
WETLAND PROTECTION ORDINANCE

**Williamstown Township
Ingham County, Michigan**
Adopted by the Township Board on March 5, 2002

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Ordinance ____
WETLAND PROTECTION ORDINANCE

**Charter Township of Williamstown
INGHAM COUNTY, MICHIGAN**

AN ORDINANCE ENACTED PURSUANT TO MICHIGAN PUBLIC ACT 451 OF 1994, AS AMENDED (THE MICHIGAN NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT), AND MICHIGAN PUBLIC ACT 246 OF 1945, AS AMENDED (THE TOWNSHIP ORDINANCES ACT), FOR THE PURPOSE OF PROTECTING WETLANDS IN THE TOWNSHIP OF WILLIAMSTOWN; PROVIDING FOR A TOWNSHIP WETLAND INVENTORY MAP; PROVIDING FOR A WETLAND USE PERMIT; PROVIDING REVIEW PROCEDURES, APPROVAL STANDARDS, AND CONDITIONS FOR WETLAND USE PERMITS; PROVIDING FOR WETLAND MITIGATION; PROVIDING PENALTIES FOR THE VIOLATION OF THIS ORDINANCE; AND TO PROMOTE THE PUBLIC HEALTH, SAFETY AND GENERAL WELFARE WITHIN THE TOWNSHIP OF WILLIAMSTOWN.

THE TOWNSHIP OF WILLIAMSTOWN HEREBY ORDAINS:

ARTICLE 1.00 - TITLE AND PURPOSE

Section 1.1, Title

This Ordinance shall be known and cited as the “Wetland Protection Ordinance of The Township of Williamstown.”

Section 1.2, Legislative Authority

This Ordinance is created pursuant to Part 303 of Michigan Public Act 451 of 1994, as amended, the Wetland Protection section of the Natural Resources and Environmental Protection Act, which may be cited herein by name or as “Act 451” or as the “Natural Resources and Environmental Protection Act.”

The Williamstown Township Board finds that wetlands are indispensable and fragile natural resources that provide many public benefits, including maintenance of water quality through nutrient cycling and sediment trapping, and by serving as biological and chemical oxidation basins; flood and storm water runoff control through temporary water storage; groundwater recharge; and by providing open space, passive outdoor recreation opportunities, and fish and wildlife habitat. Preservation of the remaining Township wetlands in a natural condition is necessary to maintain hydrological, economic, recreational, and aesthetic natural resource values for existing and future residents of Williamstown Township.

Pursuant to Article 4, Section 52 of the Constitution of the State of Michigan, the conservation and development of natural resources of the state is a matter of paramount public concern in the interest of the health, safety, and general welfare of the people. Therefore, with authority provided by Part 303 of Act 451, the Township Board finds that this Ordinance is essential to the long term health, safety, economic, and general welfare of the people of Williamstown Township, and, to the furtherance of the policies set forth in Act 451.

Section 1.3, Purpose

This Ordinance is adopted for the following purposes:

1. To provide for the protection, preservation, replacement, proper maintenance, restoration, and use of the Township's wetlands in accordance with their character, adaptability, and stability, in order to prevent their pollution or contamination; minimize their disturbance and disturbance to the natural habitat therein; and prevent damage from erosion, siltation, and flooding.
2. To encourage proper and reasonable economic use of wetlands, discourage and prevent improper use, reduce financial burdens improper uses impose on the community, maintain a harmonious and compatible land use balance within the Township, and prevent nuisance conditions that arise with the indiscriminate use or development of wetlands.
3. To support the enforcement of applicable federal, state, and county statutes, ordinances, and regulations, including the Natural Resources and Environmental Protection Act which imposes a responsibility on governmental agencies, individuals, and organizations to prevent or minimize the pollution, impairment or destruction of natural resources that would be likely to be caused by their activities.
4. To establish standards and procedures for the review and regulation of the use of wetlands.
5. To provide for the issuance of Wetland Use Permits for approved activities.
6. To provide a procedure for appealing decisions.
7. To establish enforcement procedures and penalties for the violation of this Ordinance.
8. To assure that the right to reasonable use of private property is maintained.

Section 1.4, Scope of Regulations

1. These regulations apply to all wetlands, as defined in this Ordinance, that: (i) are contiguous to an inland lake or pond, or a river or stream, or (ii) are not contiguous to an inland lake or

pond, or a river or stream, but are equal to or greater than two (2) acres in size. It is unlawful to conduct any activity or use within a regulated wetland without full compliance with the requirements of this Ordinance and Part 303 of Act 451.

2. Pursuant to Section 30307(6) of Part 303 of Act 451, the MDEQ retains oversight and review authority over applications for Wetland Use Permits. The Township and MDEQ will cooperate with each other in the enforcement of wetlands regulations, as stated in Section 7.3 of this Ordinance. In the event that the MDEQ retains authority over any wetlands that are not governed by this Ordinance, then the Township will review and comment on Wetlands Use Permit applications involving such wetlands, which will be submitted to the Township, pursuant to Section 30307(7) of Part 303 of Act 451.

