

**AN ORDINANCE AMENDING THE WINNETKA ZONING ORDINANCE TO
ESTABLISH BLUFF REGULATIONS FOR DEVELOPMENT 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, the Village has a history of respect for the private property rights of its residents; and

WHEREAS, the Village enjoys an abundance of lakefront areas that contribute to the character of the Village and play important functions in the overall drainage system serving the Village and its residents; and

WHEREAS, bluffs are a critical part of the overall ecology of the Village and may be susceptible to degradation and erosion that could threaten certain lakefront properties and adjacent properties, as well as their improvements; and

WHEREAS, the Village has been studying the adoption of regulations governing development along Lake Michigan for more than a year; and

WHEREAS, the Village enacted a study and permit abeyance period (*“Permit Abeyance Period”*) to analyze the bluffs located in the Village along the lakefront; and

WHEREAS, during the Permit Abeyance Period, the Village worked with a coastal engineer, and held public meetings and hearings to develop more comprehensive amendments to the Winnetka Village Code, as amended (*“Village Code”*) and the “Winnetka Zoning Ordinance”, as amended (*“Zoning Ordinance”*) and provide related procedures to attempt to balance the rights and privileges of private property owners and the desire 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, numerous municipalities on Lake Michigan, including several in Illinois, have adopted comprehensive regulations governing development along Lake Michigan, and the Village Council studied these regulations during the Permit Abeyance Period; and

WHEREAS, the Permit Abeyance Period provided Village staff time to review various regulatory approaches that would protect the bluff areas and individual property rights; and

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

- To protect the environment and the integrity of the Lake Michigan coastal area that is a distinctive and valuable feature of the Lake Michigan shoreline;

- To recognize the potential for hazards that could affect health and safety to persons and property from significant 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 Comprehensive Plan relative to the constraints that should be considered in developments that impact coastal areas and environments; and

WHEREAS, this Ordinance amends the Zoning Ordinance to create certain construction regulations in the steep slope zone area in the bluffs ("***Steep Slope Regulations***"); and

WHEREAS, this Ordinance also amends the Zoning Ordinance to establish a new front lot line standard for lakefront properties that can be consistently and efficiently applied over time ("***Lakefront Lot Line Regulations***"); 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 for the Steep Slope Regulations and the Lakefront Lot Line 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 Steep Slope Regulations and the Lakefront Lot Line Regulations and related amendments to the Zoning Ordinance by publication in the *Winnetka Talk* on December 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 January 9, 2024 ("***Public Hearing***"), regarding the Steep Slope Regulations and the Lakefront Lot Line Regulations and took extensive public comment orally and through written submission; and

WHEREAS, after the Village Council received testimony from the public, the Village Council made several modifications to the proposed regulations to address concerns and the evidence provided during the Public Hearing; and

WHEREAS, the regulations established by this Ordinance provide protections for the lakefront and allow options for property owners to develop the portions of their property in the Slope Impact Area, and the regulations further provide flexibility by authorizing property owners to seek variations, waivers, and special use approvals from and pursuant to the new regulations; 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 the Steep Slope Regulations and the Lakefront Lot Line Regulations as set forth in this Ordinance;

NOW, THEREFORE, the Council of the Village of Winnetka ordains as follows:

- 2 -

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

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 17.82 OF THE ZONING ORDINANCE. Title 17, titled "Zoning," of the Village Zoning Ordinance is amended to add a new Chapter 17.82, titled "Steep Slope Regulations," as set forth in Exhibit A attached to, and by this reference, made a part of this Ordinance.

SECTION 3. AMENDMENT TO SECTION 17.04.030 OF THE ZONING ORDINANCE. Section 17.04.030, titled "Definitions," of Chapter 17.04, titled "Introductory Provisions and Definitions," of the Village Zoning Ordinance is amended to read as follows and to be inserted in their correct alphabetical order:

"Section 17.04.030 Definitions.

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7. Front Base Line. "Front base line" means a line passing through the two termini of the front lot line. On through lots abutting Lake Michigan, the front base line shall be a line passing through the two termini of the front lot line opposite the ~~water's edge~~ **ordinary high water mark**, and the lot depth shall be no greater than the distance from the front base line of the lot to the ~~water's edge~~ **ordinary high water mark** of Lake Michigan.

8. Front Lot Line. "Front lot line" means the front street line. If the front street line is less than fifty (50) feet long and if the lot is at least seventy-five (75) feet wide at its widest point, then the front lot line shall be the lot line from which the front setback is measured, as determined by the Zoning Administrator. The shortest street line of a corner lot shall be the "front lot line." On through lots, both street lines shall be deemed "front lot lines," except where no setback requirement is applicable. For lots abutting Lake Michigan, the ~~water's edge~~ **ordinary high water mark** of the lake shall be deemed a "front lot line."

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3. Zoning Lot. "Lot" or "zoning lot" means a lot of record, or a combination of contiguous lots of record under common ownership or control, used or to be used

by the owner or occupant for a single principal building, except to the extent that this title expressly permits such lot or lots to be used for more than one principal building or principal use. As used in this title, "lot" or "zoning lot" shall not include any part of a platted lot that lies beyond the ~~water's edge~~ **ordinary high water mark** of Lake Michigan or with the boundaries of any other river, lake or stream that is under the ownership and control of the state of Illinois.

- 4. Lot Area. "Lot area" means the area of any lot within its exterior lot lines, not including any area lying within a street. As used in this title, "lot area" shall not include any part of a platted lot that lies beyond the ~~water's edge~~ **ordinary high water mark** of Lake Michigan or within the boundaries of any other river, lake or stream that is under the ownership and control of the state of Illinois. For flag lots, the access corridor ("flagpole") shall not be included in calculating the lot area.

