

## CHAPTER 8 ENVIRONMENTAL PROTECTION

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### ARTICLE I IN GENERAL

#### Sec. 8-001. Definitions.

In addition to those rules of construction and definitions contained in Section 1-002, the following definitions shall apply to this Chapter:

***Aquatic Vegetation*** means plants and plant life forms which naturally occur in, at, near or predominantly near water.

***Contaminated Site*** A site which has been identified by the U.S. Environmental Protection Agency, the S.E.A., and/or County or local land development agency as a former industrial or waste disposal site, where the presence of toxic chemicals and/or gas pose an unreasonable risk of injury to health, property, and/or the environment.

***Deposit*** means to fill, place, grade or dump.

***Erosion.*** The mobilization of soil as a result of loss of vegetative cover, scouring by runoff, or associated with slope instability.

(CHAPTER 8, ARTICLE I, SECTION 8-001 cont.)

**High Water Mark, Ordinary.** Ordinary high-water mark means the line between upland and inland lake bottom land which persists through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land is markedly distinct from the upland and is apparent in the soil itself, the configuration of the surface of the soil and the vegetation. On an inland lake which has the level established by law, it means the high established level. Where water returns to its natural level as a result of the permanent removal or abandonment of a dam, it means the natural ordinary high-water mark.

**Fill Material** means soil, sand, gravel, clay, or any other inorganic substance.

**Mean Sea Level** means the average height of the sea for all stages of the tide. Mean sea level is commonly referred to as USGS or NGVD elevation.

**Natural Feature.** A natural feature shall mean water resources such as inland lakes and streams, watercourses, and wetlands. This definition may include upland areas representing distinctive geological, ecological or natural landscapes that the Township Board has declared by resolution to be a natural feature.

**Operation** means the making of additions or deposits, performing any construction or excavation activity, removing, improving and/or developing land in any manner, or any combination thereof and includes engaging in any use, construction or activity to improved or unimproved real estate including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, grubbing or drilling operations.

**Owner** means any person who has dominion over, control of, title to and/or any other proprietary interest in designated wetland and/or watercourse areas, or title to a natural feature or man-made structure impacting a wetland, watercourse, or inland lake or stream property.

**Remove** means and includes to dig, dredge, suck, pump, bulldoze, dragline, blast, or any other activity which causes soil disruption.

**Riparian Owner** means a person who has riparian rights.

**Riparian Rights** means those rights which are associated with the ownership of the bank or shore of an inland lake or stream.

**Runoff.** Water from rain or snow melt that flows over the ground surface and returns to the nearest water resource via the path of least resistance.

**Shoreline.** A zoning lot line or portion of a zoning lot which abuts the ordinary high water mark of an inland lake.

**Upland** means the land area adjoining a wetland, lake, stream or watercourse, above the ordinary high-water mark.

Secs. 8-002--8-040. Reserved.

## ARTICLE II FLOOD DAMAGE PREVENTION AND CONTROL

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*\*Editor's note: The 2014 ordinance recodification amended the Code transferring the sections of the Waterford Township Floodplain Management Ordinance from Article I of this Chapter, formerly §§ 8-001 – 8-040, to Division 1 of this Article and the sections of this ordinance from Article II of this Chapter, formerly §§ 8-041 – 8-065, to Division 2 of this Article.*

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### Division 1. Generally

#### Sec. 8-041. Short title.

This Article shall be known and cited as the "Waterford Township Floodplain Management Ordinance."

(Comp. Ords. 1986, § 26.405)

**(CHAPTER 8, ARTICLE II, DIVISION 1 cont.)**

**Sec. 8-042. Statutory authorization.**

This Article is adopted to secure the public health, welfare, and safety under the combined authority of Public Act 359 of 1947 (MCL 42.1 et seq), (Charter Township Act), as amended, Public Act 451 of 1994 (Natural Resources and Environmental Protection Act),(MCL 324.33705), the National Flood Insurance Act of 1968, as amended, and the Flood Disaster Protection Act of 1973, as amended.

*(Comp. Ords. 1986, § 26.410)*

**Sec. 8-043. Legislative determinations.**

- (a) The special flood hazard areas of the Township are subject to periodic inundation which could result in potential loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which would adversely affect the public health, safety and general welfare.
- (b) These potential flood losses are caused by the cumulative effect of obstructions in floodways causing increases in flood heights and velocities, and by the occupancy in special flood hazard areas by uses vulnerable to flood or hazardous to other lands which are inadequately elevated, flood-proofed, or otherwise protected from flood damages.
- (c) The preservation and maintenance of the flood hazard areas of the Township in an undisturbed and natural condition provides for the protection of the Township watercourses, inland lakes and streams, and wetlands by minimizing the threat of existing and future pollution.

*(Comp. Ords. 1986, § 26.411)*

**Sec. 8-044. Statement of purpose and objectives.**

- (a) It is the purpose of this Article to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific flood hazard areas by provisions designed to:
  - (1) Restrict or prohibit uses which threaten the health, safety and property due to water, erosion or pollution or by flood heights or velocities.
  - (2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
  - (3) Control the alteration of natural floodplains, stream channels and natural protective barriers which are involved in the accommodation of floodwaters.
  - (4) Control filling, grading, dredging and other land development which may increase pollution, erosion or flood damage.
  - (5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.
- (b) The objectives of this Article are:
  - (1) To protect human life and health.
  - (2) To minimize expenditure of public money for costly flood control projects.
  - (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
  - (4) To minimize prolonged business interruptions.
  - (5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains.
  - (6) To help maintain a stable tax base by providing for the sound use and land development of flood-prone areas in such a manner as to minimize future flood blight areas.
  - (7) To provide a means whereby potential home buyers are notified that property is in a flood area.
  - (8) To minimize disturbance to the floodplains which would result in damage from erosion, turbidity or siltation, a loss of fish or other beneficial aquatic organisms, a loss of wildlife and vegetation from the destruction of their habitat.

*(Comp. Ords. 1986, § 26.412)*

(CHAPTER 8, ARTICLE II, DIVISION 1 cont.)

**Sec. 8-045. Definitions.**

In addition to those definitions contained in Sections 1-002 and 8-001, the following definitions shall apply to this Article:

**Appeal** means a request for a review of or variance from the Township Engineer's or Building Official's interpretation of any provision of this Article.