ARTICLE 2.00
RULES OF CONSTRUCTION AND DEFINITIONS

Section 2.1, Rules of Construction

The following rules of construction apply to this Ordinance:

1. The particular shall control the general.
2. Words used in the present tense shall include the future.
3. Words used in the singular number shall include the plural and the plural shall include the singular, unless the context clearly indicates the contrary.
4. The words “shall,” “will,” and “must” are always mandatory and not discretionary. The word “may” is permissive.
5. The masculine gender includes the feminine and neuter.
6. All measurements shall be to the nearest integer, unless otherwise specified herein.
7. The phrase “used for” includes “arranged for,” “designed for,” “intended for,” “occupied for,” and “maintained for.”
8. The word “building” includes the word “structure.” The word “build” includes the words “erect” and “construct.” A “building” or “structure” includes any part thereof.
9. The word “person” shall be defined as noted in the following Section 2.2.
10. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction “and,” “or,” or “either/or,” the conjunction shall be interpreted as follows:
 - a. "And" indicates that all the connected items, conditions, provisions, or events shall apply.
 - b. "Or" indicates that the connected items, conditions, provisions, or events may apply singularly or in any combination.
 - c. "Either/or" indicates that the connected items, conditions, provisions or events shall apply singularly but not in combination.

11. Catch words and catch lines shall in no way by their presence or absence limit or affect the meaning of this Ordinance.
12. Unless the context clearly indicates to the contrary, where an illustration accompanies any item within this Ordinance, the written text shall have precedence over the illustrations.
13. Words or terms not herein defined shall have the meaning customarily assigned to them.

Section 2.2, Definitions

The following definitions shall apply to the words and terms used in this Ordinance:

Aggrieved Person: Any land owner whose property is within a wetlands drainage basin who may reasonably assume that proposed activity within the wetlands would affect the quantity or quality of water on the land owner's property.

Aquatic Life: Vertebrates or invertebrates that are dependent on wetlands for some vital portion of their life cycle including any of the following: breeding, spawning, nesting, rearing of young, feeding, and resting or protection.

Deposit: To fill, place or dump.

Fill Material: Soil, rocks, sand, pilings, waste of any kind, or any other material that displaces soil or water, reduces water retention potential or reduces wetland vegetation growth.

Lot: A designated parcel, tract, building site or other interest in land established by plat, subdivision, conveyance, condominium master deed, or as otherwise permitted by law, to be used, developed or built upon as a unit.

Minor drainage: Ditching and tiling for the removal of excess soil moisture incidental to the planting, cultivating, protecting, or harvesting of crops or improving the productivity of land in established use for agriculture, horticulture, silviculture, or lumbering.

Mitigation of wetlands: (1) Methods for eliminating or reducing potential impact to regulated wetlands; or (2) Creation of new wetlands of the same or similar function to offset unavoidable loss of existing wetlands.

Person: An individual, sole proprietorship, partnership, corporation, association, municipality, this state, an instrumentality or agency of this state, the federal government, or an instrumentality or agency of the federal government, or other legal entity.

Planner or Township Planner: The staff planner or consulting planner designated by the Township Board to advise the Township administration, Township Board, and Planning Commission on items such as planning, zoning, land use, subdivision, housing and other related planning and development issues.

Regulated wetland: Wetlands regulated by Williamstown Township under this Ordinance or by the Michigan Department of Environmental Quality (MDEQ).

Remove: To dig, dredge, suck, pump, bulldoze, drag line, or blast.

Restoration: Action taken to return a wetland from a disturbed or totally altered condition to a previously existing natural or un-altered condition.

Structure: Anything constructed, erected, or assembled of materials above or below the surface of the land or water, including but not limited to, buildings, bulkheads, piers, docks, landings, dams, waterway obstructions, paving and roads, poles, towers, cables, pipelines, drainage tiles, and other underground installations.

Township Board: The Supervisor, Clerk, Treasurer, and Trustees, who together serve as the legislative body of Williamstown Township, Ingham County, Michigan.

Township Wetlands Consultant: The person or firm designated by the Township Board to advise the Township administration, Township Board, and Planning Commission on matters related to implementing this Ordinance.

Township Wetland Inventory Map: The Williamstown Township Wetland Inventory Map created to comply with Part 303 of the Natural Resources and Environmental Protection Act. The Township Wetland Inventory Map is based on the National Wetland Inventory Map of the U.S. Fish and Wildlife Service; the Michigan Resource Information System Mapping (MIRIS), aerial photography, and on-site inspections. The Township Wetland Inventory Map may be referred to herein as Inventory Map.