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O.

- 1. **Ordinary High Water Mark. "Ordinary high water mark" means the line on the shore of Lake Michigan consistent with the U.S. Army Corps of Engineers' administrative benchmark set at 581.5' per the International Great Lakes Datum (IGLD) of 1985 or such future administrative benchmarks set by the U.S. Army Corps of Engineers based upon updated IGLD.**

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- 2. Street Line. "Street line" means the outermost limits of a public or private street. The ~~water's edge~~ **ordinary high water mark** of Lake Michigan shall be deemed the outermost limits of that public street.

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- 4. Through Lot. "Through lot" means having two opposite lines along two more or less parallel streets, or along one street and **the ordinary high water mark of Lake Michigan** or some other body of water, and which is not a corner lot."

* * *

SECTION 4. AMENDMENT TO SECTION 17.30.050 OF THE ZONING ORDINANCE. Section 17.30.050, titled “Front and Corner Yard Setbacks,” of Chapter 17.30, titled “Lot, Space, Bulk and Yard Regulations for Single-Family Residential Districts,” of the Village Zoning Ordinance is amended by adding a new subsection (c)(7) to Section 17.30.050, which new subsection (c)(7) shall be as follows:

“Section 17.30.050 Front and Corner Yard Setbacks.

* * *

C. Exceptions and Limitations.

* * *

7. Front Yard Setbacks for Lakefront Properties. Development on lots abutting Lake Michigan between the ordinary high water mark of Lake Michigan and the tableland as defined by Section 17.82.020 will also comply with Chapter 17.82, Steep Slope Regulations and Chapter 15.78 Lakefront Construction. For lots abutting Lake Michigan, the required front yard setback is the toe of the bluff or 50 feet from the ordinary high water mark, whichever results in the line farthest from the ordinary high water mark.”

SECTION 5. AMENDMENT TO SECTION 17.60.020 OF THE ZONING ORDINANCE. Section 17.60.020, titled “Jurisdiction of the Zoning Board of Appeals; Decisions by Resolution,” of Chapter 17.60, titled “Variations,” of the Village Zoning Ordinance is amended by adding a new subsection (B)(4) to Section 17.60.020, which new subsection (B)(4) shall be as follows:

“Section 17.60.020 Jurisdiction of the Zoning Board of Appeals; Decision by Resolution.

* * *

B. Advisory Decision-making Authority. Except as provided in the following subsection C, the decisions of the Zoning Board of Appeals on all zoning variation applications shall be advisory to the Village Council. In addition, notwithstanding anything in Subsection C to the contrary, the Board’s decisions shall be advisory to the Village Council in all of the following instances:

* * *

4. Applications for any variations that are related to the steep slope regulations, as provided in Chapter 17.82 of this Code.”

SECTION 6. AMENDMENT TO SECTION 17.60.030 OF THE ZONING ORDINANCE. Section 17.60.030, titled “Jurisdiction of the Village Council; Variations by Ordinance,” of Chapter 17.60, titled “Variations,” of the Village Zoning Ordinance is amended by adding a new subsection (A)(4) to Section 17.60.030, which new subsection (A)(4) shall be as follows:

“Section 17.60.030 Jurisdiction of the Village Council; Variations by Ordinance.

* * *

- A. Final Decision-making Authority. The Village Council reserves for itself the authority to make the final decision to grant or deny any and all variations that have not been delegated to the Zoning Board of Appeals in Section 17.60.010 of this chapter, and any and all variations related to the following types of applications and uses, regardless of whether any of such variations have been delegated to the Zoning Board of Appeals in Section 17.60.010:

* * *

- 4. Applications for any variations that are related to the steep slope regulations, as provided in Chapter 17.82 of this Code.”**

SECTION 7: 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, the purpose and intent of this Ordinance to the greatest extent permitted by applicable law.

SECTION 8. REPEAL OF CHAPTER 17.80. Effective March 18, 2024, Chapter 17.80 of the Village Code is hereby repealed.

SECTION 9. 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.

[SIGNATURE PAGE FOLLOWS]

PASSED this 6th day of February, 2024, pursuant to the following roll call vote:

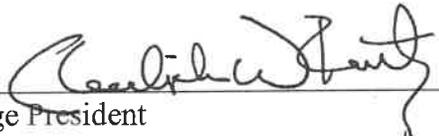
AYES: Trustees Albinson, Apatoff, Dearborn, Handler, and Orsic

NAYS: _____

ABSENT: Trustee Dalman

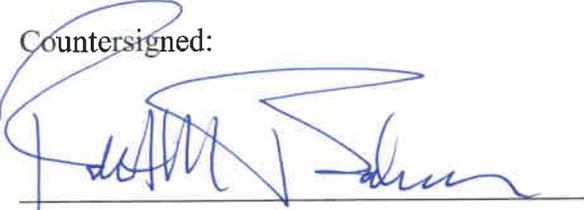
APPROVED this 6th day of February, 2024.

Signed:



Village President

Countersigned:



Village Clerk

Published by authority of the
President and Board of Trustees
of the Village of Winnetka,
Illinois, this 7 day of February,
2024.

Introduced: January 9, 2024

Passed and Approved: February 6, 2024

Exhibit A
(New Chapter 17.82 of Title 17)

“Chapter 17.82
STEEP SLOPE REGULATIONS

Section 17.82.010 Purpose.

