

**ORDINANCE 7502  
PAMPHLET**

**TEXT AMENDMENT TO THE VILLAGE CODE CHAPTER 151  
FLOOD CONTROL**



PUBLISHED IN PAMPHLET FORM THIS 6<sup>th</sup> DAY OF APRIL 2018, BY ORDER  
OF THE CORPORATE AUTHORITIES OF THE VILLAGE OF LOMBARD, DUPAGE  
COUNTY, ILLINOIS.

  
\_\_\_\_\_  
Janet Downer  
Deputy Village Clerk

**ORDINANCE 7502**

**AN ORDINANCE APPROVING TEXT AMENDMENTS  
TO THE LOMBARD CODE OF ORDINANCES  
TITLE XV, CHAPTER 151**

Chapter 151: Flood Control (Stormwater and Floodplain Regulations)

WHEREAS, the Village of Lombard has established stormwater, floodplain and flood control regulations which are found in Title XV, Chapter 151 of the Village of Lombard Code of Ordinances; and,

WHEREAS, the Board of Trustees deem it reasonable to periodically review said Code and make necessary changes; and,

WHEREAS, a public meeting to consider text amendments to the Code has been conducted by the Village of Lombard Board of Building Appeals on January 31, 2018; and,

WHEREAS, the proposed text amendments were also reviewed by the Lombard Public Works & Environmental Concerns Committee on February 13, 2018; and,

WHEREAS, the Board of Building Appeals and the Public Works & Environmental Concerns Committee has filed their recommendations with the President and Village Board of Trustees recommending approval of the text amendments described herein,

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

**CHAPTER 151: - STORMWATER AND FLOODPLAIN REGULATIONS**

**ARTICLE I. - GENERAL PROVISIONS**

**§ 151.01 - Purpose.**

The purpose of this Chapter is to diminish threats to public health, safety, and welfare caused by increases in stormwater runoff from new development and redevelopment. Excessive stormwater could result in the inundation of damageable properties, erosion and

destabilization of downstream channels, threat to public health and safety, and pollution of valuable stream and lake resources. Increases in stormwater runoff quantity and rate and impairment of quality are caused by development and land improvement and, as such, this Chapter regulates these activities to prevent stormwater adverse impacts caused by new development and redevelopment.

This Chapter is adopted to accomplish the following objectives:

- (A) Prevent flood and drainage hazards resulting from new development or redevelopment;
- (B) Prevent the creation of unstable conditions susceptible to erosion;
- (C) Protect new buildings and major improvements from flood damage due to increased stormwater runoff;
- (D) Protect human life and health from the hazards of increased flooding on a watershed basis;
- (E) Lessen the burden on taxpayers for flood control projects, repairs to flood-damaged public facilities and utilities, correction of channel erosion problems, and flood rescue and relief operations caused by increased stormwater runoff quantities from new development;
- (F) Protect, conserve, and promote the orderly development of land and water resources;
- (G) Protect the hydrologic, hydraulic, and other beneficial functions of streams, lakes, wetlands, floodplains, and flood-prone areas;
- (H) Preserve stream corridors to moderate flooding 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;
- (I) Prevent additional disruption of governmental services and the economy due to flooding and drainage problems; and
- (J) Establish requirements for, and promote regular, planned maintenance of, stormwater management facilities.

**§ 151.02 - Application of Other Regulations.**

Before starting any of the work regulated by this Chapter, an applicant shall comply with the requirements set forth in other applicable provisions of this code with respect to submission and approval of preliminary and final subdivision plats, improvement plans, building permits, inspections, certificates of occupancy, zoning certificates, appeals and similar matters, along with those set forth in this Chapter and as may be required by Federal, State (or any department or agency thereof), or DuPage County laws and/or regulations. Where provisions of this Chapter are more restrictive than any other requirements, this Chapter shall apply.