Wetland: A wetland is land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support, wetland vegetation or aquatic life and is commonly referred to as a bog, swamp, or marsh and is any of the following:

- (a) Contiguous to an inland lake or pond, or a river or stream.
- (b) Not contiguous to an inland lake or pond, or a river or stream, and is two (2) acres or greater in size.

Wetland Vegetation: Plants that, under normal conditions, exhibit adaptations to allow germination and growth with at least their root systems in water or in saturated soils.

ARTICLE 3.00
WETLANDS INVENTORY AND IDENTIFICATION

Section 3.1, Township Wetland Inventory Map

The Township Wetland Inventory Map is a general guide to the location of wetlands in Williamstown Township that shall be used in the administration of this Ordinance.

1. The Township Wetland Inventory Map on file at the Township, together with all explanatory matter thereon and attached thereto, as may be amended through the Wetland Verification and Delineation process, is hereby adopted by reference and declared to be part of this Ordinance.
2. The Township Wetland Inventory Map does not create any legally enforceable presumptions regarding whether a particular lot contains or does not contain wetlands, since wetlands are subject to verification and delineation as specified herein.
3. Wetlands boundaries approved through verification or delineation shall be added to the Township Wetland Inventory Map.
4. The Township shall insure that each record owner of property on the property tax roll shall be notified of any amendment to the Township Wetland Inventory Map. The notice shall indicate that:
 - a. the Inventory Map has been amended;
 - b. the Inventory Map may be viewed at the Township Municipal Building;
 - c. the owner's property may be designated as a wetland on the Inventory Map;
 - d. the Township has a Wetlands Protection Ordinance;
 - e. the Inventory Map does not necessarily include all of the wetlands in the Township that may be subject to the Wetland Protection Ordinance.

Section 3.2, Wetland Verification and Delineation

The Township Wetland Inventory Map shall be validated through the Wetland Verification Process and the Wetland Delineation Process. The Wetland Verification Process shall be used to verify that wetlands exist on properties where shown on the Wetland Inventory Map. The Wetland Delineation Process shall be used to establish the actual boundaries of the wetlands. The identification of the actual boundaries of wetlands on a lot shall be the responsibility of the owner or applicant.

1. **Wetland Verification Process**

Prior to issuance of any permit to develop or use a parcel of land which is shown to have a wetland on the Inventory Map, Wetland Verification and Delineation may be required. The Township Building Official or Wetlands Consultant shall first decide whether verification is required based on the proximate relationship and potential impact of the proposed use on the wetland.

- a. The Township or owners of property containing wetlands may initiate verification that wetlands shown on the Township Wetland Inventory Map exist. The verification shall be limited to a finding that wetlands exist or do not exist by the Township Wetlands Consultant. The finding may be based on, but not limited to, review of aerial photography and topographical maps and field inspection.
- b. In the event that there is a finding of no wetlands on the property, then no further action by the applicant would be required and the finding shall be recorded on the Wetland Inventory Map.
- c. In the event that there is a finding of a wetland, then the establishment of the actual boundary through the Wetland Delineation Process shall be required to amend the Township Wetland Inventory Map and/or process a Wetland Use Permit application.

2. **Wetland Delineation Process**

Prior to the issuance of a permit to develop or use a parcel of land on which the presence of a wetland has been verified, Wetland Delineation may be required. The Township Wetland Consultant shall decide whether Delineation is required, based on the proximate, relationship and potential impact of the proposed use on the wetland.

- a. To establish actual wetland boundaries, a survey or dimensioned site plan shall be provided, drawn at an appropriate scale, showing property lines, buildings and other points of reference, and the wetland boundaries, which shall be delineated using one of the following methods:
 - (i) Wetland delineation by the Michigan Department of Environmental Quality (MDEQ).
 - (ii) Wetland delineation by the applicant's wetland consultant subject to review and approval by the Township Wetlands Consultant.

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- b. Where a Wetland Delineation survey or plan is required, it shall be subject to review and approval by the Township Wetlands Consultant after conducting a field investigation. If approved by the Township Wetlands Consultant, the boundaries shall be indicated on the Township Wetland Inventory Map.

3. **Informal Review of Wetlands**

Prior to seeking Wetlands Verification and Delineation as described herein, a property owner may request advice and preliminary evaluation of wetlands by the Township Wetland Consultant. Such assistance shall be arranged through the Township, and shall be subject to payment of fees to cover expenses.

ARTICLE 4.00
WETLAND USE PERMIT

Section 4.1, Activities Requiring a Wetland Use Permit

It shall be unlawful for any person to conduct any of the following activities within a wetland without first obtaining a Wetland Use Permit in accordance with the requirements of this Ordinance:

1. Depositing or permitting fill material to be deposited in a wetland.
2. Grading in a wetland.
3. Dredging, removing, or permitting the removal of soil or minerals from a wetland.
4. Draining surface water from a wetland.
5. Constructing, operating, or maintaining any use or development in a wetland.
6. Fertilization for other than commercial agricultural purposes.

