

ORDINANCE NO. 1163

**AN ORDINANCE AMENDING THE KENILWORTH VILLAGE CODE
TO REGULATE STEEP SLOPE AREAS**

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VILLAGE OF KENILWORTH, ILLINOIS

Deputy Village Clerk

VILLAGE OF KENILWORTH

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TO REGULATE STEEP SLOPE AREAS**

WHEREAS, the Village of Kenilworth enjoys bluff and other steep slope areas that contribute to the character of the Village and play a role in the overall drainage system serving the Village and its residents; and

WHEREAS, bluffs and other steep slope areas are critical parts of the overall ecology of the Village and are susceptible to degradation and movement that could threaten nearby properties and their improvements, as well as the functionality of the bluffs and ravines for drainage purposes; and

WHEREAS, in order to protect bluff and other steep slope areas in the Village, the Village has required sound professional measures to be applied in connection with developments affecting or likely to affect bluffs and other steep slope areas; and

WHEREAS, in order to protect the bluffs and other steep slope areas within the Village, the Building, Planning and Zoning Committee has recommended that formal measures be applied by ordinance; and

WHEREAS, the Building, Planning and Zoning Committee has deliberated on a regulatory approach to protect both the bluff and other steep slope areas and individual property rights; and

WHEREAS, pursuant to public notice published in the *Wilmette Beacon* on August 6, 2015, the Building, Planning and Zoning Committee held a public hearing on August 24, 2015, which continued on September 14, 2015, October 13, 2015 and November 5, 2015, regarding a set of building and construction regulations for development occurring in bluff and other steep slope areas; and

WHEREAS, the President and Board of Trustees of the Village, having considered the recommendations of the Building, Planning and Zoning Committee and otherwise being fully advised on the matter, have determined that it is in the best interests of the Village and its residents to amend the Village Code as hereinafter set forth;

NOW THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF KENILWORTH, COUNTY OF COOK, STATE OF ILLINOIS, as follows:

SECTION 1: Recitals. The foregoing recitals are hereby incorporated into and made a part of this Ordinance by this reference.

SECTION 2: Amendment of Chapter 150. Chapter 150, entitled "Building Regulations," of the Kenilworth Village Code is hereby amended by adding a new Section 150.008, which new Section 150.008 shall hereafter be and read as follows:

§ 150.008 STEEP SLOPE AREAS OR ZONES

No permit shall be issued pursuant to this chapter for any development proposed on property within the area defined as a “steep slope zone” in chapter 154 of this code unless the proposed development also complies with the requirements of chapter 154.

SECTION 3: Adoption of New Chapter 154. A new Chapter 154, entitled “Steep Slope Regulations,” is hereby adopted, and shall hereafter be and read as follows:

CHAPTER 154: STEEP SLOPE REGULATIONS

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* Page numbers are for convenience of the user of the ordinance and not for codification.

§ 154.001 FINDINGS.

The topography of the Village of Kenilworth includes bluffs and other steep slope areas. These are valuable land resources that should be protected. Bluffs and other steep slope areas play a central role in the management of storm water throughout the Village; they are also ecologically fragile and inherently unstable. Their proper care and maintenance are important to avoid degradation that could adversely affect the entire community.

Steep slope areas may contain sediment, rock, and soils (A) that are natural features subject to erosion, surface and subsurface movement of water, and other destabilizing forces, and (B) whose stability is affected by the quality and root structure of natural ground cover. Regulating proposed development according to the natural characteristics of steep slope terrain, such as degree of sloping, significant vegetation, soil stability, and existing drainage patterns will allow for development on top of steep slope areas, including bluffs, while minimizing the physical impact of such development. The public interest will be served by protecting people and property from the potentially hazardous geological and hydrological conditions characteristic of ravine and other steep slope areas.

§ 154.002 STATEMENT OF PURPOSE; APPLICABILITY.

(A) Purpose. The purpose of this chapter is to regulate development along or near steep slope areas to protect slope stability and overall drainage and water management in the Village. The purpose of this chapter is not to regulate for aesthetic or habitat preservation purposes; rather, the purpose is to prevent erosion of ravines and bluffs by regulating and managing Steep Slopes for purposes of protecting the public health, safety, and welfare. This chapter protects people and property from the potentially hazardous geological and hydrological conditions characteristic of ravine and bluff areas and further recognizes that maintenance of stable ecological relationships minimizes environmental degradation of the land and Lake

Michigan. Due to improper and unnecessary development within these sensitive areas, conditions are created that jeopardize life, property, and the natural ecosystem. It is the intent of this chapter to establish appropriate controls. All land use and development on, within, and adjacent to the Steep Slope is controlled by this chapter.