A purpose of this Chapter is to regulate development along or near steep slope areas to protect slope stability in the Village. Lake Michigan, its coastline, beaches, bluffs, and other related lakefront features, provide unique resources to the Village and to its residents that must be preserved and protected. Lake Michigan, its coastline, beaches, bluffs, and other related lakefront features have special historical and community value to the Village and its residents and another purpose of this Chapter is to provide regulations appropriate for the preservation, protection, enhancement, rehabilitation, reconstruction, perpetuation, and use of these unique and special features that the Village finds are necessary and desirable for, among other reasons, sound community planning and for the public health, safety, and welfare. Bluffs are inherently fragile and subject to erosion. Development and construction activity in and around bluffs could be hazardous to people and property and could accelerate the erosion process. This Chapter is not intended to regulate the aesthetic qualities of the bluffs. Instead, this Chapter is intended to protect the bluffs and ensure that construction on the bluffs of Lake Michigan within 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. This Chapter provides reasonable development guidelines to provide for a controlled use of the steep slope area and related lands to protect the public health, safety and welfare of the Village. Further, the intent of this Chapter is to accomplish the following goals:

- A. Protect people and property against destruction or damage caused by bluff erosion resulting from significant development activities in or around the bluffs;
- B. Protect bluffs and adjacent land areas against destruction or damage caused by significant development activities;
- C. Encourage building and engineering techniques that increase slope stability;
- D. Reduce uncontrolled storm water runoff, soil erosion, and mud slides by minimizing grading, encouraging the preservation of the bluff’s habitat and in some cases where necessary, requiring revegetation;

- E. Preserving and enhancing the bluffs and their environment through the retention of dominant steep slopes; and
- F. Encouraging innovative site and architectural design, including restoration of graded areas to reduce the physical impact on steep slope areas.

Section 17.82.020 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 that normally has a precipitous front that is inclining steeply on the lakeward side.

“Cantilever” means any portion of a principal structure that extends laterally beyond the foundation it supports.

“Development” means any man-made change (other than maintenance of existing structures, paved areas, or utilities) to improved or unimproved real estate, including without limitation, the construction or installation of new or enlargement or demolition of existing structures, paved areas or utilities; dredging, filling, drilling, mining, grading, paving, or excavation operations; and open storage of equipment or materials.

“Dimensions” means the space, bulk, and yard measurements for a structure as defined by this Title.

“Director” means the Village’s Director of Engineering.

“Footprint” means the land area outline of a structure on the ground and any portions of the structure underground.

“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.

“Slope Impact Area” means for a lot that includes or is adjacent to a bluff, that portion of the lot lying between:

- (1) The toe of the bluff; and
- (2) The line representing the intersection of the table land (or if no such intersection, the table land extended) of such lot with a 22 degree slope

(2.5H;1V ratio) extending upward from the toe of the bluff. If a lot lacks table land, the Director will utilize the horizontal projection of the street line of the lot as the table land to identify the slope impact area. The slope impact area also includes the area of the lot where the slope of the lot is steeper than 5.7 degrees (10H;1V ratio).

“Slope Transition Area” means that portion of the slope impact area of a lot lying outside the steep slope zone.

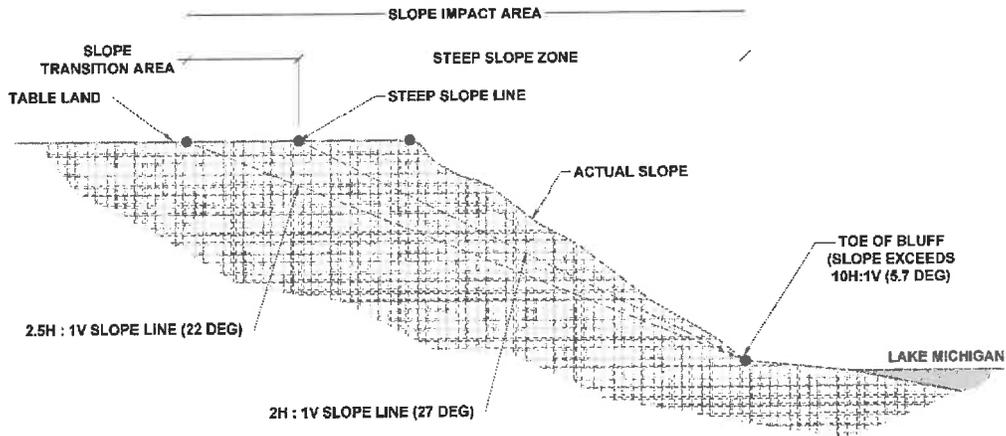
“Steep Slope Line” means a line representing the intersection of the table land (or if no such intersection, the table land extended) with a 27 degree slope (2H;1V) extended upward from the toe of a bluff. If a lot lacks table land, the Director will utilize the horizontal projection of the street line of the lot as the table land.

“Steep Slope Zone” means that portion of the slope impact area of a lot that lies between the steep slope line and the toe of the bluff.

