

AN ORDINANCE AMENDING VARIOUS SECTIONS OF THE WINNETKA VILLAGE CODE RELATING TO LAKEFRONT CONSTRUCTION

WHEREAS, the Village of Winnetka is a home rule municipality in accordance with Article VII, Section 6 of the Constitution of the State of Illinois of 1970 and has the authority to exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, the Winnetka Village Code, as amended ("***Village Code***"), contains regulations which, among other things, broadly protect public health, safety and welfare, including specific regulations relating to impermeable surfaces, fences, plants and structures on private or public property or impacting public places ("***Existing Regulations***"); and

WHEREAS, the Village desires to amend and supplement the Existing Regulations to more specifically address structures in and along Lake Michigan and the permit requirements for those structures; and

WHEREAS, the limited amendments to the Existing Regulations enacted by this Ordinance are intended to be in place while the Village undertakes a more thorough study, review, and consideration of more comprehensive lakefront and steep slope regulations; and

WHEREAS, the Village Council has determined that amending and supplementing the Existing Regulations as set forth in this Ordinance is in the best interests of the Village;

NOW, THEREFORE, the Council of the Village of Winnetka does ordain as follows:

SECTION 1: RECITALS. The recitals above are incorporated into this Section as the findings of the Village Council, as if fully set forth in this Section.

SECTION 2: AMENDMENT TO SECTION 1.04.020 OF THE VILLAGE CODE. Section 1.04.020, titled "Corporate limits--Jurisdiction," of Chapter 1.04, titled "General Provisions," of Title 1, titled "General Provisions," of the Village Code shall be amended to read as follows:

"Section 1.04.020 Corporate limits--Jurisdiction.

The corporate limits of the Village ~~are shall be as provided~~ **illustrated** on the Official Village of Winnetka Zoning Map, which is appended to Title 17 of this Code **and, as provided in the Village Charter, includes the bed and water of Lake Michigan to the width of one-half mile adjoining and contiguous to the Village.** Unless otherwise specifically provided in this Code, the provisions of this Code apply to persons and property located within the Village's corporate limits and to acts performed within those corporate limits."

SECTION 3: NEW CHAPTER 15.78 OF THE VILLAGE CODE. Title 15, titled “Buildings and Construction,” of the Village Code shall be amended to add a new Chapter 15.78, titled “Lakefront Construction,” to read as follows:

“Chapter 15.78
LAKEFRONT CONSTRUCTION

Sections:

- 15.78.010 Purpose.**
- 15.78.020 Application of Provisions.**
- 15.78.030 Permit Requirement.**
- 15.78.040 Application Requirements.**
- 15.78.050 Permit Issuance.**
- 15.78.060 Decision of Village Engineer.**
- 15.78.070 Appeal to Village Council.**
- 15.78.080 Criteria for Permit Approval.**
- 15.78.090 Inspection.**

Section 15.78.010 Purpose.

The purpose of this Chapter is to create permitting requirements for construction along, adjacent to and within Lake Michigan. Lake Michigan, its coastline and beaches provide a unique natural resource to the Village and to its residents that must be preserved and protected. Some development and construction activity in and around Lake Michigan may be hazardous to people and property and may accelerate the erosion process and alter natural drainage patterns. This Chapter is intended to attempt to preserve those portions of Lake Michigan, its coastline and vegetation within the Village’s boundaries, while protecting the value of properties along the Lake through the establishment of narrow, reasonable permitting regulations. The regulations in this Chapter are further intended to provide that construction in and adjacent to Lake Michigan and its shoreline will not cause environmental or ecological damage to the Lake or surrounding areas of the Village.

Section 15.78.020 Application of Provisions.

A. This Chapter provides regulations and requirements for construction of structures in and adjacent to Lake Michigan and its shoreline. Specifically, this Chapter applies to (i) that portion of Lake Michigan that lies within the Village’s corporate limits as set forth in Section 1.04.020 of this Code, as well as that portion of Lake Michigan three miles beyond the Village

corporate limits (“Lake Michigan”), and (ii) public and private property adjacent to Lake Michigan (collectively, “Lake Michigan regulated areas”).

B. This Chapter applies cumulatively with the other provisions of this Title and the Village Subdivision regulations and Building Codes. No approvals or permits issued pursuant to those other regulations or Codes authorize any activity that does not also comply with the applicable provisions of this Chapter. If a provision of this Chapter and a provision in this Title or in the Village Subdivision regulations or Building Codes are inconsistent, the provision resulting in the maximum protection and preservation of the Lake Michigan regulated areas shall govern.

C. The Village Engineer, or the Village Engineer’s designee (“Village Engineer”), is the Village official principally responsible for the administration of the requirements of this Chapter. The Village Engineer may utilize other Village officials and third-party consultants such as a coastal engineer to assist in, among other things, the review and analysis of permit applications and inspections required under this Chapter.

