shall provide for attorney fees if the Village must bring or defend an action relating to the bond. The form of the bond shall be reasonably acceptable to the Village and issued by a surety which is based in Illinois.
- E. Any person, firm or corporation violating any of the provisions of this Section shall be fined in the amount of \$750 per day for each offense, and a separate offense shall be deemed committed on each day that such violation continues unabated.

SECTION 3: If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any Court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate or nullify the remainder thereof, which remainder shall remain and continue in full force and effect.

SECTION 4: All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

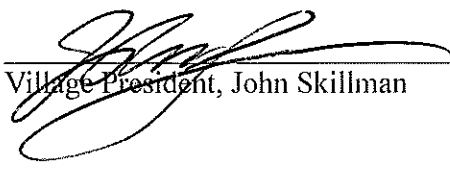
SECTION 5: This Ordinance shall be in full force and effect upon its approval and publication in pamphlet form (which publication is hereby authorized) as provided by law.

[SIGNATURE PAGE FOLLOWS]

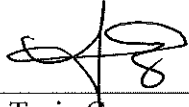
Passed this 23 day of Jan, 2024, by roll call vote as follows:

	Ayes	Nays	Absent	Abstain	Present
Trustee Denise Richardson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Trustee Jeff Frost	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Trustee Brenda Sandoval	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Trustee Jim Malone	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Trustee Humberto Garcia	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Trustee Dickie Abbott	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
President John Skillman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

APPROVED THIS 23 DAY OF Jan, 2024.


Village President, John Skillman

(SEAL)

ATTEST: 
Village Clerk, Tania Gomez

Published: January 23, 2024

