

CHAPTER 28DIVISION 1SPECIAL FLOOD HAZARD AREA DEVELOPMENT REGULATIONS

SEC. 28.1-1 - PURPOSE. This ordinance is enacted pursuant to the police powers granted to the Town by the Illinois Municipal Code (65 IL. Compiled Statutes 5/1-2-1, 5/11-12-12, 5/11-30-2, 5/11-30-8, and 5/11-31-2) in order to accomplish the following purposes:

- A. to prevent unwise developments from increasing flood or drainage hazards to others;
- B. to protect new buildings and major improvements to buildings from flood damage;
- C. to promote and to protect the public health, safety, and general welfare of the citizens from the hazards of flooding;
- D. to lessen the burden on the taxpayer for flood control, repairs to public facilities and utilities, and flood rescue and relief operations;
- E. to maintain property values and a stable tax base by minimizing the potential for creating blight areas;
- F. to make federally subsidized flood insurance available; and
- G. to preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and stormwater impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits, and enhance community and economic development.

SEC. 28.1-2 - DEFINITIONS. For the purposes of this Ordinance, the following definitions are adopted:

- A. Base Flood. The flood having a one-percent probability of being equaled or exceeded in any given year. The base flood is also known as the 100-year flood. The base flood elevation at any location is as defined in SEC. 28.1-3 of this ordinance.
- B. Base Flood Elevation (BFE). The base flood elevation for the floodplains of Sugar Creek, North Branch Sugar Creek, North Branch Sugar Creek Tributary, West Branch Sugar Creek, West Branch Sugar Creek Tributary, Skunk Creek, East Tributary Skunk Creek, and Linden Street Drain shall be as delineated on the 100-year flood profiles in the countywide Flood Insurance Study of McLean County prepared by the Federal Emergency Management Agency dated July 16, 2008.
- C. Basement. That portion of a building having its floor sub-grade (below ground level) on all sides.

- D. Building. A structure that is principally above ground and is enclosed by walls and a roof, including manufactured homes, prefabricated buildings, and gas or liquid storage tanks. The term also includes recreational vehicles and travel trailers installed on a site for more than 180 days.
- E. Critical Facility. Any facility which is critical to the health and welfare of the population and, if flooded, would create an added dimension to the disaster. Damage to these critical facilities can impact the delivery of vital services, can cause greater damage to other sectors of the community, or can put special populations at risk. Examples of critical facilities where flood protection should be required include: emergency services facilities (such as fire and police stations), schools, hospitals, retirement homes, senior care facilities, major roads and bridges, critical utility sites (telephone switching stations or electrical transformers, and hazardous material storage facilities (chemicals, petrochemicals, hazardous, or toxic substances).
- F. Development. Any man-made change to real estate including, but not necessarily limited to
1. demolition, construction, reconstruction, repair, or placement of a building, or any structural alteration to a building;
 2. substantial improvement of an existing building;
 3. installation of a manufactured home on a site, preparation of a site for a manufactured home, or installation of a travel trailer on a site for more than 180 days;
 4. installation of utilities and construction of roads, bridges, culverts, or similar projects;
 5. construction or erection of levees, dams, walls, or fences;
 6. drilling, mining, filling, dredging, grading, excavating, paving, or other alterations of the ground surface;
 7. storage of materials including the placement of gas and liquid storage tanks; and
 8. channel modifications or any other activity that might change the direction, height, or velocity of flood or surface waters.

“Development” does not include routine maintenance of existing buildings and facilities; resurfacing roads; or gardening, plowing, and similar practices that do not involve filling, grading, or construction of levees.

- G. Existing Manufactured Home Park or Subdivision. 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 or buildings to be constructed (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 before the effective date of the floodplain management regulations adopted by a community.
- H. Expansion to an Existing Manufactured Home Park or Subdivision. 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 streets, and either final site grading or the pouring of concrete pads).
- I. FEMA. Federal Emergency Management Agency.
- J. Flood. A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.
- K. Flood Fringe. That portion of the floodplain outside of the regulatory floodway.
- L. Flood Insurance Rate Map. A map prepared by the Federal Emergency Management Agency that depicts the floodplain or special flood hazard area (SFHA) within a community. This map includes insurance rate zones and may or may not depict floodways and show base flood elevations.
- M. Flood Insurance Study. An examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations.
- N. Floodplain and Special Flood Hazard Area (SFHA) are synonymous. Those lands within the jurisdiction of the Town that are subject to inundation by the base flood. The floodplains of the Town are generally identified as such on the Flood Insurance Rate Map of McLean County, Illinois, and Incorporated Areas prepared by the Federal Emergency Management Agency and dated July 16, 2008. The floodplains of those parts of unincorporated McLean County that are within the extraterritorial jurisdiction of the Town or that may be annexed into the Town are generally identified as such on the Flood Insurance Rate Map prepared for McLean County by the Federal Emergency Management Agency and dated July 16, 2008. Floodplain also includes those areas of known flooding, as identified by the Town.
- O. Floodproofing. Any combination of structural or nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate, property and their contents.
- P. Floodproofing Certificate. A form published by the Federal Emergency Management Agency that is used to certify that a building has been designed and constructed to be structurally dry/floodproofed to the flood protection elevation.

- Q. Flood Protection Elevation or “FPE.” The elevation of the base flood plus one foot of freeboard at any given location in the floodplain.
- R. Floodway. That portion of the floodplain required to store and convey the base flood. The floodway for the floodplains of Sugar Creek, North Branch Sugar Creek, North Branch Sugar Creek Tributary, West Branch Sugar Creek, West Branch Sugar Creek Tributary, Skunk Creek, East Tributary Skunk Creek, and Linden Street Drain shall be as delineated on the countywide Flood Insurance Rate Map for McLean County, Illinois, and Incorporated Areas prepared by FEMA and dated July 16, 2008. The floodways for each of the remaining floodplains of the Town shall be according to the best data available from Federal, State, or other sources.
- S. Freeboard. An increment of elevation added to the base flood elevation to provide a factor of safety for uncertainties in calculations, future watershed development, unknown localized conditions, wave actions, and unpredictable effects such as those caused by ice or debris jams.
- T. Historic Structure. Any structure that is
1. Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
 2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 3. Individually listed on the State inventory of historic places by the Illinois Historic Preservation Agency; or
 4. Individually listed on a local inventory of historic places that has been certified by the Illinois Historic Preservation Agency.
- U. “IDNR/OWR.” Illinois Department of Natural Resources/Office of Water Resources.
- V. Lowest Floor. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable 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 requirements of SEC. 1-7 of this ordinance.
- W. Manufactured Home. A structure transportable in one or more sections that is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities.
- X. Manufactured Home Park or Subdivision. A parcel (or contiguous parcels) of land divided into two or more lots for rent or sale.

- Y. New Construction. Structures for which the start of construction commenced on or after the effective date of floodplain management regulations adopted by a community and includes any subsequent improvements of such structures.
- Z. New Manufactured Home Park or Subdivision. 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 or buildings to be constructed (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 the floodplain management regulations adopted by a community.
- AA. “NFIP.” National Flood Insurance Program.
- BB. Recreational Vehicle or Travel Trailer. A vehicle which is
1. built on a single chassis;
 2. four hundred (400) square feet or less in size; and
 3. designed to be self-propelled or permanently towable by a light duty truck and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- CC. Repetitive Loss. Flood related damages sustained by a structure on two or more separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event on the average equals or exceeds twenty-five percent (25%) of the market value of the structure before the damage occurred.
- DD. “SFHA.” See definition of floodplain.
- EE. Start of Construction. Includes substantial improvement and means the date the building permit was issued. This, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement, was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation or placement of a manufactured home on a foundation. For a substantial improvement, 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.
- FF. Structure (see Building).
- GG. Substantial Damage. Damage of any origin sustained by a structure whereby the cumulative percentage of damage subsequent to the adoption of this Ordinance, equals or exceeds fifty percent (50%) of the market value of the structure before the damage occurred, regardless of actual repair work performed. Volunteer labor and materials must be included in this determination. The term includes “Repetitive Loss” (see definition).

- HH. Substantial Improvement. Any repair, reconstruction, or improvement of a structure taking place subsequent to the adoption of this Ordinance the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either (a) before the improvement or repair is started, or (b) if the structure has been damaged and is being restored before the damage occurred.

Substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term includes structures which have incurred repetitive loss or substantial damage, regardless of the actual repair work done. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or (2) any alteration of a structure listed on the National Register of Historic Places or the Illinois Register of Historic Places.

- II. Violation. The failure of a structure or other development to be fully compliant with the community's floodplain management regulations constitutes a violation. A structure or other development without the required federal, state, and/or local permits and elevation certification is presumed to be in violation until such time as the documentation is provided.

SEC. 28.1-3 – BASE FLOOD ELEVATION. This Ordinance's protection standard is the base flood. The best available base flood data are listed below. Whenever a party disagrees with the best available data, the party may finance the detailed engineering study needed to replace the existing data with better data and submit it to the Federal Emergency Management Agency and IDNR/DWR for approval prior to any development of the site.

- A. The base flood elevation for the floodplains of Sugar Creek and Skunk Creek shall be as delineated on the 100-year flood profiles in the Flood Insurance Study of McLean County, Illinois, and Incorporated Areas prepared by the Federal Emergency Management Agency and dated July 16, 2008.
- B. The base flood elevation for each floodplain delineated as an "AH Zone" or "AO Zone" shall be that elevation (or depth) delineated on the Flood Insurance Rate Map of McLean County, Illinois, and Incorporated Areas.
- C. The base flood elevation for each of the remaining floodplains delineated as an "A Zone" on the Flood Insurance Rate Map of McLean County, Illinois, and Incorporated Areas shall be according to the best data available from federal, state or other sources. Should no other data exist, an engineering study must be financed to determine base flood elevations.
- D. The base flood elevation for the floodplains of those parts of unincorporated McLean County that are within the extraterritorial jurisdiction of the Town or that may be annexed into the Town shall be as delineated on the 100-year flood profiles of the Flood Insurance Study of McLean County prepared by the Federal Emergency Management Agency and dated July 16, 2008.

SEC. 28.1-4 – DUTIES OF THE TOWN ENGINEER. The Town Engineer shall be responsible for the general administration of this Code and ensure that all development activities within the floodplains under the jurisdiction of the Town meet the requirements of this Code. Specifically, the Town Engineer shall

- A. Process development permits in accordance with SEC. 28.1-5;
- B. Ensure that all development in a floodway (or a floodplain with no delineated floodway) meets the damage prevention requirements of SEC. 28.1-6;
- C. Ensure that the building protection requirements for all buildings subject to SEC. 28.1-7 are met and maintain a record of the “as-built” elevation of the lowest floor (including basement) or flood-proof certificate;
- D. Assure that all subdivisions and annexations meet the requirements of Section 28.1-8;
- E. Ensure that water supply and waste disposal systems meet the Public Health Standards of SEC. 18.1-8;
- F. If a variance is requested, ensure that the requirements of SEC. 28.1-9 are met and maintain documentation of any variances granted;
- G. Inspect all development projects and take any and all actions outlined in SEC. 28.1-11 as necessary to ensure compliance with this Chapter;
- H. Assure that applicants are aware of and obtain any and all other required local, state, and federal permits;
- I. Notify IDNR/OWR and any neighboring communities prior to any alteration or relocation of a watercourse;
- J. Provide information and assistance to citizens upon request about permit procedures and floodplain construction techniques;
- K. Cooperate with state and federal floodplain management agencies to coordinate base flood data and to improve the administration of this Ordinance;
- L. Maintain for public inspection base flood data, floodplain maps, copies of state and federal permits, and documentation of compliance for development activities subject to this chapter;
- M. Perform site inspections to ensure compliance with this Ordinance and make substantial damage determinations for structures within the floodplain; and
- N. Maintain the accuracy of floodplain maps including notifying IDNR/OWR and/or submitting information to FEMA within six months whenever a modification of the floodplain may change the base flood elevation or result in a change to the floodplain map.

SEC. 28.1-5 – DEVELOPMENT PERMIT. No person, firm, corporation, or governmental body not exempted by state law shall commence any development in the floodplain without first obtaining a development permit from the Town Engineer. The Town Engineer shall not issue a development permit if the proposed development does not meet the requirements of this Code.

- A. The application for development permit shall be accompanied by
1. drawings of the site, drawn to scale, showing property line dimensions;
 2. existing grade elevations and all changes in grade resulting from excavation or filling;
 3. the location and dimensions of all buildings and additions to buildings;
 4. the elevation of the lowest floor (including basement) of all proposed buildings subject to the requirements of SEC. 28.1-7 of this chapter; and
 5. cost of project or improvements as estimated by a licensed engineer or architect. A signed estimate by a contractor may also meet this requirement.
- B. Upon receipt of an application for a development permit, the Town Engineer shall compare the elevation of the site to the base flood elevation. Any development located on land that can be shown by survey data to have been higher than the base flood elevation as of the date of the site's first Flood Insurance Rate Map identification is not in the floodplain and, therefore, not subject to the requirements of this chapter. Any development located on land shown to be below the base flood elevation and hydraulically connected, but not shown on the current Flood Insurance Rate Map, is subject to the provisions of this Chapter. The Town Engineer shall maintain documentation of the existing ground elevation at the development site and certification that this ground elevation existed prior to the date of the site's first Flood Insurance Rate Map identification. The Town Engineer shall be responsible for obtaining from the applicant copies of all other federal, state, and local permits, approvals or permit-not-required letters that may be required for this type of activity. The Town Engineer shall not issue a permit unless all other federal, state, and local permits have been obtained.