Section 15.78.030 Permit Requirement.

- A. A permit pursuant to this Chapter (“Required Permit”) is required for any construction activity within the Lake Michigan regulated areas that requires a permit from any of the following government agencies (“Permitting Agencies”): the United States Army Corps of Engineers, the Illinois Department of Natural Resources, the Metropolitan Water Reclamation District of Greater Chicago, or the Illinois Environmental Protection Agency (collectively, “Covered Construction”). No person shall undertake any Covered Construction without a Required Permit issued by the Village pursuant to this Chapter.
- B. Any person who engages in any Covered Construction without the Required Permit will be subject to additional fees and penalties as may be set from time to time by resolution of the Village Council or as otherwise provided in this Code.

Section 15.78.040 Application Requirements.

The submittal requirement for an application for a Required Permit will be to submit all documents and application materials required by or submitted to the Permitting Agencies for the Covered Construction. An application must be supplemented to include any updates to the corresponding applications to the Permitting Agencies. The applicant with apprise and consult with the Village on the progress of the review of the Covered Construction by the

Permitting Agencies so the Village can (i) fully understand exactly what type of construction or activity is being proposed by the application, (ii) provide comments and feedback on the application and project throughout the federal and state review process, and (iii) make a decision on the Required Permit within the time period provided under Section 15.78.50 of this Chapter. Applicants must meet with the Village Engineer in advance of filing an application with any of the Permitting Agencies for Covered Construction to allow the Village an opportunity to identify any issues or concerns related to the Covered Construction, including any aspects of the Covered Construction that may not comply with the permit requirements of this Chapter.

Section 15.78.050 Permit Issuance.

The applicant must provide to the Village Engineer a copy of all permits for the Covered Construction received from the Permitting Agencies. The Village Engineer will make its final permit decision within 14 days after all of the permits from the Permitting Agencies for the Covered Construction have been provided to the Village, unless the applicant and the Village agree to additional time. The applicant will notify the Village Engineer within 48 hours if any of the Permitting Agencies deny a permit for the Covered Construction.

Section 15.78.060 Decision of Village Engineer.

The Village Engineer will take one of the following actions on each permit application within the 14-day period provided in Section 15.78.050 of this Chapter. The Village Engineer may (i) grant the permit, (ii) grant the permit with conditions, or (i) deny the permit. The issuance of any Required Permit will be conditioned on the applicant reimbursing the Village for any cost incurred by the Village in utilizing a coastal engineer or other third-party consultant to review the proposed Covered Construction and to participate in any subsequent inspections as provided in Section 15.78.090 of this Chapter. The applicant may appeal a decision of the Village Engineer directly to the Village Council by filing a written appeal with the Village Clerk within 14 days after receipt of the Village Engineer's decision on the Required Permit.

Section 15.78.070 Appeal to Village Council.

The Village Council will hear and decide an appeal within 60 days after receipt of the appeal, unless the applicant and the Village agree to additional time. The Village will provide notice of the date on which the Village Council will first consider an appeal by (i) notice on the Village website, (ii) posting notice on the Covered Construction property, and (iii) mailing notice to properties within 500 feet from the Covered Construction property. The Village will provide an opportunity for the applicant and other interested

parties to be heard on the appeal at a public meeting. The decision of the Village Council will be a final decision by resolution duly adopted.

Section 15.78.080 Criteria for Permit Approval.

The Village Engineer (and, if applicable on appeal, the Village Council) will issue a permit (with or without conditions) only if the following requirements are satisfied:

- A. Permitting Agency Permits. The applicant has received and provided to the Village all required permits for the Covered Construction from the Permitting Agencies.
- B. Height. The height of the Covered Construction and any related structures will be no greater than what is minimally necessary to achieve the intended purpose of the project.
- C. Conformity with Code. The Covered Construction and any related structures comply with all other applicable provisions of the Village Code, including, without limitation, the construction permitting requirements of Chapter 15.32 of this Title.
- D. Project Scope. The Covered Construction and any related structures include only what is minimally necessary to achieve the intended purpose of the project.
- E. No Public Safety Hazard. The Covered Construction and any related structures will not create any public safety hazards, including, without limitation, by unreasonably obstructing or otherwise interfering with ingress or egress to adjacent public beaches or private property.
- F. Interference with Public Safety Operations. The Covered Construction and any related structures will not block or otherwise unreasonably interfere with the ability of public safety personnel to conduct search and rescue or other public safety operations.
- G. Existing Site Lines: The Covered Construction and any related structures will alter existing site lines along the Lake Michigan shoreline no more than is minimally necessary to achieve the intended purpose of the project.

