

*{Proposed Aug, 2006 revisions to Winnebago County Code. Text in this format is commentary and not intended to be part of the proposed revision. Original text is in black. Proposed changes are color coded to the purpose (see sec 50-247).}*

**ARTICLE IV. ~~NATURAL HAZARDS~~\* SURFACE WATER MANAGEMENT**

*{'Surface Water Management' is more descriptive of the scope of regulation}*

**\*Editor's note:** Ord. No. 96-CO-22, § 3, adopted April 25, 1996, changed the title of Art. IV from "National Hazards" to "Natural Hazards."

**State law references:** Prevention of food damage, 50 ILCS 815/1 et seq.

**Sec. 50-246. Title.**

This article shall be known, cited and referred to as the "~~Natural Hazard Ordinance.~~" "**Surface Water Management Ordinance**".

(Code 1964, § 9-236; Ord. No. 96-CO-22, § 4, 4-25-96)

**Sec. 50-247. Purpose and scope of article.**

The purpose of this article is to establish regulations ~~which will minimize flooding and flood damage by preventing the obstruction of flood flow caused by development activities and improper stormwater detention.~~ **for unincorporated areas of the county that reasonably manage adverse effects to and by surface water by and to Development. Specifically, potential surface water effects are:**

(Code 1964, § 9-236)

**(a) flooding.** Flooding is addressed by:

**(1) Regulating Development in Floodplain Areas.** This title refers to the Illinois State Model Floodplain Ordinance, the technical portions of which are Sections 6, 7, 8, 9, and 10. These sections, as adjusted to reflect county recognition of Flood Hazard Areas in addition to FEMA's Special Flood Hazard Areas, are hereby included in the Technical Regulations. Besides the public interest in reducing flood damages, the purpose of these requirements is to comply with Federal Regulations (Paragraph 60.3(d) of 44 CFR 59-60), in order for Winnebago County to remain in good standing with the National Flood Insurance Program.

**a.** Developments shall be regulated in accordance with the base flood standard, which is indicated in the definition of *Floodplain* in the following section 50-248. Also see the definitions of Development and especially Substantial Improvement which enumerates exceptions.

(2) Stormwater Detention Regulations. These regulations address escalation in flooding by Developments which increase the amount of impermeable area, such as the construction of roof structures, paved areas or compacted areas, ~~shall be subject to the terms of this article.~~ The maximum controlled stormwater runoff release rate shall not exceed the natural safe stormwater drainage capacity of the downstream system, which has been found to be 0.2 cubic feet per second, per acre in the county. Details of compliance with this requirement are hereby incorporated in the Technical Regulations.

a. The following, however, shall not be included:

i. Traditional agricultural uses.

ii. The construction of single-family dwellings on lots or parcels of land which were of record prior to August 12, 1976.

iii. Modification of single-family dwellings which will continue to be used as single-family dwellings.

iv. The use of lands adjacent and contiguous to and which discharge directly into the Rock, Pecatonica, Sugar, or Kishwaukee Rivers.

v. Improvement of existing roadways which does not increase the number of traffic lanes in the typical cross section of the roadway. *{The above paragraph is moved from 50-258 thru sec.(1) and the first sentence of sec.(2), and renumbered with some added wording as indicated. The remainder of 50-258 is to be incorporated in the Technical Regulations.}*

(3) Post Construction Runoff Quantity Controls. These are controls, like Stormwater Detention, that address the increased runoff associated with many types of development, but are more commonly associated with terms such as Low Impact Development and 'Green' Communities. Post Construction Runoff Control is a Best Management Practice (BMP) required of the County by the National Pollutant Discharge Elimination System (NPDES), Phase II. Allowances for such controls are hereby incorporated in the Technical Regulations.

(b) water quality degradation. This degradation, often called pollution, is addressed by: *{adding quality considerations to Winnebago County's 1976 Stormwater Detention regulations, consistent with the Federal Clean Water Act, National Polutant Discharge Elimination System (NPDES) Phase II requirements for Construction Site Erosion and Sediment Control and Post Construction Runoff Control and the County's own Balanced Growth Initiative.}*

(1) Construction Site Erosion and Sediment Control. These controls apply to any Land Disturbing Activity (see definition) with the intent that the transport of sediment via wind or rainwater runoff 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 undisturbed state. This is a BMP of NPDES Phase II; and has been addressed by a standard ordinance developed by the Winnebago County Association for Clean Water Action (WinACWA) 2005. Provisions of this ordinance are hereby incorporated in the Technical Regulations. *{WinACWA sec. 3, partial; and sec.7 following}*

a. Except that, where floodplains are not involved, erosion and sediment control plans shall not be required for submittal for any of the following, provided that the person responsible for any such development shall implement necessary soil erosion and sediment control measures

consistent with the principles of this regulation:

- i. Excavation below final grade for the basement and footings of a single-family residence and appurtenant structures on a site in excess of one acre for which a building permit has been issued by the County of Winnebago;
- ii. Agricultural use of land, including the implementation of conservation measures included in a farm conservation plan approved by the Winnebago County Soil and Water Conservation District, and including the construction of agricultural structures;
- iii. Installation, renovation, or replacement of a septic system to serve an existing dwelling or structure.