While this chapter provides for the reasonable use of steep slope zones and related lands, it does so while protecting the public health, safety, and welfare by:

- (1) Discouraging development that threatens the stability of steeply sloped terrain.
- (2) Encouraging appropriate engineering technology to result in stable slopes during and subsequent to development;
- (3) Encouraging building techniques that increase slope stability;
- (4) Reducing uncontrolled storm water runoff, soil erosion, and mud slides by minimizing grading, encouraging the preservation of trees and other vegetation, and, where necessary, requiring revegetation;
- (5) Permitting development that is compatible with the natural characteristics of steep slope terrain, such as degree of sloping, soil suitability, and existing natural and man-made drainage patterns;
- (6) Preserving the ravine and bluff environment through the retention of dominant steep slopes and ridges in their natural state; and
- (7) Reducing the physical impact on steep slopes and related areas by encouraging innovative site and architectural design, minimizing grading, and requiring restoration of graded areas.

(B) Applicability. This chapter only applies to properties that include or are adjacent to a bluff along Lake Michigan or that portion of the Skokie Ditch located east of Sheridan Road and north of Kenilworth Avenue.

§ 154.003 DEFINITIONS.

When used in this chapter, the following terms shall have the meanings herein ascribed to them, unless the context clearly requires otherwise. In the case of any difference of meaning between the text of this chapter and any caption or illustration, the text shall control:

Accessory Building: A detached, one-story, covered structure designed to provide enclosed storage or a screened or unscreened sitting area in the steep slope zone.

Bluff: An elevated segment of the Lake Michigan shoreline above the beach which normally has a precipitous front inclining steeply on the lakeward side.

Cantilever: Any portion of a principal structure that extends laterally beyond the foundation that supports it.

Code official: The code official shall be the Building Commissioner.

Development: Any man-made change (other than minor common 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.

Ravine: A deep gully or gorge worn by the flow of water to Lake Michigan. In this chapter, all references to ravine shall refer that portion of the Skokie Ditch located east of Sheridan Road and north of Kenilworth Avenue.

Steep Slope Line: A line representing the intersection of the Tableland and the Steep Slope. This line is commonly indicated on plats of survey or other documents as the “top of bluff”.

Steep Slope Zone: In the case of a ravine, that portion of a lot that includes the Steep Slope of the ravine and lies between the bottom of the ravine and a line drawn ten feet behind the Steep Slope Line at the top edge of the ravine and away from the bottom of the ravine. For the purposes of this chapter, the ravine means the Skokie Ditch east of Sheridan Road. The Steep Slope Zone shall include all retaining walls located between the bottom of the ravine and the Steep Slope line.

In the case of a bluff, that portion of a lot that includes the Steep Slope and lies between the water’s edge of Lake Michigan and a line drawn thirty-five (35) feet behind the Steep Slope Line at the top edge of the bluff and away from the bottom of the bluff. The Steep Slope Zone shall include all retaining walls located between Lake Michigan and the Steep Slope line.

Steep Slope: Land comprising or adjacent to a lake bluff or ravine where the slope in ascent or descent exceeds ten (10) percent from the horizontal.

Tableland: Land at the top of a bluff or ravine where the cross slope in any direction does not exceed ten (10) percent.