Section 4.2, Permissible Activities

The following uses shall be allowed in a wetland without a permit, subject to other applicable state laws and regulations:

1. Fishing, trapping or hunting.
2. Swimming or boating.
3. Hiking.
4. Grazing of animals.
5. Farming, horticulture, silviculture, lumbering and ranching activities, including plowing, irrigation, irrigation ditching, seeding, cultivating, minor drainage, harvesting for the production of food, fiber, and forest products, or upland soil and water conservation practices. Wetlands altered as permitted in this sub-section shall not be used for a purpose other than a purpose described in this subsection without a permit from the Township.
6. Maintenance or operation of serviceable structures in existence on October 1, 1980 or constructed pursuant to Part 303 of the Natural Resources and Environmental Protection Act.

7. Construction or maintenance of farm or stock ponds.
8. Maintenance, operation, or improvement which includes straightening, widening or deepening of the following which is necessary for the production or harvesting of agricultural products:
 - a. An existing private agricultural drain.
 - b. That portion of a drain legally established pursuant to the drain code of 1956, Act No. 40 of the Public Acts of 1956, as amended, being section 280.1 to 280.630 of the Michigan Compiled Laws, which has been constructed or improved for drainage purposes.
 - c. A drain constructed pursuant to other provisions of Part 303 of the Natural Resources and Environmental Protection Act (Act 451, Public Acts of 1994, as amended) or former Act No. 203 of the Public Acts of 1979.
9. Construction or maintenance of farm roads, forest roads, or temporary roads for moving mining or forestry equipment, if the roads are constructed and maintained in a manner to assure that adverse effect on the wetland will be otherwise minimized.
10. Drainage necessary for the production and harvesting of agricultural products if the wetland is owned by a person who is engaged in commercial farming and the land is to be used for the production and harvesting of agricultural products. Except as otherwise provided in Part 303 of the Natural Resources and Environmental Protection Act, wetlands modified under this subsection after October 1, 1980, shall not be used for nonfarming purposes without a permit from the MDEQ. This subdivision shall not apply to a wetland which is contiguous to a lake or stream, or to a tributary of a lake or stream, or to a wetland which the MDEQ has determined by clear and convincing evidence to be a wetland which is necessary to be preserved for the public interest, in which case a permit shall be required.
11. Maintenance or improvement of existing public streets, highways or roads, within the right-of-way and in such a manner as to assure that any adverse effect on the wetland will be otherwise minimized. Maintenance or improvement does not include adding extra lanes, increasing the right-of-way, or deviating from the existing location of the street, highway, or road.
12. Maintenance, repair, or operation of gas or oil pipelines and construction of gas or oil pipelines having a diameter of six (6) inches or less, if the pipelines are constructed, maintained, or repaired in a manner to assure that any adverse effect on the wetland will be otherwise minimized.

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13. Maintenance, repair, or operation of electric transmission and distribution power lines and construction of distribution power lines if the distribution power lines are constructed, maintained, or repaired in a manner to assure that any adverse effect on the wetland will be otherwise minimized.
 14. Operation or maintenance, including reconstruction of recently damaged parts, of serviceable dikes and levees in existence on October 1, 1980, or constructed pursuant to Part 303 of the Natural Resources and Environmental Protection Act.
 15. Construction of iron and copper mining tailings basins and water storage areas.
 16. A wetland that is incidentally created as a result of one (1) or more of the following activities:
 - a. Excavation for mineral or sand mining, if the area was not a wetland before excavation. This exemption does not include a wetland on or adjacent to a water body of one (1) acre or more in size.
 - b. Construction and operation of a water treatment pond or lagoon in compliance with the requirements of state or federal water pollution control regulations.
 - c. A diked area associated with a landfill if the landfill complies with the terms of the landfill construction permit and if the diked area was not a wetland before diking.

Section 4.3, Non-conforming Uses and Structures

1. Any structure or use lawfully existing prior to the adoption date of this Ordinance, but not in conformity with the provisions of this Ordinance, may be continued, maintained and operated. No such nonconforming structure or use shall be enlarged, increased, or expanded without first seeking a Wetland Use Permit.
2. Any structure lawfully existing prior to the adoption date of this Ordinance, damaged by fire, explosion, act of God, or other causes beyond the control of the owner, may be restored, rebuilt, or repaired without obtaining a Wetland Use Permit, provided construction on the structure commences within two (2) years from the date the structure was damaged.

Section 4.4, Protection of Wetlands During Land Division and Development

1. Land division to create new lots shall be allowed only if there will be sufficient buildable area to meet the minimum zoning setback regulations (including setbacks specified in Section 36.02, footnote "f", of the Zoning Ordinance), and provide adequate non-wetland area to accommodate principal and accessory buildings, off-street parking, septic disposal fields, well location, and other required site features; except that land division may be permitted if the property owner records an affidavit acknowledging that the presence of wetlands may affect the usability of the resulting parcels for permitted uses in the zoning district. The affidavit shall be in a form that is acceptable to the Township Attorney and evidence that it has been recorded shall be submitted to the Township. This provision shall

not apply to previously recorded lots of record upon which one single-family house is proposed to be built.