SEC. 28.1-6 – PREVENTING INCREASED FLOOD HEIGHTS AND RESULTING DAMAGES. Within the floodway identified on the Flood Insurance Rate Map for McLean County, Illinois, and Incorporated Areas and within all other floodplains where a floodway has not been delineated, the following standards shall apply

- A. except as provided in SEC. 28.1-6(B), no development shall be allowed which, acting in combination with existing and anticipated development, will cause any increase in flood heights or velocities or threat to public health and safety. The following specific development activities shall be considered as meeting this requirement:

1. Bridge and culvert crossings of streams in rural areas meeting the following conditions of the Illinois Department of Natural Resources, Office of Water Resources Statewide Permit Number 2:
 - a. the crossing will not result in an increase in water surface profile elevation in excess of 1.0 feet;
 - b. the crossing will not result in an increase in water surface profile elevation in excess of one-half (0.5) foot at a point one thousand (1,000) feet upstream of the proposed structure;
 - c. there are no buildings in the area impacted by the increases in water surface profile;
 - d. the proposed bridge or culvert crossing will not involve straightening, enlarging, or relocating the existing channel;
 - e. the design must be certified by a licensed professional engineer in the State of Illinois and the designs must meet the conditions of an IDNR/OWR permit; and
 - f. the design must be certified by a second licensed professional engineer.
2. Barge fleeting facilities meeting the following condition of IDNR/OWR Statewide Permit No. 3:
 - a. the permit is only applicable when deadmen, pier cells, or other similar anchorage devices have been permitted by the U.S. Army Corps of Engineers.
3. Aerial utility crossings meeting the following condition of IDNR/OWR Statewide Permit No. 4:
 - a. the utility line must be constructed above the existing 100-year flood elevation or attached to an existing bridge;
 - b. a utility line attached to an existing bridge shall be constructed above the low cord elevation of the bridge;
 - c. no supporting towers or poles shall be located in a river, lake, or stream;
 - d. supporting towers, including foundation and poles, shall be designed and located so as to not cause an obstruction of flood flows by trapping debris;

- e. all disturbed areas shall be returned to pre-construction grades and re-vegetated;
 - f. all Illinois Commerce Commission, National Electrical Safety Code, and federal requirements must be met.
4. Minor boat docks meeting the following conditions of IDNR/OWR Statewide Permit No. 5:
- a. the boat dock must not extend more than fifty (50) feet into a waterway and no more than one quarter (1/4) of the width of the waterway and shall not extend beyond the navigational limits established by the IDNR and Corps of Engineers;
 - b. the width of the boat dock shall not be more than ten (10) feet;
 - c. for L-shaped or T-shaped docks, the length of that portion parallel to the shoreline must not exceed fifty percent (50%) of the landowner's shoreline frontage nor fifty (50) feet;
 - d. docks must be aligned so as not to cross the projection of property lines into the waterway or come within ten (10) feet of the projected property line;
 - e. dock posts must be marked by reflective devices;
 - f. the boat dock must be securely anchored to prevent detachment during times of high wind or water;
 - g. metal drums or containers may not be used as buoyancy units unless they are filled with flotation foam. Containers which previously stored pesticides, herbicides, or any other toxic chemicals are not permissible;
 - h. this permit does not authorize any other related construction activity, such as shore protection or fill;
 - i. non-floating boat docks must be constructed in a manner which will minimize obstruction to flow; and
 - j. at any future date, the permittee must agree to make necessary modifications to the dock as determined by the IDNR or Corp of Engineers.
5. Minor, non-obstructive activities meeting the following conditions of IDNR/OWR Statewide Permit No. 6:

- a. the following activities (not involving fill or positive change in grade) are covered by this permit:
 - (1) the construction of underground utility lines, wells, or septic tanks not crossing a lake or stream;
 - (2) the construction of light poles, sign posts, and similar structures;
 - (3) the construction of sidewalks, driveways, athletic fields (excluding fences), patios, and similar structures;
 - (4) the construction of properly anchored, unwallled, open structures such as playground equipment, pavilions, and carports;
 - (5) the placement of properly anchored buildings not exceeding seventy (70) square feet in size, nor ten (10) square feet in any dimension. Only one such building on a property is authorized by this statewide permit; and
 - (6) the raising of existing buildings, provided no changes are made to the outside dimensions of the building and the placement or fill is not involved.

6. Outfall structures and drainage ditch outlets meeting the following conditions of IDNR/OWR Statewide Permit No. 7:
 - a. any outfall structure, including any headwall or end-section, shall not extend riverward or lakeward of the existing adjacent bank protection;
 - b. the velocity of the discharge shall not exceed the scour velocity of the channel soil, unless channel erosion would be prevented by the use of riprap or other design measures;
 - c. outlets from drainage ditches shall not be opened to a stream until the ditch is vegetated or otherwise stabilized to minimize stream sedimentation;
 - d. disturbance of streamside vegetation shall be kept to a minimum during construction to prevent erosion and sedimentation. All disturbed floodway areas, including the stream banks, shall be restored to their original contours and seeded or otherwise stabilized upon completion of construction.

7. Underground pipeline and utility crossings meeting the following conditions of IDNR/OWR Statewide Permit No. 8:

- a. in all cases, the crossing shall be placed beneath the bed of the river, lake, or stream, and, unless the crossing is encased in concrete or entrenched in bedrock, a minimum of three (3) feet of cover shall be provided. The river, lake, or stream bed shall be returned to its original condition;
 - b. disturbance of streamside vegetation shall be kept to a minimum during construction to prevent erosion and sedimentation. All disturbed floodway areas, including stream banks, shall be restored to their original contours and seeded or otherwise stabilized upon completion of construction;
 - c. any utility crossing carrying material which may cause water pollution, as defined by the Environmental Protection Act (415 ILCS 5), shall be provided with shut-off valves on each side of the body of water to be crossed; and
 - d. if blasting is to be utilized in the construction of the crossing, the permittee shall notify the IDNR/OWR at least ten (10) days prior to the blasting date to allow monitoring of any related fish kills.
8. Bank stabilization projects meeting the conditions of IDNR/OWR Statewide Permit No. 9:
- a. Only the following materials may be utilized in urban areas: stone and concrete riprap, steel sheet piling, cellular blocks, fabric-formed concrete, gabion baskets, rock and wire mattresses, sand/cement filled bags, geotechnical fabric materials, natural vegetation, and treated timber. Urban areas are defined as: areas of the State where residential, commercial, or industrial development currently exists or, based on land use plans or controls, is expected to occur within ten (10) years. (The Department should be consulted if there is a question of whether or not an area is considered urban).
 - b. In addition to the materials listed in SEC. 28.1-6(A)(8)(a), other materials (e.g. tire revetments) may be utilized in rural areas provided all other conditions of this permit are met;
 - c. The following materials shall **not** be used in any case: auto bodies, garbage of debris, scrap lumber, metal refuse, roofing materials, asphalt or other bituminous materials, or any material which would cause water pollution as defined by the Environmental Protection Act (415 ILCS 5);
 - d. The affected length of shoreline, stream bank, or channel to be protected shall not exceed, either singularly or cumulatively, one thousand (1000) feet;

- e. All material utilized shall be properly sized or anchored to resist anticipated forces of current and wave action;
- f. Materials shall be placed in a way which would not cause erosion or the accumulation of debris on properties adjacent to or opposite the project;
- g. Materials shall not be placed higher than the existing top of the bank;
- h. Materials shall be placed so that the modified bank full-width and cross-sectional area of the channel will conform to or be no more restrictive than that of the natural channel upstream and downstream of the site.

For projects involving continuous placement of riprap along the bank, toe of the bank, or other similar applications, in no case shall the cross-sectional area of the natural channel be reduced by more than ten percent (10%) nor the volume of material placed exceed two (2) cubic yards per lineal foot of the stream bank or shoreline. The bank may be graded to obtain a flatter slope and to lessen the quantity of material required.

- i. If broken concrete is used, all protruding materials such as reinforcing rods shall be cut flush with the surface of the concrete and removed from the construction area.
 - j. Disturbance of vegetation shall be kept to a minimum during construction to prevent erosion and sedimentation. All disturbed areas shall be seeded or otherwise stabilized upon completion of construction.
 - k. In the case of seawalls and gabion structures on lakes, the structure shall be constructed at or landward of the water line as determined by the normal pool elevation, unless:
 - (1) it is constructed in alignment with an existing seawall(s) or gabion structure(s), and
 - (2) the volume of material placed, including the structure, would not exceed two (2) cubic yards per lineal foot.
 - l. Excess material excavated during the construction of the bank or shoreline protection shall be placed in accordance with local, state, and federal laws and rules, and shall not be placed in a floodway.
9. Accessory structures and additions to existing residential buildings meeting the following conditions of IDNR/OWR Statewide Permit No. 10:

- a. The accessory structure or building addition must comply with the requirements of the local floodplain ordinance;
 - b. The principle structure to which the project is being added must have been in existence on the effective date of this permit (July 25, 1988);
 - c. The accessory structure or addition must not exceed five hundred (500) square feet in size and must not deflect floodwaters onto another property;
 - d. Must not involve the placement of any fill material;
 - e. No construction shall be undertaken in, or within fifty (50) feet of the bank of the stream channel;
 - f. The accessory structure or addition must be properly anchored to prevent its movement during flood conditions;
 - g. Only one accessory structure or addition to an existing structure shall be authorized by this permit; plans for any subsequent addition must be submitted to IDNR/OWR for review; and
 - h. Disturbances of vegetation shall be kept to a minimum during construction to prevent erosion and sedimentation. All disturbed floodway areas shall be seeded or otherwise stabilized upon completion of construction.
10. Minor maintenance dredging activities meeting the following conditions of IDNR/OWR Statewide Permit No. 11:
- a. The affected length of the stream shall not, either singularly or cumulatively, exceed one thousand (1000) feet;
 - b. The project shall not include the construction of any new channel; all work must be confined to the existing channel or to reestablishing flows in the natural stream channel;
 - c. The cross-sectional area of the dredged channel shall conform to that of the natural channel upstream and downstream of the site;
 - d. Dredged or spoil material shall not be disposed of in a wetland and shall be either:
 - (1) removed from the floodway;
 - (2) used to stabilize an existing bank provided no materials would be placed higher than the existing top of bank and provided the cross-sectional area of the natural channel would

not be reduced by more than ten percent (10%), nor the volume of material placed exceed two (2) cubic yards per lineal foot of streambank;

- (3) used to fill an existing washed out or scoured floodplain area such that the average natural floodplain elevation is not increased;
 - (4) used to stabilize an existing levee provided the height of the levee would not be increased nor its alignment changed;
 - (5) placed in a disposal site previously approved by the Department in accordance with the conditions of the approval; or
 - (6) used for beach nourishment, provided the material meets all applicable water quality standards.
- e. Disturbance of streamside vegetation shall be kept to a minimum during construction to prevent erosion and sedimentation. All disturbed floodway areas, including the stream banks, shall be seeded or otherwise stabilized upon completion of construction.

11. Bridge and culvert replacement structures and bridge widening meeting the following conditions of IDNR/OWR statewide Permit No. 12:

- a. A licensed professional engineer shall determine and document that the existing structure has not been the cause of demonstrable flood damage. Such documentation shall include, at a minimum, confirmation that:
 - (1) No buildings or structures have been impacted by the backwater induced by the existing structure; and
 - (2) There is no record of complaints of flood damages associated with the existing structure.
- b. A licensed professional engineer shall determine that the new structure will provide the same or greater effective waterway opening as the existing structure. For bridge widening projects the existing piers and the proposed pier extensions must be in line with the direction of the approaching flow upstream of the bridge.
- c. The project shall not include any appreciable raising of the approach roads. (This condition does not apply if all points on the approaches exist at an elevation equal to or higher than the 100-year frequency flood headwater elevation as determined by a FEMA flood insurance study completed or approved by IDNR/OWR).

- d. The project shall not involve the straightening, enlargement or relocation of the existing channel of the river or stream except as permitted by the Department's Statewide Permit No. 9 (Minor Shoreline, Channel and Streambank Protection Activities) or Statewide Permit No. 11 (Minor Maintenance Dredging Activities).
 - e. The permittee shall maintain records of projects authorized by this permit necessary to document compliance with the above conditions.
12. Temporary construction activities meeting the following conditions of IDNR/OWR Statewide Permit No. 13:
- a. No temporary construction activity shall be commenced until the individual permittee determines that the permanent structure (if any) for which the work is being performed has received all required federal, state, and local authorizations.
 - b. The term "temporary" shall mean not more than one construction season. All temporary construction materials must be removed from the stream and floodway within one year of their placement and the area returned to the conditions existing prior to the beginning of construction. Any desired subsequent or repetitive material placement shall not occur without the review and approval of the IDNR/OWR.
 - c. The temporary project shall be constructed such that it will not cause erosion or damage due to increases in water surface profiles to adjacent properties. For locations where there are structures in the upstream floodplain, the temporary project shall be constructed such that all water surface profile increases due to the temporary project are contained within the channel banks.
 - d. This permit does not authorize the placement or construction of any solid embankment or wall such as a dam, roadway, levee, or dike across any channel or floodway.
 - e. No temporary structure shall be placed within any river or stream channel until a licensed professional engineer determines and documents that the temporary structure will meet the requirements of Special Condition No. 3 of this statewide permit. Such documentation shall include, at a minimum, confirmation that no buildings or structures will be impacted by the backwater induced by the temporary structure.
 - f. The permittee shall maintain records of projects authorized by this permit necessary to document compliance with the above condition.