Figure 154 – 1. Illustration of defined terms for Ravine

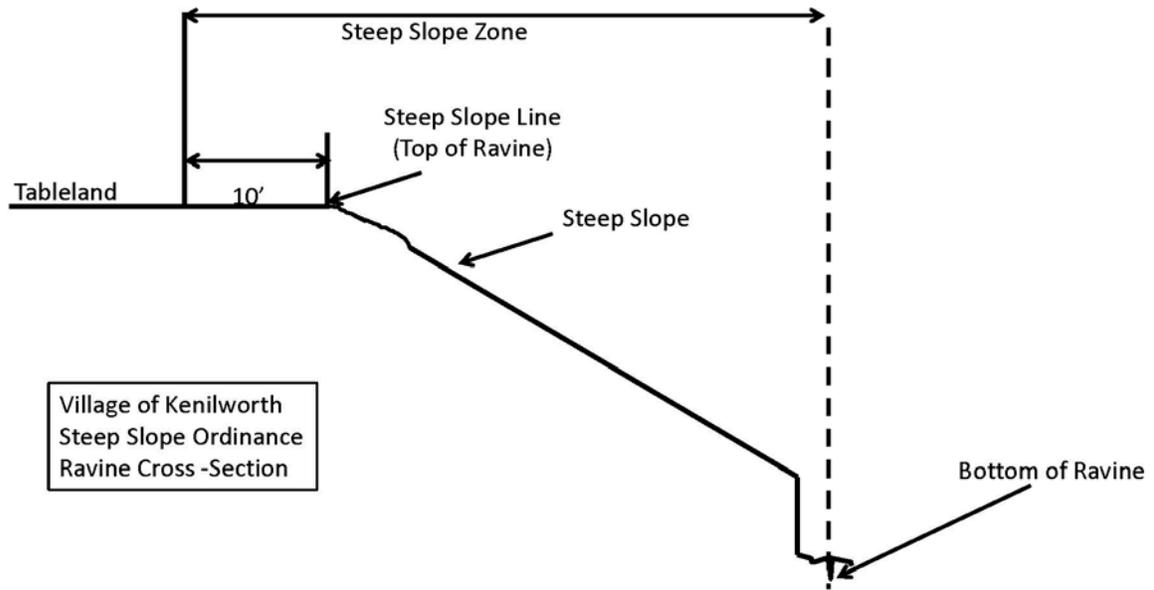
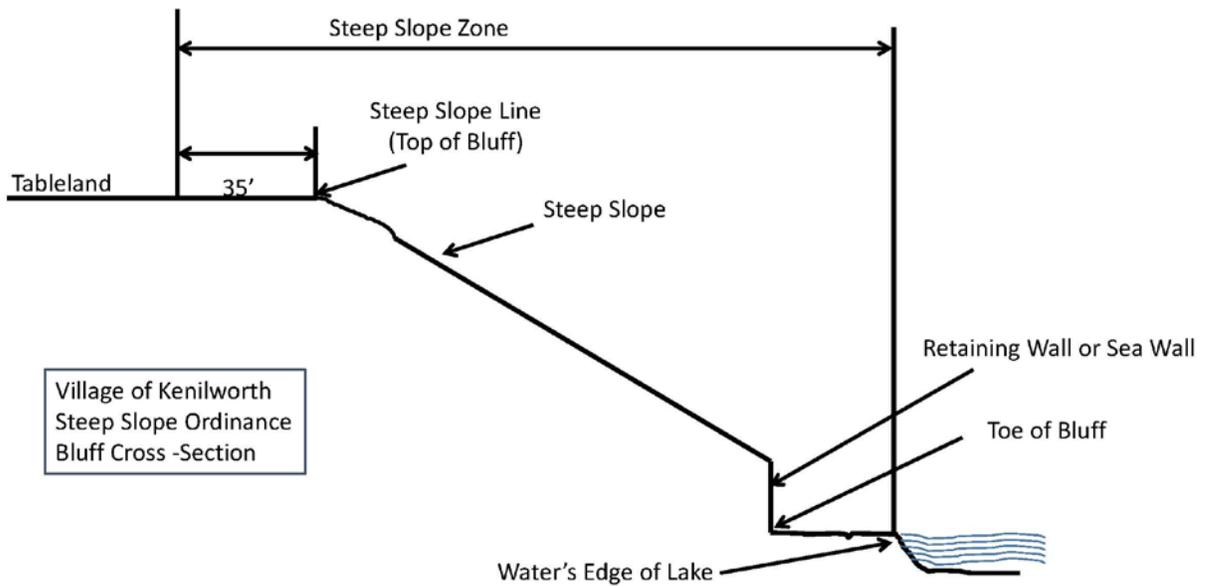


Figure 154 – 2 Illustration of defined terms for Bluff



§ 154.004 DEVELOPMENT IN THE STEEP SLOPE ZONE.