**§ 151.03 - Adoption of Other Codes.**

(A) Adoption of DuPage County Countywide Stormwater and Floodplain Ordinance, as a partial waiver community: It is hereby adopted by the Village for the purpose of establishing rules and regulations for the construction, alteration, use and occupancy, location and maintenance of land development and building construction in accordance with proper floodplain and stormwater controls, including permits and penalties, that certain code known as the DuPage County Countywide Stormwater and Floodplain Ordinance (hereinafter the "DuPage County Ordinance" in this Chapter), being particularly the April 23, 2013, edition thereof, and all subsequent amendments, and the whole thereof, save and except such portions as are hereinafter deleted, modified or amended per Section 151.04 of this Code, of which one copy has been and now is filed in the office of the Village Clerk, and the same is hereby adopted and incorporated as fully as if set out at length therein, and from the date on which this section shall take effect, the provisions the DuPage County Ordinance shall be controlling within the Village. All definitions as defined in Appendix A in the DuPage County Ordinance are hereby incorporated by reference into this Chapter. The designated Village Stormwater Administrator is the Private Development Engineer in the Community Development Department. The Director of Community Development referred to in this Chapter shall be the Director of Community Development and/or his/her designee.

(B) Adoption of Flood Study and Flood Maps: While the DuPage County Ordinance includes a list of streams, maps, and stream profiles, the following streams, maps, and stream profiles apply specifically to the Village, and the surrounding unincorporated DuPage County areas that are within the extraterritorial jurisdiction of the Village and which may in the future be annexed to the Village:

(1) The mapped streams with designated floodways and floodplains are:

- (a) East Branch of the DuPage River (EBEB) and tributaries EBE1, and EBE3;
  - (b) 22<sup>nd</sup> Street (EBTS);
  - (c) Salt Creek (SCSC);
  - (d) Ginger Creek (SCGC);
  - (e) Sugar Creek (SCSU); and
  - (f) Westwood Creek (SCWC).
- (2) Flood insurance study, DuPage County, Illinois and incorporated areas, dated December 16, 2004, and all subsequent revisions, including the following specific stream flood profiles:
- (a) East Branch of the DuPage River (EBEB) and tributaries: 39P, 40P, and 41P;
  - (b) Glen Crest Creek (EBGL): 49P (remove after we de-annex GWA);
  - (c) Glen Park Tributary (EBGP):
  - (d) Lacey Creek (EBLA): (no stream flood profile available);
  - (e) 22<sup>nd</sup> Street (EBTS): 84P;
  - (f) Salt Creek (SCSC): (no stream flood profile available);
  - (g) Ginger Creek (SCGC): (no stream flood profile available);
  - (h) Sugar Creek (SCSU): (no stream flood profile available); and
  - (i) Westwood Creek (SCWC): (no stream flood profile available).
- (3) Flood insurance rate map, DuPage County, Illinois, and incorporated areas, county number 14043C, panel numbers 0209, 0307, 0503, 0506, 0509, 0601, 0602, 0604, 0605, 0607, and 0608, dated December 16, 2004, and all subsequent revisions.
- (4) DuPage regulatory flood map, county number 14043C, panel numbers 0066, 0067, 0068, 0069, 0088, 0156, 0157, 0158, 0159, 0176, and 0178, dated July 7, 2010, and all subsequent revisions.

**§ 151.04 - Amendments to the DuPage County Ordinance.**

(A) Section 15-72.A of the DuPage County Countywide Stormwater and Floodplain Ordinance is hereby revised to read in its entirety as follows:

15-72.A 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 from the limits of said lot to be limited by detention or retention to the maximum of 0.10 cubic feet per second (cfs) per acre of land or fraction thereof for the one percent annual recurrence (100-year) rainfall event, unless:

- i. the net TIA without detention will be within 5,000 square feet of the TIA that existed on February 15, 1992;
- ii. the TIA will decrease by at least five percent from its highest level in the past three years; or
- iii. the TIA will be less than ten percent 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 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 or Chapter 154 of this code, until stormwater detention or retention improvements have been completed or installed so that they are operational. Installation and operational does not necessarily mean all final grading has been approved, constructed and accepted, but that the system substantially functions the way it was designed.

