

VILLAGE OF LOMBARD
REQUEST FOR BOARD OF TRUSTEES ACTION
For Inclusion on Board Agenda

Resolution or Ordinance (Blue) X *Waiver of First Requested*
 X Recommendations of Boards, Commissions & Committees (Green)
Other Business (Pink)

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: David A. Hulseberg, Village Manager

DATE: June 13, 2012 (B of T) Date: June 21, 2012

TITLE: **Proposed Ordinance Adopting the Current Version of the DuPage
Countywide Stormwater and Floodplain Ordinance and also
Adopting DuPage County's General Certificates for Permitting and
also Amending the Requirements for Retention/Detention Basins**

SUBMITTED BY: Department of Public Works

BACKGROUND/POLICY IMPLICATIONS:

Please find attached staff's recommendation relative to approving an Ordinance to adopt the revisions to the DuPage Countywide Stormwater and Floodplain Ordinance, to adopt DuPage County's General Certificates for permitting, and to amend the Village's Flood Control Ordinance (Title 15, Chapter 151, Section 151.55 in the Village Code) regarding retention/detention basins. (ALL DISTRICTS)

The Public Works Committee has voted to recommend this ordinance. A waiver of first reading is requested to accommodate permitting for pending development.

Please place this item on the June 21, 2012 Board of Trustees agenda.

FISCAL IMPACT/FUNDING SOURCE:

There will be no cost to the Village.

REVIEW (AS NECESSARY):

Village Attorney X _____ Date _____

Finance Director X _____ Date _____

Village Manager X _____ Date _____



MEMORANDUM

TO: David A. Hulseberg, Village Manager

THROUGH: Carl S. Goldsmith, Director of Public Works *CJ*

FROM: David P. Gorman, PE, Asst. Director of Public Works *DPG*

SUBJECT: DuPage County and Village of Lombard Stormwater Ordinances

DATE: June 13, 2012

The Village of Lombard must take certain actions following the enactment of the revised DuPage County Countywide Stormwater and Flood Plain Ordinance. This revised Ordinance contains major changes in direction for stormwater management since the Ordinance was originally enacted in 1992. In addition to adopting the revised Countywide Ordinance, the Board of Trustees may also adopt new General Certifications and amend the Village Code to maintain more stringent detention requirements. The Public Works Committee has voted to recommend that these actions be taken by the Board of Trustees.

Overview of the Countywide Ordinance:

The County Board passed the Ordinance on April 24, 2012 and it is now effective. Since the Spring of 2011, Village Staff had participated on the Steering Committee that drafted the Ordinance as well as in two stakeholder groups that provided comments. While the Ordinance does represent a consensus document, Staff finds that it will be more flexible and streamlined for permitting without losing important flood control and environmental protections. The Board of Trustees must formally adopt the new Ordinance before it takes effect in Lombard.

There were three goals for the new Ordinance: (a) to better meet local, state and federal regulations, (b) to preserve a high level of flood control and environmental protection for residents, and (c) to be as flexible as possible for the benefit of land development. The highlights of the changes are described below, as organized in the various Articles of the Ordinance. Articles with no significant change are omitted from this memo. Note that the term "Director" refers to the DuPage County Director of Stormwater Management and the term "Administrator" refers to Lombard's Stormwater Administrator (Community Development's Private Development Engineer).

Administration - Article 2: The Municipal Engineers Group (MEG) is now formalized with bylaws to advise the Director on technical matters pertaining to the Ordinance. The MEG is comprised of the Administrators from each community. The effect of this change will be an increased municipal involvement, consensus and understanding for technical clarifications in administering the Ordinance. The MEG's only official role will be to provide guidance to the Director and, when requested, to the County Stormwater Committee.