2. Maximum lot coverage by a building shall be based on that part of the site outside of the wetland.

Section 4.5, Criteria for Evaluating Permit Applications Involving Wetlands 2 Acres or Greater

The criteria to evaluate Wetland Use Permit applications to permit a use listed in Section 4.1 are as follows:

1. A permit for an activity listed in Section 4.1 shall not be approved unless the Township finds that issuance of the permit would be in the public interest, would be otherwise lawful in all respects, and is necessary to allow reasonable use of the property.
2. In determining whether an activity is in the public interest, the benefit which reasonably may be expected to accrue from the activity shall be balanced against the reasonably foreseeable detriments of the activity. The decision shall reflect the national, state, and local concern for the protection of natural resources from pollution, impairment, and destruction, giving consideration to the following:
 - a. The relative extent of public and private need for the proposed activity.
 - b. The availability of feasible and prudent alternative locations and methods to accomplish the expected benefits from the activity.
 - c. The extent and permanence of beneficial or detrimental effects that the proposed activity may have on the public and private uses for which the area is suited, giving consideration to the benefits the wetland provides.
 - d. The probable impact of the proposal in relation to the cumulative effect created by other existing and anticipated activities in the watershed.
 - e. The probable impact on recognized historic, cultural, scenic, wildlife, ecological, or recreational values, and on public health or safety.
 - f. Economic value, both public and private, of the proposed activity.
 - g. Findings of necessity for the proposed activity by other local, county, or state agencies.
 - h. Proximity to any waterway.
 - i. The size of the wetland being considered and the amount and quality of the wetland remaining in the general area.

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3. In considering a permit application, the Township shall give serious consideration to the findings of necessity for the proposed activity which have been made by state agencies.
 4. A Wetland Use Permit shall not be issued unless it is shown that an unacceptable disruption will not result to the aquatic resources, giving consideration to the above criteria. A permit shall not be issued unless the applicant also demonstrates that:
 - a. The proposed activity is primarily dependent upon being located in the wetland,
 - b. A feasible and prudent alternative does not exist,
 - c. A proposed mitigation plan will maintain the resource value of the wetlands.
 5. Failure to submit a complete application is sufficient reason for denial of a Wetland Use Permit.

ARTICLE 5.00
PERMIT APPLICATION AND REVIEW PROCEDURES

Section 5.1, Permit Application Requirements

1. Coordination with Other Permits

An application for a Wetland Use Permit may be submitted prior to or concurrently with an application for site plan approval or other land use permit application.

2. Application Requirements

The application for a Wetland Use Permit shall include the following:

- a. A completed application, on the form supplied by the MDEQ (copies of which may be obtained from the Township).
- b. A wetland delineation prepared by a qualified wetland expert, which shall include, at minimum, the following information: dominant vegetation in the tree, sapling, shrub, and herb layers; presence or lack of accepted wetland hydrology indicators; analysis of soil including a description of the soil profile to a depth of at least 20 inches and comparison to the Ingham County Soil Survey; and a map or maps, drawn to scale, showing the actual wetland boundaries. Mapped data shall be represented in a manner that allows comparison to the Township Wetland Inventory Map. The boundaries of the wetlands shall be staked in the field to permit review by the Township Wetland Consultant.
- c. Soil drainage and stormwater management plans.
- d. A mitigation plan, if the proposed activity will result in the loss of or alteration to regulated wetlands.
- e. Copies of wetland permit applications filed with MDEQ and forwarded to the Township in accordance with Part 303 of the Natural Resources and Environmental Protection Act (Act 451, Public Acts of 1994, as amended), which shall become part of the application.
- f. A written statement of the qualifications of the applicant's wetland expert.

Section 5.2, Review Procedures

1. Review Options

The applicant may elect to have the application processed under one of the following review options:

- a. The application may be reviewed prior to the review of a land use proposal on the site, with the understanding that the land use review may not be complete at the time a decision is rendered on the wetland application. Election of this option may require a reopening of the Wetland Use Permit application review if the land use approval is inconsistent with the Wetland Use Permit approval.
- b. The applicant may choose to have the Wetland Use Permit application reviewed and acted upon concurrently with review and action on a land use proposal on the site, in which case the 90-day review period limitation specified in Section 5.2, subsection 2(c), shall be considered automatically extended to accommodate the land use review process.
- c. If the wetland is one over which the Michigan Department of Environmental Quality (MDEQ) retains jurisdiction, the applicant may seek MDEQ approval of the wetlands permit prior to Township review of a development proposal for the site. Election of this option, however, may require the applicant to seek revisions to the MDEQ permit if the Township development approval is inconsistent with the MDEQ wetland permit approval. Alternatively, the applicant may seek Township approval of the development proposal first, in which case any such approval shall be subject to MDEQ approval of the wetland permit.