**Applicant** means the owner, agent or legal representative of a zoning lot for which and by whom an application for land development in a special flood hazard area is made.

**Base Flood** means the flood having a one (1) percent chance of being equaled or exceeded in any given year.

**FEMA** The Federal Emergency Management Agency.

**Flood or Flooding** means:

- (a) A general and temporary condition of partial or complete inundation of normally dry land areas from:
  - (1) The overflow of inland or tidal waters,
  - (2) The unusual and rapid accumulation of runoff of surface waters from any source.
  - (3) mudflows, and
- (b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding, as defined in paragraph (a)(1) of this definition.

**Flood Insurance Rate Map (FIRM)** The official map of a community on which FEMA has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

**Flood Insurance Study (FIS)** A FIS is a compilation and presentation of flood risk data for specific watercourses, lakes, and coastal flood hazard areas within a community. When a flood study is completed for the NFIP, the information and maps are assembled into an FIS. The FIS report contains detailed flood elevation data in flood profiles and data tables.

**Floodplain.** means any land area susceptible to being inundated by water from any source (see definition of flooding).

**Floodplain Management** means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

**Floodplain Management Regulations** means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance), and other applications of police power that provide standards for the purpose of flood damage prevention and reduction.

**Floodproofing** means those construction standards identified in the "Flood-Proofing Regulations," publication #EP-1165-2-314, U.S. Army Corp of Engineers publication.

**Floodway** means the floodplain that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

**New Construction** means buildings and/or structures for which land development commenced on or after February 17, 1983.

**National Flood Insurance Program (NFIP)** The program of flood insurance coverage and floodplain management administered under the Act and applicable Federal regulations promulgated in Title 44 of the Code of Federal Regulations, Subchapter B.

**Special Flood Hazard Area (SFHA)** An area having special flood, mudflow, or flood-related erosion hazards, and shown on a Flood Hazard Boundary Map or a Flood Insurance Rate Map as Zone A, AO, A1-A30, AE, A99, AH, AR, AR/A, AR/AE, AR/AH, AR/AO, AR/A1-

*(CHAPTER 8, ARTICLE II, DIVISION 1, SECTION 8-045 cont.)*

30, V1-V30, VE, or V. For the purpose of determining Community Rating System premium discounts, all AR and A99 zones are treated as non-SFHAs.

**Substantially Improved** means, for a structure built prior to February 17, 1983, any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either, (1) before the improvement or repair is started, or (2) if the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

*(Comp. Ords. 1986, § 26.415; Ord. of 9-11-06)*

**Sec. 8-046. Prohibition on alteration of buildings, structures, or land without compliance with Article.**

It is prohibited and a violation of this Article for any building, structure, or land located within areas designated herein as special flood hazard areas to be extended, converted or structurally altered without full compliance with the terms of this Article and other applicable laws or ordinances.

*(Comp. Ords. 1986, § 26.420)*

**Sec. 8-047. Designation of special flood hazard areas.**

The special flood hazard areas identified by the Federal Insurance Administration through a scientific and engineering report entitled "Flood Insurance Study Oakland County, Michigan and All Jurisdictions," dated September 29, 2006, with accompanying flood insurance rate map panels

26125C0329F	26125C0343F	26125C0364F
26125C0333F	26125C0344F	26125C0477F
26125C0334F	26125C0353F	26125C0481F
26125C0337F	26125C0354F	26125C0482F
26125C0339F	26125C0361F	26125C0501F
26125C0341F	26125C0362F	26125C0502F
26125C0342F	26125C0363F	

and flood boundary and floodway maps and any revision thereto are hereby adopted by reference and declared to be a part of this Article. Copies of such map shall be maintained on file with the Building Official.

*(Comp. Ords. 1986, § 26.421; Ord. of 9-11-06)*

**Sec. 8-048. Designation of additional floodplains.**

Floodplains additional to those areas described in the FIS may exist in the Township. The location of these areas shall be designated by the Township Engineer by utilizing the technical data contained in the FIS.

**Sec. 8-049. Warning and disclaimer of liability.**

The degree of flood protection required by this Article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will probably occur on rare occasions. Flood heights may be increased by manmade or natural causes. This Article does not imply that land outside the special flood hazard areas or uses permitted within such areas will be free from flooding or flood damages. This Article shall not create liability on the part of the Township or by any officer or employee thereof for any flood damages that result from reliance on this Article or any administrative decision lawfully made thereunder.

**(CHAPTER 8, ARTICLE II, DIVISION 1 cont.)**

*(Comp. Ords. 1986, § 26.425)*

**Sec. 8-050. Actions requiring permit.**

Without first having obtained a permit approval from Township Engineer, Building Official, or Township Board, it shall be unlawful for any person, owner or occupant to:

- (a) Locate any operation, obstruction, building, or structure within the floodway.
- (b) Allow any operation, obstruction, building, or structure to remain within the floodway.
- (c) Locate any operation, obstruction, building, or structure on lands in a floodplain
- (d) Make alterations of any obstruction, building, or structure within these floodways or floodplains whether such obstruction, building, or structure is located in the floodway or floodplain before or after February 17, 1983. Maintenance of an obstruction, building, or structure shall not be construed to be an alteration.
- (e) To locate any public or private institution or place of assembly on lands in a floodplain.
- (f) Dredge, fill or land balance bottomlands, floodplains or floodways.
- (g) Enlarge, diminish or alter an inland lake or stream or a naturally occurring watercourse.
- (h) Construct, extend, enlarge, or connect any conduit, pipe, culvert or open or closed drainage facility erected for the purpose of carrying storm water runoff from any residential site of two (2) or more single-family or multiple residences, commercial sites, parking areas, paved or unpaved private or public streets, or any other land use permitting discharge of silt, sediment, organic or inorganic substances, chemicals, fertilizers, flammable liquids or any substance producing turbidity, except through an interceptor, retention or settling basin, filter, or treatment facility designed to control and eliminate the pollutant before discharge to any lake, pond, stream or watercourse.