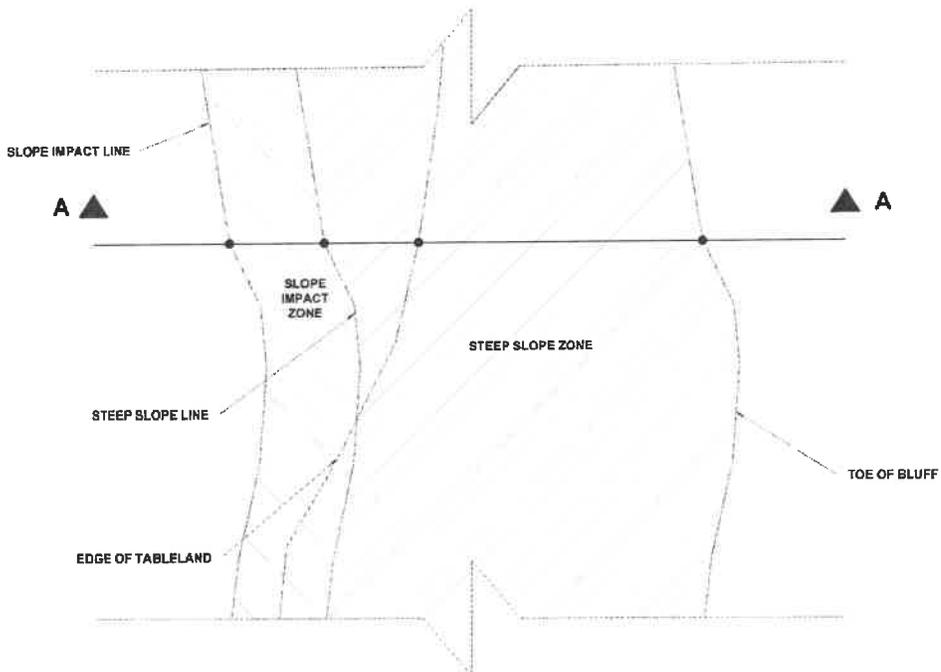
“Table Land” means land at the top of a bluff where the slope is less than a 5.7 degree slope (10H: 1V ratio).

“Toe of the Bluff” means the point in the bluff landward where the slope is less than a 5.7 degree slope (10H;1V) or where the slope reverses direction. On compound slopes where there may be more than one possible toe location, the controlling point will be whichever toe that provides the greatest slope impact area. In plan view, the toe of the bluff is depicted as a continuous line, and is referred to as the toe line.

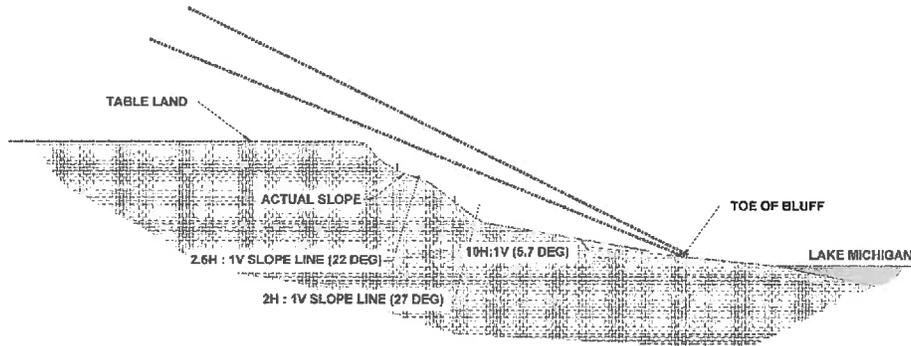
DETERMINING SLOPE IMPACT AREA FOR BLUFF WITH SIMPLE SLOPE CROSS SECTION A-A



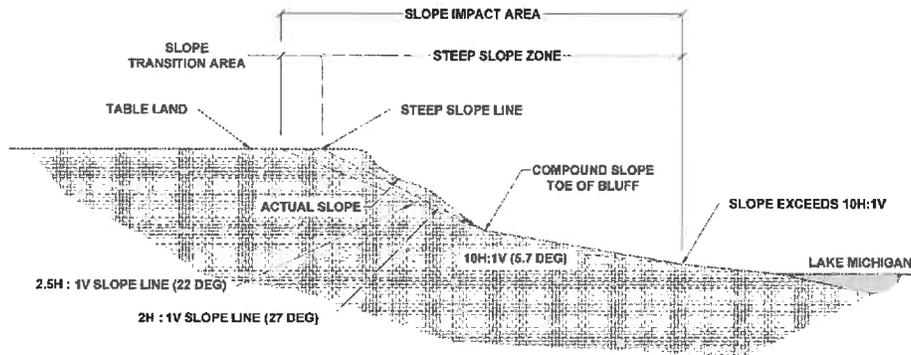
DETERMINING SLOPE IMPACT AREA FOR BLUFF WITH SIMPLE SLOPE PLAN VIEW



DETERMINING SLOPE IMPACT AREA FOR BLUFF WITH COMPOUND SLOPE



If the Steep Slope Line does not intersect the Table Land as illustrated above, the Steep Slope Line is moved up the slope to a point where it will intersect with the Table Land as illustrated below.



Section 17.82.030 Development in Slope Transition Area.

- A. **Any development that is authorized pursuant to the Village Code, this Title, or other ordinance or regulations of the Village, may occur in the slope transition area if approved by the Director, upon review of an application in accordance with this Chapter. Further, any structure or addition that meets all applicable zoning requirements may be built in the slope transition area upon obtaining the necessary permits as set forth in Section 17.82.060 and adhering to the development standards set forth in Section 17.82.050.**

- B. **Retaining walls and other structures that are necessary for slope stabilization are permitted in the slope transition area if approved by the Director and are built in accordance with the following standards:**
 - (1) **Retaining walls cannot be used to increase table land;**
 - (2) **Retaining walls cannot be used to create a shelf or other table area within the slope transition area, unless it is necessary for slope stabilization; and**

- (3) Backfilling of a retaining wall is not permitted, unless it is necessary for slope stabilization.

Section 17.82.040 Development in Steep Slope Zone.