2. Procedures

- a. The Township Wetlands Consultant, designee, shall insure that all required information has been submitted. If an application is not complete, the applicant may be granted additional time to complete the application provided that the applicant agrees that the additional time shall not be charged against the Township's 90-day decision period. The receipt of the application shall constitute permission from the owner to conduct an on-site investigation.
- b. Upon receipt of an application the Township administration shall:
 - (i) Transmit one copy of the application to the MDEQ and determine if the MDEQ retains jurisdiction over all or a portion of the wetlands. If the

MDEQ retains full jurisdiction, then the Township shall withhold taking further action until the MDEQ has completed its review and made its decision.

The MDEQ's decision shall be reviewed by the Township's Wetlands Consultant, who shall, prior to completing a full-scale wetlands investigation: (1) consult with the MDEQ as necessary regarding the application, (2) advise the Township whether he/she agrees with the MDEQ's findings and decision, and (3) recommend a course of action.

The Wetlands Consultant's recommendation shall be considered first by the Planning Commission, which shall make a recommendation to the Township Board. In the event that the Wetlands Consultant disagrees with the MDEQ's decision, and the Township Board concurs with the Wetlands Consultant, then full-scale Township review of the wetlands permit application shall be required, as outlined in the remainder of this sub-section 2. Full-scale review is required to provide proper opportunity for public input and to obtain a complete and thorough report from the Wetlands Consultant.

Where the MDEQ has approved a permit application, and the Township has subsequently also approved it, the Township shall retain authority to monitor activity in and around the wetlands to achieve compliance with the permit.

- (ii) If the Township has jurisdiction over wetlands, then the Township shall proceed with publication of a notice of the application and the date and time of the Planning Commission public hearing required by Section 5.2, sub-section 2.c(iii). The Township administration may consult with the Planning Commission Chairperson or Vice Chairperson regarding scheduling of the hearing. The hearing notice shall be published in a newspaper of general circulation in the Township not less than five (5) days nor more than fifteen (15) days prior to the date of the hearing. Such notice shall indicate the place, time and subject of the hearing, the place and time the proposed Wetland Use Permit application may be examined, and the date and time for submission of written public comments. The Wetland Use Permit hearing may be held in conjunction with a hearing on the related land use proposal.
- (iii) Post the subject property with a sign no less than six (6) square feet in size which shall indicate that an application for a Wetland Use Permit Application has been submitted and that date and time for the public comment.
- (iv) Transmit copies of the application and supporting documentation to the Township Planner and Wetlands Consultant. The Wetlands Consultant shall confirm the boundaries of the wetlands. The Wetlands Consultant and Planner shall submit written reviews and recommendations to the Planning

Commission and Township Board, basing their comments on the criteria in this Ordinance.

- (v) Transmit the application and supporting documentation to the Planning Commission.

c. **Planning Commission and Township Board Review**

- (i) Wetland Use Permit applications shall be decided by the Township Board, following receipt of a recommendation by the Planning Commission.
- (ii) The Planning Commission shall hold one public hearing, as described in Section 5.2, sub-section 2.b(ii).
- (iii) After completing review of the report and recommendation from the Township Wetland Consultant, holding a public hearing, and reviewing other public comment received, the Planning Commission shall recommend approval, approval with conditions or denial of the application to the Township Board. The Township Board shall then make a final decision, which must be made within 90 days after the Township received the completed application.
- (iv) Written notice of the decision shall be sent to the applicant and to all persons who have requested notice of the decision. The denial of a permit shall be accompanied by a written statement of the reasons for denial.
- (v) A permit approval shall become effective ten (10) calendar days following the date of the approval.

d. **Request for Reconsideration**

- (i) Any person who is aggrieved by a decision regarding a Wetland Use Permit may request that the Township Board reconsider their action by filing a written request, which shall specify the reasons that reconsideration is requested, and which shall include any additional information that the Township Board may not have had when it first acted on the Permit. The request for reconsideration shall be submitted to the Township Clerk within ten (10) calendar days following the date of the initial decision. The timely filing of a request for reconsideration shall have the effect of staying the permit pending the outcome of the request. Since such reconsideration would be above and beyond any action mandated by Act 451, such action need not occur within the Township's 90-day decision period.
- (ii) The Township Board shall hold a hearing on the request for reconsideration which shall be open to public comment and shall include an opportunity for the appealing party to present evidence.

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- (iii) Notice of the time and place for consideration of a request for reconsideration shall be sent by mail or personal delivery to the owners of the property considered in the request. The notice may also be placed in a newspaper of general circulation in the Township not less than five (5) days nor more than fifteen (15) days prior to the date of the meeting at which the request will be addressed.
 - (iv) The Township Board shall affirm, affirm with conditions, or reverse, their initial decision.