*(Comp. Ords. 1986, § 26.430)*

**Sec. 8-051. Actions not requiring permit.**

The following uses are allowed in those areas designated in Sections 8-048 and 8-049 without a permit, subject to any required Township Engineer determinations being first obtained in writing:

- (a) Conservation of natural habitats, soil, vegetation, water, fish and wildlife.
- (b) Outdoor recreation including play and sporting areas; field trails for nature study, hiking and horseback riding, swimming, skin diving, boating, trapping, hunting (as permitted by local ordinance) and fishing where otherwise legally permitted and regulated.
- (c) Grazing, farming, gardening and harvesting of crops, and forestry and nursery practices where otherwise legally permitted and regulated.
- (d) Dams and other water control devices, and temporary alteration or diversion of water or circulation for emergency maintenance or aquaculture purposes, if in compliance with state statutes.
- (e) Public and/or privately owned boat launching and landing facilities, and fishing docks which have obtained the necessary state permits.
- (f) Public and/or private rafts and diving platforms, slides, swings and other water recreation devices.
- (g) Municipal or utility use such as waterworks, sewer lines, pumping stations, transmission lines, parks and recreation facilities, when involving any alteration of existing natural conditions of special flood hazard areas.
- (h) Driveways, streets, culverts and bridges where alternative means of access are proven to be impractical by the Township Engineer.
- (i) Other uses, which after review by the Township Engineer, are determined to be in keeping with the intent of this Article.

*(Comp. Ords. 1986, § 26.435)*

**Sec. 8-052. Abrogation and greater restrictions.**

This Article is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. Where this Article and another provision of this Code conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

*(Comp. Ords. 1986, § 26.475)*

**Secs. 8-053--8-070. Reserved.**

*(CHAPTER 8, ARTICLE II, cont.)*

## **Division 2. Administration\***

### **Sec. 8-071. Administration and review procedures; Township Engineer.**

The Township Engineer, working in conjunction with the Building Official, is hereby appointed to administer and implement the provisions of this Article and approve permits for proposed actions that do not require any other Township permit or approval. Accordingly he shall review all operations affecting the special flood hazard areas of the Township as well as any application for an operation in the special flood hazard areas received by the Township Engineer under any of the other provisions of this Article, and any such application received by:

- (a) The Zoning Official for a new subdivision of property under the provisions of the Waterford Code of Ordinances, Subdivision and Land Management Regulations.
- (b) The Building Official under the provisions of the state construction code comprised of the Michigan Residential Code and the Michigan Building Code and its Appendices, specifically Appendix G, adopted pursuant to the Stille-Derossett-Hale Single State Construction Code Act, 1972 PA 230, as amended, MCL 125.1501, et. seq. (construction code act).
- (c) The Zoning Official under the provisions of the Waterford Township Zoning Ordinance.
- (d) The Township Clerk under the provisions of Public Act 451 of 1994. (Natural Resources and Environmental Protection Act) (MCL 324.33705).

*(Comp. Ords. 1986, § 26.450; Ord. of 9-11-06)*

### **Sec. 8-072. Data supplied by applicant.**

As requested by either the Township Engineer or the Building Official, an applicant or permit holder shall furnish the following information and data:

- (a) Duplicate sets of engineering plans drawn to suitable scale, showing the nature, location, dimensions and the existing and proposed elevations based on mean sea level of the area in question, as well as all existing or proposed buildings, structures, drainage facilities, and the locations of the foregoing.
- (b) Any other additional information which may be reasonably necessary to determine compliance with the provisions of this Article.
- (c) Elevation in relation to mean sea level of the lowest floor (including basement) of all buildings and structures.
- (d) Elevation in relation to mean sea level, to which any nonresidential building or structure has been flood-proofed.
- (e) Certificate from a registered professional engineer or architect that the nonresidential flood-proofed building or structure has been flood-proofed.
- (f) Flood impact analysis/evaluation.

*(Comp. Ords. 1986, § 26.455)*

### **Sec. 8-073. Duties and responsibilities of Township Engineer.**

The Township Engineer, upon receipt of an application for any of the operations referenced in Section 8-071 shall:

- (a) Review the information and present his findings to the Zoning Official prior to approval of any preliminary plat.
- (b) Review the information presented to him by the Building Official prior to the issuance of any building permit, and report to the Building Official his findings.
- (c) Review the information contained in the application for a lowland filling permit and report this finding to the applicant and the Township Board in connection with an appeal.
- (d) Review the information contained in the rezoning, zoning board of appeals, special approval, or site plan application and report to the Zoning Official.
- (e) Review the information contained in any state-mandated floodplain control application and report to the S.E.A.
- (f) Advise applicant that additional federal or state permits may be required, and if specific federal or state permits are known, require that copies of such permits, or a letter of no authority, be provided and maintained on file with the applicant's file.

**(CHAPTER 8, ARTICLE II, DIVISION 2, SECTION 8-073 cont.)**

- (g) Notify adjacent communities and the S.E.A. prior to any alteration or relocation of a watercourse, and submit evidence of such notification to FEMA. Require that maintenance is provided within the altered or relocated portions of such watercourse so that the flood carrying capacity is not diminished.
- (h) If no other permit or approval is required, approve, with or without conditions, a permit for the proposed action or deny the permit giving the reasons for denial to the applicant in writing.

*(Comp. Ords. 1986, § 26.460)*

**Sec. 8-074. Duties and responsibilities of Building Official.**

When the Building Official is notified by the Township Engineer that an applicant has applied for any operation in areas identified in Sections 8-048 and 8-049 that requires a construction code building permit he shall evaluate documents submitted as required by Section 8-072 for the following purposes and actions:

- (a) Verify through acceptance of applicant's engineering certificate, the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved buildings and structures and retain as an official record of the Building Official.
- (b) Verify through acceptance of applicant's engineering certificate, the actual elevation (in relation to mean sea level) to which the new or substantially improved buildings and structures have been flood-proofed and retain as a Building Official record.
- (c) When flood-proofing is utilized for a particular nonresidential building or structure, obtain certification from a registered professional engineer or architect.
- (d) Where applicant seeks to substitute construction standards required and referenced by this Article, the applicant may file with the construction board of appeals for relief.
- (e) All records pertaining to the construction, alteration or flood-proofing of buildings or structures in the special flood hazard area shall be maintained in the office of the Building Official and shall be open for public inspection.
- (f) Check building plan for compliance with this Article.
- (g) If applicant meets all the requirements, issue a permit. If not, he shall inform applicant that the permit must be denied until the problem is corrected.
- (h) Make a final inspection when the project is completed. If project has been completed according to approved plans, he shall issue a certificate of occupancy.