(2) Post Construction Runoff Quality Controls. These are additional controls, extending beyond the construction phase, which address water quality on a continuous basis. They can be as simple as some Low Impact Development techniques or as complex as a small surface water treatment plant. Post Construction Runoff Control is a Best Management Practice (BMP) required of the County by the National Pollutant Discharge Elimination System (NPDES), Phase II. Allowances for such controls are hereby incorporated in the Technical Regulations.

**Sec. 50-248. Definitions.**

(a) The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the confroext clearly indicates a different meaning:

*Administrator* means the Winnebago County Engineer. With regard to Construction Site Erosion and Sediment Control provisions of this Article and the Technical Regulations, on sites for which a building permit is required or pending, the term shall also include the Building Official of Winnebago County.

*Authority* means any agency with regulatory powers, Winnebago County, for the purpose of this ordinance. *{WinACWA, Sec. 4}*

*Base flood* means the flood having a one percent chance of being equaled or exceeded in any given year, also known as the 100-year flood.

*Base flood elevation* means the elevation in relation to mean sea level of the crest of the base flood.

*Basement* means that portion of a building having its floor sub-grade (below ground level) on all sides. *{Ill.Std. sec.2}*

*Building* means a walled and roofed structure, including gas or liquid storage tank, that is principally above ground, 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 one hundred eighty (180) days per year. *{Ill.Std. sec.2}*

*Certify or certification* means formally attesting that the specific inspections and tests where

required have been performed, and that such tests comply with the applicable requirements of this Ordinance. *{WinACWA, Sec. 4}*

*Clearing* means any activity that removes vegetative ground cover. *{WinACWA, Sec. 4}*

*Control structure* means a facility constructed to regulate the volume of stormwater runoff released during a specific length of time.

*County* means the County of Winnebago, Illinois. *{add to simplify designation}*

*County board* means the County Board of the County of Winnebago, Illinois.

*Critical Facility* means 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 and 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). *{Ill.Std. sec.2}*

~~*Development* means any manmade change to improved or unimproved land, including, but not limited to, construction of or substantial improvements to buildings or other structures, including subdivisions of land; the placement of manufactured homes; the storage of chemicals, materials and substances; and mining, dredging, filling, grading, paving, excavation, drilling operations or other landscape disturbing activities. *{Ill.Std. sec.2}*~~

(1) demolition, construction, reconstruction, repair, 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, preparing a site for a manufactured home, or installing a travel trailer on a site for more than one hundred eighty (180) days per year;

(4) installation of utilities, 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 or manufacture *{add from 50-257(6)a and b}* of materials, chemicals or other substances in floodplains, including the placement of gas and liquid (other than water) storage tanks. This definition is further refined in the prohibition enumerated in section 50-249(d)(17),

(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 filing, grading, or construction of levees.

*District* means the Winnebago County Soil and Water Conservation District. {WinACWA, Sec. 4}

*Dry bottom stormwater storage area* means a facility designed to be normally dry which accumulates excess stormwater only during periods when the restricted stormwater runoff release rate is less than the stormwater inflow rate.

*Elevating of a building or structure* means a method of minimizing flood damage wherein the lowest completely and permanently enclosed floor of a building or structure must be raised above a specified level, safe from significant damage from the base flood.

*Engineer* means the Winnebago County Engineer and person(s) designated by the County of Winnebago to review, approve, or enforce erosion and sediment control plans or storm water pollution prevention plans. {WinACWA, Sec. 4}

*Excavation* means any act by which organic matter, earth, sand, gravel, rock or any similar material is cut into, dug, quarried, uncovered, removed, displaced, relocated or bulldozed, and shall include the conditions resulting therefrom.

*Existing grade* means the vertical location of the existing ground surface prior to excavation or filling. {WinACWA, Sec. 4}

*Existing Manufactured Home Park or Subdivision* means 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. {III.Std. sec.2}

*Expansion to an Existing Manufactured Home Park or Subdivision* means 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). {III.Std. sec.2}

*FEMA* means Federal Emergency Management Agency {III.Std. sec.2}

*Fill* means earth, sand, gravel, rock or any other material which is deposited, placed, replaced, dumped, pushed, pulled, transported or removed by man to a new location, and shall include the condition resulting therefrom.

*Final grade* means the vertical location of the ground or pavement surface after the grading work is completed in accordance with the site development plan. {WinACWA, Sec. 4}

*Flood or flooding* means a general and temporary condition of partial or complete inundation of

normally dry land areas from the overflow of inland waters, or the unusual and rapid accumulation of runoff of surface waters from any source.

*Flood Fringe* means that portion of the floodplain outside of the regulatory floodway. *{III.Std. sec.2}*

*Flood Insurance Rate Map (FIRM)* means 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. For the purpose of this ordinance, the FIRM is that specified under the definition of Floodplain. *{III.Std. sec.2, with extension for sec. 3}*

*Flood Insurance Study (FIS)* means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations. For the purpose of this ordinance, the FIS is that prepared for Winnebago County in companion with the FIRM. *{III.Std. sec.2, with extension for sec.3}*

*Floodplain, Flood Hazard Area, and Special Flood Hazard Area (SFHA)* (These terms are synonymous, except SFHA is specific to FIRMs) means those lands within the unincorporated county that are subject to inundation by the base flood. The SFHAs of the county are generally identified as such on panel numbers 17201C0020D to 17201C0415D, inclusive, of the countywide Flood Insurance Rate Map of Winnebago County, Illinois, prepared by the Federal Emergency Management Agency and dated September 6, 2006, and as may be subsequently amended by FEMA. Floodplain also includes those areas of known or suspected and subsequently delineated flooding as identified by the county by observation or sound hydraulic and hydrologic principles. *{III.Std. sec.2, adjusted for County jurisdiction, flood panel numbers, and extension to floodplains designated beyond those included on the FEMA maps. The following 2 definitions become redundant.}*