Section 5.3, Request for Revaluation of Property

The owner of any property for which a Wetland Use Permit was applied for under this Ordinance and was denied, may request revaluation of the affected property by the Township Board of Review for assessment purposes to determine its fair market value under the use restriction. A landowner who is aggrieved by a determination, action, or inaction under this Ordinance may protest and appeal that determination, action or inaction pursuant to the General Property Tax Act, Act No. 206 of the Public Acts of 1893, being Section 211.1 to 211.157 of the Michigan Compiled Laws.

ARTICLE 6.00
PERMIT CONDITIONS AND MITIGATION

Section 6.1, Wetland Use Permit Conditions

1. As a condition of approval, the Township Board, upon consideration of recommendations from the Planning Commission, Township Wetlands Consultant, or Township Planner, may attach reasonable conditions considered necessary to insure that the intent of this Ordinance will be fulfilled, to minimize or mitigate damage or impairment to, encroachment in, or interference with natural resources and processes within the protected wetland or to otherwise improve or maintain the water quality.
2. As a condition of approval, the Township Board may establish a reasonable time for undertaking and completing all proposed activities and improvements.
3. Following approval of a Wetland Use Permit application, a Wetland Use Permit shall be issued provided that the proposed activity complies with other Ordinances and laws, and that all other required permits have been obtained.
4. As a condition of approval, the Township may require the applicant to file with the Township Treasurer a performance guarantee in the form of cash, certified check, or an irrevocable bank letter of credit, in amount determined necessary to insure compliance with the Wetland Use Permit.
5. The Township Board shall not approve a Wetland Use Permit that allows more extensive alteration of the wetland than permitted by state or federal law.
6. A Wetland Use Permit for a seasonal operation need not be renewed annually unless otherwise stated in the permit. Any temporary, seasonal, or permanent operation that is discontinued for two (2) or more seasons shall be presumed to have been abandoned and the Wetland Use Permit automatically voided.
7. Any change in activity that increases the size or scope of the operation and that affects the criteria considered in approving the permit shall require the filing of a new Wetland Use Permit application. Such activity shall not commence prior to issuance of a new Wetland Use Permit.
8. Any permit granted under this Ordinance may be revoked or suspended by the Township Board, after notice and an opportunity for a hearing, for any of the following causes:
 - a. A violation of a condition of the permit.

- b. Misrepresentation or failure to fully disclose relevant facts in the application.
- c. A change in conditions that requires a temporary or permanent change in the activity.

All activity specified in a revoked or suspended permit shall cease until the Township finds that the conditions that caused the revocation or suspension have been rectified.

- 9. An applicant who has received a Wetland Use Permit shall comply with the following in connection with any construction or other activity on the property for which the Wetland Use Permit has been issued:
 - a. Maintain soil erosion and sedimentation control structures and measures, including but not limited to, silt fences, straw bale berms, and sediment traps.
 - b. Maintain clear delineation of the protected wetlands so that the boundaries are visible to all construction workers.
 - c. Have available on the site, prior to commencement of work on the site and continuing throughout the duration of the project, a copy of the approved Wetland Use Permit containing the conditions of issuance.
- 10. The Wetland Use Permit shall remain effective for a time period coincidental with any other land use permit reviewed and approved concurrent with the Wetland Use Permit. If applied for in writing prior to the expiration date and concurrent with the expiring land use permit, the Township Board may grant a Wetland Use Permit extension that corresponds to additional time granted for the underlying land use permit. The maximum number of extensions shall coincide with the maximum number allowed for the underlying land use permit. Where there is no other activity or permit involved, the Wetland Use Permit shall remain effective for one (1) year, with the opportunity for one (1) year extensions, provided that the extension is requested in writing prior to expiration of the permit.

Section 6.2, Mitigation

1. No Net Loss of Wetlands

To the extent feasible there shall be no net loss of regulated wetlands in Williamstown Township. Wherever wetlands loss or alterations affecting the wetlands' resource value are anticipated due to proposed land use activity, mitigation shall generally be required. Mitigation shall not substitute for making all prudent efforts to avoid wetlands loss. Accordingly, prior to considering a proposal for wetland mitigation, the applicant shall provide evidence to demonstrate that:

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- a. No reasonable alternatives exist to avoid impact to existing wetlands, and
 - b. The resource value of existing wetlands will be maintained through mitigation. Such resource value may include flood prevention; wildlife habitat; groundwater resource protection and recharge; pollution treatment; erosion control; nutrient sources; aesthetics; recreation; open space, or other resource value associated with the impacted wetland.

2. **Exception to Mitigation Requirement**

The Township Board may waive the mitigation requirement, upon receiving a recommendation from the Township Wetlands Consultant, and making the finding that the loss of wetland resource value will be so small as to make mitigation infeasible and/or unreasonable. For example, mitigation may be infeasible where a driveway crosses the edge of a wetland.