*(Comp. Ords. 1986, § 26.461)*

**Sec. 8-075. Performance bond.**

The Township Engineer, Building Official or the Township Board may require, as a condition to the granting of any approval under this Article, that the applicant provide a bond in the form of cash, letter of credit, or other security acceptable to the Township in an amount that does not exceed the reasonable cost of guaranteeing that the applicant will faithfully perform all of the conditions and requirements under which the permit is issued.

*(Comp. Ords. 1986, § 26.465)*

**Sec. 8-076. Variance and appeal power of Township Board.**

- (a) The Township Board shall have full power and authority to vary the application of the provisions of this Article. The Township Board shall hear appeals from any requirement, decision or determination made by an authorized Township official acting in the enforcement or administration of this Article. In passing upon such matters, the Township Board shall consider:
  - (1) All technical elevations, relevant factors, and standards specified in other sections of this Article.
  - (2) Danger to life, health or property by water which may be backed up or diverted by such obstruction.
  - (3) Danger that the obstruction will be swept downstream to the injury of others.
  - (4) Danger of water pollution resulting from floods.
  - (5) Availability of alternate locations.
  - (6) Construction or alternation of the obstruction in such a manner as to lessen the danger.
  - (7) Permanence of the obstruction.



*(CHAPTER 8, ARTICLE II, DIVISION 2, SECTION 8-076 cont.)*

- (8) Anticipated land development in the foreseeable future of the area which may be affected by the obstruction including maintaining the stability of the tax base by preventing improper land development of floodprone areas.
- (9) Other factors as are in harmony with the purpose of this Article.
- (b) Variances may be granted for the reconstruction, rehabilitation or restoration of buildings and structures listed on the National Register of Historic Places or the state register of historic places without regard to the criteria set forth in this Section.  
*(Comp. Ords. 1986, § 26.470)*

**Sec. 8-077. Violations; Civil Infraction.**

Violation of this Article is a civil infraction, punishable as provided in Section 1-010(b).

**Secs. 8-078--8-110. Reserved.**

**ARTICLE III. LOWLAND FILLING**

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*\*Editor's note: The 2014 ordinance recodification amended the Code repealing the flood hazard reduction standards formerly contained in §§ 8-066 – 8-068 in this Article, transferring the Waterford Township Lowland Filling Regulatory Ordinance from Article III of Chapter 13, formerly §§ 13-081 – 13-130, to this Article and pertaining to similar subject matter and derived from the same historical ordinance sources.*

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**Division 1. Generally**

**Sec. 8-111. Title.**

This Article shall be known and cited as the "Waterford Township Lowland Filling Regulatory Ordinance."

*(Comp. Ords. 1986, § 21.051)*

**Sec. 8-112. Purpose.**

The purpose of this Article is to promote the public health, safety and general welfare of the residents of the Township and preserve the natural resources and to prevent the creation of nuisances and hazards to the health, safety and general welfare by the regulation of the depositing and dumping of fill materials, waste materials, and other materials on land located within the Township. The Township shall issue permits for such activities, provide for fees, and prescribe the rules and regulations and conditions for the issuance of such permits, and to provide for the bonds to ensure satisfactory performance of the terms of this Article.

*(Comp. Ords. 1986, § 21.052)*

**Sec. 8-113. Unlicensed refuse dumping prohibited.**

No person shall dispose of any waste materials, as defined in Section 9-053 of this Code, at any place within the Township unless in a state licensed sanitary landfill in accordance with Public Act No. 451 of 1994, as amended (MCL 324.11512 et seq).

*(Comp. Ords. 1986, § 21.053)*

**Sec. 8-114. Enforcing official; violations; appearance ticket; Civil Infraction.**

- (a) The Township Engineer is hereby designated as the official responsible for the implementation and enforcement of the provisions of this Article.
- (b) The Township Engineer may issue a complaint in the form of a court citation directed to any person when there exists reasonable cause to believe a violation of the provisions of this Article has been committed.

***(CHAPTER 8, ARTICLE III, DIVISION 1, SECTION 8-114 cont.)***

- (c) Any violation of this Article is deemed to be nuisance per se and shall be enforceable through the bringing of appropriate action for injunctive relief in any court having jurisdiction.
- (d) In the event a violation of this Article has adversely affected any neighboring property, then, as a part of the injunctive relief authorized herein, the court, in its discretion, may authorize the Township to enter onto the property upon which the violation has occurred and take any and all action deemed necessary by the Township to correct such violation. All costs of such correction incurred by the Township shall be paid by the property owner and the Township shall have a lien against the land for such expense to be enforced in the manner provided for enforcement of tax liens under the general property tax law or as otherwise provided in Chapter 1..

*(Comp. Ords. 1986, § 21.072; Ord. of 12-8-86, § 1.00)*

**Sec. 8-115. Violations and sanctions.**

Violation of this Article is a civil infraction punishable as provided in Section 1-010(b).

*(Ord. of 7-8-02)*

**Secs. 8-116--8-130. Reserved.**

**Division 2. Permit\***

**Sec. 8-131. Required.**

It shall be unlawful for any person to move or deposit fill materials or other materials on land located within the Township without having first obtained a permit for such moving and/or deposition from the Township except as otherwise provided by law.

*(Comp. Ords. 1986, § 21.054)*

**Sec. 8-132. Activities exempt from requirement.**

- (a) No permit required under this Division shall be required for the moving of the fill materials described in Section 8-131 upon a zoning lot one-half acre or less in area where grade will not be changed by more than one (1) foot and/or drainage will not be changed to the detriment of adjacent properties.
- (b) No permit shall be required for sites where the moving, grading or leveling of such fill materials is carried on for the land development :
  - (1) Which has received site plan approval in accordance with the Waterford Township Zoning Ordinance, or
  - (2) Which has an approved grading plan for a platted subdivision which has received final approval of the preliminary plat in accordance with Waterford Code of Ordinances, Subdivision and Land Management Regulations, and
  - (3) Which has a building permit issued by the Building Official.
- (c) No permit shall be required for sites where the moving, grading or leveling of such fill materials by a property owner solely upon his own property which either:
  - (1) Does not change the natural drainage to the detriment of adjacent properties.
  - (2) Does not disrupt or fill any portion of a wetland area.
- (d) No permit shall be required for the application of topsoil or other similar fill material when used for purposes of lawn maintenance or gardening; provided, however, that such lawn maintenance or gardening does not violate the requirements of subsection (a) of this Section.
- (e) No permit shall be required for public street construction. However, any pit, hole, or excavation opened and used by a street agency solely for the purpose of a particular project or contract of street construction and not located on the street right-of-way shall obtain a permit in accordance with this Division.