(2) In the event stormwater detention or retention is not immediately necessary because the earth work or construction on the site will not have an adverse effect on stormwater 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/her designee. The Director of Community Development may direct and require, as a condition of the issuance of the building permit, construction of stormwater improvements

- within a designated time or on any schedule he/she deems reasonably necessary to protect adjacent or surrounding properties.
- (3) If stormwater detention or retention improvements are to be constructed using hard surface or any item involving a building permit, a building permit may be issued at the direction of the Director of Community Development or his/her designee with any terms, conditions, or timing requirements deemed necessary by the Director of Community Development or his/her designee to adequately protect adjacent or surrounding properties.
  - (4) During all construction phases until final occupancy, the stormwater detention shall be substantially functional in the way it was designed and approved by the Village. In the event stormwater detention is not substantially functional, any building permits issued may be revoked or stayed until such time as the stormwater detention is substantially functional.

(B) The DuPage County Ordinance is hereby amended to add the following:

15-72.H Single Family Residential Development:

Any single family residential development that shall increase the impervious areas on a lot by more than 500 square feet, cumulatively, for development occurring on or after September 1, 2001, and that is not part of a major subdivision with a stormwater detention/retention facility as required per the DuPage County Countywide Stormwater and Floodplain Ordinance or the amendments listed above, shall include one percent minimum slope swales along the entire length of the rear and side property lines, if physically possible. If there is less than a continuous one percent minimum slope from the new impervious areas to a storm sewer or defined watercourse, then drain tiles, storm drains and/or dry wells shall be required to convey or store the 100-year runoff. Such drainage improvements shall be as directed to the Director of Community Development based on technical feasibility, impact on other properties, available easements and cost. Whenever possible, such direction shall be based on site inspections rather than a topographic survey. Drain tiles and/or storm drains shall drain from flat or low areas into a separated storm sewer or to a swale or ditch having a continuous one percent minimum slope to a separated storm sewer or defined watercourse. The preferred location for storm drain inlets shall be a rear corner of the lot. Dry wells shall be located and sized to contain volume equal to the new impervious area times 0.58 foot of runoff. Dry wells shall not be located in utility easements or public rights-of-way. The existing impervious area shall be subtracted from proposed impervious area to determine the increase in impervious area.

15-72.H.1 Appeals for relief from this section may be petitioned to the Village's Board of Trustees following recommendation by the Public Works and Environmental Concerns Committee (PWEC) (for public property) or Board of

Building Appeals (BOBA) (for private property), as set forth in Sections 151.08 and 151.09 of the Lombard Village Code.

(C) Section 15-80.H of the DuPage County Ordinance is hereby revised to read in its entirety as follows:

“The Flood Protection Elevation (FPE) is the Base Flood Elevation (BFE) plus two feet of freeboard.”

(D) Section 15-81.B of the DuPage County Ordinance is hereby revised to add the following:

15.81.B.1.a Outer walls and basement floors. The outer walls, basement floors, and areaways of a building which enclose open space that is below the established FPE, shall be constructed of concrete materials up to a minimum elevation, shall be watertight and be designed to withstand the hydrostatic pressure caused by floodwater standing at BFE adjoining the building site.

15.81.B.1.b Building site. Each principal building or structure shall have or be provided with a building site or yard that is not lower than the established BFE plus one and one-half feet and extends outside the building walls at least five feet. The finished grade or surface of this protective yard shall be sloped to drain away from the walls for a distance of at least five feet.

(E) Section 15-81.C of the DuPage County Ordinance is hereby revised to add the following:

15-81.C.4 Logs, tree stumps and branches, lumber products, and other floatable material may be placed, displayed, or stored in the open on flood plain land, where permitted by the State statutes; provided the area so used is enclosed by an open wire fence properly anchored to restrain such materials from floating downstream during times of high water.