- g. Disturbance of vegetation shall be kept to a minimum during construction to prevent erosion and sedimentation. All disturbed areas shall be seeded or otherwise stabilized upon completion of the removal of the temporary construction.
 - h. Materials used for the project shall not cause water pollution as defined by the Environmental Protection Act (415 ILCS 5).
13. Any development determined by IDNR/OWR to be located entirely in a flood fringe area shall be exempt from State Floodway permit requirements.
- B. Other development activities not listed in (A) may be permitted only if:
- 1. a permit has been issued for the work by IDNR/OWR (or written documentation is provided that an IDNR/OWR permit is not required); and
 - 2. sufficient data has been provided to FEMA, when necessary, and approval obtained from FEMA for a revision of the regulatory map and base flood elevation.

SEC. 28.1-7 – PROTECTING BUILDINGS.

- A. In addition to the damage prevention requirements of SEC. 28.1-6, all buildings to be located in the floodplain shall be protected from flood damage below the flood protection elevation. This building protection requirement applies to the following situations:
- 1. construction or placement of a new building or alteration or addition to an existing building valued at more than \$1,000 or seventy (70) square feet;
 - 2. substantial improvements or structural alterations made to an existing building that increase the floor area by more than twenty percent (20%) or equal or exceed the market value by fifty percent (50%). Alteration shall be figured cumulatively subsequent to the adoption of this Ordinance. If substantially improved, the existing structure and the addition must meet the flood protection standards of this section.
 - 3. repairs made to a substantially damaged building. These repairs shall be figured cumulatively subsequent to the adoption of this Ordinance. If substantially damaged, the entire structure must meet the flood protection standards of this section.
 - 4. installing a manufactured home on a new site or a new manufactured home on an existing site (the building protection requirements do not apply to returning a manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage); and
 - 5. installing a travel trailer on a site for more than 180 days.

6. repetitive loss to an existing building.
- B. Residential or non-residential buildings can meet the building protection requirements by one of the following methods:
1. The building may be constructed on permanent landfill in accordance with the following:
 - a. the lowest floor (including basement) shall be at or above the flood protection elevation;
 - b. the fill shall be placed in layers no greater than six inches before compaction and should extend at least ten feet beyond the foundation before sloping below the flood protection elevation;
 - c. the fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or other structural measure. If vegetative cover is used, the slopes shall be no steeper than 3 horizontal to 1 vertical;
 - d. the fill shall be composed of rock or soil and not incorporate debris or refuse materials; and
 - e. the fill shall not adversely affect the flow of surface drainage from or onto neighboring properties, and, when necessary, stormwater management techniques such as swales or basins shall be incorporated; or
 2. The building may be elevated on solid walls in accordance with the following:
 - a. the building or improvements shall be elevated on stilts, piles, walls, or other foundation that is permanently open to flood waters;
 - b. the lowest floor and all electrical, heating, ventilating, plumbing, and air conditioning equipment and utility meters shall be located at or above the flood protection elevation;
 - c. if walls are used, all enclosed areas below the flood protection elevation shall address hydrostatic pressures by allowing the automatic entry and exit of flood waters. Designs must either be certified by a registered professional engineer or by having a minimum of one permanent opening on each wall no more than one foot above grade with a minimum of two (2) openings. The openings shall provide a total net area of not less than one (1) square inch for every one (1) square foot of enclosed area subject to flooding below the base flood elevation;

- d. the foundation and supporting members shall be anchored, designed, certified, and aligned in relation to flood flows and adjoining structures so as to minimize exposure to hydrodynamic forces such as current, waves, ice, and floating debris;
 - e. the finished interior grade shall not be less than the finished exterior grade;
 - f. all structural components below the flood protection elevation shall be constructed of materials resistant to flood damage;
 - g. water and sewer pipes, electrical and telephone lines, submersible pumps, and other service facilities may be located below the flood protection elevation provided they are waterproofed;
 - h. the area below the flood protection elevation shall be used solely for parking or building access and not occupied as habitable space; and
 - i. in lieu of (f) – (h) above, the design methods to comply with (f) – (h) maybe certified by a licensed professional engineer or architect; or
3. The building may be constructed with a crawlspace located below the flood protection elevation provided that the following conditions are met:
- a. the building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 - b. any enclosed area below the flood protection elevation shall have openings that equalize hydrostatic pressures by allowing for the automatic entry and exit of floodwaters. A minimum of one opening on each wall having a total net area of not less than one (1) square inch per one (1) square foot of enclosed area. The openings shall be no more than one (1) foot above grade;
 - c. the interior grade of the crawlspace below the flood protection elevation must not be more than two (2) feet below the lowest adjacent exterior grade;
 - d. the interior height of the crawlspace measured from the interior grade of the crawl to the top of the foundations wall must not exceed four (4) feet at any point;
 - e. an adequate drainage system must be instilled to remove floodwaters from the interior area of the crawlspace within a reasonable period of time after a flood event;

- f. portions of the building below the flood protection elevation must be constructed with materials resistant to flood damage; and
 - g. utility systems within the crawlspace must be elevated above the flood protection elevation.
- C. Manufactured homes, or travel trailers to be installed on site for more than 180 days, shall be:
 - 1. elevated to or above the flood protection elevation in accordance with SEC. 28.1-7(B); and
 - 2. shall be anchored to resist flotation, collapse, or lateral movement by being tied down in accordance with the Rules and Regulations for the Illinois Mobile Home Tie-Down Act issued pursuant to 77 IL Adm. Code 870.
- D. Non-residential buildings may be structurally dry floodproofed (in lieu of elevation) provided a registered professional engineer or architect certifies that:
 - 1. below the flood protection elevation, the structure and attendant utility facilities are watertight and capable of resisting the effects of the base flood;
 - 2. the building design accounts for flood velocities, duration, rate of rise, hydrostatic and hydrodynamic forces, the effects of buoyancy, and the impact from debris and ice; and
 - 3. floodproofing measures will be incorporated into the building design and operable without human intervention and without an outside source of electricity.

Levees, berms, floodwalls and similar works are not considered floodproofing for the purpose of this subsection.
- E. Travel trailers and recreational vehicles on site for more than one hundred eighty (180) days per year shall meet the elevation requirements of SEC.28 1-7(C) unless the following conditions are met:
 - 1. the vehicle must be either self-propelled or towable by a light duty truck;
 - 2. the hitch must remain on the vehicle at all times;
 - 3. the vehicle must not be attached to external structures such as decks and porches;
 - 4. the vehicle must be designed solely for recreation, camping, travel, or seasonal use rather than as a permanent dwelling;

5. the vehicles largest horizontal projections must be no larger than four hundred (400) square feet;
 6. the vehicle's wheels must remain on axles and inflated;
 7. air-conditioning units must be attached to the frame so as to be safe for movement of the floodplain;
 8. propane tanks as well as electrical and sewage connections must be quick-disconnect and above the 100-year flood elevation;
 9. the vehicle must be licensed and titled as a recreational vehicle or park model; and
 10. the vehicle must either:
 - a. entirely be supported by jacks; or
 - b. have a hitch jack permanently mounted, have the tires touching the ground and be supported by a block in a manner that will allow the block to be easily removed by use of the hitch jack.
- F. Garages, sheds, or other minor accessory structures constructed ancillary to an existing residential use may be permitted provided the following conditions are met:
1. the garage or shed must be non-habitable;
 2. the garage or shed must be used only for the storage of vehicles and tools and cannot be modified later into another use;
 3. the garage or shed must be located outside of the floodway or have the appropriate state and/or federal permits;
 4. the garage or shed must be on a single-family lot and be accessory to an existing principle structure on the same lot;
 5. below the base flood elevation, the garage or shed must be built of materials not susceptible to flood damage;
 6. all utilities, plumbing, heating, air-conditioning, and electrical must be elevated above the flood protection elevation;
 7. the garage or shed must have at least one permanent opening on each wall not more than one (1) foot above grade with one (1) square inch of opening for every one (1) square foot of floor area;
 8. the garage or shed must be less than ten thousand dollars (\$10,000) in market value or replacement cost whichever is greater or less than five hundred (500) square feet;

9. the structure shall be anchored to resist flotation and overturning;
10. all flammable or toxic materials (gasoline, paint, insecticides, fertilizers, etc.) shall be stored above the flood protection elevation; and
11. the lowest floor elevation should be documented and the owner advised of the flood insurance implications.

SEC. 28.1-8 – SUBDIVISION AND OTHER DEVELOPMENT REQUIREMENTS. The Town Council shall take into account flood hazards, to the extent that they are known, in all official actions related to land management use and development.

A. New subdivisions, manufactured home parks, annexation agreements, planned unit developments (PUD), and additions to manufactured home parks and subdivisions shall meet the damage prevention and building protection standards of SEC. 28.1-6 and SEC.28.1-7 of this chapter. Any proposal for such development shall include the following data:

1. the base flood elevation and the boundary of the floodplain (where the base flood elevation is not available from an existing study, the applicant shall be responsible for calculating the base flood elevation);
2. the boundary of the floodway when applicable; and
3. a signed statement by a registered professional engineer that the proposed plat or plan accounts for changes in the drainage of surface waters in accordance with the Plat Act (765 IL Compiled Statutes 205/2).

Streets, block lots, parks, and other public grounds shall be located and laid out in such a manner as to preserve and utilize natural streams and channels. Wherever possible, the floodplains shall be included within parks or other public grounds.

B. Public health standards must be met for all floodplain development. In addition to the requirements of SEC. 28.1-6 and SEC. 28.1-7, the following standards apply:

1. No development in the floodplain shall include locating or storing chemicals, explosives, buoyant materials, flammable liquids, pollutants, or other hazardous or toxic materials below the flood protection elevation unless such materials are stored in a storage tank or flood-proofed building constructed according to the requirements of SEC. 28.1-7;
2. Public utilities and facilities such as sewer, gas, and electric shall be located and constructed to minimize or eliminate flood damage;
3. Public sanitary sewer systems and water supply systems shall be located and constructed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;

4. New and replacement on-site sanitary sewer lines or waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding. Manholes or other above ground openings located below the flood protection elevation shall be watertight; and
 5. Construction of new or substantially improved critical facilities shall be located outside the limits of the floodplain. Construction of new critical facilities shall be permissible within the floodplain if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor (including basement) elevated or structurally dry floodproofed to the 500-year flood frequency elevation or three (3) feet above the level of the 100-year flood frequency elevation whichever is greater. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities.
- C. All other activities defined as development shall be designed so as not to alter flood flows or to increase potential flood damages.

For all projects involving channel modification, fill, or stream maintenance (including levees), the flood carrying capacity of the watercourse shall be maintained. In addition, the Town shall notify adjacent communities in writing thirty (30) days prior to the issuance of a permit for the alteration or relocation of the watercourse.

SEC. 28.1-9 – VARIANCES. Whenever the standards of this Ordinance place undue hardship on a specific development proposal, the applicant may apply to the Building Board of Appeals for a variance. The Building Board of Appeals shall review the applicant's request for a variance and shall submit its recommendation to the Town Council. The Town Council may attach such conditions to granting of a variance as it deems necessary to further the intent of this Ordinance.

- A. No variance shall be granted unless the applicant demonstrates that:
1. the development activity cannot be located outside the floodplain;
 2. an exceptional hardship would result if the variance were not granted;
 3. the relief requested is the minimum necessary;
 4. there will be no additional threat to public health or safety or no creation of a nuisance;
 5. there will be no additional public expense for flood protection, rescue or relief operations, policing, or repairs to roads, utilities, or other public facilities;

6. the applicant's circumstances are unique and do not establish a pattern inconsistent with the intent of the NFIP; and
 7. all other required state and federal permits have been obtained.
- B. The Building Board of Appeals shall notify an applicant in writing that a variance from the requirements of the building protection standards of SEC. 28.1-7 that would lessen the degree of protection to a building will:
1. result in increased premium rates for flood insurance up to \$25 for \$100 of insurance coverage;
 2. increase the risks to life and property; and
 3. require that the applicant proceed with knowledge of these risks and that the applicant acknowledge in writing the assumption of the risk and liability.
- C. Variances to the building protection requirements of SEC. 28.1-7 and SEC. 28.1-7 of this chapter requested in connection with the reconstruction, repair or alteration of a site or building included on the National Register of Historic Places or the Illinois Register of Historic Places may be granted using criteria more permissive than the requirements of SEC. 28.1-9 (A)(1-5) subject to the following:
1. The repair or rehabilitation is the minimum necessary to preserve the historic character and design of the structure.
 2. The repair or rehabilitation will not result in the structure being removed as a certified historic structure.