*(Comp. Ords. 1986, §§ 21.055--21.058)*

*(CHAPTER 8, ARTICLE III, DIVISION 2 cont.)*

**Sec. 8-133.      Application; required information.**

The application for a permit shall be filed with the Township Engineer on the form authorized by the Township Engineer for such a permit, signed by the property owner of record and all parties having a legal interest in the property, the original of which shall be sworn to before some person lawfully authorized to administer oaths, and shall set forth the following information and shall be accompanied by the following data:

- (a) A full identification of the applicant and all persons to be directly or indirectly interested in the permit, if granted.
- (b) The residence and business address of the applicant, including all members of any firm or partnership, or all officers of any corporation applying.
- (c) A complete legal description of the zoning lot.
- (d) A complete description of the location of the property on which the work is proposed to be done
- (e) The exact nature of the proposed filling and the type of fill material to be deposited and an estimate of the approximate number of cubic yards to be deposited.
- (f) The proposed route which the applicant proposes to use over the public streets and over private property in transporting such fill material. A copy of the haul permit, if required by the street agency, shall be furnished to the Township Engineer.
- (g) Binding dates of commencement of filling and termination of filling.
- (h) Other information required by the Township Engineer as dictated by the features of the zoning lot in question and the public health, safety and welfare of the Township.

*(Comp. Ords. 1986, § 21.059)*

**Sec. 8-134.      Permit application fees and bonds.**

- (a) The Township Board may establish by resolution a schedule of fees intended to cover the costs of processing a fill permit application, including application processing, field inspections, engineering review services, appeals hearings, permit processing, and permit compliance monitoring. The Township Board may also establish in the schedule of fees authorization for the Township Engineer to require cost recovery from an applicant of all costs associated with production of documentation where required to comply with federal, state or County regulations, or if other consultant fees are required to be expended in reviewing the application.
- (b) With the filing of an application, the applicant shall submit a deposit for the total fees for all processing and service costs estimated by the Township Engineer as necessary for processing the application.
- (c) The Township Engineer may require, as a condition of the permit, that a bond in the form of cash, letter of credit or other security acceptable to the Township be posted by the applicant, which bond shall not exceed the reasonable costs guaranteeing that the applicant will faithfully perform all of the conditions and requirements under which the permit is issued.

**Sec. 8-135.      Processing of permit application.**

Upon receipt of an application for a permit required by this Division, the Township Engineer shall conduct an investigation of the facts set forth in the application and shall approve or deny the permit, basing the decision upon the following criteria:

- (a) The current zoning and planned future land use of the zoning lot.
- (b) The overall effects of the proposal upon the entire zoning lot and surrounding zoning lots.
- (c) The effects, if any, upon the natural surface water accumulation and retention on the zoning lot and surrounding zoning lots.
- (d) The character of the applicant with regard to honesty, integrity and financial responsibility.
- (e) The preservation of necessary natural resources.
- (f) The potential for the creation of a nuisance.
- (g) The private property rights of abutting property owners.

**(CHAPTER 8, ARTICLE III, DIVISION 2, cont.)**

**Sec. 8-136. Conditions for approved permits.**

All persons to whom any permit is issued under this Division shall comply with the following:

- (a) Within thirty (30) days following filling or dumping, the zoning lot must be graded in such a manner as to prevent the collection of water, to provide proper drainage and to leave the ground surface reasonably level or smooth, free of all rock, stone, cement, or heavy aggregate, and fit for the growing of turf and other land uses permitted in the district.
- (b) No fill material shall be dumped on the spillways or floodplains of any natural or artificial streams or watercourses, or any area between the upper and lower banks of such streams or watercourses, or any bottom land of an inland lake or stream, except on the approval of the S.E.A. in accordance with Public Act No. 451 of 1994, as amended.
- (c) Types of fill materials to be deposited shall be regulated through conditions specified in the permit.
- (d) Upon completion of filling operations, the site shall be graded as described in subsection (1) of this Section and seeded, in accordance with the seeding type and volume standards established by the Township Engineer.
- (e) Any streets used for purpose of ingress and egress to said filling site which are located within five hundred (500) feet of any occupied residence shall be kept dust free by surfacing in accordance with the surfacing standards established by the Township Engineer.
- (f) No permit shall be issued until a soil erosion and sedimentation control permit has been obtained by the applicant. If the County Water Resources Official determines that a permit is not required for a particular operation then this requirement will not apply.
- (g) Additional requirements and conditions established as is deemed necessary in the interest of the public health, safety and preservation of natural resources, as well as the general welfare of the citizens of the Township.

**Sec. 8-137. Revocation and suspension.**

The Township Engineer may revoke or suspend a permit issued under this Division for failure to comply with any of the provisions of Section 8-136.

*(Comp. Ords. 1986, § 21.071)*

**Sec. 8-138. Appeals.**

An applicant may appeal decisions made under this Article to the Township Board by filing a written appeal with the Township not more than ten (10) days after the decision. The written appeal shall fully and particularly set forth the nature and grounds upon which the appeal is based. The Township Board, shall, within thirty (30) days after the filing of such notice of appeal, hold a hearing on the appeal. Upon hearing the appeal, Township Board shall either uphold or overturn the decision that is the basis for the appeal.

**Secs. 8-139--8-170. Reserved.**

**ARTICLE IV. WETLANDS\***

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*\*Editor's note: The 2014 ordinance recodification amended the Code transferring the Waterford Township Wetlands Ordinance from Article V of Chapter 13, formerly §§ 13-186 – 13-224, to this Article and pertaining to similar subject matter and derived from the same historical ordinance sources.*

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*(CHAPTER 8, ARTICLE IV, cont.)*

**Division 1. Generally**

**Sec. 8-171. Title.**

This Article shall be known and cited as the "Waterford Township Wetlands Ordinance."