3. **Review of Mitigation Plans**

Mitigation plans shall be submitted to the Township Wetland Consultant and reviewed with the Wetland Use Permit application in accordance with the procedures outlined in Section 5.2.

4. **Review Criteria**

The following criteria shall be used to evaluate a mitigation plan:

- a. Mitigation shall be provided on-site where practical and beneficial to the wetland resources. If mitigation on-site is not practical and beneficial, then mitigation in the immediate vicinity, within the same watershed, of the permitted activity may be considered. Only if all of these options are impractical shall mitigation be considered elsewhere.
- b. The mitigation plan shall assure that there will be no net loss to the wetland resource values.
- c. The mitigation plan must comply with all applicable federal, state, and local laws.
- d. A plan to monitor preserved and replacement wetlands over a minimum of five years must be included with the mitigation proposal. The monitoring plan shall provide a means (financial and technical) to modify the mitigation plan, where necessary, to preserve the resource value of the wetland.

5. **Timing of Mitigation**

Mitigation activity shall be completed before initiation of other permitted activities, unless the Township Board finds that another schedule would be more appropriate.

**ARTICLE 7.00
ENFORCEMENT**

Section 7.1, Penalties and Enforcement

1. **Penalties.** In addition to the rights and remedies herein provided to the Township, any person violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine in an amount not exceeding Five Hundred Dollars (\$500.00) per day or per separate offense, or imprisonment for a period not exceeding ninety (90) days, or both, at the discretion of the court. Each violation of this act shall be a separate offense and in the event of a continuing violation, each day during which the violation exists shall be deemed to be separate and distinct offense. Each day such violation is continued or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.
2. **Stop Work Orders.** Whenever any work is performed contrary to the provisions of this Ordinance, the Township Building Official or his/her agent shall order the work to cease by notice in writing served on any persons engaged in doing or causing such work to be performed, and any such persons shall, upon receipt of the order, shall forthwith stop such work until authorized by the Township Building Official or his/her agent to proceed.
3. **Civil Remedies.** Any use of land or premises in violation of any provision of this Ordinance is declared to be a nuisance per se. Whenever any work is being done contrary to the provisions of this Ordinance, the Township may commence judicial proceedings for injunction, mandamus, or other appropriate relief to prevent, enjoin, abate, correct, restore, or remove any violation of this Ordinance. The rights and remedies herein provided are civil in nature and in addition to any criminal remedies under this Ordinance or provided by state law.
4. **Investigation, Restoration.** The Township Wetlands Consultant or his/her agent, officer or employee shall have authority under this Ordinance to enter upon privately-owned land for the purpose of performing the Township's duties under this ordinance and may take or cause to be made such examinations, surveys or samplings as are deemed necessary. In the event of a violation of this ordinance, the Township Board shall have the power to order restoration of the damaged wetland by the owner of the property or the person or agent responsible for the violation. If the owner or person responsible does not complete the restoration measures within an ordered period of time, the Township Board may order the affected wetland restored to its prior condition and/or create or restore other wetlands for the purpose of offsetting losses sustained as a result of the violation. The owner or person responsible for the original violation shall be responsible to the Township for the full cost of all such remedial activity.

Section 7.2, Fees

Applications for Wetland Use Permits, wetland verification and delineation under this Ordinance shall be accompanied by an application fee in an amount specified by resolution of the Township Board. In the absence of such a resolution, fees shall be paid in an amount to cover the expenses of professional review, inspection and enforcement, publication of notices, and other expenses related to implementation of this Ordinance on a specific parcel or in connection with a specific development proposal.

Section 7.3, Notice to the Michigan Department of Environmental Quality

1. The Township shall notify the Michigan Department of Environmental Quality (MDEQ) of the adoption of this Ordinance. The Township shall cooperate with the Department of Environmental Quality in the enforcement of Part 303 of the Natural Resources and Environmental Protection Act regarding wetlands under the jurisdiction of the MDEQ as defined under this Ordinance.
2. The Township shall notify the MDEQ of its decisions on all applications processed by the Township.

Section 7.4, Abrogation and Conflict of Authority

Nothing in this Ordinance shall be interpreted to conflict with present or future state statutes in the same subject matter; conflicting provisions of this Ordinance shall be abrogated to, but only to, the extent of the conflict. Moreover, the provisions of this Ordinance shall be construed, if possible, to be consistent with and in addition to relevant state regulations and statutes. If any part of this Ordinance is found to be invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision. Such holding shall not affect the validity of the remaining portions thereof, and the remainder of the Ordinance shall remain in force.

Section 7.5, Effective Date

This Ordinance shall become effective upon its passage, publication and recording by the Township Clerk.

Recommendation by the Planning Commission: _____

Initial Adoption by the Township Board: _____

Effective Date: _____

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