



Legislation Text

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An Ordinance Amending Chapter 158 (Development Regulations) of the Village Code of Ordinances (Preapproval Grading Process)

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WHEREAS, the Village of Romeoville has heretofore adopted certain ordinances now codified as and for Chapter 158 of the Village Code of Ordinances and as other provisions of the Village Code of Ordinances setting forth and adopting various model codes as and for the Village's building regulation standards; and

WHEREAS, a periodic review of the ordinances of the Village of Romeoville together with certain recurring development related inquiries to and requests made of the Village has indicated that certain revisions to Section 158 are necessary; and

WHEREAS, in particular, to accommodate the timelines involved in the construction and development of properties with industrial buildings, frequently involving lengthy and substantially rigid schedules for the ordering and delivery of precast concrete panels, the Village has received an increasing volume of inquiries from developers for permission to begin so-called "mass grading" activities prior to the final approval by the Village Board of final plat and final engineering plans, and/or final development and final engineering plans, as the case may be; and

WHEREAS, at the present time, the provisions of Chapter 158 of the Village Code of Ordinances do not permit development, including in advance of the approval of final engineering plans by the Village Board; and

WHEREAS, a developer's conduct of grading or other development activities prior to engineering approval presents potential substantial additional administrative cost to the Village and exposes the Village to potential liability for damages occasioned by the developer's conduct of grading or other development activities prior to final engineering plan approval, including but not necessarily limited to damages claimed by or additional administrative costs incurred with respect to affected offsite landowners, other governmental agencies having jurisdiction, and other governmental entities located outside the corporate limits of the Village; and

WHEREAS, after Village staff review, it has been determined that it is in the best interest of the Village to amend Chapter 158.055 and Chapter 158.014(A) to establish a process for the conduct of grading activities prior to the approval of final engineering plans by the Village Board for the property in question, to balance the hardships occasioned by the ordering and delivery process of precast concrete panels for industrial buildings against the potential increase in costs and liabilities to be encountered by the Village in the event that grading activities occur prior to final engineering plan approval.

NOW THEREFORE BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES FOR THE VILLAGE OF ROMEOVILLE, WILL COUNTY, ILLINOIS; THAT:

SECTION 1: RECITALS. The foregoing recitals are hereby incorporated into this Ordinance as if fully set forth herein.

SECTION 2: AMENDMENT OF CHAPTER 158.005(J). Chapter 158.005 shall be hereby amended by the addition of the following text, to be codified as and for a new Chapter 158.005(J):

158.005(J) PRE APPROVAL GRADING PROCESS.

(1) Except as provided in this Chapter 158.005(J), no development, as defined in Chapter 158.004, shall occur until such time as final engineering plans for such development have been approved by the Corporate Authorities of the Village.

(2) Developers seeking to engage in grading activities prior to the approval of final engineering plans by the Corporate Authorities of the Village shall only do pursuant to the terms of a development agreement approved by the Corporate Authorities of the Village. A developer seeking to enter into such an agreement shall initiate the process by submitting a development application to the Village indicating that it seeks a preapproval grading development agreement under this Chapter 158(J), and shall include therewith a copy of engineering plans depicting the contemplated grading activities prepared in compliance with Village ordinances. Preapproval grading development agreements shall only be approved for the development of properties within the P-B Planned Business Zoning District of the Village. As used in this Chapter 158.005(J), “grading activities” or “grading” shall mean and include those activities identified in items (1)(d) and (1)(e) of the definition of development, as defined in Chapter 158.004. At a minimum, the terms of such a development agreement shall include at least the following terms and conditions:

(a) All grading work performed pursuant to the development agreement and Chapter 158.005(J) shall be undertaken at the sole and absolute risk of the developer. Neither the existence of Chapter 158.005(J) nor the approval of a development agreement pursuant thereto shall grant or be construed as approval or acceptance of any work planned or performed by a developer in connection therewith.

(b) In the event that the underlying property contains wetlands, the developer shall not develop, disturb, encroach upon or touch any such wetlands until such time as the Corporate Authorities of the Village have approved variances or other relief to permit the same under the provisions of the Village Code of Ordinances. Any violation of the terms of the preceding sentence shall entitle the Village to immediately issue an order to the developer to cease all grading activities on the relevant property, and shall subject the developer to enforcement actions, including but not limited to the imposition of fines, or the commencement of enforcement proceedings in court.

(c) In the event that the developer’s grading activities contemplate offsite grading, or grading outside the corporate limits of the Village of Romeoville, the developer shall not proceed with any such grading activities until such time as it has presented the Village with written agreements, permits or other approvals satisfactory to the Village evidencing the consent of all offsite landowners and all authorities having jurisdiction outside of the corporate limits of the Village to the conduct of such grading activities.