Stormwater Management Certifications - Article 4: As a partial waiver community, projects in Lombard must obtain a certification from the County when (a) the site contains a flood plain, wetland or buffer, (b) there will be more than 2,500 sf of net new impervious area, or (c) there will be more than 5,000 sf of aggregate area disturbed. The Administrator may now issue "Letters of Permission" for minor projects with less than 2,500 sf of net new impervious area, and when the project is located outside of a flood plain and at least 100 ft from a wetland. Likewise, new "General Certifications" are pre-approvals that may be used by an Administrator to forgo the need to submit to the County provided that a project meets the conditions stated therein. The following General Certifications are attached and they must be formally approved by the Board of Trustees before taking effect in Lombard: (1) Accessory Structures; (2) Boardwalks; (3) Boat Lifts and Piers; (4) Decks; (5) Demolition of Structures; (6) Posts, Fencing, and Guard Rails; (7) Recreational Facilities; (8) Sidewalks, Trails, Patios, and Driveways; (9) Storm Sewer Outfalls and Outlet Channels; (10) Shoreline or Stream Bank Stabilization Measures; (11) Topsoil and Sand Restoration; and (12) Utilities.

Certification Submittals – Article 5: Submittal requirements are now clearly stated so that permit applicants may have a clearer understanding of the process at the beginning of the project.

Performance Security and Easements – Article 6: Clarification is now provided that a financial security, such as a bond, is no longer required for government projects.

Post Construction Best Management Practices – Article 8: "PCBMPs" are required when there is an increase of more than 2,500 sf in total impervious area (TIA) in order to remove pollutants and reduce runoff volume. The term PCBMPs also includes Volume Control BMPs (VCBMPs). There are exceptions for certain projects including minor roadway widening, public paths, and utilities. When deemed impractical, the Administrator may accept a fee in lieu of providing an on-site PCBMP. The VCBMP requires that 1.25 in of rainfall on new impervious areas be caught and released over a period extending at least 48 hours. VCBMPs include constructed wetlands, ponds, trenches and infiltration swales. The effect of this change will be an increase in rain gardens, depressed parking lot islands, and underground detention chambers.

Site Runoff Conveyance, Storage & Field Tiles – Article 9: Detention for 100-yr runoff at 0.10 cfs/acre will still be required but only when the net total impervious area (TIA) on a lot increases by at least 25,000 sf unless one of three conditions is met: (a) the net TIA without detention will be within 25,000 sf of the TIA that existed on 2/15/92, or (b) the TIA will decrease by at least 5% from its highest level in the past 3 years, or (c) the TIA will be less than 10% of the entire development property area. These first two exceptions would apply to many developments in Lombard. However, Staff proposes to keep the Village Code more stringent than the County Ordinance in the interest of local flood control, which will be explained later in this memo. Public roadway and open space development projects need only detain to the extent to prevent an increase in 2-yr and 100-yr runoff rates.

Flood Plain Management – Article 10: The floodway appropriate use criteria and flood protection standards for parking lots, detached garages and sheds have been relaxed to match State and FEMA standards. The compensatory storage volume requirement is still 1.5:1 but it is now more flexible to allow 1.0:1 replacement below and above the 10-yr elevation and the additional 0.5:1 of excavation anywhere below the 100-yr elevation. Public roadway projects are at a 1:1 ratio.

Wetlands – Article 11: The avoidance and minimization requirements still apply so an alternatives analysis is required for most developments effecting wetlands. The new exception is impacts to isolated wetlands smaller than 0.1 acre that may now be allowed without an alternatives analysis or mitigation. Also, many of the General Certifications now allow a streamlined process for minor wetland impacts.

Buffers – Article 12: One catch-all classification of buffers now covers the prior categories of riparian areas and wetland buffers. Buffers still include 50 ft along regulatory wetlands and 100 ft along critical wetlands. The riparian area requiring mitigation to remove trees and native grasses along waterways is still the 100-yr floodplain but Administrators may grant a reduced width down to 15 ft from the Ordinary High Water Mark. This last item (in Section 15-92.B) is a concern to both the Mayors and Managers Conference and the DuPage River Salt Creek Workgroup since buffer vegetation is closely correlated with the integrated biology index for macro-invertebrates (mIBI), which is a key measure for the EPA in determining whether a waterway is meeting the “fishable” goal of the Clean Water Act. Failure to exceed a mIBI of 41.8 will assuredly result in ever-tightening IEPA permit requirements for municipalities and wastewater treatment authorities. Therefore, the engineers, scientists and administrators for both of these stakeholder groups will work within the Municipal Engineers Group to propose that the minimum width for the IEPA-assessed streams and rivers be increased to 100 ft, as documented to be necessary to protect the waterways from further declining index scores.

