

Request For Board Action

REFERRED TO BOARD: January 18, 2016

AGENDA ITEM NO: 5

ORIGINATING DEPARTMENT: Administration

SUBJECT: Consideration of an Ordinance Adopting the October 13, 2015 Amendments to the Lake County Watershed Development Ordinance and Amending 12-1-1 of the Antioch Municipal Code

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

Effective October 13, 2015 the Lake County Storm water Management Commission released the latest amendment to the Lake County Watershed Development Ordinance (WDO). Under direction by the State's Attorney's Office, the WDO has been re-formatted. An improved referencing system is used and certain sections have been re-located and aligned making the entire document more user friendly, understandable, which can be quickly and logically referenced (for legal and general application). No substantive changes are included in the re-formatted WDO. This amendment was relatively minor and reflects changes in updated FEMA Floodplain maps and the National Flood Insurance Program (NFIP). None of the FEMA map changes were in the Village of Antioch. Local adoption of this WDO is necessary to maintain compliance with the Stormwater Management Commission certification and to keep Village properties insurable for loss due to flood as well as to maintain compliance with FEMA regulation related to floodplain management.

Procedurally, the new amended WDO must be adopted by February 17th, 2016 and be available for public viewing for 30 days, and that has occurred.

Staff has reviewed the new ordinance and recommends that the Board adopt the WDO amendment as presented.

DOCUMENTS ATTACHED:

- 1.An Ordinance Adopting by Reference of the Lake County Watershed Development Ordinance
- 2.List of amendments in numerical order (Exhibit A);

RECOMMENDED MOTION:

Move to waive the second reading and approve an An Ordinance Adopting by Reference of the Lake County Watershed Development Ordinance

ORDINANCE NO. _____

**AN ORDINANCE ADOPTING BY REFERENCE OF THE LAKE COUNTY
WATERSHED DEVELOPMENT ORDINANCE**

WHEREAS, the County of Lake, pursuant to the powers granted to it by 55 ILCS 5/5-1062, adopted the original Lake County Watershed Development Ordinance (WDO) on or about October 18, 1992, establishing rules and regulations for floodplain and stormwater management throughout the County of Lake and superseding any less restrictive municipal rules and regulations therein; and,

WHEREAS, the said WDO has been amended on a number of occasions since its original adoption, and all of those amendments have been adopted by the Village of Antioch previously, and

WHEREAS, the County of Lake, pursuant to the powers granted to it by 55 ILCS 5/5-1062, adopted a resolution approving amendments to the Lake County Watershed Development Ordinance on or about October 13, 2015, effective immediately; and,

WHEREAS, the corporate authorities find it to be in the best interests of the Village of Antioch to require all development to meet, at least, the minimum standards prescribed by the WDO to the fullest extent practicable; and,

WHEREAS, three copies of the amended WDO have been on file in the Office of the Village Clerk and available for inspection, for not less than 14 days,

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Board of Trustees of the Village of Antioch Lake County, Illinois, as follows:

SECTION I: That there is hereby adopted by reference, as if fully set out herein, that certain ordinance known as the Lake County Watershed Development Ordinance, approved as amended by the County of Lake, State of Illinois on October 13, 2015.

SECTION II: That in the event that the rules, regulations, terms or conditions imposed pursuant to the Lake County Watershed Development Ordinance are either more restrictive or less restrictive than comparable rules, regulations, terms or conditions imposed by any other applicable rule, regulation, resolution, ordinance, statute or law, then the most restrictive rules, regulations, terms or conditions shall govern.

SECTION III: That Section 12-1-1(A) of the Municipal Code of Antioch is amended by deleting existing Section 12-1-1(A) and replacing it with the following:

12-1-1: REGULATIONS ADOPTED:

A. Stormwater Management Regulations: The Lake County watershed development ordinance, as most recently amended by the county of Lake on October 13, 2015, is hereby adopted by reference and is in full force and effect within the village of Antioch and is found in its own compilation.

SECTION IV: That all ordinances and resolutions, or parts thereof, in conflict with the provisions of this Ordinance are, to the extent of such conflict, expressly repealed.