Section 15.78.090 Inspection.

- A. **Construction Inspections. All Covered Construction will be subject to inspection by the Village Engineer periodically during the course of the work. The purpose of these inspections will be to confirm that the Covered Construction complies with the Required Permit and this Code. The Village Engineer may require that the Covered Construction, or any part of the Construction, be inspected at one or more specific points during the project before further work can proceed.**
- B. **Final Inspection. Upon completion of the Covered Construction, the Village Engineer will make a final inspection to confirm that the Covered Construction complies with the Required Permit and this Code. The applicant must submit as-built plans for the project to the Village Engineer prior to the final inspection.**

SECTION 4: AMENDMENT TO SECTION 15.32.050 OF THE VILLAGE CODE.

Section 15.32.050, titled “Applications for Permit,” of Chapter 15.32, titled “Construction Permits,” of Title 15, titled “Buildings and Construction,” of the Village Code shall be amended to read as follows:

“Section 15.32.050 Applications for permit

* * *

- M. Permits for Lakefront Construction. All applications for a permit for construction activities within Lake Michigan regulated areas, as defined in Section 15.78.020 of this Code, must also satisfy the requirements of Chapter 15.78 of this Title.**

SECTION 5: AMENDMENT TO SECTION 9.16.020 OF THE VILLAGE CODE.

Section 9.16.020, titled “Public Nuisances Defined,” of Chapter 9.16, titled “Nuisances,” of Title 9, titled “Public Peace, Morals and Welfare,” of the Village Code shall be amended to read as follows:

“Section 9.16.020 Public nuisances defined.

* * *

- D. Public Nuisances Affecting Peace and Safety. The following acts, omissions, places, conditions and things are declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the provisions of subsection A of this section:

March 7, 2023

MC-05-2023

Additions are bold and double-underlined; deletions are struck through

* * *

22. Any construction activity and related structures that do not comply with the provisions of Chapter 15.78 of this Code.

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SECTION 6: AMENDMENT TO SECTION 12.04.100 OF THE VILLAGE CODE.

Section 12.04.100, titled “Improvements--Permit,” of Chapter 12.04, titled “Streets and Sidewalks Generally,” of Title 12, titled “Streets, Sidewalks and Public Places,” of the Village Code shall be amended to read as follows:

“Section 12.04.100 Improvements--Permit.

No sewer, water pipe, oil pipe, conduit pipe, gas pipe, wire or cable for conveying electric current, nor any street or alley, pavement, sidewalk or other like improvement shall be placed, laid or maintained in, under or upon any proposed or existing public street, alley or other public place in the Village or in any proposed addition, subdivision or dedication of any lands within the boundaries of the Village, **including the portion of Lake Michigan within the boundaries of the Village,** except improvements constructed under special assessment proceedings, unless a permit authorizing the same shall have been duly issued by the Director of Engineering.”

SECTION 7: AMENDMENT TO SECTION 12.04.140 OF THE VILLAGE CODE.

Section 12.04.140, titled “Rules and Regulations,” of Chapter 12.04, titled “Streets and Sidewalks Generally,” of Title 12, titled “Streets, Sidewalks and Public Places,” of the Village Code shall be amended to read as follows:

“Section 12.04.140 Rules and regulations.

The Director of Public Works shall be authorized to promulgate such standards, rules and regulations for any work in, on or above any public street, sidewalk or dedicated right-of-way, **or in or adjacent to Lake Michigan,** as he or she may determine to be necessary and appropriate to implement the provisions of this Code and to provide for the public safety. Any person doing any work in, on or above any public street, sidewalk or dedicated right-of-way, **or in or adjacent to Lake Michigan,** shall be responsible for bearing all costs of complying with the provisions of any standards, rules or regulations promulgated pursuant to this section.”

SECTION 8: SEVERABILITY. If any provision of this Ordinance or part of this Ordinance is held invalid by a court of competent jurisdiction, the remaining provisions of this Ordinance shall remain in full force and effect, and shall be interpreted, applied, and enforced so as to achieve, as near as may be, the purpose and intent of this Ordinance to the greatest extent permitted by applicable law.

March 7, 2023

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SECTION 9: EFFECTIVE DATE. This Ordinance will be in full force and effect upon its passage and approval in the manner provided by law.

PASSED this ____ of _____, 2023, pursuant to the following roll call vote:

AYES: _____

NAYS: _____

ABSENT: _____

APPROVED this ____ day of _____, 2023.

Signed:

Village President

Countersigned:

Village Clerk

Published by authority of the President and Board of Trustees of the Village of Winnetka, Illinois, this ____ day of _____, 2023.

Introduced: March 7, 2023

Passed and Approved: _____, 2023

March 7, 2023

MC-05-2023

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