- A. Any development that is authorized pursuant to the Village Code, this Title, or other ordinance or regulations of the Village, may occur in the steep slope zone if approved by the Director, upon review of an application in accordance with this Chapter; provided, however that only the following structures are permitted within the steep slope zone:
- B. Retaining walls and other structures that are necessary for slope stabilization if constructed in a manner approved by the Director and in accordance with the following standards:
- (1) Retaining walls cannot be used to increase table land;
- (2) Retaining walls cannot be used to create a shelf or other table area within the steep slope zone, unless it is necessary for slope stabilization; and
- (3) Backfilling of a retaining wall is not permitted, unless it is necessary for slope stabilization.
- C. Notwithstanding anything to the contrary in Chapter 17.64 of this Title, structures existing as of February 7, 2024, being the effective date of this Chapter and located within the steep slope zone may be rebuilt and maintained, provided that: (i) the rebuilt, repaired or remodeled structure does not extend beyond the footprint of the previously existing structure located within the steep slope zone; (ii) the rebuilt, repaired or remodeled structure may extend to the structure's previous dimensions, even if those dimensions do not comply with the other applicable regulations of this Title, including but not limited to minimum setback requirements; and (iii) the rebuilt, repaired or remodeled structure is constructed according to plans of an architect or structural engineer who certify that the new foundation or existing foundation (with appropriate engineering modifications and repairs, if any) will support the rebuilt, repaired or remodeled structure without any material adverse impact on the steep slope zone.
- D. Cantilevering any portion of a principal structure not exceeding four feet horizontal over a steep slope zone is permitted unless otherwise limited by code. Such cantilevering cannot block natural sunlight or alter natural stormwater drainage in a way that jeopardizes slope stability.

- E. Mechanical or electrical lifts, which do not obstruct the flow of light and water, and utility service lines, provided that it conforms to the provisions of this Chapter.
- F. Stairs can be no greater than five feet in width. Stair landings can be no larger than 50 square feet. Stair landings for the purpose of this Chapter are defined as an intermediate platform on a flight of stairs, greater than 10 square feet, constructed for the purpose of allowing a change in stair direction down the steep slope zone or to break up ten or more stair steps.
- G. Decks can be no larger than 50 square feet unless the applicant provides additional engineering as required by the Director, including stormwater management and vegetation, so that such deck will not jeopardize slope stability.
- H. Fences, provided that all fences must comply with all applicable Village Codes, ordinances, and regulations including, without limitation Section 15.44.060.
- I. Boat houses, provided that no boat house shall exceed 860 square feet of gross floor area. A boat house shall be no taller than 15 feet from the top of the finished floor to the highest point of the building, including any appurtenances; provided, however, guardrails around a boat house rooftop deck may extend an additional three feet from the highest point of the building. Only one boat house is permitted per zoning lot. A boat house may include space for auxiliary storage, a toilet, and a shower; provided, however, a boat house may not be used as a dwelling unit as defined by this Title. All boat houses, regardless of size, must use additional engineering as required by the Director, including stormwater management and vegetation, so that a boat house will not jeopardize slope stability, and the Director has determined that the structure of any boat house will not adversely impact the stability of the property or adjacent property. Notwithstanding the otherwise applicable minimum front yard setback requirement, boat houses may be located in the required front yard, but no closer than the toe of the bluff.

Section 17.82.050 Development Standards.

- A. Any application for development in the slope impact area will be reviewed by the Director, who will consider such application in light of the standards of this section relating to landscape planning, soil mechanics engineering, hydrology, geology, environmental design, structural and coastal engineering, and structural architecture. The Village recognizes each slope impact area may have different characteristics and features that affect its stability and preservation.

Therefore, the Director may determine that certain standards of this Section do not apply to every application. Whenever the Director waives or alters otherwise applicable requirements in this Section, the waiver or alteration will be memorialized in a written decision that provides the rationale for the waiver or alteration. Before the Director finalizes the waiver or alteration, the Director will confer with the Village Manager and the Director of Community Development. The Director will have the authority to determine if the application in its totality satisfies the purposes of this Chapter to a substantial degree without creating an economic hardship as provided in Section 17.82.090.

B. Development standards for the slope impact area are as follows:

(1) Safety control of steep slopes.

- a. The development will not jeopardize slope stability on the subject site or neighboring properties.
- b. Except as necessary for an approved development, no filling, grading, or earth moving is permitted in a slope impact area.
- c. A fence must be erected temporarily along the top edge of the steep slope zone, during any construction or demolition activity in the steep slope zone or adjacent to the steep slope zone.

(2) Construction techniques. All proposed structures must have foundations designed in a matter consistent with sound engineering and geological principals. Additionally, the following techniques must be used to enhance bluff stabilization:

- a. Planning the development to recognize and fit the natural topography, soils, geology, hydrology, and other existing conditions on the proposed sites;
- b. Orienting development so that filling, grading, and earth moving, landscaping and other site preparation is kept to an absolute minimum;
- c. Preserving and enhancing the landscape through minimized disruption of natural terrain and existing vegetation;
- d. Minimizing disruption or alteration of natural drainage ways;

- e. Minimizing the time during which areas are bare and exposed;
- f. Designing and properly locating structures so that the structure's weight does not negatively impact slope stability; and
- g. Considering the effect of undercutting at the base of a slope impact area caused by wave action, storm water flow, erosion, or channel changes.

(3) Hydrological controls.