SEC. 28.1-10 – DISCLAIMER OF LIABILITY. The degree of protection required by this Code is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods may occur or flood heights may be increased by man-made or natural causes. This Code does not imply that development either inside or outside of the floodplain will be free from flooding or damage. This Code does not create liability on the part of the Town or any officer or employee thereof for any flood damage that results from proper reliance on this Code or any administrative decision made lawfully thereunder.

SEC. 28.1-11 PENALTY. Failure to obtain a permit for development in the floodplain or failure to comply with the conditions of a permit or a variance shall be deemed to be a violation of this Code. Upon due investigation, the Town Engineer may determine that a violation of the minimum standards of this Code exists. The Town Engineer shall notify the owner in writing of such violation.

- A. If such owner fails after ten days notice to correct the violation:
1. The Town shall make application to the Circuit Court for an injunction requiring conformance with this Code or make such other order as the court deems necessary to secure compliance with the Code;

2. Any person who violates this Code shall upon conviction thereof be fined not less than twenty-five dollars (\$25.00) nor more than seven-hundred fifty dollars (\$750.00) for each offense;
 3. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues; and
 4. The Town shall record a notice of violation with the Recorder of Deeds.
- B. The Town Engineer shall inform the owner that any such violation is considered a willful act to increase flood damages and, therefore, may cause coverage by a Standard Flood Insurance Policy to be suspended.

The Town Engineer is authorized to issue an order requiring the suspension of the subject development. The stop-work order shall be in writing, indicate the reason for the issuance, and shall order the action, if necessary, to resolve the circumstances requiring the stop-work order. The stop-work order constitutes a suspension of the permit.

No site development permit shall be permanently suspended or revoked until a hearing is held by the Board of Appeals. Written notice of such hearing shall be served on the permittee and shall state:

1. the grounds for the complaint, reasons for suspension or revocation, and
2. the time and place of the hearing.

At such hearing the permittee shall be given an opportunity to present evidence on his/her behalf. At the conclusion of the hearing, the Board of Appeals shall determine whether the permit shall be suspended or revoked.

- C. Nothing herein shall prevent the Town from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

SEC. 28.1-12 – ABROGATION AND GREATER RESTRICTIONS. This Code repeals and replaces other Codes adopted by the Town Council to fulfill the requirements of the National Flood Insurance Program including: Ordinance No. 3879 approved November 6, 1989. However, this Code does not repeal the original resolution or Code approved to achieve eligibility in the program. Nor does this Code repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. Where this Code and other Code easements, covenants, or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

SEC. 28.1-13 – SEPARABILITY. The provisions and sections of this chapter shall be deemed separable, and the invalidity of any portion of this Code shall not affect the validity of the remainder.

SEC. 28.1-14 - EFFECTIVE DATE. This Ordinance shall be in full force and effect from and after its passage and approval and publication, as required by law.

(Comprehensive Amendment – 1/2/01 by Ord. No. 4704)

(Comprehensive Amendment – 5/21/08 by Ord. No. 5190)

DIVISION 2STREAM BUFFER REGULATIONS

SEC. 28.2-1 FINDINGS. The President and Board of Trustees of the Town of Normal hereby find:

Vegetated buffers adjacent to stream systems provide environmental protection and resource management benefits that include the following:

- A. Restoring and maintaining the chemical, physical and biological integrity of water resources.
- B. Removing pollutants delivered from urban stormwater.
- C. Reducing erosion and sediment entering streams.
- D. Stabilizing stream banks.
- E. Providing infiltration of stormwater runoff.
- F. Maintaining base flow of streams.
- G. Contributing to the organic matter that is a source of food and energy for the aquatic ecosystem.
- H. Providing tree canopy to shade streams and promote desirable aquatic organisms.
- I. Providing riparian wildlife habitat.
- J. Furnishing scenic value and recreational opportunity.

SEC. 28.2-2 PURPOSE: The President and Board of Trustees, therefore, declare that the purpose of this division is to protect, establish and maintain vegetation in buffer and wetland areas by implementing specifications for the establishment, protection and maintenance of vegetation along all stream systems within our jurisdictional authority. Furthermore, it is the intent of the President and Board of Trustees to establish minimal, acceptable requirements for the design of buffers to protect the streams, wetlands, and floodplains of the Town; to protect the water quality of watercourses, reservoirs, lakes, and other significant water resources within the Town; to protect the Town's riparian and aquatic ecosystems; and to provide for the environmentally sound use of the Town's land resources.

SEC. 28.2-3 DEFINITIONS: When used in this division the following terms shall have the following meaning:

- A. Active Channel: The area of the stream channel that is subject to frequent flows (approximately once per one and a half years) and that includes the portion of the channel below the floodplain and the floodway.

- B. Base Flood: The flood having a one per cent probability of being equaled or exceeded in any given year. The Base Flood is also known as the 100-year flood.
- C. Best Management Practices: Conservation practices or management measures that control soil loss and reduce water quality degradation caused by nutrients, animal wastes, toxins, sediment, and runoff. (Also identified as BMP'S)
- D. Buffer: A vegetated area, including trees, shrubs, and herbaceous vegetation, that exists or is established to protect a stream system, lake or reservoir. Alteration of this area is strictly limited.
- E. Development:
1. Any manmade alteration of property for any purpose including but not limited to clearing, stripping, grading, filling and construction activities.
 2. Subdivision or the division of a tract or parcel of land into two or more parcels.
 3. The combination of any two or more lots, tracts, or parcels of property for any purpose.
 4. The preparation of land for any of the above purposes.
- F. Flood Plain: Those areas that are subject to inundation by the base flood and identified as such on the most recent Flood Insurance Rate Map of McLean County, Illinois, and Incorporated Areas prepared by the Federal Emergency Management Agency, a copy of which is on file in the Office of the Town Clerk.
- G. Floodway: That portion of the flood plain identified as such on the most recent Flood Insurance Rate Map for McLean County, Illinois, and Incorporated Areas prepared by the Federal Emergency Management Agency, a copy of which is on file in the Office of the Town Clerk
- H. Nontidal Wetlands: Property not influenced by tidal fluctuations 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.
- I. Nonpoint Source Pollution: Pollution that is generated by land use activities (rather than pollution from an identifiable or discrete source) and is conveyed to waterways through natural processes, such as rainfall, stormwater runoff, or groundwater seepage rather than direct discharges.
- J. One Hundred Year Floodplain: Those lands subject to inundation by the 100-year flood or the flood having a one-percent probability of being equaled or exceeded in any given year.

- K. Person: Any individual, firm or corporation, public or private, the State of Illinois and its agencies or political subdivisions, and the United States of America, its agencies and instrumentalities, and any agent, servant, officer, or employee of any of the foregoing.
- L. Protected Property: Any property within the corporate limits of the Town of Normal or within the one and one-half mile planning jurisdiction outside the Town corporate limits, (1) designated as a stream system on the stream buffer map attached hereto as Appendix A together with the buffer areas defined in this division based on stream order; and (2) any stream system located and identified by the Public Works Director based on field observation or on information supplied to the Director, together with the buffer areas defined in this division based on stream order.
- M. Pollution: Any contamination or alteration of the physical, chemical or biological properties of any waters that will render the waters harmful or detrimental to:
1. Public health, safety or welfare.
 2. Domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses.
 3. Livestock, wild animals or birds.
 4. Fish or other aquatic life.
- N. Stream Channel: Part of a watercourse either naturally or artificially created that contains an intermittent or perennial base flow of groundwater origin. Base flows of groundwater origin can be distinguished by any of the following physical indicators:
1. Hydrophytic vegetation, hydric soil, or other hydrologic indicators in the area(s) where groundwater enters the stream channel in the vicinity of the headwaters, channel bed, or channel banks.
 2. Flowing water not directly related to a storm event.
 3. Historical records of a local high groundwater table, such as well and stream gauge records.
- O. Stream Order: A classification system for streams based on a stream hierarchy. The smaller the stream, the lower its numerical classification. For example, a first-order stream does not have tributaries and normally originates from springs and/or seeps.
- P. Stream System: A stream channel together with one or both of the following:
1. 100-year floodplain.

2. Hydrologically related nontidal wetland.

- Q. Streams: Perennial and intermittent watercourses identified through site inspection and the McLean County Stream Order Map.
- R. Water Pollution Hazard: A land use or activity that causes a relatively high risk of potential water pollution.

SEC. 28.2-4 OBLIGATION TO COMPLY.

- A. It shall be unlawful for any person to undertake, initiate or cause to occur on any Protected Property in the Town of Normal or within the one and one-half mile planning jurisdiction of the corporate limits any of the following activities without first complying with the requirements of this division and obtaining a site development permit from the Town for such activity:
1. Development of land.
 2. Timber harvesting activities.
 3. Surface mining operations except that the design standards shall not apply to active surface mining operations that are operating in compliance with an approved Illinois Department of Natural Resources – Land Reclamation Division surface mining permit.
- B. The obligation to comply with this division shall not apply in the following instances:
1. That part of any development for which a waiver or variance is granted pursuant to the terms of this division.
 2. Agricultural operations as defined in Town Zoning Code.
 3. Any development for which a valid building or site development permit or subdivision plan was issued or approved prior to the effective date of this division, and such permit or plan has not expired.
 4. All property zoned R-1A, R-1B, Single Family Residence District prior to the effective date of this division.

SEC. 28.2-5 APPLICATION FOR PERMIT.

- A. Application for a site development permit shall be made by the owner of the property or his authorized agent to the Public Works Department on a form furnished for that purpose. Each application shall bear the name(s) and address(es) of the owner and developer of the site and of any consulting firm retained by the

applicant together with the name of the applicant's principal contact at such firm and shall be accompanied by a filing fee of \$125.00 (A separate filing fee shall not be required for applications processed as part of the subdivision process). Each application shall include certification that any site development shall be in accordance with the plans approved upon issuance of the permit.

A licensed professional engineer shall sign each application for more than five acres.

- B. The application shall set forth an informative, conceptual and schematic representation of the proposed activity by means of maps, graphs, charts, or other written or drawn documents so as to enable the Public Works Director an opportunity to make a reasonably informed decision regarding the proposed activity and whether it complies with this division.
- C. The application shall contain the following information for the proposed activity:
 - 1. Location or vicinity map.
 - 2. Field delineated and surveyed streams, springs, seeps, bodies of water, and wetlands (include a minimum of 200 feet into adjacent properties)
 - 3. Field delineated and surveyed forest buffers.
 - 4. Limits of the ultimate 100-year floodplain.
 - 5. Hydric soils mapped in accordance with the NCRS soil survey of the site area.
 - 6. Steep slopes greater than fifteen (15) percent for areas adjacent to and within two-hundred (200) feet of streams, wetlands and other water bodies.
 - 7. A narrative of the species and distribution of existing vegetation within the buffer zone required by this division.
- D. A buffer plan shall be submitted in conjunction with the required application meeting the design, management and maintenance requirements of this division (SEC. 28.2-6 and SEC. 28.2-7).
- E. Review and Approval. Each application for a site development permit shall be reviewed and acted upon according to the following procedures:

1. The Public Works Director will review each application for a site development permit to determine its conformance with the provisions of this division. The Director may also refer any application to the McLean County Soil and Water Conservation District and/or any other local government or public agency within whose jurisdiction the site is located for review and comment. Within ninety (90) days after receiving an application, the Public Works Director shall in writing:
 - a. Approve the permit application if it is found to be in conformance with the provisions of this division and issue the permit;
 - b. Approve the permit application subject to such reasonable conditions as may be necessary to secure substantially the objectives of this division, and issue the permit subject to these conditions;
 - c. Request changes and/or additional information, necessary to secure substantially the objectives of this division, and indicate the procedure for submitting a revised application; *or*
 - d. Disapprove the permit application, indicating the deficiencies and the procedure for submitting a revised application and/or submission.
 2. No site development permit shall be issued for an intended development site unless:
 - a. The development, including but not limited to subdivisions and planned unit development, has been approved by the Town where applicable, and
 - b. All relevant federal and state permits (i.e., for floodplains and wetlands) have been received for the portion of the site subject to soil disturbance.
- F. Expiration of Permit. Every site development permit shall expire and become null and void if the work authorized by such permit has not been commenced within one year or is not completed by a date which shall be specified in the permit; except that the Town may, if the permittee presents satisfactory evidence that unusual difficulties have prevented work being commenced or completed within the specified time limits, grant a reasonable extension of time if written application is made before the expiration date of the permit. The Town may require modification of the stream buffer plan to prevent any increase in water pollution or sediment runoff resulting from any extension.
- G. Appeals. The applicant may appeal the decision of the Public Works Director as provided in Section 28.2-5, to the Zoning Board of Appeals. Upon receipt of an appeal, the Zoning Board of Appeals shall schedule and hold a public hearing after giving notice thereof as required by law. The Zoning Board of Appeals shall

