

MEMORANDUM

DATE: March 5, 2018

TO: Khurshid Hoda, Village of Orland Park

FROM: Paul Bourke, Christopher B. Burke Engineering, Ltd.

SUBJECT: WMO Revisions for 2018

The MWRDGC approved revisions to the Watershed Management Ordinance (WMO) that became effective on February 15, 2018. The MWRDGC prepared the attached document which discusses the revisions to the Ordinance. We have reviewed the revisions and we offer the following comments to supplement the District's:

SECTION 201

The chart for section 201 states that the District only will retain WMO permit approval authority over modifications to District-permitted detention facilities. What is unclear is that oversight authority will extend to modifications to existing detention basins constructed under the old SPO system that were noted as required by Local detention ordinances. Due its stricter LDC requirements, there were detention ponds constructed in the Village that would not have been constructed under the previous SPO requirements, but were still listed physically on the SPO permit document. There is an advisory committee meeting on March 7, 2018 where proposed revisions to chapter 2 of the Technical Guidance Manual will be discussed. We intend to present this question to District staff for further guidance.

SECTION 300

The revision to paragraph 5 codifies the policy followed by the District as a courtesy to the Forest Preserve District of Cook County. It does not give the Forest Preserve District the right to block a project if it does not cross onto their property. The WMO revision only requires that the Forest Preserve District be notified of the project and its potential Stormwater impacts.

SECTION 503

The WMO now includes a bottom threshold for the provision of volume control (retention); 0.10 acres (4356 SF) of new impervious surface when none had existed before. This may not have much of an effect on development within the Village, but is a big boost for projects in a combined sewer area where both storm and sanitary sewers are considered "Qualified Construction". For example, a previously developed site can now construct additional parking spaces with a storm sewer connection to a combined sewer or simply a building expansion without having to provide retention storage. Additionally, it would be allowable for volume control to be provided for the anticipated future development of a site. The current policy is to require volume control as each portion of a site is developed, and the new language would allow volume control to be constructed for future phases (similar to detention).



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APPENDIX A

A definition for "Demolition" was added to the WMO, see below. It stipulates that demolition activities shall neither increase the Stormwater discharge from a site nor change the location of the site's outlet. The practical impact of this is that the Village may wish to require a grading plan and an as-built afterword when a site is being demolished rather than simply approving the demolition provided the owner leaves the site "level".

Demolition

*Removal of **structures, impervious area**, or utilities that return a **parcel** to a natural or vacant state. **Demolition** must not affect the volume, flow rate, drainage pattern, or composition of **Stormwater**. **Demolition** activities that change the use of the **site** or require any fill within a **flood protection area** are considered **development**. [Compare **demolition** with **maintenance, maintenance activities**, and **development**.]*

A definition for "Site Constraint" was added to the WMO, see below. It not only stipulates existing conditions where providing an on-site retention volume can be waived, but also stipulates that certain developments can also be considered "constrained" from providing on-site detention even if the site is currently a pristine greenfield.

Site Constraint

*Condition on a **site** that limits the use of **retention-based practices**, such as contaminated soils, high **groundwater, wetlands, riparian environments**, or **floodway**. New **development** that is considered a **site constraint** includes, but is not limited to, gas stations, chemical storage facilities, and conservation areas. Poor soils and proposed utility conflicts are not considered **site constraints**.*

The definition for "accessory structure" has been modified to reflect a maximum footprint size of 750 square feet (increased from 500 square feet). The most common application of this would involve the construction of a garage or shed within the floodplain; as long as the footprint is less than 750 square feet, a Watershed Management Permit will not be required from MWRD.

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SUMMARY OF AMENDMENTS TO THE WMO

The Local Sewer Systems Section is proposing changes to the Watershed Management Ordinance (WMO), based on comments and suggestions from the Technical Advisory Committee, municipalities, design engineers, and public comment period. A summary of the substantial changes, by Article, is provided:

Article 2 – Applicability and General Provisions

Revisions to Article 2 include exempting all agricultural activities, not just those that fall under one specific development criteria, clarifying that state and federal agencies and flood control projects are exempt from the stormwater provisions of the WMO, but not the sanitary sewer and District impact provisions, and removing the Existing Development Plans List (EDPL) from this article and the title of associated Appendix C, as this provision of the WMO expired on May 1, 2015. The purpose of the WMO is to protect public health, safety, and welfare from the effects of flooding, and a provision requiring residential buildings within 100-feet of the floodplain to obtain a permit and meet flood protection requirements is added. This provision is currently in place for single-family homes. Finally, clarifications are made regarding permitting requirements for District permitted detention facilities and exempting such facilities that fall within a Multi-County Municipality, in which a neighboring county's stormwater ordinance applies in lieu of the WMO.

