

**ORDINANCE NO. MC-08-2023**

**AN ORDINANCE AMENDING THE TEXT OF THE WINNETKA ZONING  
ORDINANCE TO ESTABLISH A STUDY AND PERMIT ABEYANCE PERIOD FOR  
CONSTRUCTION IN THE STEEP SLOPE AREA ALONG LAKE MICHIGAN**

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

**WHEREAS**, Lake Michigan and the lakefront of the Village have special environmental, recreational, cultural, historical, community, and aesthetic interests and values; and

**WHEREAS**, the preservation and protection of Lake Michigan and its Winnetka lakefront and adjoining lands and bluffs is critically important to the Village and its residents; and

**WHEREAS**, as set forth in Chapter 15.78, Lakefront Construction, of the “Winnetka Village Code,” as amended (“*Village Code*”), the Village adopted on March 21, 2023, building and other Village Code amendments and enforcement measures to ensure appropriate and necessary protections to preserve and protect Lake Michigan and its shoreline; and

**WHEREAS**, the Village now desires to ensure that construction on properties along Lake Michigan and the bluffs does not cause environmental or ecological damage to Lake Michigan or the surrounding areas of the Village or otherwise create harm to the public health, safety, or welfare of the Village, its residents, or visitors to the Village; and

**WHEREAS**, the further purposes of this Ordinance are as follows:

- To protect the natural environment and the integrity of the Lake Michigan coastal area that is a distinctive and valuable natural feature of the Lake Michigan shoreline;
- To recognize the potential for hazards that could affect health and safety to persons and property from bluff and shoreline development;
- To maintain the stability of the coastal bluffs and shorelines and to reduce the risks of coastal erosion, undermining, slumping, or collapse of the bluffs, and to protect the waters of Lake Michigan from unnatural sedimentation;
- To promote the recommendations of the Village of Winnetka’s Comprehensive Plan relative to the constraints that should be considered in developments that impact coastal areas and environments; and

**WHEREAS**, the Village plans to retain the services of a coastal engineer, hold public meetings and hearings, and develop more comprehensive amendments to the Village Code and provide related procedures to ensure that construction on the bluffs and the steep slope areas of the bluffs are consistent with the Village’s goals and policies; and

**WHEREAS**, the Village has determined a study and permit abeyance period is necessary to analyze the designated bluff areas that need to be protected (*“Permit Abeyance Period”*); and

**WHEREAS**, the study and development of more comprehensive amendments and related procedures will take a significant amount of time and effort on the part of Village staff; and

**WHEREAS**, construction on new or existing structures in or around the bluffs and the steep slope areas during the Permit Abeyance Period may irreversibly impair or otherwise damage the Village’s shoreline, bluff, and adjacent properties to the detriment of the Village and its residents; and

**WHEREAS**, to prevent that impairment and damage, and to ensure that the Village is able to undertake a thorough examination of this complex issue during the Permit Abeyance Period, this Ordinance amends the “Winnetka Zoning Ordinance,” as amended (*“Zoning Ordinance”*), to confirm and further promulgate the Village's regulatory authority of the Winnetka bluffs along Lake Michigan and adjacent property, and to impose a temporary pause on the issuance of building permits for construction on new or existing structures in and around the bluffs during the Permit Abeyance Period; and

**WHEREAS**, pursuant to Section 17.72.040 of the Zoning Ordinance, the Village Manager submitted an application for a text amendment to the Zoning Ordinance to impose the Permit Abeyance Period and provide the Village time to study bluff and steep slope regulations; and

**WHEREAS**, pursuant to Section 17.72.040 of the Zoning Ordinance, the Village gave proper notice of a public hearing by the Winnetka Village Council to consider the Permit Abeyance Period and related amendments to the Zoning Ordinance by publication in the *Chicago Tribune* on June 21, 2023, and by mail to lakefront property owners as well as property owners within 250 feet of lakefront properties; and

**WHEREAS**, the Village Council conducted a public hearing on July 6, 2023, regarding the imposition of a temporary pause on construction during the Village’s Permit Abeyance Period; and

**WHEREAS**, Section 11-48.2-2 of the Illinois Municipal Code, 65 ILCS 5/11-48.2-2, provides that the Village is empowered to adopt ordinances identifying areas of special historical, community, or aesthetic interest or value and to impose regulations within these areas on construction, alteration, demolition and use, and designed to preserve, protect, and enhance the unique and important aspects of the identified areas; and

**WHEREAS**, pursuant to these and other applicable authorities and the Village's home rule powers, the Village Council has determined that it is necessary and in the best interests of the Village and its residents to adopt amendments to the Zoning Ordinance as set forth in this Ordinance and to impose a temporary pause on the issuance of building permits for construction on or around the bluffs along Lake Michigan in Winnetka during the Permit Abeyance Period;