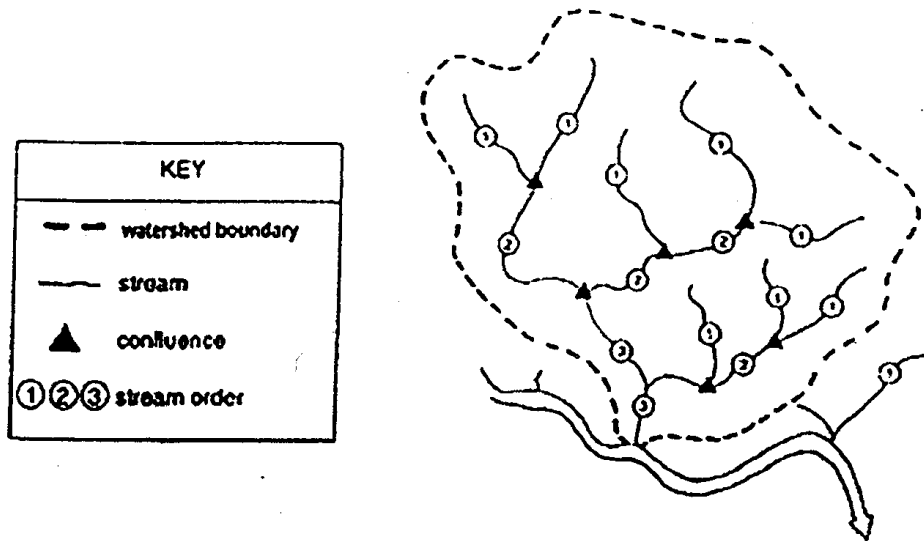
render a decision within thirty (30) days after the hearing. Factors to be considered on review shall include, but need not be limited to, the effects of the proposed development activities on the surface water flow to tributary and downstream lands, any comprehensive watershed management plans, or the use of any retention facilities; possible saturation of fill and unsupported cuts by water, both natural and domestic; runoff surface waters that produce erosion and silting of drainageways; nature and type of soil which when disturbed by the proposed development activities may create earth movement and produce slopes that cannot be landscaped; and excessive and unnecessary scarring of the natural landscape through grading or removal of vegetation. The decision of the Zoning Board of Appeals shall be final.

- H. Retention of Plans. Plans, specifications, and reports for all site developments shall be retained by the Town.

SEC. 28.2-6 DESIGN STANDARDS FOR BUFFERS: A buffer for a stream system shall extend along both sides of a stream and include a minimum distance adjacent to wetlands, floodplains and slopes. The buffer width shall be adjusted to include contiguous sensitive areas, such as steep slopes or erodible soils, where development or disturbance may adversely affect water quality, streams, wetlands, or other water bodies.

- A. The buffer shall begin on each side of the stream bank of the active channel and floodway in accordance with the following minimum criteria.

Figure 1: Stream Order (Source: Schueler, 1995)



1. The required width for all buffers (i.e., the base width) shall be in the areas described below:

Stream Order 1	10 feet from the centerline on each side.
Stream Order 2	25 feet from the centerline on each side.
Stream Order 3	50 feet on each side of the stream bank of the active channel and floodway.
Stream Order 4	100 feet on each side of the stream bank of the active channel and floodway.
Stream Order 5	100 feet on each side of the stream bank of the active channel and floodway.
Stream Order 6	100 feet on each side of the stream bank of the active channel and floodway.

2. Steep slopes. The buffer width shall be modified if steep slopes are within close proximity to the stream and drain into the stream system. In those cases, the buffer width shall be adjusted by either Method A or Method B below.

METHOD A

Percent Slope	To total width of Buffer
15-17%	add 10 feet
18-20%	add 30 feet
21-23%	add 50 feet
24-25%	add 60 feet

METHOD B

Type of Stream Use

Percent Slope	Water Contact/ Recreational Use	Sensitive Stream Habitat
0 to 14%	no change	add 50 feet
15 to 25%	add 25 feet	add 75 feet
greater than 25%	add 50 feet	add 100 feet

3. 100-Year Floodplain. Where the floodplain extends beyond the minimum buffer width as specified above, then buffers shall be extended to encompass the entire 100-year floodplain and a zone with a minimum width of twenty-five (25) feet beyond the edge of the floodplain.
4. Wetlands Or Critical Areas. When wetland or critical areas extend beyond the edge of the required buffer width, the buffer shall be adjusted so that the buffer consists of the extent of the wetland plus a twenty-five (25) foot zone extending beyond the wetland edge.

5. The buffer width may be reduced at some points as long as the average width of the buffer meets the minimum requirement. This averaging of the buffer may be used to allow for the presence of an existing structure or to recover a lost lot, as long as the streamside zone (Zone 1) is not disturbed by the reduction and no new structures are built within the 100-year floodplain. The Public Works Directors may require the submission of additional information to evaluate the proposed width reduction. Such reduction shall only be allowed where no feasible alternative exists.

B. Water Pollution Hazards. The following land uses and/or activities are designated as potential water pollution hazards and must be set back from any stream or waterbody by the distance indicated by the width of the buffer or the width indicated below, whichever is greater.

1. Storage of hazardous substances – (150 feet).
2. Above ground or underground petroleum storage facilities – (150 feet).
3. Drainfields for sewage disposal and treatment systems are not allowed in the stream buffer if the stream buffer is in a floodplain.
4. Solid waste landfills or junkyards – (300 feet).
5. Subsurface discharges from a wastewater treatment plant are not allowed in the stream buffer.
6. Land application bio-solids – (200 feet).

C. The stream buffer shall be composed of three distinct zones with each zone having its own set of allowable uses and vegetative targets as specified in this division.

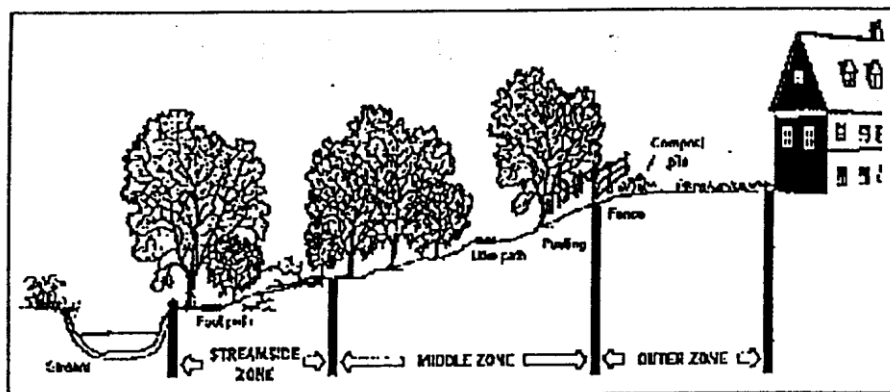


Figure 2: Three Zone Buffer System (Adapted from Welsch, 1991)

1. Zone 1, Streamside Zone
 - a. Protects the physical and ecological integrity of the stream ecosystem.
 - b. Begins at the edge of the stream bank of the active channel and extends twenty-five (25) feet or the width of the stream buffer from the top of the bank, whichever is less.
 - c. Allowable uses within this zone are highly restricted to:
 1. Flood control structures
 2. Utility rights-of-way
 3. Hiking and biking paths
 4. Road crossings, where permitted
 - d. Target for the streamside zone is undisturbed natural vegetation.
2. Zone 2, Middle Zone
 - a. Protects key components of the stream and provides distance between upland development and the streamside zone.
 - b. Begins at the outer edge of the streamside zone and extends a minimum of fifty (50) feet or to the middle of the stream buffer whichever is less. Additional buffer width is specified in SEC. 28.2-6(A)(1).
 - c. Allowable uses within the middle zone are restricted to:
 1. Biking or hiking paths.
 2. Stormwater management facilities with the approval of the Town.
 3. Recreational uses as approved by the Town.
 4. Limited tree clearing with approval from the Town.
 - d. Targets mature native vegetation adapted to the region.
2. Zone 3, Outer Zone.

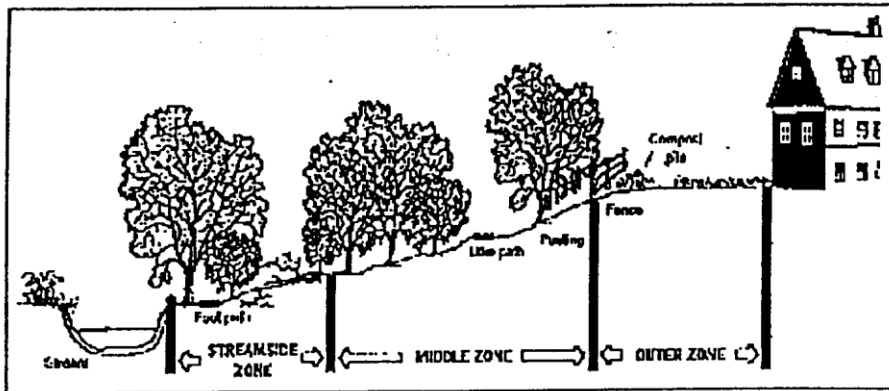


Figure 2: Three Zone Buffer System (Adapted from Welsch, 1991)

- a. Provides a traditional greenspace between development and sensitive Zone 1 and 2 areas, preventing encroachment of impervious cover into the buffer, and filters runoff from residential and commercial development.
 - b. Begins at the outward edge of Zone 2 and provides a minimum width of twenty-five (25) feet between Zone 2 and the nearest permanent structure, or the width of the stream buffer whichever is less.
 - c. Restricts permanent structures or impervious cover with the exception of paths.
 - d. Encourages the planting of native vegetation to increase the total width of the buffer.
- D. **Stream Restoration.** In cases in which the Public Works Director determines that a waterway is significantly degraded, he may authorize or require stream restoration rather than protection of the waterway in its existing condition. Significant degradation shall be determined by the presence of any of the following:
1. Erosion present to the degree that waterway banks are unstable.
 2. Sedimentation present to the degree that aquatic plant life is restricted.
 3. History of flooding
 4. Bank scour caused by high water velocity
 5. Channelization
 6. Presence of non-native, invasive plant species

Stream Restoration is the process of returning a waterway and its surrounding ecosystem to a close approximation of its condition prior to disturbance. Stream restoration may include activities such as re-meandering a channelized waterway, re-vegetating a waterway with appropriate native plantings, and re-grading a waterway to mitigate scouring and erosion problems.

- E. Stream buffer areas may grow into their natural vegetative state, but methods to enhance the vegetation may be required when deemed necessary by the Public Works Director to ensure the preservation and propagation of the buffer area. Buffer areas may also be enhanced through reforestation or other growth techniques as a form of mitigation for achieving buffer preservation requirements. The Public Works Director may require planting of vegetation from the following list:

Stream buffer plant list.

The following plants are acceptable for replanting in the buffer area.

Flood Tolerant Native Northern Illinois Trees

River birch *Betula nigra*

Hophornbeam *Carpus caroliniana*

Green ash *Fraxinus pennsylvanica*

American larch *Larix laricina*

Red mulberry *Morus rubra*

Sycamore *Platinus occidentalis*

Eastern cottonwood *Populus deltoids*

Swamp white oak *Quercus bicolor*

Black willow *Salix nigra*

Bald cypress *Taxodium distichum*

White cedar *Thuja occidentalis*

American elm *Ulmus americana*

Flood Tolerant Native Northern Illinois Shrubs

False indigo *Amorpha fruticosa*

Red chokeberry *Aronia arbutifolia*

Buttonbush *Cephalanthus occidentalis*

Silky dogwood *Cornus amomum*

Gray dogwood *Cornus racemosa*

Red-osier dogwood *Cornus serica*

Cockspur hawthorn *Crataegus crus-galli*

Spicebush *Lindera benzoin*

Ninebark *Physocarpus opulifolius*

American black currant *Ribes americanum*

Wild gooseberry *Ribes missouriense*

Swamp rose *Rosa palustris*

Peachleaf willow *Salix amygdaloides*

Pussy willow *Salix discolor*

Sandbar willow *Salix interior*

Elderberry *Ambucus canadensis*

Meadowsweet *Spirea alba*

Arrowwood viburnum *Viburnum dentatum*

Nannyberry *Viburnum lentago*

Highbush cranberry *Viburnum trilobum*

Flood Tolerant Native Northern Illinois Vines

Groundnut *Apios americana*

Virgin's bower *Clematis virginiana*

Riverbank grape *Vitis riparia*

Seed Mixes:

Detention Basin Seed Mix. (For saturated soils in a wetland or pond with highly fluctuating water levels and poor water quality associated with urban stormwater wetlands and ponds.)

Permanent Grasses/Sedges:

Brown fox sedge *Carex vulpinoidea*

Barnyard grass *Echinochloa crusgalli*

Blunt spike rush *Eleocharis obtusa*

Fowl manna grass *Glyceria striata*

Common rush *Juncus effuses*

Torrey's rush *Juncus torreyi*

Rice cut grass *Leersia oryzoides*

Switch grass *Panicum virgatum*

Great Bulrush (softstem) *Scirpus validus creber*

Temporary Cover:

Redtop *Agrostis alba*

Seed oats *Avena sativa*

Annual rye *Lolium multiflorum*

Forbs and Shrubs:

Wingstem *Actinomeris alternifolia*

Common water plantain *Alisma subcordatum*

Swamp milkweed *Asclepias incarnata*

Bidens, various *Bidens sp.*

Buttonbush *Cephalanthus occidentalis*

Rosemallow, various *Hibiscus sp.*

Monkey flower *Mimulus ringens*

Ditch stonecrop *Penthorum sedoides*

Smartweed *Polygonum pennsylvanicum*

Common arrowhead *Sagittaria latifolia*

Wetland Edge Seed Mix. (For sites with stable saturated soil conditions and good water quality.)