15-81.C.5 The open storage or display on flood plain of inoperable motor vehicles and similar machinery and other non-floatable materials and products, where applicable to such land, by State statutes shall be considered the same as placement of fill on the flood plains and shall be subject to the regulations of this Chapter relating to placing fill.

(F) Section 15-81 of the DuPage County Ordinance is amended by adding a new subsection E thereto, which shall read in its entirety as follows:

15-81.E Subdivision and other development standards



15.81.E.1 All subdivision and other development proposals shall be designed to minimize flood damage to the proposed subdivision or development site as well as to other properties.

15.81.E.2 All public utilities and facilities, such as sewer, gas, electrical, and water systems, shall be located, elevated, and constructed to minimize or eliminate flood damage.

15.81.E.3 Adequate drainage shall be provided so as to reduce exposure to flood hazards.

15.81.E.4 For any proposed subdivision or new development greater than 50 lots or five acres, whichever is the lesser, the applicant shall show the BFE data for each lot or platted parcel; provided, that if the BFE data is not available, the applicant shall compute and provide this information for each lot or platted parcel of a subdivision or new development proposal which is greater than 50 lots or five acres, whichever is less.

(G) Section 15-82 of the DuPage County Ordinance is amended by adding a new subsection H thereto, which shall read in its entirety as follows:

15-82.H Subdivision or improvement design and drainage.

15-82.H.1 Channel straightening. Sharply meandering streams or channels may be partly straightened and minor changes made in other channels, provided the floodway dimensions of the stream or channel are maintained, the volume of floodwater storage outside the floodway is not reduced, and the changes and channels comply with the other provisions of this Chapter.

15-82.H.2 Where waterways are traversed, detention basins proposed, and rivers, streams, channels, and ditches encountered, the design of the facilities shall not be less than the following criteria:

- (1) Ten-year design storm for storm sewer and storm conduits.
- (2) Twenty-five-year design storm for ditches and intermittent streams.
- (3) One-Hundred-year design storm for detention/retention facilities.
- (4) One-Hundred-year design storm for continuous streams and rivers.

Unless, another provision of this Chapter is more restrictive.

(H) Section 15-97.B.5 of the DuPage County Ordinance is hereby amended to read as follows:

All detention variance fee-in-lieu payments shall be non-refundable.

- (I) Section 15-98.A of the DuPage County Ordinance is amended by adding a new subsection 1 thereto, which shall read in its entirety as follows:

15-58.A.1 In the event a development cannot comply with the required two foot of clearance required for infiltration to the Estimated Seasonal High Water Table (ESHWT), per the requirements in section 15-63.B.5, the fee-in-lieu allowance may be allowed or required.

- (J) Section 15-98.B.5 of the DuPage County Ordinance is hereby amended to read as follows:

All PCBMP fee-in-lieu payments shall be non-refundable.

- (K) The definition of Flood Protection Elevation in the DuPage County Ordinance, Appendix A, is hereby revised to read as follows:

The base flood elevation plus two feet of freeboard. If an approved FEQ Watershed Plan Model produces a higher elevation than the regulatory BFE, the FPE shall be the FEQ flood of record elevation plus two feet of freeboard.

- (L) Schedule B of the DuPage County Ordinance is hereby amended to read as follows:

Detention Fee-in-lieu: \$175,000 per acre-foot.

- (M) Schedule B of the DuPage County Countywide Stormwater and Floodplain Ordinance is hereby amended to read as follows:

BMP Fee-in-lieu: \$2,000 per 1,000 square feet of new impervious area

#### **§ 151.05 - Interpretation.**

In the interpretation and application of this Chapter, the provisions set forth herein shall be held to be the minimum requirements and shall be liberally construed in favor of the Village and shall not be deemed a limitation or repeal of any other powers granted by State statutes.