(d) In the event that the Village is made a party defendant in any litigation, arbitration or other proceeding relating to or in any way arising out of the provisions of this Chapter 158(J), the provisions of any development agreement between the developer and the Village, or any actions planned or undertaken by Developer based upon or relating to this Chapter 158(J) or any such development agreement, Developer shall defend, indemnify and hold harmless the Village, its president, trustees, officers and employees, and the consultants and agents of the Village (collectively, the “Village Indemnitees”), individually and collectively, from any suits and from any claims, demands, setoffs or other actions including, but not limited to judgments

and any costs of compliance resulting or arising therefrom. The obligation of the developer hereunder shall include and extend to payment of reasonable attorneys' fees for the representation of the Village and all Village Indemnites in such litigation and shall include all related expenses, expert witness fees, court costs and fees; it being understood that the Village shall have the right to employ all such attorneys to represent the Village and the Village Indemnites in such litigation. The preceding provisions, when embodied in any development agreement between the Village and the Developer pursuant to this Chapter 158(J), shall survive any termination of such development agreement, and any amendment or repeal of this Chapter 158(J).

(e) The developer shall waive, in form and substance satisfactory to the Village, any and all claims that it has or may ever have arising out of or founded in whole or in part upon any expenditures, reliance, or changes in its position occasioned by or resulting from its conduct of grading activities pursuant to this Chapter 158(J) and any development agreement with the Village entered into pursuant to this Chapter 158(J), including but expressly not limited to any such claims which may arise in the event that the subsequent Village approval of final engineering plans for the development or its enforcement of the provisions of the Village Code of Ordinances require modification, removal, repair or other alteration of work already performed by the developer.

(f) The developer shall post financial security with the Village in the amount of 125 percent of its estimated cost of all grading activities proposed to be undertaken by the developer. The amount of and form of the financial security shall be reviewed and approved by the Corporate Authorities of the Village, by resolution, or as a term of a development agreement between the developer and the Village.

(g) The developer, at all times during which it conducts grading under this Chapter 158(J) and any development agreement between the Village and the developer pertaining thereto, and until such time as the Corporate Authorities of the Village shall approve final engineering plans for the relevant property, shall obtain and maintain in full force and effect, a policy of commercial general liability insurance insuring the developer and the Village with respect to occurrences arising out of or related to the developer's conduct of such grading activities, with such coverage having combined single limits of double the amount of the estimated cost of the grading work, or \$1,000,000.00, whichever is greater, for personal injury, death and property damage per occurrence, and in the aggregate, which coverage shall specifically refer to this Chapter 158.005(J) and to the development agreement between the Village and the developer. All such insurance coverage shall also provide that it is primary and noncontributory to any insurance coverage of the Village, and shall waive all rights of recovery against the Village. Copies of all policies and certificates of insurance shall be provided to the Village prior to the commencement of any such grading activities, together with a written endorsement to such coverage expressly naming the Village as an additional named insured thereunder. All such coverage shall provide that it cannot be canceled except upon thirty (30) days' prior written notice to the Village.

(h) Developer shall perform all grading work pursuant to this Chapter 158(J) and any development agreement with the Village in compliance with all applicable ordinances of the Village, and all applicable regulations or requirements of other governmental agencies having jurisdiction over the work.

(i) Developer shall, not later than contemporaneously with the approval of a development agreement with the Village pursuant to this Chapter 158(J), pay to the Village a preapproval grading administrative fee calculated in accordance with the provisions of Chapter 158.005(J)(3).

(3) Preapproval Grading Administrative Fee. The fee for the negotiation, review, and approval of a development agreement pertaining to preapproval grading as contemplated by this Chapter 158.005(J) shall be \$5,000.00 per acre. Fractional acreages shall be prorated accordingly. The fee imposed by this Chapter 158.005(J) shall be in addition to any and all fees otherwise applicable under the Village Code of Ordinances.

SECTION 3: AMENDMENT TO CHAPTER 158.014(A). The provisions of all heretofore adopted Village ordinances codified as and for Chapter 158.014(A) shall hereby be revised to read as follows:

(A) General requirements. Prior to any development of any parcel of land within the corporate limits of the village existing at the time the development is proposed, an owner or developer shall submit a full set of development/ engineering plans to be approved by the Corporate Authorities of the Village pursuant to the applicable ordinances of the Village, except where an applicable provision of the Village Code of Ordinances, or any relevant annexation agreement or development agreement provides otherwise.

SECTION 4: SEVERABILITY. That the various provisions of this Ordinance are to be considered severable and if any part or portion of this Ordinance shall be held invalid by any Court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Ordinance.

SECTION 5: CONFLICTS. All prior Ordinances and Resolutions, or parts thereof in conflict or inconsistent with this Ordinance are hereby expressly repealed only to the extent of such conflict or inconsistency.

SECTION 6: EFFECTIVE DATE. This Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law.