Permanent Grasses/Sedges:

Bottlebrush sedge *Carex lurida*

Sedge, various *Carex sp.*

Brown fox sedge *Carex vulpinoidea*

Great spike rush *Eleocharis palustris major*

Canada wild rye *Elymus canadensis*

Fowl manna grass *Glyceria striata*

Rice cut grass *Leersia oryzoides*

Dark green rush *Scirpus atrovirens*

Chairmaker's rush *Scirpus pungens*

Great bulrush (softstem) *Scirpus validus creber*

Temporary Cover:

Seed Oats *Avena sativa*

Annual rye *Lolium multiflorum*

Wingstem *Actinomeris alternifolia*

Slender false foxglove *Agalinis tenuifolia*

Common water plantain *Alisma subcordatum*

Swamp milkweed *Asclepias incarnate*
 Panicked aster *Aster simplex*
 Bidens, various *Bidens sp.*
 Wild senna *Cassia hebecarpa*
 Common boneset *Eupatorium perfoliatum*
 Sneezeweed *Helenium autumnale*
 Blue flag iris *Iris virginica shrevei*
 Great blue lobelia *Lobelia siphilitica*
 Seedbox *Ludwigia alternifolia*
 Monkey flower *Mimulus ringens*
 Wild golden glow *Rudbeckia laciniata*
 Common arrowhead *Sagittaria latifolia*
 Blue vervain *Verbena hastate*
 Ironweed, various *Vernonia sp*
 Forbs:
 Wet-to-Mesic Prairie Seed Mix. (For sites with medium to wet soils.)
 Permanent Grasses/Sedges:
 Big bluestem grass *Andropogon gerardii*
 Blue joint grass *Calamagrostis canadensis*
 Canada wild rye *Elymus canadensis*
 Switch grass *Panicum virgatum*
 Indian grass *Sorghastrum nutans*
 Prairie cord grass *Spartina pectinata*
 Temporary Cover:
 Redtop *Agrostis alba*
 Seed oats *Avena sativa*
 Annual rye *Lolium multiflorum*
 Timothy *Phleum pretense*
 Forbs:
 Heath aster *Aster ericoides*
 New England aster *Aster novae-angliae*
 White wild indigo *Baptisia leucantha*
 Partridge pea *Cassia fasciculata*
 Tall coreopsis *Coreopsis tripteris*
 Illinois tick trefoil *Desmodium illinoense*
 Rattlesnake master *Eryngium yuccifolium*
 Bottle gentian *Gentiana andrewsii*
 Sneezeweed *Helenium autumnale*
 Sawtooth sunflower *Helianthus grosseserratus*
 Roundheaded bush clover *Lespedeza capitata*
 Marsh blazing star *Liatris spicata*
 Prairie bergamot *Monarda fistulosa*
 Wild quinine *Parthenium integrifolium*
 False dragonhead *Physostegia virginianum*
 Common mountain mint *Pycnanthemum virginianum*
 Yellow coneflower *Ratidbida pinnata*
 Black-eyed susan *Rudbeckia hirta*
 Wild golden glow *Rudbeckia laciniata*

Sweet black-eyed susan *Rudbeckia subtomentosa*
 Compass Plant *Silphium laciniatum*
 Cup Plant *Silphium perfoliatum*
 Prairie Dock *Silphium terebinthinaceum*
 Early Goldenrod *Solidago juncea*
 Stiff Goldenrod *Solidago rigida*
 Wrinkled Goldenrod *Solidago rugosa*
 Spider-Wort *Tradescantia ohioensis*
 Hairy tall ironweed *Vernonia altissima taeniotriche*
 Culver's Root *Veronicastrum virginianum*
 Golden Alexanders *Zizia aurea*

Invasive Species:

The following plants are exceptionally invasive and will damage native ecosystems. Most of these plants are on the Illinois Banned Species list and are illegal to buy, sell, or plant, in the State of Illinois.

Tree of Heave *Ailanthus altissima*
 Autumn Olive *Eleagnus embellatus*
 Tartarian Honeysuckle *Lonicera tartarica*
 Glossy Buckthorn *Rhamnus frangula*
 Common Buckthorn *Rhamnus cathartica*
 Saw-toothed Buckthorn *Rhamnus arguta*
 Dahurain Buckthorn *Rhamnus davurica*
 Japanese Buckthorn *Rhamnus janponica*
 Chinese Buckthorn *Rhamnus utilis*
 Kudzu *Pueraria lobata*
 Round-leaved Bittersweet *Celastrus orbiculatus*
 Japenese Honeysuckle *Lonicera japonica*

SEC. 28-2.7 BUFFER MANAGEMENT & MAINTENANCE:

- A. The buffer, including wetlands and floodplains, shall be managed to enhance and maximize the unique value of these resources. Buffers shall be vegetated either in their natural state or using appropriate, nursery stock vegetation as noted in SEC. 28.2-6(E). Soil disturbance in buffer areas shall be minimized. Every attempt should be made to reduce or eliminate cut and fill activities, topsoil respread, and soil compaction. Maintaining existing and/or development of buffer areas in naturally occurring soils is preferred. Where necessary, invasive species removal may be allowed prior to establishment of native vegetation. Management includes specific limitations on alteration of the natural conditions of these resources. The following practices and activities are prohibited within Zones 1 and 2 of the buffer unless prior approval is obtained from the Public Works Director.
1. Clearing of existing vegetation.
 2. Soil disturbance by grading, stripping or other practices.

3. Filling or dumping.
 4. Drainage by ditching, under-drains or other systems.
 5. Use, storage, or application of pesticides, except for spot spraying of noxious weeds or non-native species consistent with recommendations of the Town.
 6. Housing, grazing, or other maintenance of livestock.
 7. Storage or operation of motorized vehicles, except for maintenance and emergency use approved by the Public Works Director.
- B. The following structures, practices, and activities are permitted in the buffer with specific design or maintenance features, subject to review and approval of the Public Works Director.
1. Roads, bridges, paths, and utilities:
 - a. An analysis needs to be conducted to ensure that no economically feasible alternative to the proposed road, bridge, path, or utility is available.
 - b. The right-of-way shall be the minimum width needed to allow for maintenance access and installation.
 - c. The angle of the crossing shall be perpendicular to the stream or buffer in order to minimize clearing requirements.
 - d. The minimum number of road crossings shall be used with no more than one crossing for every 1,000 feet of buffer for stream classification three (3) or greater.
 2. Stormwater Management, Structures and Facilities
 - a. An analysis needs to be conducted to ensure that no economically feasible alternative to the proposed stormwater management facility is available and that a project is either necessary for flood control or significantly improves the water quality or habitat in the stream.
 - b. In new developments, which include stream order three (3) or higher, on-site and non-structural alternatives will be preferred over larger facilities within the stream buffer.

- c. When constructing stormwater management facilities, the area cleared will be limited to the area required for construction and adequate maintenance access as outlined in the most recent edition of the Illinois Urban Stormwater Manual published by the United States Department of Agriculture – Natural Resources Conservation Service.
 - d. Material dredged or otherwise removed for a stormwater management facility shall be stored outside the buffer.
 3. Stream restoration projects.
 4. Water quality monitoring and stream gauging.
 5. Individual trees within the buffer that are in danger of falling, causing damage to dwellings or other structures, or causing blockage of the stream may be removed.
 6. Other timber cutting techniques approved by the Town may be undertaken within the buffer under the advice and guidance of IDNR if necessary to preserve the buffer from extensive pest infestation, disease infestation, or threat from fire.
- C. All preliminary plans and final plats shall clearly:
 1. Show the extent of any buffer on the subject property.
 2. Label the buffer.
 3. Provide a note stating that disturbance and use of the buffer area is subject to restrictions pursuant to Town Code.
 4. Provide an ingress/egress easement to the stream buffer area in favor of the Town of Normal for stream buffer inspection purposes.
- D. The Public Works Director shall inspect the buffer annually and immediately following severe storms for evidence of sedimentation deposition, erosion, or concentrated flow channels and recommend to the buffer owner corrective actions to ensure the integrity and function of the buffer.
- E. Buffer areas may be allowed to grow into their vegetative target state naturally, but methods to enhance the successional process such as active restoration may be used when approved by the Public Works Director to ensure the preservation and propagation of the buffer area. Forest buffer areas may also be enhanced through re-forestation or other growth techniques as a form of mitigation for achieving buffer preservation requirements.

- F. Permanent boundary markers, in the form of signage approved by the Town of Normal be installed prior to final approval of the required clearing and grading plan. Signs shall be placed at the edge of the middle zone.

SEC. 28.2-8 ENFORCEMENT PROCEDURES.

- A. The Public Works Director and the Director's designee are authorized and empowered to enforce the requirements of this division in accordance with the procedures of this section.
- B. The Public Works Director or designee shall make inspections as hereinafter required and shall either approve that portion of the work completed or shall notify the permittee wherein the work fails to comply with the site development permit as approved. Applicant shall maintain and make available upon demand the approved stream buffer plan bearing the stamp of approval of the Town. In order to obtain inspections and to ensure compliance with the approved plan and this division, the permittee shall notify the Town within two (2) working days of the completion of the construction stages specified below:
1. Upon completion of installation of sediment and runoff control measures (including perimeter controls and diversions), prior to proceeding with any other earth disturbance or grading,
 2. After stripping and clearing (if over one acre),
 3. After rough grading (if over one acre),
 4. After final grading,
 5. After seeding and landscaping deadlines (if over one acre), and
 6. After final stabilization and landscaping, prior to removal of sediment controls.

If site development is to be done in phases or areas, the permittee shall give notice and request inspection at the completion of each of the above work stages in each phase or area. If an inspection is not made and notification of the results given within five working days after notice is received by the Town from the permittee, the permittee may continue work at his/her own risk without presuming acceptance by the Town. Notification of the results of the inspection shall be given in writing.

- C. Special Precautions.
1. If at any stage of the development the Town determines by inspection that the nature of the site is such that further work authorized by an existing permit is likely to imperil any property, public way, stream, lake, wetland,

or drainage structure, the Town may require, as a condition of allowing the work to be done, that such reasonable special precautions to be taken as is considered advisable to avoid the likelihood of such peril. "Special precautions" may include, but shall not be limited to, a more level exposed slope, construction of additional drainage facilities, berms, terracing, compaction, or cribbing, installation of plant materials for erosion control, and recommendations of a registered soils engineer and/or engineering geologist which may be made requirements for further work.

2. Where it appears that storm damage may result because the grading on any development site is not complete, work may be stopped and the permittee required to install temporary structures or take such other measures as may be required to protect adjoining property or the public safety. On large developments or where unusual site conditions prevail, the Town may specify the time of starting grading and time of completion or may require that the operations be conducted in specific stages so as to insure completion of protective measures or devices prior to the advent of seasonal rains.

D. Amendment of Plans. Major amendments of the site development permit or stream buffer plan shall be submitted to the Public Works Director and shall be processed and approved or disapproved in the same manner as the original plan. Field modifications of a minor nature may be authorized by the Public Works Director by written authorization to the permittee. The Town Engineer shall be authorized to determine the level of modification.

E. Stop-Work Order; Revocation of Permit. In the event any person holding a site development permit pursuant to this division violates the terms of the permit, or carries on site development in such a manner as to materially adversely affect the health, welfare, or safety of the public or so as to be materially detrimental to the public welfare or injurious to property, the Town may suspend or revoke the site development permit.

1. Suspension of a permit shall be by a written stop-work order issued by the Town and delivered to the permittee or his agent or the person performing the work. The stop-work order shall be effective immediately, shall state the specific violations cited, and shall state the conditions under which work may be resumed. A stop-work order shall remain in effect until the next regularly scheduled meeting of the Zoning Board of Appeals at which the conditions of sub-paragraph SEC. 28.2-8(E)(2) below can be met.

2. No site development permit shall be permanently suspended or revoked until a hearing is held by the Zoning Board of Appeals. Written notice of such hearing shall be served on the permittee, either personally or by registered mail, and shall state:

- a. The grounds for complaint or reasons for suspension or revocation in clear and concise language; and

- b. The time when and place where such hearing will be held.

Such notice shall be served on the permittee at least five (5) days prior to the date set for the hearing. At such hearing, the permittee shall be given an opportunity to be heard and may call witnesses and present evidence on his behalf. At the conclusion of the hearing the Zoning Board of Appeals shall determine whether the permit shall be suspended or revoked or the plan modified. In making its decision the Zoning Board of Appeals shall issue written findings of fact supporting its decision.