~~*Flood hazard area* means an area of the county subject to inundation by the base flood:~~

~~*Flood zone* means an area subject to or suspected to be subject to floodwater inundation from the base flood, and designated as such on the flood insurance rate map for the county, dated November 19, 1980, as published by the Federal Insurance Administration of the Federal Emergency Management Agency:~~

~~*Floodproofing* means any combination of structural and nonstructural additions, changes or adjustments to properties and structures, including, but not limited to, the elevating of buildings or structures, which reduce or eliminate flood damage to lands, water and sanitary facilities, structures, buildings and the contents of buildings, where such additions, changes or adjustments are certified by a registered professional civil engineer to be capable of withstanding a flood of a specified dimension or magnitude:~~

*Floodproofing* means 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. *{III.Std. sec.2}*

*Floodproofing Certificate* means 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 flood proofed to the flood protection elevation. *{III.Std. sec.2}*

*Flood Protection Elevation (FPE)* means the elevation of the base flood plus one foot of freeboard at any given location in the floodplain. *{III.Std. sec.2}*

*Floodway* means that portion of the floodplain required to store and convey the base flood. The floodway for the floodplains shall be as delineated on the countywide Flood Insurance Rate Maps of the county prepared by FEMA and dated September 6, 2006, or as may be subsequently amended by FEMA. The floodways for each of the remaining floodplains of the county shall be according to the best data available from the Federal, State, or other sources. *{III.Std. sec.2, adjusted for county jurisdiction. Previous related definition redundant.}*

~~*Floodway* means that portion of the area inundated by the base flood which must be preserved essentially in its existing state of openness such that the base flood may be discharged without a stage increase. Floodways shall be determined by extensive hydraulic analysis and delineated as part of the county flood insurance study in accordance with standards set forth by the state division of water resources.~~

~~*Grading* means any rearrangement of the landscape.~~

*Freeboard* means 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. *{III.Std. sec.2}*

*Grading* means excavation or fill or any combination thereof and shall include the conditions resulting from any excavation or fill. *{WinACWA, Sec. 4}*

*Historic Structure* means any structure that is: *{III.Std. sec.2}*

(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.

(4) Individually listed on a local inventory of historic places that has been certified by the Illinois Historic Preservation Agency.

*Hydric soil* means a soil having a seasonal high water table at or near the surface of the soil most of the year. *{WinACWA, Sec. 4}*

*Hydrophyte* means a plant growing in water or in soil too saturated with water for most plants to survive. *{WinACWA, Sec. 4}*

*IDNR/OWR* means Illinois Department of Natural Resources/Office of Water Resources. *{III.Std. sec.2}*

*Inspector* means the person designated to review, approve, or enforce erosion and sediment control plans or storm water pollution prevention plans. {WinACWA, Sec. 4}

*Landscape or Land* {WinACWA, sec.6} *disturbing activity* means any grading, excavation or fill placement activity which, in any combination, affects an area of one acre or more; or that may discharge soil and erosion into, or affect the performance of, any stormwater conveyance system; or alters or has the potential to alter existing floodwater storage, conveyance or direction of flow. Gardening, crop farming and measures necessary to reestablish healthy soil-stabilizing vegetation are not landscape disturbing activities.

*Lot of record* means an area of land designated as a lot of record or subdivision recorded pursuant to law.

*Lowest floor* means the lowest floor of the lowest enclosed area, including the 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, shall not be considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable flood hazard area requirements of this article.

*Manufactured home* means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

*Manufactured home park or subdivision* means a parcel or contiguous parcels of land divided into two or more manufactured home lots for rent or for sale.

*Market value* means the full fair cash value of real property as determined by the purchase price a willing buyer and seller would arrive at in the open market. The full fair cash value of real property shall be presumed to be the equalized assessment of the property.

*Natural drainage* means the existing runoff pattern of water on the ground surface prior to construction. {WinACWA, Sec. 4}

*New Construction* means structures for which the start of construction commenced or after the effective date of floodplain management regulations adopted by a community and includes any subsequent improvements of such structures. {Ill.Std. sec.2}

*New Manufactured Home Park or Subdivision* means 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. {Ill.Std. sec.2}

*NFIP* means National Flood Insurance Program. {Ill.Std. sec.2}

*Parcel* means all contiguous land held in one ownership. {WinACWA, Sec. 4}

*Permitting authority* means the County of Winnebago. {WinACWA, Sec. 4}



*Person* means an individual, public or private corporation, government, partnership or unincorporated association.

*Planned development* means any large-scale land development consisting of unconventional or creative lotting designs, ownership arrangements, land use patterns, land use mixes or other features uniquely permitted and regulated through the procedures identified for planned unit developments, planned community developments, or precise plan developments.

*Post Construction Runoff Control* means runoff control(s) over quantity (rate or volume) of flow; or quality (presence of suspended solids, chemicals, or other materials) of surface water leaving a development after construction is completed.

*Positive gravity outlet* means the drainage of an area in a manner that will ensure complete removal of all surface water by means of natural gravity.

*Principal use* means the main permitted or intended use of land and/or buildings as distinguished from a subordinate or accessory use.