**Sec. 8-172. Findings.**

It is recognized by the Township Board that wetlands conservation is a matter of Township concern inasmuch as a loss of a wetland, and particularly in accumulation with other losses of wetlands, will deprive the people of the Township or others of flood and/or stormwater control, wildlife habitat, protection of groundwater resources and provision of valuable watersheds and recharging groundwater supplies, pollution treatment, erosion control and sources of nutrients. It is further recognized by the Township Board that rapid growth, the spread of land development, and increasing demands upon natural resources, have resulted in the shrinkage of the critically necessary domain of wetlands and have had the effect of encroaching on, despoiling, polluting or eliminating many wetlands, and other natural resources, and the public trust therein, and that preservation of the remaining wetlands in an undisturbed and natural condition shall be and is necessary to maintain important physical, aesthetic, recreational and economic assets for existing and future residents of the Township and of this State.

*(Ord. No. 155, § 1.1, 12-10-90; Ord. of 6-13-94, § 1.1)*

**Sec. 8-173. Intent and purpose.**

It is the purpose and intent of this Article, in view of the findings specified in Section 8-172, to promote and maintain a harmonious and compatible land use balance within the Township and to obviate the nuisance condition which would arise with the indiscriminate land development of existing wetlands areas; to provide for the protection, preservation, proper maintenance and use of Township wetlands in order to minimize disturbance of and to them; to prevent damage caused by erosion, scarification, sedimentation, turbidity and/or siltation; to provide for the protection of soils capable of providing necessary filtration for the maintenance of aquifer stability; to protect against loss of wildlife, fish or other beneficial aquatic organisms, or vegetation, and also against the destruction of natural habitat; to minimize the phenomenon of environmental deterioration; to secure safety from the dangers of flood and pollution, to prevent loss of life, property damage and other losses and risks associated with flood conditions; to protect individual and community riparian rights; to preserve the location, character and extent of natural drainage courses; and to provide for the enforcement of this Article and coordination of the enforcement of appropriate local, County and state ordinances or statutes and corresponding agencies.

*(Ord. No. 155, § 1.2, 12-10-90; Ord. of 6-13-94, § 1.2)*

**Sec. 8-174. Validity and necessity.**

The Township Board declares that this Article is essential to the health, safety, economic and general welfare of the people of the Township, and to the furtherance of the policy set forth in Article 4, Section 52 of the Constitution of the State of Michigan and Public Act 451 of 1994 (Natural Resources and Environmental Protection Act),(MCL 324.30301 - 30323)

*(Ord. No. 155, § 1.3, 12-10-90; Ord. of 6-13-94, § 1.3)*

**Sec. 8-175. Construction and application.**

- (a) Ambiguities, if any, shall be construed liberally in favor of the protection and preservation of natural resources:
- (b) It is an intent of this Article to promote flood protection, however, this Article cannot be relied upon for determining where floods may occur.

*(Ord. No. 155, § 1.4, 12-10-90; Ord. of 6-13-94, § 1.4)*

*(CHAPTER 8, ARTICLE IV, DIVISION 1 cont.)*

**Sec. 8-176. Definitions.**

In addition to those rules of construction and definitions contained in Sections 1-002 and 8-001, the following words and phrases, when used in this Article, shall have the meanings respectively ascribed to them:

**Act** means the Wetland Protection regulations in Part 303 of the Natural Resources and Environmental Protection Act, MCL 324.30301 – 30323, as amended.

**Board or Wetlands Board** means the Township Planning Commission.

**Contiguous** means a permanent surface water connection or other direct physical contact with an inland lake or stream or watercourse.

**Seasonal** means a condition or event which occurs annually during a specific time of the year as a result of reoccurring weather conditions characteristic to such time of the year.

**Soils:**

- (1) Poorly drained soils are those general organic soils from which water is removed so slowly that the soil remains wet for a large part of the time. The water table is commonly at or near the surface during a considerable part of the year. Poorly drained conditions are due to a high-water table, to a slower permeable layer within the soil profile, to seepage, or to some combination of these conditions.
- (2) Very poorly drained soils are those soils from which water is removed from the soil so slowly that the water table remains at or on the surface a greater part of the time. Soils of this drainage class usually occupy larger or depressed sites and are frequently ponded.

**Structure** means any assembly or materials above or below the surface of the land or water, including but not limited to, houses, buildings, plants, bulkheads, piers, docks, rafts, landings, dams, sheds or waterway obstructions.

**Temporary** means a time period as specified in the use permit, or if unspecified, shall mean an uninterrupted time period less than nine (9) months in duration.

**Wetlands** has the same meaning as defined in Section 1-002 and the Act.

*(Ord. No. 155, §§ 2.1, 2.2, 12-10-90; Ord. of 6-13-94, §§ 2.1, 2.2)*

**Sec. 8-177. Wetlands to be regulated.**

Unless excluded from regulation under subsection (e), the following wetlands described in subsection (a) - (d) shall be regulated by this Article:

- (a) Wetlands contiguous to an inland lake or stream.
- (b) Wetlands two (2) or more acres in size contiguous to a watercourse.
- (c) Wetlands two (2) or more acres in size that are not contiguous to a watercourse or an inland lake or stream.
- (d) Wetlands less than two (2) acres in size, the protection of which is essential to the preservation of the natural resource of the State from pollution, impairment, or destruction, if the owner of the property has been notified in writing by the Township of such essentiality determination, which shall be based on one or more of the following criteria regarding the wetland:
  - (1) Possesses a seasonal or intermittent direct surface water connection to an inland lake or stream essential to natural resource preservation or to stormwater management, or
  - (2) Is partially or entirely located within five hundred (500) feet of the ordinary high water mark of an inland lake or pond or a river or stream possessing a surface or groundwater connection to such water resources and is essential to natural resource preservation or to stormwater management, or
  - (3) Is one of two (2) or more areas of wetland separated only by barriers, such as dikes, streets, berms, or other similar features and is essential to natural resource preservation or to stormwater management.

**(CHAPTER 8, ARTICLE IV, DIVISION 1, SECTION 8-177 cont.)**

- (e) The following are excluded from regulation under this Article as required by Sections 30305 and 30307 of the Act, MCL 324.30305 and 324.30307:
  - (1) Activity in a wetland that since before October 1, 1980, has been effectively drained for farming as part of an ongoing farming operation as provided in MCL 324.30305(3).
  - (2) Wetlands incidentally created as a result of activities specified in MCL 324.30305(4).
  - (3) An area that becomes contiguous to a water body created as a result of commercial excavation for sand, gravel, or mineral mining until it is no longer used for such excavation and is used for another purpose unrelated to that excavation as provided in MCL 324.30305(5).