F. Penalties.

1. Any person convicted of violating any provision of this division or any approved stream buffer plan shall be punished by a fine not to exceed \$1,000.00 for each violation. Every day that such violation(s) continue will be considered a separate offense.
2. Any person who knowingly makes any false statements in any application, record, or plan required by this division shall upon conviction be punished by a fine of not more than \$1,000.00 for each violation.

- G. Injunctive Relief. If a property owner or permit holder fails after ten days notice to correct any violation of this division or violation of any approved permit and stream buffer plan, the Public Works Director may make application to the Circuit Court for an injunction requiring conformance with this division or other equitable relief necessary in order to secure compliance with this division. If the Public Works Director is authorized to enter onto private property to restore a stream buffer, the Owner shall be liable for damages in an amount equal to twice the cost of restoring the buffer.

SEC. 28.2-9 VARIANCES.

- A. The Zoning Board of Appeals may, in accordance with the following procedures, authorize exceptions to any of the requirements and regulations set forth in this division.
1. A verified petition of the applicant for a site development permit stating fully the grounds of the petition shall make application for any exception and the facts relied upon by the applicant. Such petition shall be filed with the site development permit application. In order for the petition to be granted, it shall be necessary that the Zoning Board of Appeals find all of the following facts with respect to the land referred to in the petition:
 - a. That the land is of such shape or size or is affected by such physical conditions or is subject to such title limitations of record that it is impossible or impractical for the applicant to comply with all of the requirements of this division;

- b. That the exception is necessary for reasonable use of the site and in order to avoid a substantial loss in value of the site; and
 - c. That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the vicinity of the subject property.
2. Each application for an exception shall be referred to the Public Works Director for review. The Town shall transmit its recommendations to the Zoning Board of Appeals which shall review such recommendations prior to granting or denying the exception.
3. The Zoning Board of Appeals shall hold a public hearing on each application for exception within thirty (30) days after receiving application. After public hearing, the Zoning Board of Appeals may approve the site development permit application with the exceptions and conditions it deems necessary, or it may disapprove such site development permit application and exception application, or it may take such other action as appropriate in order to meet the purpose and intent of this division.

SEC. 28.2-10 CONFLICT WITH OTHER CODES AND REGULATIONS. Where the standards and management requirements of this buffer division are in conflict with other laws, regulations and policies regarding streams, steep slopes, erodible soils, wetlands, floodplains, timber harvesting, land disturbance activities, or other environmental protective measures, the more restrictive code or regulation shall apply.

SEC. 8.2-11 SEVERABILITY. The provisions of this division shall be deemed severable and the invalidity of any portion shall not affect the validity of the remaining provisions.

(Entire Division 2 Added 4/21/08 by Ord. No. 5190)

DIVISION THREEEROSION, SEDIMENT CONTROL AND GRADING REGULATIONS

SEC. 28.3-1 FINDINGS: The President and Board of Trustees of the Town of Normal hereby find:

- A. Excessive quantities of soil may erode from areas undergoing development for certain non-agricultural uses including but not limited to the construction of dwelling units, commercial buildings and industrial plants, the building of roads and highways, the modification of stream channels and drainage-ways, and the creation of recreational facilities;
- B. The washing, blowing, and falling of eroded soil across and upon roadways endangers the health and safety of users thereof by decreasing vision and reducing traction of road vehicles;
- C. Soil erosion necessitates the costly repairing of gulleys, washed-out fills, and embankments;
- D. Sediment from soil erosion tends to clog sewers and ditches and to pollute and silt rivers, streams, lakes, wetlands, and reservoirs;
- E. Sediment limits the use of water and waterways for most beneficial purposes, promotes the growth of undesirable aquatic weeds, destroys fish and other desirable aquatic life, and is costly and difficult to remove;
- F. Sediment reduces the channel capacity of waterways and the storage capacity of floodplains and natural depressions, resulting in increased chances of flooding at risk to public health and safety;
- G. Development, if not controlled, causes increases in peak storm water runoff rates which can lead to increased stream bed and stream bank erosion and flooding in receiving streams;
- H. Erosion and stream bank instability caused by altered stream flow rates due to development can create unsafe conditions, adverse environmental impacts, and other conditions that require costly repairs or preventative measures to protect private and public structures and facilities;
- I. The Federal Water Pollution Control Act Amendments of 1972, 1977, and subsequent amendments, commonly known as the Clean Water Act require local erosion control and storm water management; and
- J. Local erosion and sediment control regulation is required under the facilities planning area amendment submitted by the Bloomington-Normal Water Reclamation District and approved by the Illinois Environmental Protection Agency.

SEC. 28.3-2 PURPOSE: The President and Board of Trustees therefore declares that the purpose of this division is to safeguard persons, protect property, prevent damage to the environment, and promote the public welfare by guiding, regulating and controlling the design, construction, use and maintenance of any development or other activity which disturbs or breaks the topsoil or otherwise results in the movement of earth on land situated in the Town of Normal or within one and one-half miles of the corporate limits of Normal. It is the intention of this division that the delivery of sediment from sites affected by land disturbing activities be limited, as closely as practicable, to that which would have occurred if the land had been left in its natural undisturbed state.

SEC. 28.3-3 DEFINITIONS: For the purposes of this division certain terms used herein are defined as set forth below:

- A. **Building Permit:** A permit issued by the Town for the construction, erection or alteration of a structure or building.
- B. **Certify or Certification:** Formally attesting that the specific inspections and tests, where required, have been performed and that such tests comply with the applicable requirements of this division.
- C. **Clearing:** Any activity that removes vegetative ground cover.
- D. **Cubic Yards:** The amount of material in excavation and/or fill measured by the method of “average end areas.”
- E. **Excavation:** Any act by which organic matter, earth, sand, gravel, rock, or any other similar material is cut into, dug, quarried, uncovered, removed, displaced, relocated, or bulldozed and shall include the conditions resulting there from.
- F. **Existing Grade:** The vertical location of the existing ground surface prior to excavation or filling.
- G. **Fill:** Any act by which earth, sand, gravel, rock, or any other material is deposited, placed, replaced, pushed, dumped, pulled, transported, or moved by man to a new location and shall include the conditions resulting there from.
- H. **Final Grade:** The vertical location of the ground or pavement surface after the grading work is completed in accordance with the site development plan.
- I. **Grading:** Excavation or fill or any combination thereof and shall include the conditions resulting from any excavation or fill.
- J. **Natural Drainage:** Channels formed in the existing surface topography of the earth prior to changes made by unnatural causes.
- K. **Parcel:** All contiguous land in one ownership.
- L. **Permittee:** Any person to whom a site development permit is issued.

- M. Person: Any individual, firm or corporation, public or private, the State of Illinois and its agencies or political subdivisions, and the United States of America, its agencies and instrumentalities, and any agent, servant, officer or employee of any of the foregoing.
- N. Removal: Cutting vegetation to the ground or stumps, complete extraction, or killing by spraying.
- O. Site: A lot or parcel of land or a contiguous combination thereof where grading work is performed as a single unified operation.
- P. Site Development: Any clearing, stripping, removal of vegetation, or any grading of soil or any construction or demolition of a structure occurring on a site.
- Q. Site Development Permit: A permit issued by the Town for Site Development.
- R. Stream: Any river, creek, brook, branch, flowage, ravine, or natural or man-made drainage-way which has a definite bed and banks or shoreline in or into which surface or groundwater flows, either perennially or intermittently.
- S. Stripping: Any activity that removes the vegetative surface cover including tree removal, clearing, and storage or removal of topsoil.
- T. Vacant: Land on which there are no structures or only structures that are secondary to the use or maintenance of the land itself.
- U. Town: The Town of Normal, McLean County, Illinois.
- V. 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. *For the purpose of this division, the Illinois Department of Conservation National Wetlands Inventory maps shall define wetlands.*

SEC. 28.3-4 General Principles: It is the objective of this division to control soil erosion and sedimentation caused by site development activities. Measures taken to control soil erosion and offsite sediment runoff shall be adequate to assure that sediment is not transported from the site by a storm event of five-year frequency or less. The following principles shall apply to all site development activities within the Town and to the preparation of the submissions required under SEC. 28.3-5 of this division:

- A. Development shall be related to the topography and soils of the site so as to create the least potential for erosion. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.

- B. Natural vegetation shall be retained and protected wherever possible. Areas immediately adjacent to natural watercourses, lakes, ponds, and wetlands shall be left undisturbed wherever possible. Temporary crossings of watercourses, when permitted, shall include appropriate stabilization measures.
- C. Special precautions shall be taken to prevent damages resultant from any necessary development activity within or adjacent to any stream, lake, pond, or wetland. Preventative measures shall reflect the sensitivity of these areas to erosion and sedimentation.
- D. The smallest practical area of land shall be exposed for the shortest practical time during development.
- E. Sediment basins or traps, filter barriers, diversions, and any other appropriate sediment or runoff control measures shall be installed prior to site development and maintained to remove sediment from run-off waters from land undergoing development.
- F. The selection of erosion and sedimentation control measures shall be based on assessment of the probable frequency of climatic and other events likely to contribute to erosion and on evaluation of the risks, costs, and benefits involved.
- G. In the design of erosion control facilities and practices, aesthetics and the requirements of continuing maintenance shall be considered.
- H. Provision shall be made to accommodate the increased runoff caused by changed soil and surface conditions during and after development. Drainage ways shall be designed so that their final gradients and the resultant velocities and rates of discharge will not create additional erosion on-site or off-site and in a manner which will not cause flooding or other hardships off-site.
- I. Permanent vegetation and structures shall be installed and functional as soon as practical during development.
- J. Those areas being converted from agricultural purposes to other land uses shall be vegetated with an appropriate protective cover prior to development. The protective cover shall be properly replaced and maintained in accordance with all other applicable local, State, and national codes/laws during site development until the permanent vegetation and structures have become functional.
- K. All waste generated as a result of site development activity shall be properly disposed of and shall be prevented from being carried off the site by either wind or water. Wastes generated from the placement of concrete, asphalt or similar materials will be properly controlled such that no sediment from said items will be allowed to enter the sewer systems, water ways or other bodies of water. The Developer, Owner or his/her agent shall provide details regarding the locations of appropriate washout areas prior to the start of any work involving said items and shall be responsible for ensuring the wastes resulting from usage of said items are disposed of in an approved manner.

- L. All construction sites shall provide measures to prevent sediment from being tracked onto public or private roadways. Any sediment tracked onto public or private roadways shall be removed as soon as possible but not later than the end of the work day during which said sediment is tracked onto the public or private roadway.
- M. All developments, subdivisions, or other construction sites approved by the City Council after the passage of this ordinance which are required by State or Federal law to create and maintain a Storm Water Pollution Prevention Plan shall submit said plan to the Engineering Department prior to any work being performed. The Storm Water Pollution Prevention Plan shall be maintained per Federal and State regulations. Any revisions to the Storm Water Pollution Prevention Plan shall be provided to the City within three (3) working days of their implementation. All inspection reports and other reports required by Federal or State law shall be maintained per Federal and State laws and provided to the Engineering Department upon demand for said items.
- N. All construction sites or additions to subdivisions approved by the City Council under construction at the time of passage of this Ordinance must comply with the Storm Water Pollution Prevention Plan submitted by the developer or his/her representative, per State and/or Federal Regulations regarding National Pollutant Discharge Elimination System permits. The owner, builder or his/her representative should contact the developer to obtain a copy of the Storm Water Pollution Prevention Plan, determine what requirements are set forth in the Storm Water Pollution Prevention Plan, and implement said measures. The owner, builder or his/her representative shall provide the Town with an Erosion Control Plan outlining the erosion and sediment control measures to be used on their lot. The Town reserves the right to require further erosion and sediment control measures on a lot by lot basis.

SEC. 28.3-5 SITE DEVELOPMENT PERMIT.

- A. Permit Required: Except as otherwise provided in this division, no person shall commence or perform any site development which meets the following provisions without having first obtained a site-development permit from the Public Works Department of the Town.
 - 1. Any site development that will affect an area in excess of 5,000 square feet;
 - 2. Any site development that will affect an area in excess of 1,000 square feet if the activity is within 25 feet of a lake, pond, stream, or wetland; or
 - 3. Excavation, fill, or any combination thereof that will exceed 100 cubic yards.

- B. Exceptions: A permit shall not be required for any of the following provided that the person responsible for any such development shall implement necessary soil erosion and sediment control measures to satisfy the principles set forth in SEC. 28.3-4 of this Code:
1. Excavation below final grade for the basement and footings of one (1) single-family residence and appurtenant structures on a site in excess of five (5) acres for which a building permit has been issued by the Town, provided the area disturbed by site-development activity is less than one (1) acre;
 2. Agricultural use of land, including the implementation of conservation measures included in a farm conservation plan approved by the Soil and Water Conservation District, and including the construction of agricultural structures;
 3. Installation, renovation, or replacement of a septic system to serve an existing dwelling or structure.
- C. Application for Permit: Application for a site development permit shall be made by the owner of the property or his authorized agent to the Public Works Department on a form furnished for that purpose. Each application shall bear the name(s) and address(es) of the owner or developer of the site and of any consulting firm retained by the applicant together with the name of the applicant's principal contact at such firm and shall be accompanied by a filing fee as provided below.

Each application shall include certification that any site development shall be in accordance with the plans approved upon issuance of the permit.