#### **§ 151.06 - Saving Clause.**

- (A) Separability: If any section, clause, provision or portion of this Chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Chapter shall not be affected thereby.
- (B) Abrogation and Greater Restrictions: It is not intended by this Chapter to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this Chapter imposes greater restrictions, the provisions of this Chapter shall prevail.
- (C) Disclaimer of Liability: The degree of flood protection required by this Chapter is considered reasonable for regulatory purposes and is based on historical records, engineering and scientific methods of study. Larger floods may occur or flood heights may be increased by manmade or natural causes. This Chapter does not imply that areas outside the prescribed floodplain boundaries or land uses permitted within such floodplains will be free from flooding or flood damages. This Chapter shall not create liability on the part of the Village or any officer or employee thereof for any flood damages which may result from reliance on this Chapter or on any administrative decision lawfully made thereunder.

**§ 151.07 Detention Variance Fee Program.**

- (A) In all cases where a variation from the site runoff storage requirements of this Chapter is granted, it shall be a condition of said variance that:
  - (1) If the variation is intended to be permanent, the payment of the applicable detention variance fee, as provided by subsection 151.04(L), shall be made prior to the issuance of a stormwater management permit; or
  - (2) If the variation is intended to be temporary, a lien, as provided for in subsection (B) below, in the amount of the applicable detention variance fee, as provided by subsection 151.04(L), shall be recorded prior to the issuance of a stormwater management permit.
- (B) In the case of a variation from the site runoff storage requirements of this Chapter, in which the variation is intended to be only temporary, in that the structure being constructed on the property is intended to only be temporary, a lien in lieu of the applicable detention variance fee may be recorded, in a form prepared by the Village, as a substitute for the payment of the applicable detention variance fee, as provided in subsection 151.04(L) above, provided that the following terms and conditions shall apply to said lien in lieu of the applicable detention variance fee:

- (1) The lien shall be in the amount of the applicable detention variance fee, as provided by subsection 151.04 (L) above.
- (2) The lien shall provide as follows:
  - (a) That, upon the payment of the applicable detention variance fee, the removal of the structure necessitating the variation, or the providing of the required site runoff storage requirements for the property, the lien will be released.
  - (b) That, in the event that the property owner fails to remove the structure necessitating the variation, so as to eliminate the need for the variation, or fails to provide the site runoff storage requirements for the property, by a date certain in the future, the amount of the lien shall be due and payable to the Village, and no further building or other permits will be issued relative to said property, or in relation to any other property served by the structure on the property, until the amount of the lien is paid.
  - (c) That a sale of the property shall require the payment of the amount of the lien, the removal of the structure necessitating the variation or the provision of the required site runoff storage requirements for the property, before any building or other permits are issued by the Village relative to the property.
- (3) The lien shall be executed by both the property owner and the Village, and recorded with the DuPage County Recorder of Deeds, with the property owner paying the cost of the preparation of the lien and the recording thereof, prior to the issuance of any permits by the Village relative to the construction of the structure necessitating the variation.
- (4) Said lien in lieu of the applicable detention variance fee shall not be permitted in relation to those situations in which the DuPage County Ordinance would not allow for the use thereof.

#### **§ 151.08 - Variance.**

Upon application, and after fifteen days' notice of and the conducting of, a public hearing before the Public Works and Environmental Concerns Committee or the Board of Building Appeals, and after receipt of a recommendation from the Public Works and Environmental Concerns Committee or the Board of Building Appeals after said public hearing, the Village Board of Trustees may grant a variance from the provisions of this Chapter subject to compliance with the provisions of subsection 1910.6(a) of the rules and regulations of the National Flood Insurance Program and such other conditions as the Village Board of Trustees deems necessary to comply with the intent of this Chapter.