- a. Natural channels. Natural drainage ways must be preserved to the maximum extent possible.
- b. Controlled runoff. Concentrated runoff from impervious surfaces will be collected and transported in a pipe or other approved manner to a municipal storm sewer system, if available or to the toe of the bluff as determined by the Director.
- c. Water discharge into steep slope. Whenever stormwater is transported across a property for discharge into a steep slope zone, the conveyance pipe material must be installed below ground by directional boring where possible.
- d. Trenching. No pipe can be installed within a steep slope zone by excavating a trench unless such trench is approved by the Director.
- e. Pipe materials. Flexible corrugated pipes may not be used within a slope impact area unless directional boring is found to be infeasible in the sole determination of the Director.
- f. Water Quality. The Director will determine the appropriate water quality requirements for all stormwater that is discharged to Lake Michigan.
- g. Interceptor ditches. When required by the Director pursuant to sound professional engineering principles, interceptor ditches will be established above steep slopes in order that soil will not become saturated and the intercepted water will be conveyed in a pipe or other

approved manner to a municipal storm sewer system, if available, or to the toe of the bluff as determined by the Director.

- h. Discharge point stabilization. Natural drainage ways will be stabilized by landscape integration and rip-rap or other means consistent with sound professional engineering practice, to a distance below drainage and culvert discharge points sufficient to convey the discharge without channel erosion and in such a manner as to dissipate the energy of the discharge as approved by the Director.
- i. Energy dissipater. All outflow from a stormwater conveyance pipe must discharge into an energy dissipater.
- j. Early completion. The overall drainage system must be completed and made operational at the earliest possible time during construction, the schedule of which will be approved by the Director.
- k. Impact on adjacent property. The natural or usual flow of surface or subsurface water must not be altered or obstructed in any way by grade changes that may adversely affect the property of another by contributing either to pooling or collection of waters or to the concentration or intensification of surface water discharge. However, development which might otherwise be prohibited hereinabove may be allowed if such waters are properly drained by a pipe or other approved manner to a municipal storm sewer system, if available, or to the toe of the bluff as determined by the Director. All grade changes must comply with the Village Code.

(4) Vegetation and revegetation.

- a. Native vegetation will be maintained to the greatest extent possible within the slope impact area.
- b. Smallest area. At all times, the smallest practical area of raw soil will be exposed for as short a duration of time as practical.
- c. Revegetation. A mixed planting of native perennial grasses and woody species with deep root systems will be

used to landscape steep slope areas disturbed by construction, demolition or earth moving. When sound engineering practices dictates and when required by the Director, temporary vegetation, or other acceptable cover shall be used to protect areas of raw soils exposed during development and to prevent erosion.

d. Erosion control mat. Temporary erosion control matting properly staked and trenched must be provided over raw soil areas until new vegetation is established.

(5) Filling, grading, and earth moving.

a. Minimum alterations. Filling, grading, and earth moving will be limited to the minimum required for building foundations, driveways, drainage control structures, and immediate yard areas. With the exception of restoration efforts, substantial filling, grading, and earth moving is prohibited.

b. Erosion control. All filling, grading, and earth moving will be accomplished in a manner that will create the lowest possible potential for airborne or waterborne transportation of soil.

c. Soil fill in steep slope zone. All fill in steep slope zone is prohibited, other than back-fill which will be determined by the Director to be necessary for slope stabilization or re-establishment of the steep slope zone as part of general maintenance.

d. Soil fill on table land. In conformance with generally accepted engineering standards, all fill on table land will be stabilized to at least 90% of maximum dry density as determined in ASTM procedure D-1557 or equivalent.

e. Prompt completion. All filling, grading, and earth moving will be accomplished in the shortest practical period of time, the schedule of which will be approved by the Director. All excavated material must be removed from the slope impact area and no temporary or permanent material storage will be permitted within the slope impact area. No existing natural vegetation will be destroyed, removed or disturbed prior to the commencement of development activities.

Section 17.82.060 Required Plans and Permits.

A. Required plans. Any development or other activity in the slope impact area requiring a permit pursuant to the Village Code and applicable regulations must be accompanied by the following plans and reports. Said plans and reports must be submitted to and approved by the Director prior to issuance of any permit or commencement of the proposed development.

- (1) All permit applications must identify the slope impact area, the slope transition area, the steep slope zone, the toe of the bluff, and the ordinary high water mark in the drawings.**
- (2) All permit applications must contain a written description of the proposed means and methods of accomplishing such work (including without limitation the sequencing and timing of work, the equipment to be used, interim protective measures, and activities to monitor potential adverse impacts on the slope impact area), which means and methods will be designed to minimize slope damage. Upon approval of the permit by the Director, such approved written description will be the enforceable means and method of the authorized development activities.**
- (3) Professional engineering. All structures within the slope impact area must be designed by a licensed structural engineer or geotechnical engineer, or both, and must bear the engineers license seal on submitted drawings and specifications satisfying good engineering practices and the standards of this Chapter, unless the Director otherwise waives this requirement in writing.**
- (4) Subsoil investigation. Every application for a development permit in the slope impact area must be accompanied by a report, prepared by a licensed professional civil engineer or structural engineer, or both, trained and experienced in the practice of geotechnical engineering, which report must include the following:**
 - a. Soil types and subsurface materials. A description (the result of a thorough subsurface investigation using techniques such as borings, test pits, site tests, laboratory tests, or other procedures performed to a depth sufficient to determine foundation conditions for the proposed construction) of the soil and subsurface materials found on the subject site (with particular emphasis on the area to be impacted by the proposed development) to a depth extending below any proposed excavation as well as the engineering properties of the subsurface soil materials.**