Any development that is otherwise authorized under the codes, ordinances, and regulations of the village may occur in the Steep Slope Zone, but only upon the code official's review and approval of an application therefor pursuant to this chapter; provided, however, that only the following structures may be constructed:

(A) In Steep Slope Zones that are bluffs and ravines:

(1) Retaining walls and other structures that are necessary or beneficial for safe continued use of property and slope stabilization may be constructed in the Steep Slope Zone in the manner approved by the code official and in accordance with the following additional standards:

- (a) Retaining walls shall not be used to increase table land.
- (b) Retaining walls shall not be used to create a shelf or other table area within the Steep Slope Zone.
- (c) Backfilling of a retaining wall is allowed only as necessary for slope stabilization.

(2) Structures on the exact foundation of a previously existing structure may be rebuilt, provided that the rebuilt or remodeled structure (i) does not extend beyond the previous foundation within the Steep Slope Zone, (ii) does not extend above the previous height of the structure within the Steep Slope Zone, and (iii) is undertaken pursuant to sealed plans of an architect or structural engineer certifying that the existing foundation (with appropriate engineering modifications, if any) will support the rebuilt or remodeled structure without material adverse impact on the Steep Slope Zone.

(3) Cantilevering of structures over the Steep Slope Line shall not be permitted.

(B) In Steep Slope Zones that are bluffs:

(1) Mechanical or electrical lifts, bridges, decks, walkways, steps, and/or fences which do not obstruct unnecessarily the flow of light and water, and utility service lines, provided that:

- (a) Such structures conform to the provisions of this chapter; and
- (b) Stairs constructed in the Steep Slope Zone shall be no greater than five feet in width. Stair landings constructed in the Steep Slope Zone shall 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 and/or to break up 10 or more stair steps.

(2) Decks can be no larger than 100 square feet unless applicant provides exceptional engineering, including stormwater management and vegetation, so that such deck will not jeopardize slope stability.

(3) Fences, provided that all fences must comply with all applicable Village codes, ordinances, and regulations, including without limitation Chapter 153 of this code.

(4) One accessory building no larger than 150 square feet in area and no more than 11 feet in height; provided, further, that the code official has determined that (a) the accessory building as proposed will not adversely impact the stability of the property or adjacent property and (b) the top of roof is not visible from adjacent tableland.

§ 154.005 DEVELOPMENT STANDARDS.

(A) **Review of application.** Any application for development in the Steep Slope Zone shall be reviewed by the code official, who will consider such application in light of the standards of this Section relating to landscape planning, soil mechanics engineering, hydrology, geology, environmental design, and architecture. It is recognized, however, that each Steep Slope Zone has unique characteristics and encounters different dynamics affecting its stability and preservation. As a result, the Code official may determine for any application that certain of the following standards may not apply in whole or in part to such application so long as the Code official determines that the application for development in its totality satisfies the purposes of this chapter.

(B) **Standards.** The standards applicable to development in a Steep Slope Zone are as follows:

(1) *Filling, Grading, and Earth Moving.*

(a) **Minimum Alterations.** Filling, grading, and earth moving shall be limited to the minimum required for removal and replacement of foundations, driveways, drainage control structures, and immediate yard areas. Substantial filling, grading, and earth moving shall not be permitted and is prohibited.

(b) **Erosion Control.** All filling, grading, and earth moving shall be accomplished in a manner that will create the lowest possible potential for airborne or waterborne transportation of soil. Temporary erosion control matting shall be properly staked and trenched nightly where large areas of soil are exposed.

(c) **Soil Fill in Steep Slope Zone.** All fill in Steep Slope Zone is prohibited, other than back-fill which is determined by the code official to be necessary for slope stabilization.

(d) **Soil Fill on Table land.** In conformance with generally accepted engineering standards, all fill on table land shall be stabilized to at least ninety (90) percent of maximum dry density as determined in ASTM procedure D-1557 or equivalent.

(e) **Prompt Completion.** Any earth moving shall be accomplished in the shortest practical period of time, the schedule of which shall be approved by the code official. All excavated material shall be removed from the Steep Slope Zone and no temporary or permanent material storage shall be permitted within the Steep Slope Zone. No existing

natural vegetation shall be destroyed, removed or disturbed prior to the initiation of development activities.

(2) Safety Control of Steep Slopes.

(a) The development will not jeopardize slope stability on the subject site or neighboring properties.