**Sec. 8-178. Concurrent jurisdiction.**

- (a) The Township shall have jurisdiction for the regulation of wetlands under this Article concurrent with the jurisdiction of the S.E.A.
- (b) Issuance of a permit under this Article shall not relieve a property owner from obtaining a permit from the S.E.A. and/or from the Army Corps of Engineers or other agency, if required.
- (c) Issuance of a permit by the S.E.A. and/or Army Corps of Engineers shall not relieve a property owner from obtaining a permit under this Article if a permit is required by the terms of this Article, and all permit requirements under this Article shall be met.

*(Ord. No. 155, §§ 5.1--5.3, 12-10-90; Ord. of 6-13-94, §§ 5.1--5.3)*

**Sec. 8-179. Violations; Civil Infraction.**

Violation of this Article is a civil infraction punishable as provided in Section 1-010(b).

*(Ord. No. 155, §§ 6.1, 6.3, 12-10-90; Ord. of 6-13-94, §§ 9.1--9.3; Ord. of 7-8-02)*

**Sec. 8-180. Wetland mapping.**

- (a) By Resolution the Township Board has adopted, and from time to time may amend, a generalized wetland map, showing an inventory of wetlands within the municipality.
- (b) The wetland map shall not create any legally enforceable presumptions regarding whether property that is or is not included on the inventory map is or is not in fact a wetland.

*(Ord. of 6-13-94, §§ 7.1--7.3)*

**Sec. 8-181. Investigation and initial wetland determination.**

- (a) This Section is intended to apply in those cases in which a project or activity has been commenced, and the Township receives notice or otherwise learns that activities may be occurring in regulated wetlands without a permit.
- (b) In those cases where the Township learns that activities may be occurring in a regulated wetland without a permit, the Township Engineer will conduct a preliminary investigation including site examination, and prepare an initial determination and report, in their reasonable discretion, whether there may be an activity occurring which requires a permit or whether there exists a violation of law or ordinance.
- (c) In a case in which the Township Engineer makes a determination that there may be a violation of this Article, upon notice from the Township, the property owner and all persons actively engaged in activities in the wetlands which may be a violation, shall stop all such activities immediately, in which case the property owner, or the property owner's agent, shall make an election to either:
  - (1) Apply for a permit under this Article; or
  - (2) Request an official determination by the Township on whether a permit shall be required.
- (d) In the event a property owner, or the property owner's agent, requests an official determination as provided in (c)(2) above, an escrow in an amount required by Section 8-204 shall be established with the Township to cover the costs of such wetland determination.
- (e) If a notice to cease activities has been issued by the Township in accordance with this Section, such activities shall not continue and shall not again commence until such time as a

**(CHAPTER 8, ARTICLE IV, DIVISION 1, SECTION 8-181 cont.)**

permit has been issued under this Article, or a determination has been made that a permit is not required.

*(Ord. of 6-13-94, §§ 8.1--8.5)*

**Secs. 8-182--8-200. Reserved.**

**Division 2. Permit\***

**Sec. 8-201. Actions requiring permits.**

It shall be unlawful for any owner to allow, or any person to do or assist in any of the following in a wetland regulated by this Article unless and until a written permit is obtained from the Township pursuant to this Division:

- (a) Conduct operations not exempted in Section 8-202.
- (b) Construct, extend, enlarge or connect any conduit, pipe, culvert, or open a closed drainage facility erected for the purpose of carrying stormwater runoff from any residential site of two (2) or more single-family residences or from a multiple residence, commercial site, industrial site, parking area, unimproved private or public street, or any other land use permitting discharge of silt, sediment, organic or inorganic materials, chemicals, fertilizers, flammable liquids or any substance producing turbidity, except through an interceptor, retention or settling, filter or treatment facility designed to control and eliminate the pollutant before discharged to any wetland, provided the design of such facility must first be approved by the Township or the S.E.A.
- (c) Construct, enlarge, extend or connect any private or public sewage or waste treatment plant discharge to any wetland except in accordance with the latest requirements of and permit by the County, State and/or the United States, to the extent that such entities have jurisdiction.
- (d) Drain, or cause to be drained, any water from a wetland.
- (e) Deposit or permit the placing of fill material in a wetland.
- (f) Dredge, remove, or permit the removal of soil or materials from a wetland.
- (g) Construct, operate, or maintain any use or development in a wetland.

**Sec. 8-202. Actions not requiring permit.**

- (a) Activities that are authorized by a permit under Public Act 451 of 1994 (Natural Resources and Environmental Protection Act), Part 301 (MCL 324.30101 – 30113), or a discharge that is authorized by a discharge permit under Section 3112 or 3113 (MCL 324.3112 – 3113) do not require a wetlands permit under this Article.
- (b) The following uses shall be allowed in a wetland without a permit subject to other applicable laws and ordinances, the owner's regulation, and any restrictions or requirements in Section 30305 of the Act, MCL 324.30305, for these exemptions:
  - (1) Fishing, trapping or hunting.
  - (2) Swimming or boating.
  - (3) Hiking.
  - (4) Grazing of animals including fencing and post placement as allowed by the Act.
  - (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, subject to the restrictions in the Act. Wetland altered under this subsection shall not be used for a purpose other than a purpose described in this subsection without a permit issued in accordance with this Article.
  - (6) Maintenance or operation of serviceable structures in existence on the effective date of the first Waterford Township Wetland Ordinance or constructed pursuant to that Ordinance.
  - (7) Construction or maintenance of farm or stock ponds.
  - (8) Maintenance of an agricultural drain or drain legally established and constructed pursuant to the Drain Code of 1956, MCL 280.1 to 280.630, as amended, as defined and subject to requirements in the Act.



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- (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 any adverse effect on the wetland will be otherwise minimized.
- (10) Maintenance of public streets, highways, or roads that meets all of the requirements in the Act.
- (11) Maintenance or repair of utility lines and associated support structures as defined and subject to the requirements of the Act.
- (12) Installation of utility lines having a diameter of six (6) inches or less using directional drilling or boring, or knifing-in, and placement of poles with a support structure less than one (1) cubic yard in size, as defined and subject to the requirements in the Act.
- (13) Operation or maintenance, including reconstruction of recently damaged parts, of serviceable dikes and levees in existence on the effective date of the first Waterford Township Wetland Ordinance or constructed pursuant to that Ordinance.
- (14) Placement of biological residuals from activities, including cutting of woody vegetation or the in-place grinding of tree stumps, performed within a wetland if all the biological residuals originate within that wetland.
- (15) Leveling of sand, removal of vegetation, grooming of soil, or removal of debris, in the area of unconsolidated material predominately composed of sand, rock, or pebbles, located between the ordinary high-water mark and the water's edge.
- (16) Mowing of vegetation between the ordinary high water mark and the water's edge.
- (17) Uses that do not require a permit under the Act, as amended.