#### **§ 151.09 - Variance procedure**

- (A) In the event the owner or developer of the property is unable to meet the requirements of the regulations of this Chapter which are more restrictive than the DuPage County Ordinance and seeks a variance, the variance may only be considered in the following situations:
- (1) Detention or retention is to be provided off site, but in a manner which is satisfactory or acceptable to the Village; or
  - (2) The property to be developed cannot adequately provide on-site water detention, but the Village deems it necessary or beneficial to develop said property with the detention/retention to be met in some other fashion than on-site detention.
- (B) A fee of \$425 shall be charged to process any variance request. Said fee is to cover the costs of the hearing and engineering work. Any variance request requiring detailed engineering review shall be charged an additional \$500.00 fee.
- (C) The variance may be approved to the Village Board of Trustees following receipt of a recommendation from the Public Works and Environmental Concerns Committee (for public property) or Board of Building Appeals (for private property). Applications are to be made to the Director of Community Development on approved forms of the Village.
- (D) The Director of Community Development may require engineering studies to be provided by the petitioner before any variance hearing is held.
- (E) At the public hearing, it shall be the owner or developer's responsibility to put forth a case in favor of the variance. The Director of Community Development shall respond and make any recommendations, or suggest any conditions, deemed necessary to the granting of denial of the variance.
- (F) A variance may be granted under any terms and conditions as the Village Board of Trustees deem reasonable and/or necessary.
- (G) Notwithstanding subsections (C) through (F) above, the Director of Community Development may grant an administrative variance for areas totaling, in the aggregate (inclusively of previously granted variances), less than 500 square feet. Such an administrative variance shall not require a public hearing or approval by the Village Board of Trustees. Where an administrative variance is granted, fees as required by 151.04 (L) above, as well as a \$200.00 administrative processing fee, shall be deposited into the detention fund for the appropriate watershed.

- (1) In cases where such an administrative variance is requested, the petition for said variation submit evidence, in writing, that:
  - (a) Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be applied;
  - (b) The conditions upon which the variation is based are unique to the property for which the variation is sought, and are not generally applicable to other properties in the neighborhood;
  - (c) The granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located; and
  - (d) The variation, if granted, will not impair natural drainage or create drainage problems on adjacent or downstream properties, or endanger the public safety or substantially diminish or impair property values within the neighborhood.

(H) Appeals relative to an administrative variance that is denied, will follow the process for a variance under subsections (C) through (F) above, including any fees due.

(I) Revocation. Where a variation has been granted pursuant to the provisions of this Chapter, such approval shall become null and void unless work is completed by December 31<sup>st</sup> of the third year from the date of stormwater certification or permit issuance, whichever is earlier.

#### **§ 151.10 – Penalty**

Any person, firm, or corporation violating any of the provisions of this Chapter shall, upon conviction, be fined not less than \$250.00 nor more than \$750.00 for each offense. Each day that a violation continues shall be considered a separate and distinct offense.

**SECTION 3:** That this ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law.

Passed on first reading this 15<sup>th</sup> day of March, 2018.

Ayes: Trustee Whittington, Fugiel, Foltyniewicz, Johnston, Pike and Ware

Nays: None

Absent: None

First reading waived by action of the Board of Trustees this \_\_\_\_ day of \_\_\_\_\_, 2018.

Passed on second reading this 5<sup>th</sup> day of April, 2018, pursuant to a roll call vote as follows:

Ayes: Trustee Whittington, Foltyniewicz, Johnston and Pike

Nays: None

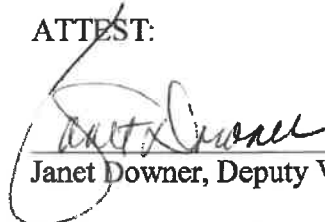
Absent: Trustee Fugiel and Ware

Approved this 5<sup>th</sup> day of April, 2018.



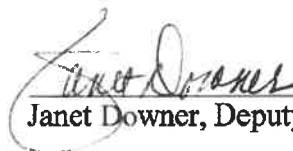
Keith T. Giagnorio, Village President

ATTEST:



Janet Downer, Deputy Village Clerk

Published in pamphlet from this 6<sup>th</sup> day of April, 2018.



Janet Downer, Deputy Village Clerk