(b) Except as can be shown to be essential or beneficial for an approved development, no filling, grading, and earth moving shall occur in a Steep Slope Zone.

(c) Whenever there is construction upon any property that includes or is adjacent to a Steep Slope Zone, a fence will be erected temporarily along the top edge of the Steep Slope Zone, during any construction and/or demolition activity upon such property.

(3) Construction Techniques. All proposed structures shall have foundations designed in a manner consistent with sound engineering and geological principles. In addition, the following techniques shall be employed to enhance stabilization of the ravine or bluff:

(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 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 structure's weight does not negatively impact slope stability; and

(g) Considering the effect of undercutting at the base of a Steep Slope Zone caused by wave action, storm water flow, erosion, and/or channel changes.

(h) Providing for management of silt runoff during the construction period.

(4) Vegetation and Revegetation.

(a) Natural Vegetation. Unless being revegetated as part of the development, every effort shall be made to maintain natural vegetation in the Steep Slope Zone.

(b) Smallest Area. At all times, the smallest practical area of raw soil shall be exposed for as short a duration of time as practical. When required by the code official pursuant to sound professional engineering principles, temporary vegetation or other acceptable

cover shall be used to protect areas of raw soil exposed during development and to prevent airborne or waterborne transportation of soil.

(c) **Revegetation.** A mixed planting of perennial and woody species is recommended for use in the Steep Slope Zone disturbed by development.

(d) **Erosion Control Mat.** Temporary erosion control matting properly staked and trenched shall be provided over raw soil areas until new vegetation is established.

(5) Hydrological Controls.

(a) **Natural Channels.** Natural drainage ways shall be preserved to the maximum extent possible.

(b) **Controlled Runoff.** Concentrated runoff from impervious surfaces shall be collected and transported in a pipe or other approved manner to a municipal storm sewer system, if available. In no instance shall runoff be transported to, directed toward, or be allowed to collect in any pipe or conveyance that is part of the combined storm/sanitary sewer system of the village.

(c) **Water Discharge into Steep Slope.** Whenever stormwater is transported across a property for discharge into a Steep Slope Zone, the conveyance pipes shall be of non-segmented (continuous sections of minimum 100 ft.) pipe material, which shall be installed below ground by directional boring where possible.

(d) **Trenching.** No pipe shall be installed within a Steep Slope Zone by excavating a trench unless such trench is approved by the code official.

(e) **Pipe Materials.** Flexible corrugated pipes shall not be used within a Steep Slope Zone unless directional boring is found to be infeasible in the sole determination of the Code official.

(f) **Interceptor Ditches.** When required by the code official pursuant to sound professional engineering principles, interceptor ditches shall be established above steep slopes in order that soil shall not become saturated and the intercepted water shall be conveyed in a pipe or other approved manner to a municipal storm sewer system, if available, or to the bottom of ravine or bluff slopes in a manner designed to prevent erosion. In no instance shall runoff be transported to, directed toward, or be allowed to collect in any pipe or conveyance that is part of the combined storm/sanitary sewer system of the village.

(g) **Discharge Point Stabilization.** Natural drainage ways shall 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 code official.

(h) **Energy Dissipater.** All outflow from a stormwater conveyance pipe must discharge into an energy dissipater designed to slow fast moving stormwater and prevent soil erosion.

(i) Early Completion. The overall drainage system shall be completed and made operational at the earliest possible time during construction, the schedule of which shall be approved by the code official.

(j) Impact on Adjacent Property. The natural or usual flow of surface or subsurface water shall 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.

§ 154.006 REQUIRED PLANS AND PERMITS.

(A) **Required Plans.** Any development or other activity in the Steep Slope Zone requiring a permit pursuant to this code and applicable regulations shall be accompanied by the following plans and reports which must be submitted to and approved by the code official prior to issuance of any permit or commencement of the proposed development.

(1) **Means and Methods of Construction.** Because work to be performed in the Steep Slope Zone may have adverse impacts on steep slopes, all permit applications shall 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 Steep Slope Zone), which means and methods shall be designed to minimize slope damage. Upon approval of the permit by the code official, such approved written description shall be the enforceable means and method of the authorized development activities.