*Removal* means cutting vegetation to the ground or stumps, complete extraction, or killing by spraying. {WinACWA, Sec. 4}

*Recreational Vehicle or Travel Trailer* means a vehicle which is: {III.Std. sec.2}

(1) built on a single chassis;

(2) four hundred (400) square feet or less in size;

(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.

*Runoff* means that portion of precipitation or irrigation on an area which does not infiltrate into the soils, but instead flows off the surface of the land. {WinACWA, Sec. 4}

*Repetitive Loss* means Flood related damages sustained by a structure on two 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. {III.Std. sec.2}

*Sediment/sedimentation* means transported and deposited soil particles or aggregates, usually by wind or water. {WinACWA, Sec. 4}

*SFHA*- See definition of floodplain. {III.Std. sec.2}

*Site* means a lot or parcel of land, or a contiguous combination thereof, where construction activity is performed. {WinACWA, Sec. 4}

*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. *{Ill.Std. sec.2}*

*Storm Water Conveyance and Storage System* means any river, stream, creek, brook, branch, flowage, ravine, or natural or artificial drainageway, lake, pond, wetland, roadway drainage, storm sewer, etc. in or into which surface or groundwater flows, either perennially or intermittently. *{WinACWA, Sec. 4}*

*Stripping* means any activity that removes the vegetative surface cover including tree removal, clearing, and storage or removal of topsoil. *{WinACWA, Sec. 4}*

*Structure* means anything which is constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground. A building shall be considered a structure.

*Subdivision* means any division of land into two or more parts, including transfers of land between adjacent property owners for the purpose of ownership transfer or future development.

*Substantial Damage* means damage of any origin sustained by a structure whereby the cumulative percentage of damage during the life of the building 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 Buildings" (see definition). *{Ill.Std. sec.2}*

*Substantial Improvement* means any reconstruction, rehabilitation, addition or improvement of a structure taking place during the life of the building in which the cumulative percentage of improvements: equals or exceeds fifty percent (50%) of the market value of the structure before the improvement or repair is started, or increases the floor area by more than twenty percent (20%).

"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. This term includes structures which have incurred repetitive loss or substantial damage, regardless of the actual repair work done.

The term does not include:

(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. *{Ill.Std. sec.2. Following definition supplanted.}*

~~Substantial improvement means any repair, reconstruction, addition, enlargement or other improvement which qualifies under one or more of the following criteria:~~

~~(1) The cost of the improvement equals or exceeds 50 percent of the market value of the structure either before the improvement is made or before any damage occurred in the restoration of a structure.~~

~~(2) The improvement, alone or accumulated with all other improvements made after November 13, 1980, will increase the ground coverage area of the structure by 25 percent or more.~~

~~(3) The improvement is made to a structure which was completed after the effective date of the ordinance from which this article is derived and under the requirements of this article, and the improvement will increase the potential of the structure or landscape to obstruct flood flow or stormwater drainage.~~

~~(4) The improvement is not excepted from stormwater regulations of this article.~~

~~The term "substantial improvement" does not, however, include either:~~

~~(1) Any project for improvement of a structure to comply with existing state or local health, sanitary or safety specifications which are solely necessary to ensure safe living conditions; or~~

~~(2) Any alteration of a structure or site documented as deserving preservation by the state department of conservation or listed on the National Register of Historic Places.~~

~~Superintendent means the county engineer.~~

*Traditional agricultural use* means a use commonly classed as agricultural or horticultural, including forestry, crop farming, truck gardening, wholesale nursery operations, animal husbandry, the operation of any machinery or vehicles incidental to such uses, and the construction of single-family dwellings and other farm structures associated with such uses. Uses such as grain storage and processing, feed and fertilizer manufacture and processing, farm machinery repair or sales, or other similar agri-businesses which substantially increase the size of paved or compacted areas causing significant or measurable increases in stormwater runoff shall not be considered traditional agricultural uses.

*Technical regulations* means the Winnebago County Surface Water Management Technical Regulations, which are adopted by the county to specify the details of compliance with the scope of this Ordinance. While this Ordinance contains these definitions and establishes county policy, administrative matters, and legal foundation, the Technical Regulations, still a public document, requires measurements, planning and execution by engineers, architects, surveyors, or other certified or qualified persons, not the general public. Technical regulations may also be more subject to ammendment as better methods are documented or environmental standards grow more strict.

*Tributary watershed* means the entire catchment area that contributes stormwater runoff to a given point.

*Vacant* means land on which there are no structures or only structures which are secondary to the use or maintenance of the land itself. {WinACWA, Sec. 4}

*Violation* means the failure of a structure or other development to be fully compliant with the county's surface water management regulations. 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. *{Ill.Std. sec.2}*

*Waste* means an unwanted byproduct of the developing/building process including construction-generated litter. *{WinACWA, Sec. 4}*

*Wetland*, according to the U.S. Fish and Wildlife Service, means lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this classification wetlands must have one or more of the following three attributes: (1) at least periodically, the land supports predominantly hydrophytes; (2) the substrate is predominantly undrained hydric soil; and (3) the substrate is nonsoil and is saturated with water or covered by shallow water at some time during the growing season of the year. *{WinACWA, Sec. 4}*

*Wet bottom stormwater storage area* means a facility that contains a body of water and which accumulates excess stormwater during periods when the restricted stormwater runoff release rate is less than the stormwater inflow rate.