SECTION V: That this Ordinance shall be in full force and effect ten (10) days after its passage, approval and publication in pamphlet form, as provided by law.

PASSED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF ANTIOCH, ILLINOIS,
ON THIS ____ DAY OF _____, 2016.

ATTEST:

LAWRENCE M. HANSON, MAYOR

LORI K. FOLBRICK, VILLAGE CLERK

**Administrative
WDO Re-formatting**

Purpose: Under direction by the State's Attorney's Office, the WDO has been re-formatted. An improved referencing system is used and certain sections have been re-located and aligned making the entire document more user friendly, understandable, which can be quickly and logically referenced (for legal and general application). No substantive changes are included in the re-formatted WDO. A section cross-reference table is separately attached.

**Administrative
WDO Amendment #1
Page 82 – Article V.B.**

B. APPEALS

1. Any permit applicant aggrieved by the denial or conditions of a Watershed Development Permit, Earth Change Approval, Conditional Approval, or Variance by a Certified Community's Enforcement Officer may request review thereof by the Certified Community's board of elected officials or the appropriate body within 30 days of the disputed act or actions.
2. Any permit applicant aggrieved by **a permit decision**, the denial or conditions of a Watershed Development Permit, Earth Change Approval, Conditional Approval, or Variance by the SMC Chief Engineer may request review thereof by the SMC Director within 30 days of the disputed act or actions.
3. Any permit applicant aggrieved by **a permit decision**, the denial or conditions of a Watershed Development Permit, Earth Change Approval, Conditional Approval, or Variance by the SMC Director may appeal it to the SMC by written notice filed with the SMC Director within 30 days of the disputed act or actions.

Purpose: Clarify standard administrative process for SMC-reviewed permits and approvals.

**Administrative
WDO Amendment #2
Page 87 – Article VII.F.**

- (i) F. The SMC may enforce violations of this Ordinance in accordance with the Lake County Administrative Adjudication Ordinance.*

Purpose: Improve compliance efficiencies using the Administrative Adjudication process as an additional compliance tool. Staff have conferred with the Lake County State's Attorney's Office and determined that an Ordinance amendment is necessary in order for SMC to use the process.

Exhibit A

WDO Amendment #3

Page 99 - Appendix A: Definitions

Isolated Waters of Lake County: All waters such as lakes, ponds, streams (including intermittent streams), farmed wetlands, and wetlands that are not under U.S. Army Corps of Engineers jurisdiction. The limits of the Isolated Waters of Lake County extend to the ordinary high water mark or the delineated wetland boundary.

- a. The following are excluded from Isolated Waters of Lake County, **as determined by the Enforcement Officer**:
 - (1) Excavations and impoundments that have received a permit from the appropriate jurisdictional authority.
 - (2) Excavations and impoundments permitted by right, prior to being a regulated activity, within 40% or more non-hydric soils. Areas designated as 'water' as depicted on the Soil Survey of Lake County, SCS, 1970 are determined as either hydric or non-hydric soils by connecting adjoining soil boundaries to create complete polygons of the depicted soil type.
 - (3) Wetlands created incidental to construction grading on development sites. **that have received a Watershed Development Permit or meet the criteria of Article IV.A.2.a**
 - (4) Roadside ditches.
- b. The following shall not be considered as meeting the exclusion criteria in a. above:
 - (1) All areas meeting the definition of high-quality aquatic resources.
 - (2) Wetland mitigation areas created to meet the requirements of this Ordinance or Section 404 of the Clean Water Act.
 - (3) Wetland areas created or restored using public funds.

Purpose: Per legal review, clarify determination is made by EO. For a.(3) record retention policies vary among units of government and documents are not always kept, available, or easily obtained. EO has discretion to make a determination that the wetland was "created" due to construction grading on a development site.

FEMA/NFIP Map Updates

WDO Amendment #4

Pages 108-116 – Appendix C: FEMA Flood Insurance Study Maps and Profiles

(SEE WDO APPENDIX C)

Purpose: Modify FEMA map effective dates and panel numbers.