(2) **Professional Engineering.** All development within Steep Slope Zone shall be designed by a licensed structural engineer or geotechnical engineer and must bear the engineers license seal on submitted drawings and specifications satisfying good engineering practices and the standards of this chapter, unless the code official otherwise waives in writing this requirement.

(3) **Subsoil Investigation.** Every application for a development permit in the Steep Slope Zone shall be accompanied by a report, prepared by a licensed professional civil engineer or structural engineer trained and experienced in the practice of geotechnical engineering, which report shall 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.** As available, a historical review of bluff or ravine stability considering owner photographs, previous reports and topographic surveys; air photos, Corps of Engineers' studies, Village of Kenilworth 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 Steep Slope Zone caused by wave action, ravine flows, 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.

(4) Grading Plan. In addition to any other permit requirements, each application for a permit involving development under this chapter shall be accompanied by a grading plan, which plan shall include the following:

(a) A topographic survey, showing the Steep Slope Line (Top of Bluff) as well as property contours at one foot intervals for tableland and five (5) 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.

(5) Hydrological Control Plan. Applications for any development permits shall include a plan for intercepting and containing drainage at the site and from the structure.

(6) Vegetation Plan. A vegetation plan, subject to the tree preservation provisions of Chapter 150 of this code, shall be submitted with each application for a development permit, which plan shall include the following:

(a) A description of proposed revegetation of disturbed areas, specifying the materials to be used;

(b) 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

(c) A timetable and sequencing program for implementing the vegetative plan.

(7) Additional Submittals; Waivers. The code official may require additional plans as needed for review. The code official may release an applicant from any element of the aforementioned plan submittals to the extent that the code official determines that such element(s) will not materially assist in the evaluation of the proposed action's impact on slope stability.

(B) Permit Issuance; Terms. Each permit application for development shall be made in compliance with chapter 150 of this code and other applicable codes, ordinances, or regulations, including this chapter. The seal of an Illinois licensed structural or geotechnical engineer shall appear on all plans and specifications included as part of a permit application. Upon the code official determining that an application satisfies the requirements of this chapter, the code official shall cause a permit to be issued for development within the Steep Slope Zone. The following provisions are to be imprinted upon each permit issued for any development activities authorized by the administration of this chapter and (whether so imprinted or not) shall 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 shall not be construed to impose any legal or other obligation upon the Village 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 shall 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 must inspect all work in the Steep Slope Zone while in progress and, upon completion of the work, deliver to the code official 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.

(C) Special Terms. In connection with the issuance of a permit pursuant to this chapter, the code official 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 ravine, or otherwise to notify future owners of the bluff or ravine conditions of such property.

§ 154.007 STABILITY OF THE STEEP SLOPES.

(A) General.

(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 Steep Slope Zone are required to comply with the provisions of this chapter.

(2) Any development within the Steep Slope Zone must meet all plan submittal requirements in accordance with this chapter.

(3) Private storm drainage lines conveying storm water runoff either to a public storm sewer or to the ravine channel or the toe of the bluff shall be maintained by the owner thereof. Private drainage lines which leak water onto the surface of a Steep Slope must be repaired within thirty (30) days of notification by the village.

(4) Intentional depositing of lawn waste or other natural or man-made debris which may damage underlying vegetation or impede the free flow of water through channels within a Steep Slope Zone shall be prohibited.

(5) Any tree removal within the Steep Slope Zone shall be in accordance with the tree preservation standards of chapter 150 of this code and the provisions of this chapter.

(6) No swimming pool discharge (emptying) shall be directed toward or directly discharged into a Steep Slope Zone.

(B) Maintenance and Upkeep.

(1) Any authorized structure in the Steep Slope Zone may be repaired, maintained, or altered but only in compliance with this code, including this title.

(2) Landscape maintenance or routine arboreal activities may be undertaken in the Steep Slope Zone.

(C) Restoration. All governmental entities, private property owners, and all other private entities having authorized access to ravine or bluff steep slopes and engaged in the maintenance, repair, or construction of utilities or other structures within a Steep Slope Zone, or engaged in any modifications to a Steep Slope, shall adhere to the applicable provisions of the this code, including this chapter, utilizing best management practices.

(D) Emergency Activities. Nothing in this chapter shall prevent the Village from permitting development activities on an emergency basis when deemed necessary by the code official to remediate or restore an unstable or insecure slope, or a slope that has sloughed, that presents an immediate threat to health, safety, and welfare, or stability of an authorized building.