(b) Words not defined in this section shall be interpreted in accordance with definitions contained in Webster's New Collegiate Dictionary, 1993 edition.

(Code 1964, §§ 9-237(d), 9-238; Ord. No. 96-CO-22, § 5, 4-25-96)

**Cross references:** Definitions generally, § 1-2.

**Sec. 50-249. Administration.** *{This section complies with Ill.Std. sec.4, except as noted.}*

(a) Administration of this article shall be the responsibility of the administrator, **who shall have authority to perform all duties enumerated in this section.** The administrator shall develop and maintain a familiarity with all state and federal laws related to floodplain management and drainage, including section 404 of the Federal Water Pollution Control Act of 1972 and subsequent amendments thereto (42 USC 1334); **and Statewide Permits issued by IDNR/OWR. *{Ill.Std. sec.6. It is the intent to acknowledge these exemptions for FIS areas with IDNR/OWR jurisdictions, but apply floodway definition to smaller drainage areas. This is noted in the Regulations.}*** The administrator shall not issue a permit with respect to this article until clearance necessary from the respective state and federal agencies is obtained. ~~(b)~~ No development or activity regulated by this article shall commence in any area known or suspected to be inundated by the base flood without prior written approval from the administrator ~~or an authorized member of the highway department and~~ in accordance with the requirements of this article.

*{The wording of subsection (b) is rearranged with (a) to make sense of (c). Also added delegation of authority of administrator.}*

(b) **The administrator may appoint any individuals or organizations to act in whole or part under this authority.** The administrator shall have appropriate assistance from the zoning officer, the building officer, the plats officer and officials of the county health department. These officials shall assist and cooperate with the administrator in the administration of this article, and shall notify the administrator regarding any official actions which may fall under the jurisdiction of this article and any suspected violations of this article.

(c) The officials mentioned in subsection (b) of this section shall familiarize themselves with this article, with particular attention to the areas and activities regulated by this article, and shall refer all requests for permits for such activities made to their respective offices to the administrator for approval according to this article. After November 13, 1980, no zoning clearance, building permit, or plat or subdivision approval shall be issued by the zoning officer, building official or plats officer for a development activity or land subdivision in a known or suspected base flood area until the proposed use, structure, development, subdivision or activity is approved by the administrator. All requests for well permits, onsite waste disposal systems and onsite waste processing systems within the county shall be submitted in writing to the administrator for review.

(d) The administrator shall enforce the provisions of this article, and for that purpose shall have the following additional powers and duties to:

(1) Require that a permit or clearance be obtained prior to any new use or improvement of land or property subject to the base flood, including the placement of fill and landscape grading; the administrator shall review and examine all applications for such permits to ensure compliance with the provisions of this article. *This work shall include:*

*a. comparison of the elevation of the site to the base flood elevation. Any development located on land that can be shown by survey data to be higher than the current base flood elevation and which has not been filled after the date of the site's first Flood Insurance Rate Map is not in the floodplain and therefore not subject to the requirements of this ordinance. Conversely, 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 ordinance. {III.Std. sec.5B}*

*b. with reference to the above paragraph, maintenance of any 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. {III.Std. sec.5C}*

(2) Review each plan and determine its conformance with all provisions of this ordinance, and within thirty (30) days after receiving the plan, and shall in writing: *{WinACWA sec. 10}*

*a. approve the plan if it is found to be in conformance with the provisions of this ordinance;*

*b. approve the plan subject to such reasonable conditions as may be necessary to secure substantially the objectives of this ordinance; or*

*c. disapprove the plan, indicating the deficiencies and the procedure for submitting a revised plan.*

Approval shall not be issued for an intended development site unless: *{WinACWA sec. 11}*

*a. The development, including but not limited to subdivisions and planned unit development, has been approved by the County of Winnebago where applicable, or*

*b. The proposed development is coordinated with any overall development program previously approved by the County of Winnebago for the area in which the site is situated; and*

*c. All relevant federal and state permits (eg., for floodplains and wetlands) have been received*

for the portion of the site subject to soil disturbance.

(3) Collect any fees which may be established by the County Board, issue permits or other certificates indicating compliance with this article and keep permanent records thereof;

(4) Conduct inspections of buildings, structures, lands and uses, including substantial damage determinations, {III.Std. sec.4M} as are necessary to determine compliance with this article; such inspections may be made by the building official or inspector in conjunction with normal building or construction inspections;

(5) Receive, file and forward as necessary all applications pertaining to this article;

(6) Initiate, direct and review from time to time the provisions of this article and make recommendations to the county board as necessary;

(7) Initiate amendments to this article as may be necessary to comply with changes in the National Flood Insurance Program or state floodplain management requirements; and cooperate with federal and state agencies to coordinate base flood data and to improve the administration of this ordinance. {III.Std. sec.4k}

(8) Revoke permits, certificates of compliance and post stop work orders where the provisions of this article are being violated;

(9) Require or conduct elevation surveys and monumentation as necessary to ensure compliance;

(10) Issue notices of violation when necessary and take further action as specified in this article to obtain compliance;

(11) Provide and maintain public information relative to all matters arising out of this article; and for that purpose, retain plans, specifications, and reports for all developments; {WinACWA Sec.15, partial.}

(12) Issue orders preventing the occupation or use of any land, building or structure which has been constructed or modified in violation of the terms of this article;

(13) Issue orders to initiate and carry out corrective measures where a violation of the terms of this article has placed other properties in peril;

(14) Maintain records of all official actions taken under this article; and:

a. Provide the county board, the state department of transportation, the division of water resources, and the Federal Insurance Administration with an annual report of flood hazard area activities on forms provided by the Federal Insurance Administration.

b. Require and maintain records of lowest floor elevations, floodproofing certifications, variance documents and other records required by the Federal Insurance Administration.

c. Maintain a record of the lowest floor elevations in flood hazard areas of all new structures or substantial improvements of structures constructed after November 19, 1980. These floor

elevations shall be available to the public.

d. Maintain the records of all proceedings and actions of the board taken in connection with this article.

e. Notify the Federal Insurance Administration, as part of the annual report, of all variances granted.