Fee-in-Lieu Programs – Article 13: In addition to the detention fee-in-lieu program and the wetland mitigation fee-in lieu program, the Ordinance now provides a BMP fee-in-lieu program with a defined fee schedule. The Administrator must determine that an on-site BMP is impractical in order to qualify. The rates in Schedule B range from \$3,000/acre for single family developments to \$30,000/acre for roadway projects. Any variance fees collected would be provided to the County to utilize for BMP projects. However, the Board of Trustees could enact an ordinance to establish a BMP fee-in-lieu program for Lombard. At this time, Staff does not foresee that many variances will be needed.

Proposed Village Code Amendment for Stormwater Detention:

Village Code §151.55 has served Lombard well by incorporating stormwater detention into developments and redevelopments since 1978. This Code requires detention for any project other than single-family developments whenever there is any increase in imperviousness or a change in land use (such as a parking lot to a building). Lombard’s requirements have been more stringent than the County minimum standards and the result has been a gradual improvement in local

The new Countywide Ordinance necessitates a revision to Lombard's Code since the 80% impervious provision is no longer applicable. Staff recommends that Lombard maintain a more stringent detention requirement. Whereas the County Ordinance's threshold for requiring detention is 25,000 sf of increase in total impervious area (TIA), Staff proposes to use a lower threshold of 5,000 sf. This would exempt the typical single family residence. The first paragraph of Village Code §151.55 would be replaced with the following and the remainder of §151.55 (Subsections A through D4) would remain unchanged:

“§151.55 RETENTION/DETENTION BASINS.

All new development that increases the total impervious area, “TIA”, of the development property by more than 5,000 square feet after July 1, 2012 shall require surface water runoff of the limits of said lot to be limited by detention or retention to the maximum of 0.10 cfs per acre of land or fraction thereof for the 1% annual recurrence (100-yr) rainfall event, unless (a) the net TIA without detention will be within 5,000 square feet of the TIA that existed on 2/15/92, or (b) the TIA will decrease by at least 5% from its highest level in the past 3 years, or (c) the TIA will be less than 10% of the entire development property area.”

RECOMMENDATIONS:

The Public Works Committee has voted to recommend Board of Trustees approve the following actions by enacting the attached ordinances.

1. Adopt the Countywide Ordinance last revised on 4/24/12 and approve the list of twelve General Certifications for use within Lombard per the attached ordinance.
2. Amend Village Code §151.55 to lower the threshold for stormwater detention to 5,000 square feet per the attached ordinance.

CG/DG:dg H:\PWS\Stormwater\Village Code Amendment 2012\VOL Code Amendment - Memo to PWC.doc

attachments: Countywide Ordinance, draft ordinance to adopt Countywide Ordinance & GCs, draft ordinance to amend §151.55

cc: William J. Heniff, Director of Community Development
David A. Dratnol, PE, Village Engineer

ORDINANCE NO. _____

AN ORDINANCE AMENDING ORDINANCE NO. 3476, ADOPTED NOVEMBER 21, 1991, AS AMENDED, IN REGARD TO THE COUNTY OF DU PAGE COUNTYWIDE STORMWATER AND FLOODPLAIN ORDINANCE AND ALSO ADOPTING DU PAGE COUNTY'S GENERAL CERTIFICATES FOR PERMITTING AND ALSO AMENDING TITLE 15, CHAPTER 151, SECTION 151.55 OF THE LOMBARD VILLAGE CODE REGARDING RETENTION/DETENTION BASINS

WHEREAS, the Village of Lombard (the "Village") has previously adopted the DuPage County Countywide Stormwater and Floodplain Ordinance (the "Countywide Ordinance"); and

WHEREAS, the Village has worked with DuPage County and countywide municipalities to develop the revisions to the Countywide Ordinance contained herein; and

