



STORMWATER MANAGEMENT COMMISSION

**Enforcement Officers Ordinance Guidance
for Exempted Development (Article IV.A.2) (TAC approved: 9/20/12)**

The Lake County Stormwater Management Commission has recognized the need to provide guidance regarding the referenced provision of the Ordinance. Exemption scenarios vary from site to site and are dependent upon approvals previously obtained, Ordinances then in effect, and current status of the development and stormwater management system.

Applicability:

1. All development shall meet state and federal regulations and, at a minimum, comply with the Ordinance provisions in effect at the time of original approval.
2. No exemptions shall be granted from the following standards of the current Ordinance:
Article IV.B.1.e – Soil Erosion and Sedimentation Control;
Article C - Regulatory Floodplains and Floodways; and
Article E – Wetlands
3. The exemption process determines Ordinance provisions that are not applicable to a specific development, as opposed to the variance process, which determines Ordinance provisions that are applicable and unable to be met.

Implementation:

1. The applicant shall provide documentation of the original approval (annexation agreement, final plat, site development permit, building permit, planned unit development) which demonstrates the development conforms to the Ordinance in effect at the time of approval.
2. The applicant shall itemize each Ordinance provision that is requested for exemption. Focus of the request should be on WDO provisions currently in effect that may alter the site design. The attached checklist summarizes WDO amendments that may significantly affect the development design.
3. If development plans were previously approved, the applicant shall identify all modifications to the previously approved plans.
4. The Enforcement Officer shall assess available information and use professional judgment whether the stormwater management system will be significantly affected.
5. The Enforcement Officer may grant exemptions from specific Ordinance requirements after review and verification that the applicable Development Status criteria described below are met.
6. A Watershed Development Permit shall be required for development in conformance with all non-exempted Ordinance provisions including all Soil Erosion and Sediment Control, Regulatory Floodplain / Floodway, and Wetland Provisions of the current WDO.

Development Status A - Approved prior to October 18, 1992

1. The applicant shall provide documentation that the stormwater management systems are installed, functioning and in compliance with all applicable stormwater regulations in effect at the time of approval. Newly designed features of the stormwater management system (e.g., storm sewers, overland flow paths) shall comply with the current Ordinance.

2. The applicant shall demonstrate that the proposed development is at or below the originally designed impervious surface area. Portions of the development that do not meet the exemption criteria shall, at a minimum, conform to the current Ordinance.

Development Status B - Approved between October 18, 1992 and July 10, 2012

1. Modifications to the previously approved plans and designs, that do not significantly affect the stormwater management system, are eligible for exemption. Examples include, but are not limited to, the following:
 - a. modifications to the on-site stormwater management system as long as the design capacity and release rate are maintained (e.g. change in material, inlet spacing/quantity, slope, storage volume reconfiguration),
 - b. relocation of internal overland flow paths that do not affect building protection requirements,
 - c. reductions of: impervious surface area or ratio, runoff curve number (traditional subdivision changed to conservation/cluster layout),
 - d. inclusion of green infrastructure techniques or best management practices (e.g. converting a dry detention basin to a wetland detention basin; install a swale in lieu of storm sewer),
 - e. changes to the stormwater management system to improve upstream or downstream drainage,
 - f. changes to approvals which are not related to, nor have any effect on, the stormwater management system (e.g. zoning changes).
2. Portions of the site which are amended after July 10, 2012 and which significantly affect the stormwater management system are not exempt from provisions of the current Ordinance. Portions of the development that do not meet the exemption criteria shall, at a minimum, conform to the current Ordinance.

Development Status C - Resubdivision of commercial or industrial subdivisions

1. The applicant shall comply with the guidance for Development Status A above for resubdivision of parcels approved prior to October 18, 1992.
2. The applicant shall comply with the guidance for Development Status B above for resubdivision of parcels approved between October 18, 1992 and July 10, 2012.

Development Status D – Development in permitting process as of July 10, 2012

SMC can provide guidance to individual communities on a case by case basis for development working through the permit approval process, but which has not obtained an annexation agreement, final plat, site development permit or building permit before July 10, 2012. The Enforcement Officer should take into consideration unique circumstances, where a current development is at in the permit approval process and the extent that the development is vested.

END MEMO