(15) As applicable to their jurisdiction: notify IDNR/OWR and any neighboring communities prior to any alteration or relocation of a watercourse. *{Ill.Std. sec.4I}*

(16) 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. *{Ill.Std. sed.4N}*

(17) Prohibit the storage or manufacture of materials, chemicals or other substances in floodplains, including: *{former Natural Hazard Ordinance, 50-257(6)a and b}*

a. the placement of gas and liquid (other than water) storage tanks,

b. water-soluble chemicals,

c. materials which are buoyant,

d. pesticides, herbicides, and fertilizers,

e. radioactive materials,

f. grain or other storage of materials or substances which can be easily damaged by floodwaters, and

h. the storage of any other chemical or substance in large or small amounts which, in the judgment of the administrator, has the potential to pollute floodwaters, impair flood flows, or increase the damage hazard to other property owners upstream or downstream.

Except that the types of storage or manufacture which are exempted are:

a. storage or manufacture which is floodproofed to withstand a flood exceeding the base flood by one foot;

b. the storage of gasoline, oil and other substances necessary in the operation and maintenance of marine craft and watercraft; and

c. storage or manufacture existing prior to November 30, 1980, for a period of three years from November 30, 1980. Thereafter, these items shall be removed or floodproofed to withstand a flood exceeding the base flood by one foot. However, in any case where the preexisting storage or manufacture of a prohibited and not otherwise exempted substance is abandoned or ceased for a period of three consecutive months, then neither that activity nor any similar prohibited activity shall be reestablished, except in conformance with this article.

*{Former subsection (e) and (f) are moved to 50-255. General requirements, and renumbered.}*

**Sec. 50-250. Enforcement.**

The administrator shall be the official primarily responsible for the enforcement of this article. The administrator shall serve notice of a violation of this article on the owner or his authorized agent, a tenant, architect, builder, contractor or other person who commits or participates in any violation. The administrator may request the state's attorney to institute legal proceedings necessary to enforce this article or prevent or remedy any violations thereof. He may also request the assistance of the county sheriff's department in enforcing this article.

(Code 1964, § 9-246)

(a) Stop-work order; In the event any person holding an approved erosion and sediment control plan, or development permit, pursuant to this ordinance violates the terms of the approval, or carries on site development in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the neighborhood of the development site or so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the County of Winnebago may suspend or revoke approved construction activity including, but not limited to: any and all building permits, grading activity, road construction, or other construction related activities until such time the approved erosion and sediment control plan, or conditions of the development permit are satisfactorily implemented and/or maintained. *{WinACWA sec. 17}*

(b) Enforcement of violations of an approved plan shall be by a written stop-work order issued by the County of Winnebago 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 violation cited, and shall state the conditions under which work may be resumed. Failure to follow an approved erosion and sediment control plan may be just cause to permanently suspend or revoke authorized construction activity or building permit. *{WinACWA sec. 17 and partial III.Std. sec.13}*

**Sec. 50-251. Penalty for violation of article.**

(a) It shall be unlawful under this article for any applicant or person to submit any inaccurate plans, plats or other documents to the administrator or other office involved in the enforcement of this article.

(b) No person shall construct, enlarge, alter, repair, or maintain any grading, excavation or fill, or develop in the floodplain, or cause the same to be done, contrary to or in violation of any terms of the ordinance. If necessary, the performance bond filed by the applicant may be forfeited to the County of Winnebago to cover the cost of repairs. Any person violating any of the Erosion and Sediment Control provisions of this ordinance shall not be awarded a Certificate of Occupancy from the County until violations have been corrected. *{WinACWA sec. 18}*

(c) Failure to comply with any of the requirements of this article shall constitute a petty offense, and any person, upon conviction thereof, shall be fined not less than \$25.00 nor more than \$500.00 for each offense. Each day the violation continues shall be considered a separate and



distinct offense for which the violator may be subject to the penalties of this section.

(Code 1964, § 9-247)

*(d) With respect to floodplain violations, the county shall record a notice of violation on the title of the property; and the administrator 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. {III.Std. sec.13 Other provisions of this section (stop work orders, corrections,...) are generally covered in Sec. 50-250. Enforcement.}*

**Sec. 50-252. Disclaimer of liability.**

~~This article shall not create liability on the part of the county or any officer or employee thereof for any damages that result from reliance on this article or any administrative decision lawfully made under this article.~~

~~(Code 1964, § 9-248)~~

The degree of protection required by this ordinance 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 ordinance does not imply that development either inside or outside of the floodplain will be free from flooding or damage. This ordinance does not create liability on the part of the county or any officer or employee thereof for any flood damage that results from proper reliance on this ordinance or any administrative decision made lawfully thereunder. *{III.Std. sec.12}*

**Sec. 50-253. Applicability and Severability. {III.Std. sec.14}**

When this article imposes a greater restriction than those imposed or required by the provisions of existing ordinances or rules and regulations, this article shall control. When the provisions of existing ordinances or rules and regulations impose greater restrictions than those imposed or required by this article, they shall control.