- b. Observations. A description of existing observable slide areas, scarps, tension cracks, eroded areas, leaning trees, etc.
 - c. History. A historical review of bluff stability considering owner photographs, previous reports and topographic surveys; air photos, U.S. Army Corps of Engineers' studies, Village of Winnetka information, etc.
 - d. Drainage. A description of surface patterns of water flow and seeps as well as indication of the presence or absence of permeable zones in underlying soils.
 - e. Stability. A geotechnical stability analysis of the slope and structure with factors of safety calculated for the existing and proposed conditions by a method that satisfies both force and moment equilibrium for long-term and short-term soil strength parameters.
 - f. External influences. A description of any existing or anticipated problems from undercutting at the base of a slope impact area caused by wave action, erosion, or channel changes.
 - g. Absence of special hazards. An opinion that the soil types, soil stability, subsurface hydrology, and external influences affecting the site will not cause any significant hazards for the proposed use; or if they may cause such hazards, an opinion that such hazards can be overcome, together with a reasonably detailed description of how it is proposed to overcome them.
- (5) Grading plan. In addition to any other permit requirements, each application for a permit involving development under this Chapter must be accompanied by a grading plan, which plan will include the following:
- a. A topographic survey, showing property contours at one foot intervals for table land and five foot intervals for steep slopes, including special notes and details of the existing terrain;
 - b. Proposed filling, grading, and earth moving details, including the dimensions, elevations, and contours of any proposed filling, grading, and earth moving;
 - c. A schedule of when each stage of the project will be completed, including the estimated starting and completion dates; and

- d. A provision requiring the placement of a temporary fence on the table land at the top edge of steep slope zone until construction is completed.
- (6) Hydrological control plan. Applications for any development permits will include a plan for intercepting and containing drainage at the site and from the structure.
- (7) Vegetation plan. A vegetation plan, subject to the tree removal provisions of the Village Code, will be submitted with each application for a development permit, which plan will include the following:
 - a. A description of proposed revegetation of disturbed areas, specifying the materials to be used;
 - b. An inventory describing the existing vegetation and tree cover of the site showing those areas where the vegetation will be removed as part of the proposed development;
 - c. A maintenance and monitoring plan for native vegetation and soil erosion and sediment controls in the steep slope zone;
 - d. A written description detailing methods of slope stabilization and revegetation, together with the rationale for selecting the plant materials and planting techniques proposed to be used; and
 - e. A timetable and sequencing program for implementing the vegetative plan.
- (8) Additional submittals; waivers. The Director may require additional plans as needed for review. The Director may release an applicant from any element of the aforementioned plan submittals to the extent that the Director determines that such element(s) will not materially assist in the evaluation of the proposed action's impact on slope stability. Whenever the Director waives or alters otherwise applicable requirements in this Section, the waiver or alteration will be memorialized in a written decision that provides the rationale for the waiver or alteration. Before the Director finalizes the waiver or alteration, the Director will confer with the Village Manager and the Director of Community Development.
- B. Permit issuance; terms. Each permit application for development must comply with the Title 15 of the Village Code, this Title, and other applicable codes, ordinances, or regulations, including this Chapter. The seal of an Illinois licensed structural or geotechnical engineer, or

both, will appear on all plans and specifications included as part of a permit application. Upon the Director determining that an application satisfies the requirements of this Chapter, the Director will cause a permit to be issued for development within the slope impact area. The following provisions will be incorporated into and made a part of any such permit:

- (1) Limited obligation. Compliance with the procedures of this Chapter and the issuance of any related permits will not be construed to impose any legal or other obligation upon the Village of Winnetka or its elected or appointed officials, employees, agents, attorneys, or representatives. Any permit issued pursuant to this Chapter is for the benefit of the public and not for the benefit of any individual.
 - (2) Civil claims. Compliance with the procedures of this Chapter and the issuance of related permits will not relieve the permittee and the property owner from civil liability claims.
 - (3) Endorsement. Compliance with the procedures of this Chapter and the issuance of related permits do not imply approval of the need for, or the benefit or efficacy of, the proposed development; nor does it constitute any assertion that the proposed development will not result in damage to the property in question or to adjoining property.
 - (4) Closing report. A licensed professional structural engineer or geotechnical engineer, or both, must inspect all work in the steep slope zone while in progress and, upon completion of the work, deliver to the Director a written report bearing the engineer's license seal, stating that all development is in accordance with the approved plan and specifications for the project. Such a report must be delivered prior to the Village's final inspection, acceptance, and closing of the project.
 - (5) Special terms. In connection with the issuance of a permit pursuant to this Chapter, the Director may impose special conditions as deemed necessary to ensure the effectiveness of plans for development on a property, and to protect the long-term stability of a bluff, or otherwise to notify future owners of the bluff conditions of such property.
- C. Other Regulatory Agency Plans. The Director has the discretion to determine whether review by any other agencies will be required as part of the Director's review.

Section 17.82.070 Steep Slope Stabilization.

A. General standards.

- (1) In order to provide for long-term slope stability and to prevent failure of slope stability that may adversely impact neighboring properties, all property owners whose property includes or is adjacent to a slope impact area are required to comply with the provisions of this Chapter. To the extent of any conflict between the requirements or regulations of this Chapter and any otherwise applicable requirements or regulations set forth elsewhere in the Village Code, the requirements and regulations of this Chapter will control to the extent of the conflict.
- (2) Any development within the slope impact area must comply with all requirements in accordance with this Chapter.
- (3) Private storm drainage lines conveying storm water runoff either to a public storm sewer or the toe of the bluff must be maintained by the owner thereof. Private drainage lines which leak water onto the surface of a steep slope must be repaired within 30 days of notification by the Village.
- (4) Intentionally depositing garbage, construction debris, or landscaping materials in a slope impact area is prohibited.
- (5) Swimming pool discharge cannot be directed toward or directly discharge into a slope impact area.

B. Maintenance and upkeep.

- (1) Authorized structures in the slope impact area may be repaired, maintained and altered, but only in compliance with the Village Code and this Title.
- (2) Landscape maintenance or routine arboreal activities are permitted in the slope impact area.