WHEREAS, the proposed Countywide Ordinance includes revisions to the stormwater certifications, best management practices, site runoff conveyance and storage, flood plain management, wetlands, buffers, and fee-in-lieu programs articles of the Countywide Ordinance; and

WHEREAS, the DuPage County Board enacted and approved the revisions to the Countywide Ordinance on April 24, 2012, pursuant to Ordinance OSM-001-12, to become effective on April 25, 2012; and

WHEREAS, the DuPage County Board enacted and approved the creation of eleven general certificates for Chapter 15 of the Countywide Ordinance on April 24, 2012, pursuant to Ordinance OSM-002-12, for use in any community that subsequently adopts the general certificates; and

WHEREAS, enacting the proposed revisions to the Countywide Ordinance is in the best interests of the Village and its residents;

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LOMBARD, DU PAGE COUNTY, ILLINOIS, AS FOLLOWS:

SECTION 1: That, effective July 1, 2012, Ordinance No. 3476, adopted November 21, 1991 as amended, is hereby further amended to incorporate the revisions to the Countywide Ordinance, in its entirety, as provided for by DuPage County Ordinance No. OSM-001-12, with said Countywide Ordinance being attached hereto as Exhibit A and made part hereof.

SECTION 2: That, effective July 1, 2012, the following general certificates are hereby approved for use within the Village of Lombard: (1) Accessory Structures; (2) Boardwalks; (3) Boat Lifts and Piers; (4) Decks; (5) Demolition of Structures; (6) Posts, Fencing, and Guard Rails; (7) Recreational Facilities; (8) Sidewalks, Trails, Patios, and Driveways; (9) Storm Sewer

Outfalls and Outlet Channels; (10) Shoreline or Stream Bank Stabilization Measures; (11) Topsoil and Sand Restoration; and (12) Utilities.

SECTION 3: That Title 15, Chapter 151, Section 151.55 of the Lombard Village Code is hereby amended to read in its entirety as follows:

§ 151.55 RETENTION/DETENTION BASINS.

All new development that increases the total impervious area, "TIA", of the development property by more than 5,000 square feet after July 1, 2012 shall require surface water runoff of the limits of said lot to be limited by detention or retention to the maximum of 0.10 cfs per acre of land or fraction thereof for the 1% annual recurrence (100-yr) rainfall event, unless (a) the net TIA without detention will be within 5,000 square feet of the TIA that existed on 2/15/92, or (b) the TIA will decrease by at least 5% from its highest level in the past 3 years, or (c) the TIA will be less than 10% of the entire development property area.

(A) All surface water detention/retention or equivalent shall be in excess of the allocation provided for an equivalency of flood plain, which may involve a subject tract or portion thereof.

(B) Any improvements which are necessary to comply with this portion of this section shall be proposed by the owner or developer in preliminary form to the Director of Community Development. The Director of Community Development shall have the authority to review and approve or disapprove said improvements based on whether or not they meet the terms of this section. The owner or developer shall take into account with the submittal of the plans, the effect of the improvement of any land or land tract to downstream and surrounding areas as a result of rainfall and surface water runoff.

(C) The Director of Community Development shall notify adjacent communities and the Illinois Department of Natural Resources, Office of Water Resources, and the Federal Insurance Administration prior to any alteration or relocation of a watercourse. The flood carrying capacity within the altered or relocated portion of any watercourse shall be maintained.

(D) (1) No building permit shall be issued for any property which is being built or substantially improved in accordance with this chapter, Chapter 154 or until storm water detention or retention improvements have been completed or installed so that they are operational. Installation and operational does not necessarily mean all final grading is in, but that the system substantially functions in the way it was designed.

(2) In the event storm water detention or retention is not immediately necessary because the earth work or construction on the site will not have an adverse effect on storm water control, sedimentation, or erosion on any adjacent or nearby properties, building permits may be issued at the direction of the Director of Community Development or his designee. The Director of Community Development may direct and require as a condition of the issuance of the building permit construction of storm water improvements within a designated time or on any schedule he deems reasonably necessary to protect adjacent or surrounding properties.