(Code 1964, § 9-249)

The provisions and sections of this ordinance shall be deemed to separable, and the invalidity of any portion of this ordinance shall not affect the validity of the remainder. *{WinACWA sec.19 and III.Std. sec.15}*

**Sec. 50-254. Administrative Review Act.**

The Administrative Review Act, 735 ILCS 5/3-101 et seq., shall not be applicable to this article.

(Code 1964, § 9-245)

**Sec. 50-255. General requirements.**

~~Except as may otherwise be provided in this article~~ **In general**, all developments located within the county and without any city, village or incorporated town **are regulated in accordance with section 50-247, Purpose and Scope of this Article, with particular note of definitions, exceptions, and the adoption of Technical Regulations, which govern specifics of compliance.** ~~shall be subject to the provisions of this article.~~ No development may be sanctioned by issuance of building permits, recording of subdivision or plats of land, or otherwise officially ~~sanctioned~~ **authorized** without meeting the approval of the administrator. Also, generally:

(Code 1964, § 9-239)

*{III.Std. Sec.3 plus 50-249(e) and (f) moved to this location and renumbered (a) and (b)}*

(a) **Developments shall be regulated in accordance with the base flood standard, which is indicated in the definition of *Floodplain* in section 50-248. Base Flood elevations shall be in accordance with the FIS, or FIRM; or, if in dispute, the applicant shall provide better data and submit it to the FEMA and IDNR/OWR for approval prior to any development of the site. {III.Std. sec.3}** If data is needed beyond the scope of the FIS, the applicant shall provide engineering analysis acceptable to the administrator. In floodplains within the county, no person, property owner, builder or contractor shall commence any of the activities listed in this subsection in any known or suspected flood hazard area without prior clearance and written approval from the administrator or **his delegate**:

- (1) Construction of new structures of any type;
- (2) Substantial improvement of existing structures;
- (3) Any improvement to existing structures in a floodway;
- (4) Placement of mobile homes;
- (5) Placement or storage of chemicals, substances, debris or other materials;
- (6) Design and construction of any type of planned development as designed;
- (7) Construction, expansion, repair or reconstruction of a mobile home park;
- (8) Landscape disturbing activities;
- (9) Watercourse modifications on any stream, tributary or drainageway regardless of contributing watershed size;
- (10) Any subdivision or redivision of land, including transfers between adjacent property owners, regardless of the size or acreage of the property; and
- (11) Placement or replacement of wells, water supply systems, sanitary sewer facilities, and onsite waste disposal or processing systems.

(b) Within all areas designated as base flood hazard areas and within all areas known or

reasonably suspected to be subject to the base flood, the administrator shall require from applicants information sufficient to ensure compliance with this article.

(Code 1964, § 9-243; Ord. No. 96-CO-22, §§ 6a.--6c., 4-25-96

(c) for Erosion and Sediment Control: *{WinACWA section 6 - with partial sec 3 inserted}*

Except as otherwise provided in this ordinance, no person shall commence or perform any clearing, grading, stripping, excavating, or filling of land which meets the following provisions without having first obtained approval for a complete set of Engineering Drawings, including a detailed erosion and sediment control plan to the County of Winnebago for review by the Engineer.

The management practices, controls, and other provisions contained in the erosion and sediment control plan must be at least as protective as the requirements contained in the *Illinois Urban Manual-A Technical Manual for Urban Ecosystem Protection Enhancement, 2002*, prepared by the U.S. Department of Agriculture, Natural Resources Conservation Service. *(WinACWA sec. 3, partial}*

If the applicant is required to comply with the requirements of a Phase II, NPDES permit, submittal of a copy of the Notice of Intent (NOI), copy of the Illinois Department of Natural Resources Consultation Agency Action Report, and the approved Storm Water Pollution Prevention Plan (SWPPP) to the [inspector], a minimum of 30 calendar days before the planned commencement of construction will be accepted in lieu of an Erosion and Sediment Control Plan. This requirement shall contain the following requested in this Ordinance.

- (1) Any land disturbing activity (i.e., clearing, grading, stripping, excavation, fill, offsite borrow areas, or any combination thereof) that will affect an area greater than or equal to one acre;
- (2) Any land disturbing activity that may discharge soil and erosion into any storm water conveyance system;
- (3) The County of Winnebago reserves the right to require any non-agricultural, construction development activity, regardless of disturbed area or type of activity, to comply with this Ordinance if it is determined to be causing or contributing to existing or potential new erosion of soil or otherwise impacting the performance of an existing storm water conveyance system.

Exceptions are listed in Sec. 50-247(b)(1)a.

**Sec. 50-256. Development permits.**

The following are general, typically minimum requirements. Requirements for meeting specific aspects of floodplain, stormwater detention, construction site erosion and sediment controls, and post construction runoff controls are given in the Technical Requirements. It is the intent, as far as possible, to combine applications and documentation of compliance, including a single site development/erosion control plan showing floodplains, and temporary and permanent control measures.

(a) *Required.* A development permit shall be required before beginning or continuing any development activity if such development is subject to any of the provisions of this article.