**NOW, THEREFORE**, the Council of the Village of Winnetka ordains 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. NEW CHAPTER 17.80 OF THE ZONING ORDINANCE.** Title 17, titled “Zoning,” of the Village Zoning Ordinance is amended to add a new Chapter 17.80, titled “Bluff Construction Permit Abeyance Period,” which new Chapter 17.80 will read as follows:

**“Chapter 17.80**  
**BLUFF CONSTRUCTION PERMIT ABEYANCE PERIOD**

**Section 17.80.010 Purpose.**

**The purpose of this Chapter is to establish a study and permit abeyance period to ensure the Village has time to adequately analyze and adopt any necessary code amendments, regulations, and related procedures, and to examine the effects of construction on the bluffs in the Village located along Lake Michigan. Lake Michigan, its coastline and beaches, and its bluffs, provide a unique natural resource to the Village and to its residents that must be preserved and protected. This Chapter is intended to protect the bluffs and ensure that construction on the bluffs of Lake Michigan in the Village do not cause environmental or ecological damage to Lake Michigan or the surrounding areas of the Village, or otherwise create harm or risk to the public health, safety, and welfare of the Village, its residents, or visitors to the Village.**

**Section 17.80.020 Definitions.**

**For purposes of this Chapter, the following terms are defined as follows:**

**“Bluff” means an elevated segment of the Lake Michigan shoreline above the beach (or in the absence of the beach, the waterline) that normally has a precipitous front that is inclining steeply on the lakeward side.**

**“Construction Activity” means any act or process involving (i) the construction, alteration, modification, demolition, or removal of any new or existing structure or (ii) the adding, dumping, grading, or removing of soil, dirt, sand, rocks, fill, or vegetation.**

**“Lake Michigan” means that portion of Lake Michigan that borders the Village, to the extent of three miles beyond the corporate limits, but not beyond the limits of the State.**

**“Permit Abeyance Period” means the period of nine months commencing on July 6, 2023, and ending on April 6, 2024, during which time the Village will be analyzing Bluff and other areas that require protection.**

**“Steep Slope” means land comprising or adjacent to a Bluff where the slope in ascent or descent exceeds ten percent from the horizontal.**

**“Steep Slope Zone” means all land between the bottom of a Steep Slope and the top of the Steep Slope, and also the land that is 40 feet landward from the top of a Steep Slope.**

**Section 17.80.030 Permit Abeyance Period.**

- A. **Notwithstanding any other provision to the contrary in the Village Code (but subject to Section 17.80.040 of this Chapter), all Construction Activity that requires a permit is prohibited in the Steep Slope Zone during the Permit Abeyance Period. This prohibition does not apply to Construction Activity that (i) received all applicable Village permits prior to July 6, 2023, provided those permits do not expire or are not otherwise terminated in accordance with the Village Code; and (ii) Construction Activity for which an application was received by the Village prior to July 6, 2023, or between July 6 and July 18, 2023 (“Pending Applications”), and for which all applicable Village permits are issued in the ordinary course thereafter by the Village pursuant to all applicable provisions and procedures of the Village Code (“Pending Application Permits”), and provided those Permits do not expire or are not otherwise terminated in accordance with the Village Code. Pending Application Permits will not be issued without the written approval of the Village Engineer upon a determination, in consultation with the Village’s third-party coastal engineer, that the Construction Activity associated with the Pending Application Permit will not adversely impact the integrity of the Steep Slope Zone.**
- B. **Notwithstanding any other provision to the contrary in the Village Code (but subject to Section 17.80.040 of this Chapter), the Village will not accept any application, and will not grant any permits, for any Construction Activity within the Steep Slope Zone during the Permit Abeyance Period. This prohibition does not apply to Pending Applications or Pending Application Permits.**

**Section 17.80.040 Exceptions**

**The provisions of Section 17.80.030 of this Chapter will not apply to the following Construction Activities:**

- A. **Repairs or general maintenance for Bluffs or for structures existing as of July 6, 2023.**

- B. Repairs or general maintenance of utility facilities, including, without limitation, stormwater outfalls, existing as of July 6, 2023.
- C. Restoration of property, facilities and structures that suffer a casualty loss or become damaged, provided that the restoration results in the facilities or structures being restored to a size that is substantially the same or smaller than the original facilities or structures.
- D. Construction Activities that occur entirely within a pre-existing building and do not disturb the soil.

**Section 17.80.050 Severability.**

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

**SECTION 3. EFFECTIVE DATE.** This Ordinance will be in full force and effect upon passage, approval, and publication of this Ordinance in pamphlet form in the manner provided by law.