C. Restoration. All governmental entities, private property owners, and all other private entities that have authorized access to bluff steep slopes and engage in the maintenance, repair, or construction of utilities or other structures within a slope impact area, or engage in any modifications to a steep slope, will adhere to the applicable provisions of the Village Code and utilize best management practices.

D. Emergency activities. Nothing in this Chapter will prevent the Village from permitting development activities on an emergency basis when deemed necessary by the Director to remediate an unstable or insecure slope that presents an immediate threat to health, safety, and welfare.

or stability of an authorized structure. Emergency development activity (including installation or construction of structures) will only be permitted provided: (i) the remedial action involves the least possible disruption of the natural features of the site as possible and is in conformance with this Chapter; and (ii) the remedial action is the most reasonable action to address the emergency situation under the circumstances.

Section 17.82.080 Tree Removal in Slope Impact Area.

- A. All trees removed in the slope impact area must comply with Chapter 15.28 of the Village Code, unless the Village Arborist determines otherwise.
- B. The Village Arborist will review each tree permit in the slope impact area to determine whether the proposed tree removal will jeopardize slope stability and ensure removal is consistent with good forestry practices.

Section 17.82.090 Appeals of Director's Decisions.

- A. Any determination of the Director under this Chapter may be appealed by the applicant to the Village Manager by filing a request for review in writing within 35 days after the Director issues his or her determination. Any decision of the Village Manager will be in writing and may be further appealed by the applicant to the Village Council by filing a request for review in writing within 35 days after the issuance of the Village Manager's decision. The decision of the Village Council will be final.
- B. In reviewing the determination of the Director, the Village Manager or the Village Council (as the case may be) will consider only whether the determination of the Director in applying the regulations of this Chapter imposes an unreasonable and undue economic hardship that materially limits the property owner from making reasonable use of such owner's property or otherwise imposes requirements which are unreasonably burdensome to the property owner given the benefits thereof to the Village. After receiving written submittals from the property owner and the Director (and after a hearing if the Village Manager or Village Council determines that such a hearing will be instructive), a decision on such appeal must be issued in writing no more than 60 days after the delivery of the final submittal by the applicant or Director or after the close of the hearing, whichever is later.
- C. In considering an appeal under this section, the Village Manager or Village Council may reverse, affirm, or modify the determination of the

Director, or remand the determination back to the Director for further consideration, with or without instructions.

- D. The Village Manager or Village Council may issue further procedural rules governing appeals under this section.

Section 17.82.100 Variations.

An applicant may seek variations from Section 17.82.030 and Section 17.82.040 of this Chapter in accordance with Chapter 17.60. Nothing in this Chapter is intended to limit the ability of an applicant from seeking a variation from the otherwise applicable zoning regulations affecting the owner's property. To the extent that the regulations of this Chapter materially restrict the ability of a property to be developed or materially increase the cost of such development, the Zoning Board of Appeals may, as part of its recommendation, conclude that the effects of this Chapter can, in appropriate circumstances, constitute a practical difficulty or unreasonable hardship.

Section 17.82.110 Exceptions.

If a development that requires a special use permit includes construction activity that does not comply with the requirements of this Chapter, the Village Council may grant exceptions to the regulations set forth in this Chapter as part of granting the special use permit.

Section 17.82.120 Enforcement and Penalties.

- A. For any property affected by the provisions of this Chapter, the property owner, any developer, and their agents, employees, contractors, subcontractors, licensees, and invitees are each jointly and severally responsible for compliance with the terms of this Chapter.
- B. In the event any violation of any provision of this Chapter occurs, the property owner will be responsible for the violation, its correction, and for otherwise bringing the property into compliance with the terms of this Chapter. Such compliance may require restoration of the site as closely as possible to its original undisturbed condition, topography, and vegetation in order to eliminate the violation.
- C. Whoever violates any provision of this Chapter, or who interferes with the enforcement of the same, will be fined in an amount of not less than \$100 nor more than \$750 per each violation of any Section of this Chapter. Every day that a violation continues will be deemed a separate punishable violation.

- D. The Village will have the right to issue a stop work order for any work that is performed in the slope impact area either (i) without all permits that are required under this Chapter or (ii) in violation of the permits so issued.

Section 17.82.130 Corrective Measures.

In addition to the monetary penalties provided for herein, the Village may apply to a court of competent jurisdiction for an order against the parties responsible to re-establish or restore the grade, slope, stability, vegetation, or drainage systems of a slope impact area in order to eliminate or prevent an adverse impact upon any adjacent or subservient property, and for such other and further relief as may be appropriate in the circumstances.

Section 17.82.140 Administration; Fees; Conflicting Regulations.

- A. Except as otherwise provided, the Director is hereby authorized and directed to prepare any necessary or desirable forms and procedures in order to implement the provisions of this Chapter.
- B. As part of any application, and as a condition of any permit, an applicant will be required to pay all fees and charges due under this Chapter. The Village Council may from time-to-time establish and publish application, permit, and inspection fees in furtherance of the administration of this Chapter. To the extent that the Village incurs third-party expenses in connection with the administration of this Chapter with respect to a particular application, such third-party expenses will be additional fees chargeable to such application.
- C. To the extent that there are conflicting regulations in Title 15 of the Village Code or elsewhere in the Village Code, the provisions of this Chapter will control.

Section 17.82.150 Effective Date.

Nothing in this Chapter will be applied to prevent the completion, in accordance with previously issued permits or approvals, of any development that has received all required permits and approvals prior to February 7, 2024 (the effective date of this Chapter), provided that such development is completed in compliance with all such permits, approvals, and other requirements of law.”