(b) *Forms; fee; contents of application.* Application to the administrator for a development permit shall be made by the owner or his authorized agent, shall be on forms provided by the administrator, and shall be accompanied by a fee according to a schedule established by the county board.

(1) The permit application shall contain:

- a. The name of the owner;
- b. The location and description of the development;
- c. A statement by the applicant that he understands his obligations under this article; and
- d. The signature of the applicant.

(2) When the proposed development is substantial in extent, including, but not limited to, land subdivisions or planned developments; commercial, industrial or institutional sites; or construction or substantial improvement in a flood hazard area, the administrator shall, in addition, where applicable, require the following:

- a. Prior review of preliminary plans and tentative plats;
- b. An estimated cost of project or improvements prepared by a licensed engineer architect or contractor; and *{III.Std. sec.5A5}* a bond, letter of credit, certified check or other such suitable guarantee to ensure the completion of any facilities required by this article;
- c. A plan for the responsibility of maintaining drainage ditches, stormwater storage areas, erosion and sediment control measures, and other facilities required in this section.
  - 1. Acceptable plans for maintenance shall specify which persons shall have the following responsibilities: Construction, on-site, and permanent function maintenance.
  - 2. Acceptance plans for maintenance may include the following:
    - i. Agreements with units of local government or school districts; and
    - ii. Agreements with individual property owners or property owners association, provided that the face of any final plat makes reference to the agreement and that a restrictive covenant running with the land be imposed on all affected property; and
- d. Information showing how the development will comply with the general intent and technical requirements of this article, such as:
  - 1. A site development plan; which shall include, as a minimum: *{III.Std. sec.5A}*
    - i. a scaled drawing of the site, showing property lines and existing and proposed grade elevations or contours,
    - ii. the location of all existing buildings and proposed additions or new buildings with the elevation of the lowest floor (including basement) of such proposals within flood hazard areas.

- 2. Any supplemental information necessary for the administrator to evaluate the development's compliance with the requirements of this article; and
- 3. An estimated schedule of development phases.

(Code 1964, § 9-240; Ord. No. 96-CO-22, §§ 7a., 7b., 4-25-96)

**Cross references:** Businesses, ch. 22.

*{Regulations in former Sec. 50-257 & -258 moved to Technical Regulations, for most part.}*

**Sec. 50-257 and 50-258. Reserved.**

**Sec. 50-259. Variances.** *{Ill. Std. sec. 11}*

Whenever the standards of this ordinance place undue hardship on a specific development proposal, the applicant may apply to the **County Board** for a variance. The **administrator** shall review the applicant's request for a variance and shall submit his recommendation to the **County Board**. The **County Board** 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 all of the following conditions are met:

(1) **If within a floodplain**, 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, safety or 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 **these regulations, NPDES, or NFIP**, and

(7) all other state and federal permits have been obtained.

(b) **If the requirements of the building protections standards of Section 207 of the Technical Regulations** would lessen the degree of protection to a building, **the administrator** shall notify an applicant in writing that a variance will:

(1) Result in increased premium rates for flood insurance up to twenty-five dollars (\$25) per one hundred dollars (\$100) of insurance coverage;

(2) increase the risk 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 Section **County 207 of the Technical Regulations** which are requested in connection with reconstruction, repair, or alteration of a historic site or historic structure as defined in "Historic Structures", may be granted using criteria more permissive than the requirements of Sections **206** and **207** of this ordinance subject to the conditions that:

(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.

~~(a) The county board shall determine and may vary the regulations of this article in harmony with its general intent and purpose. The county board shall consider the following in granting a variance:~~

~~(1) Good and sufficient cause is shown;~~

~~(2) Failure to grant would result in exceptional hardship relative to most flood hazard property owners; and~~

~~(3) The variance is the minimum necessary to afford relief.~~

~~(b) The variance shall not result in increased flood heights, a threat to public safety, large public expense, the creation of a nuisance, or fraud or victimization of the public. In no instance shall a variance be granted which will increase the risk of flooding and flood damage to adjacent, upstream or downstream properties. The county board shall consider the cumulative effect of several similar variances in the given reach of stream. If the likelihood of similar variances in the same stream reach is small, or the cumulative effect of such variances would be negligible, then the variance may be justifiable.~~

~~(c) An application for a variance shall be filed with the administrator and shall contain the following information:~~

~~(1) The name, address and authorization of the applicant.~~

~~(2) The address and a legal description of the property.~~

~~(3) An accurate scale drawing of the property and the surrounding area showing the location of streets and property lines.~~

~~(4) An accurate topographic map of the property and surrounding areas, including precise building site elevations with all elevation data tied to a reference mark used in the flood insurance study.~~

~~(5) Plans or specifications showing the exact nature of the variance requested.~~

~~(d) Upon familiarizing himself with the problem and evaluating the alternatives, the administrator shall forward the request for variance, together with his recommendation, to the county board. The county board shall consider the request, together with the recommendation of the administrator and its decision shall be effective immediately. Upon granting a variance to allow construction below the base flood elevation, the administrator shall notify the applicant in writing that the issuance of the variance will result in increased flood insurance premium rates in an amount as high as \$25.00 per \$100.00 of insurance coverage, and where appropriate, that such construction increases the risks to life and property.~~

~~(Code 1964, § 9-244; Ord. No. 96 CO 22, § 9, 4-25-96,)~~

Secs. 50-260--50-280. Reserved.