Each application shall include the gross area of the site and the impervious area included within the site and the area of the site to be disturbed.

A licensed professional engineer shall sign each application for more than one acre.

FEE SCHEDULE

1. Subdivisions with Public Improvements – Fee is included in Inspection Fee.
2. Sites less or equal to one (1) acre: the fee is \$35.00.
3. Sites greater than one (1) acre and less than or equal to fifty (50) acres: the fee is \$35.00 for the first acre plus \$20.00 / acre for each additional acre or part thereof up to 50 acres total.
4. Sites greater than fifty (50) acres: the fee is \$35.00 for the first acre plus \$20.00 per acre for each additional acre up to fifty (50) acres, plus \$5.00 per acre for each acre or part thereof over 50 acres total.

- D. Submissions: Submitted permit applications shall be in conformance with site development guidelines of Chapter 13 of the Manual of Practice for the Design of Public Improvements.
- E. Bonds: The applicant for a permit to develop five acres or more is required to file with the Town a performance bond or bonds, letter of credit or cash in an amount deemed sufficient by the Town to cover all costs of improvements, landscaping, maintenance of improvements and landscaping, and soil erosion and sediment control measures for such period as specified by the Town, and engineering and inspection costs to cover the cost of failure or repair of improvements installed on the site.
- F. Review and Approval: Each application for a site development permit shall be reviewed and acted upon according to the following procedures:
1. The Public Works Director will review each application for a site development permit to determine its conformance with the provisions of this division. The Director may also refer any application to the McLean County Soil and Water Conservation District and/or any other local government or public agency within whose jurisdiction the site is located for review and comment. Within ninety (90) days after receiving an application, the Town shall in writing:
 - a. Approve the permit application if it is found to be in conformance with the provisions of this division and issue the permit;
 - b. Approve the permit application subject to such reasonable conditions as may be necessary to secure substantially the objectives of this division and issue the permit subject to these conditions;
 - c. Request changes and/or additional information necessary to secure substantially the objectives of this division and the procedure for submitting a revised application; or
 - d. Disapprove the permit application and indicate the deficiencies and the procedure for submitting a revised application and/or submission.
 2. No site development permit shall be issued for an intended development site unless:
 - a. The development, including but not limited to subdivisions and planned unit development, has been approved by the Town where applicable, and
 - b. All relevant federal and state permits (i.e., for floodplains and wetlands) have been received for the portion of the site subject to soil disturbance.

3. The application for an Erosion and Sediment Control permit for a site which includes a structure shall not alleviate the applicant from the responsibility of obtaining all other permits which may be required by local or state laws.
- G. Expiration of Permit: Every site development permit shall expire and become null and void if the work authorized by such permit has not been commenced within one year or is not completed by a date which shall be specified in the permit, except that the Town may, if the permittee presents satisfactory evidence that unusual difficulties have prevented work being commenced or completed within the specified time limits, grant a reasonable extension of time if written application is made before the expiration date of the permit. The Town may require modification of the erosion control plan to prevent any increase in erosion or off-site sediment runoff resulting from any extension.
- H. Appeals: The applicant may appeal the decision of the Public Works Director as provided in SEC. 7.25-5(F), to the Zoning Board of Appeals. Upon receipt of an appeal, the Zoning Board of Appeals shall schedule and hold a public hearing after giving 15 days notice thereof. The Zoning Board of Appeals shall render a decision within thirty (30) days after the hearing. Factors to be considered on review shall include, but need not be limited to, the effects of the proposed development activities on the surface water flow to tributary and downstream lands; any comprehensive watershed management plans; or the use of any retention facilities; possible saturation of fill and unsupported cuts by water, both natural and domestic; runoff surface waters that produce erosion and silting of drainageways; nature and type of soil which when disturbed by the proposed development activities may create earth movement and produce slopes that cannot be landscaped; and excessive and unnecessary scarring of the natural landscape through grading or removal of vegetation. The decision of the Zoning Board of Appeals shall be final.
- I Retention of Plans: Plans, specifications, and reports for all site developments shall be retained by the Town, in accordance with Town record retention procedures.

SEC. 28.3-6 DESIGN AND OPERATION STANDARDS AND REQUIREMENTS:

- A. Applicability. All site development is subject to the permit requirements of this division shall be subject to the applicable standards and requirements set forth in this SEC. 28.3-6.
- B. Responsibility. The permittee shall not be relieved of responsibility for damage to persons or property otherwise imposed by law, and the Town or its officers or agents will not be made liable for such damage, by (1) the issuance of a permit under this division, (2) compliance with the provisions of that permit or with conditions attached to it by the Town, (3) failure of Town officials to observe or recognize hazardous or unsightly conditions, (4) failure of Town officials to recommend denial of or to deny a permit, or (5) exemptions from the permit requirements of this division.

C. Site Design Requirements.

1. On-site sediment control measures, as specified in Chapter 13 of the Town's Manual of Practice for the Design of Public Improvements shall be constructed and functional prior to initiating site development.
2. Storm water conveyance channels, including ditches, swales, and diversions, and the outlets of all channels and pipes shall be designed and constructed in accordance with requirements of Chapter 6 of the Town's Manual of Practice for the Design of Public Improvements.
3. Disturbed areas shall be stabilized with temporary or permanent measures within 7 calendar days following the end of active disturbance or redisturbance, consistent with Chapter 13 of the Town's Manual of Practice for the Design of Public Improvements.
4. All temporary and permanent erosion and sediment control practices must be maintained and repaired as needed to assure effective performance of their intended function.
5. All temporary erosion and sediment control measures shall be disposed of within 30 days after final site stabilization is achieved with permanent soil stabilization measures. Trapped sediment and other disturbed soils resulting from the disposition of temporary measures shall be permanently stabilized to prevent further erosion and sedimentation.

D. Handbooks Adopted by Reference. The standards and specifications contained in latest editions of *Standards and Specifications for Soil Erosion and Sediment Control* (the Yellow Book, issued by the Illinois Environmental Protection Agency,) or as superceded by the Illinois Urban Manual (the Blue Book, developed and issued by the United States Department of Agriculture Natural Resources Conservation Service and the Illinois Environmental Protection Agency, and the *Illinois Procedures and Standards for Urban Soil Erosion and Sedimentation Control* (the Green Book, issued by the Association of Illinois Soil and Water Conservation Districts), are hereby incorporated into this division and made a part hereof by reference for the purpose of delineating procedures and methods of operation under site development and erosion and sedimentation control plans approved under this division. In the event of conflict between provisions of said manuals and of this division, the division shall govern.

E. Maintenance of Control Measures. All soil erosion and sediment control measures necessary to meet the requirements of this division shall be maintained by the owner and the owner's successors and assigns during the period of land disturbance and development of the site in a satisfactory manner to ensure adequate performance.

If a change in owner or developer occurs during the period of land disturbance and development of the site, the subsequent or successor owner or developer shall be required to obtain a new erosion control permit.

F. Inspection.

1. The Town shall make inspections as hereinafter required and shall either approve that portion of the work completed or shall notify the permittee wherein the work fails to comply with the site development or erosion and sedimentation control plan as approved. The applicant shall maintain and make available upon demand plans for grading, stripping, excavating, and filling work bearing the stamp of approval of the Town. In order to obtain inspections and to ensure compliance with the approved erosion and sediment control plan, the grading or building permit, and this division, the permittee shall notify the Town within two (2) working days of the completion of the construction stages specified below:
 - a. Upon completion of installation of sediment and runoff control measures (including perimeter controls and diversions), prior to proceeding with any other earth disturbance or grading,
 - b. After stripping and clearing (if over one acre),
 - c. After rough grading (if over one acre),
 - d. After final grading,
 - e. After seeding and landscaping deadlines (if over one acre), and
 - f. After final stabilization and landscaping, prior to removal of sediment controls.

If site development is to be done in phases or areas, the permittee shall give notice and request inspection at the completion of each of the above work stages in each phase or area. If an inspection is not made and notification of the results given within five working days after notice is received by the Town from the permittee, the permittee may continue work at his/her own risk, without presuming acceptance by the Town. Notification of the results of the inspection shall be given in writing.

G. Special Precautions.

1. If at any stage of any development site the Town determines by inspection that the nature of the site is such that further work authorized by an existing permit is likely to imperil any property, public way, stream, lake, wetland, or drainage structure, the Town may require, as a condition of allowing the work to be done, that such reasonable special precautions be taken as is considered advisable to avoid the likelihood of such peril.

“Special precautions” may include, but shall not be limited to, a more level exposed slope, construction of additional drainage facilities, berms, terracing, compaction, or cribbing, installation of plant materials for erosion control, and recommendations of a registered soils engineer and/or engineering geologist which may be made requirements for further work.

2. Where it appears that storm damage may result because a development site is not complete, work may be stopped and the permittee required to install temporary structures or take such other measures as may be required to protect adjoining property or the public safety. On large developments or where unusual site conditions prevail, the Town may specify the time of starting grading and the time of completion or may require that the operations be conducted in specific stages so as to insure completion of protective measures or devices prior to the advent of seasonal rains.

H. Amendment of Plans. Major amendments of the site development or erosion and sedimentation control plans shall be submitted to the Town and shall be processed and approved or disapproved in the same manner as the original plans. Field modifications of a minor nature may be authorized by the Town by written authorization to the permittee. The Town Engineer shall be authorized to determine the level of modification.

SEC. 28.3-7 ENFORCEMENT.

- A. Exceptions. The Zoning Board of Appeals may, in accordance with the following procedures, authorize exceptions to any of the requirements and regulations set forth in this division:
1. A verified petition of the applicant for a site development permit stating fully the grounds of the petition shall make application for any exception and the facts relied upon by the applicant. Such petition shall be filed with the site development permit application. In order for the petition to be granted, it shall be necessary that the Zoning Board of Appeals find all of the following facts with respect to the land referred to in the petition:
 - a. That the land is of such shape or size or is affected by such physical conditions or is subject to such title limitations of record, that it is impossible or impractical for the applicant to comply with all of the requirements of this division;
 - b. That the exception is necessary for reasonable use of the site and in order to avoid a substantial loss in value of the site; and
 - c. That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the vicinity of the subject property.

2. Each application for an exception shall be referred to the Town for review. The Town shall transmit its recommendations to the Zoning Board of Appeals which shall review such recommendations prior to granting or denying the exception.
3. The Zoning Board of Appeals shall hold a public hearing on each application for exception within thirty (30) days after receiving application in the manner provided with respect to appeals. After public hearing, the Zoning Board of Appeals may approve the site development permit application with the exceptions and conditions it deems necessary or it may disapprove such site development permit application and exception application or it may take such other action as appropriate.

B. Stop-Work Order; Revocation of Permit. In the event any person holding a site development permit pursuant to this division violates the terms of the permit or carries on site development in such a manner as to materially adversely affect the health, welfare, or safety of the public or so as to be materially detrimental to the public welfare or injurious to property, the Town may suspend or revoke the site development permit.

1. Suspension of a permit shall be by a written stop-work order issued by the Town and delivered to the permittee or his agent or the person performing the work. The stop-work order shall be effective immediately, shall state the specific violations cited, and shall state the conditions under which work may be resumed. A stop-work order shall remain in effect until the next regularly scheduled meeting of the Zoning Board of Appeals at which the conditions of sub-paragraph 28.3-7B(2)(b) below can be met.
2. No site development permit shall be permanently suspended or revoked until a hearing is held by the Zoning Board of Appeals. Written notice of such hearing shall be served on the permittee, either personally or by registered mail, and shall state:
 - a. The grounds for complaint or reasons for suspension or revocation in clear and concise language; and
 - b. The time when and place where such hearing will be held.

Such notice shall be served on the permittee at least five (5) days prior to the date set for the hearing. At such hearing, the permittee shall be given an opportunity to be heard and may call witnesses and present evidence on his behalf. At the conclusion of the hearing the Zoning Board of Appeals shall determine whether the permit shall be suspended or revoked.

- C. Violations and Penalties. No person shall construct, enlarge, alter, repair, or maintain any grading, excavation or fill, or site development or cause the same to be done, contrary to or in violation of any terms of this division. Any person violating any of the provisions of this division shall be deemed guilty of a violation of this Code, and each day during which any violation of any of the provisions of this division is committed, continued, or permitted shall constitute a separate offense. Upon conviction of any such violation, such person, partnership, or corporation shall be punished by a fine of not less than \$100 and not more than \$2500 for each offense. In addition to any other penalty authorized by this section, any person, partnership, or corporation convicted of violating any of the provisions of this division shall be required to restore the site to the condition existing prior to commission of the violation or to bear the expense of such restoration.
- D. Severability. The provisions and sections of this division shall be deemed to be severable, and the invalidity of any portion of this division shall not affect the validity of the remainder.
- E. Injunctive Relief. Failure to obtain a site development permit as required by this Code or failure to comply with the conditions of such permit or the variance or exception conditions shall be deemed to be a violation of this Code. The Town Director of Public Works may, if the property owner or permittee fails after notice to correct such violation, make application to the Circuit Court for an injunction requiring conformance with this Code or such other relief or order as the Court deems necessary to secure compliance with this Code.

(Entire Division Three Added 4/21/08 by Ord. No. 5190)