Article 3 – Watershed Management Permit Requirements and Submittals

Revisions to Article 3 include correcting a reference to a non-existing stormwater policy for the Forest Preserve District of Cook County, inserting limitations language, clarifying when Schedule K is required, as it is redundant to Schedule R in some cases, indicating Cook County as the local authority for unincorporated areas, clarifying language regarding permits in which there is no permittee for either qualified sewer or stormwater, indicating responsibility for recording documents, adding volume control practices and compensatory storage as facilities requiring perpetual maintenance, and specifying the existing requirement for record drawings of volume control facilities and qualified sewer construction. The permit fee refund policy is also added for transparency.

Article 5 – Requirements for Stormwater Management

The easement requirements for minor stormwater systems is removed, as this potentially requires an easement over an entire property. Minor stormwater systems include curb, gutter, inlets, etc. The easement requirement for major stormwater systems, which include detention facilities and pipe that conveys the 100-year storm, remains in effect.

Revisions to the volume control portions of Article 5 include requiring volume control as practicable for developments with impervious area less than 0.10 acre, requiring volume control practices be located outside the regulatory floodway, and allowing excess volume control to be constructed on a site for future development conditions. The major revision to this Article adds a mechanism to allow offsite volume control storage for circumstances in which a site constraint prohibits the use of green infrastructure. Certain conditions must be met to utilize this practice, and it must be shown that it is either met or unavailable prior to granting the reduction provision that currently exists in the WMO.

Revisions to the detention portions of Article 5 include emphasis on requiring the allowable release rate to be in compliance with tailwater conditions when detention is located in the floodplain, clarifying the floodplain shall be determined by elevation, not delineation, when determining tailwater conditions, requiring offsite volume control and detention to be located on the same site in order to qualify for the detention credit, and requiring a trade agreement for maintenance of offsite detention facilities and recording the agreement with the recording submittal. Per a public comment, language regarding detention being constructed prior to occupancy was modified to be consistent with permitted special conditions, and road construction was clarified to indicate impervious paving.

Article 6 – Requirements for Flood Protection Areas

Revisions to the floodplain portions of Article 6 include clarification for elevation and fill requirements to protect structures within the floodplain, requiring green infrastructure be located outside of the regulatory floodway, and allowing IDNR-OWR approved projects within the regulatory floodway.

Revisions to the wetland portion of Article 6 include clarification on determining the classification of an offsite wetland that cannot obtain a Corps jurisdictional determination, and clarifying the existing exemption for wetlands as cumulative site impacts less than 0.10 acre, not per each wetland on site.

The existing policy requiring a water quality device for outfalls to Lake Michigan is added to the section on outfalls.

Article 7 – Requirements for Sewer Construction

Revisions to Article 7 include adding protections language regarding impacts of sewer construction, and exempting single-family storm sewers and perforated underdrains that are part of green infrastructure from requiring a permit when no other permit triggers exist.

Article 9 - Maintenance

Revisions to Article 9 include outlining maintenance requirements for all permitted facilities instead of just qualified sewer construction and adding a new section on additional maintenance requirements for stormwater projects with no permittee.

Article 10 - Inspections

A clarification was added in Article 10 to indicate Authorized Municipalities shall only inspect development within their jurisdiction.

Article 14 - Administration

Revisions to Article 14 include adding the permit cancellation policy for transparency, indicating Authorized Municipalities shall follow their own administrative procedures regarding cancellation and fee refunds, and clarifying inspection and permit issuance requirements for Authorized Municipalities.

Appendix A - Definitions

Revisions to Appendix A include new definitions for “demolition”, “offsite volume control practice”, and “site constraint”, and increasing the size of an “accessory structure” from 500 square feet to 750 square feet. Clarifications were made to exempt private single-family drains from the definition of “outfall”, to remove mobile home parks and homeowner associations from “satellite entity”, to indicate a “substantial improvement” is determined by the local municipality in accordance with NFIP regulation, to add the term “channel” to the definition of “waterway”, and to add development undertaken by a public utility to protect critical utility infrastructure from flood events to the definition of “flood control project”.

Appendix F – Permit Fees to the Watershed Management Ordinance

Revisions to Appendix F include the addition of a base fee for the new Earthwork/Foundation Limited Permit type, which permits limited grading and foundation work prior to final approval of a full WMO permit, indicating the base permit fees are non-refundable, per the District’s refund policy, and adding a note regarding fees for permits under the jurisdiction of an Authorized Municipality.

Appendix G – Existing Intergovernmental Agreements

The Intergovernmental Agreement with the Village of Flossmoor and the Homewood Flossmoor School District 233 was added to the list of existing intergovernmental agreements for stormwater regulation in Appendix G.