(1) Emergency development activity (including installation or construction of structures) shall only be permitted provided that the remedial action involves the least possible disruption of the natural features of the site as possible and is in conformance with the standards and policies of this chapter.

(2) Emergency development activity (including installation or construction of structures) shall only be permitted to provide remedial action that is the most reasonable action to address the emergency situation under the circumstances.

§ 154.008 TREE REMOVAL AND REPLACEMENT IN THE STEEP SLOPE ZONE.

(A) **General.** The Village's tree preservation requirements in chapter 150 of this code shall apply to all proposed tree removals and tree replacements in the Steep Slope Zone.

(B) **Additional Standards.** In addition to the requirements of chapter 150 of this code, there may be cases when removal of a tree or tree stump may jeopardize slope stability and for all proposed tree removals in the Steep Slope Zone, the following shall apply:

(1) The code official shall review each tree removal in the Steep Slope Zone to determine whether the proposed removal of the tree will jeopardize slope stability.

(2) Any applicant seeking to remove a tree in the Steep Slope Zone shall provide the Village with a report from a certified arborist as to whether the proposed removal of the tree is consistent with good forestry practices and certification from a geotechnical engineer as to the stability of the slope.

§ 154.009 APPEALS OF CODE OFFICIAL'S DECISIONS.

(A) Any determination of the code official under this chapter may be appealed to the Board of Trustees by filing a request for review in writing within 35 days after the code official issues his or her determination. The Board of Trustees may designate a committee of the Board to hear the request for review and make a written recommendation to the Board of Trustees. The decision of the Board of Trustees will be final.

(B) In reviewing the determination of the code official, the Board of Trustees will consider only whether the determination of the code official 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 code official (and after a hearing if the Board of Trustees 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 owner or code official or after the close of the hearing, whichever is later.

(C) In considering an appeal under this Section, the Board of Trustees may reverse, affirm, or modify the determination of the code official, or remand the determination back to the code official for further consideration, with or without instructions.

(D) The Board of Trustees may issue further procedural rules governing appeals under this Section.

§ 154.010 ZONING VARIATIONS.

Nothing in this chapter is intended to limit the ability of an owner to seek a variation from the otherwise applicable zoning regulations affecting such owner's property. To the extent that the regulations of this chapter materially restrict the ability of a property to be developed the Zoning Board of Appeals may determine that the effects of this chapter can, in appropriate circumstances, constitute a practical difficulty or unreasonable hardship.

§ 154.011 ADMINISTRATION; FEES; CONFLICTING REGULATIONS.

(A) Except as otherwise provided, the code official is hereby authorized and directed to prepare any necessary or desirable forms, practices, 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 shall be required to pay all fees and charges established in the annual fee ordinance. 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 shall be additional fees chargeable to such application.

(C) To the extent that there are conflicting regulations in the Village's building regulations or elsewhere in this code, the provisions of this chapter shall control.

§ 154.999 ENFORCEMENT AND PENALTIES.

(A) **Generally.** Any person violating any provision of this chapter shall be subject to the penalty provisions of § 10.99 of this code, except where another specific penalty is provided.

(B) **Joint responsibility.** 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.

(C) **Correction and restoration.** In the event any violation of any provision of this chapter occurs, the property owner shall 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/or vegetation in order to eliminate the violation.

(D) **Stop work.** The Village shall have the right to issue a stop work order for any work that is performed in the Steep Slope Zone either (i) without all permits that are required to this chapter or (ii) in violation of the permits so issued.

(E) **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, and/or drainage systems of a Steep Slope Zone in order to eliminate and/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 3: Effective Date. This Ordinance shall be in full force and effect upon its passage, approval, and publication in pamphlet form in the manner provided by law, but shall not be applicable to any matter for which a complete application for a building permit has been submitted to and received by the Village prior to December 25, 2015. For purposes of this section, a "complete application" shall mean an application that: (1) has been fully executed by all appropriate parties and (2) includes all required and necessary supporting documentation.

Passed this 14th day of December, 2015.

AYES: Konen, Lennon, Lien, Potter, Shadek, Winslow

NAYS:

ABSENT:

ABSTAIN:

Village President

Attest:

Village Clerk

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