**Sec. 8-203. Permit application.**

- (a) Application for a township wetland permit shall be made on a form acceptable to the Township Engineer and submitted to and processed by the Township Engineer in accordance with the review and approval procedures established under this Division.
- (b) Upon receipt, the Township Engineer shall forward a copy of each application to the S.E.A.
- (c) The Township Engineer, with the assistance of those Township officials and wetland consultants in those cases when requested by the Township Engineer, shall review the application pursuant to the procedures established by this Article.
- (d) The application shall be modified, approved or denied within ninety (90) days after receipt, in accordance with the provisions of this Article.
- (e) The applicant for a wetland permit approval required in conjunction with site plan review or subdivision approval shall, at the time of submission, elect to have the application processed under either subsection (1) or (2) below:
  - (1) The wetland permit application shall be reviewed immediately, either prior to or concurrent with the review of the site plan, plat or other proposed land use submitted by the applicant, with the understanding that the land use review may not be completed at the time the decision is rendered on the wetland application. Election of this alternative may require a re-opening of the wetland application if the land use approval is inconsistent with the wetland approval; or
  - (2) The wetland permit application shall be reviewed and acted upon concurrent with the review of the site plan, plat or other proposed land use submitted by the applicant, and the ninety-day review period limitation specified in the Act ,MCL 324.33705, as amended, shall thereby be extended accordingly.
- (f) The denial of a permit shall be accompanied by a written reason for denial. The failure to supply complete information with a permit application may be reason for denial of a permit.

**Sec. 8-204. Permit application fees and escrows.**

- (a) The Township Board may establish by resolution a schedule of fees and escrows intended to cover the costs of processing a wetlands permit application, including application processing, field inspections, wetland consulting services, appeals hearings before the wetlands board, permit processing, and permit compliance monitoring. The Township Board may also establish in the schedule of fees authorization for the Township Engineer to require cost

***(CHAPTER 8, ARTICLE IV, DIVISION 2, SECTION 8-204 cont.)***

recovery from an applicant of all costs associated with production of an environmental statement, environmental assessment, or an environmental impact study where required to comply with federal, state or County regulations, or if other consultant fees are required to be expended in reviewing the application.

- (b) With the filing of an application, the applicant shall submit a deposit for the total fees for all processing and service costs estimated by the Township Engineer as necessary for processing the application.
- (c) All amounts of fee deficiency shall be paid, and all amounts of fee overage shall be returned, prior to or concurrent with final action on the application, with a fee deficiency being a permitted reason to find an application to be incomplete and deny a permit.

**Sec. 8-205. Hiring of wetland consultant.**

The Township Engineer is authorized to engage the services of a wetlands consultant to provide scientific expertise and analysis during permit application processing and compliance monitoring for those cases where the Township Engineer has determined such scientific documentation is required to achieve the objectives of this Article.

**Sec. 8-206. Permit application review procedure for wetlands contiguous to inland lakes and streams.**

Following receipt of an application for a permit for a proposed activity or operation in a wetland contiguous to an inland lake or stream, the Township Engineer shall review the application in accordance with the following procedure:

- (a) A notice of the application containing a copy of the permit application or a summary of the proposed activity or operation, along with a specification that comments regarding the proposed activity or operation will be received by the Township Engineer for a period of fifteen (15) days following the date of the notice, shall be transmitted to all members of the Township Board and sent by first-class mail to the following:
  - (1) To the owners of zoning lots abutting the zoning lot(s) upon which proposed project is to be undertaken, based upon the ownership records on file at the Township
  - (2) To a lake board established for the inland lake to which the subject wetland is contiguous.
  - (3) To adjoining governmental entities if the wetland at issue or the inland lake or stream, or watercourse, to which the subject wetland is contiguous extends into such entities.
- (b) At the end of the fifteen-day period, the Township Engineer shall review the application in accordance with the standards and criteria set forth in Section 8-208, taking into consideration all comments received pursuant to the notice sent as provided above.
- (c) If the proposed activity or operation is found to conform to the standards and criteria of Section 8-208, and with all of the requirements of this Article, the Township Engineer shall issue a permit in conformance with Section 8-211 with or without specified conditions.
- (d) If the application fails to meet such standards, criteria and requirements, the Township Engineer shall deny the permit.
- (e) A permit issued under this Section shall not be effective for fifteen (15) days from the date of issuance.
- (f) Upon issuance of the permit, a notice of issuance shall, concurrent with the issuance of the permit, be transmitted by first-class mail to any person or entity who has filed comments in response to the notice sent in accordance with this Section.

**Sec. 8-207. Permit application review procedure for wetlands contiguous to watercourses and noncontiguous wetlands two (2) acres or more in area.**

Following receipt of an application for a permit for a proposed activity or operation in a wetland contiguous to a watercourse or a noncontiguous wetland greater than two (2) acres in area, the Township Engineer shall review the application in accordance with the following procedure:

- (a) A notice of the application containing a copy of the permit application or a summary of the proposed activity or operation and a specification that comments regarding the proposed activity or operation will be received by the Township Engineer for a period of fifteen (15) days following the date of the

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- notice shall be transmitted to all members of the Township Board and sent by first-class mail to the owners of zoning lots abutting the zoning lot(s) upon which proposed project is to be undertaken, based upon the Township tax and assessing records.
- (b) At the end of the fifteen-day period, the Township Engineer shall review the application in accordance with the standards and criteria set forth in Section 8-208, taking into consideration all comments received pursuant to the notice sent as provided above.
  - (c) If the proposed activity or operation is found to conform to the standards and criteria of Section 8-208, and with all of the requirements of this Article, the Township Engineer shall issue a permit in conformance with Section 8-211 with or without specified conditions.
  - (d) If the application fails to meet such standards, criteria and requirements, the Township Engineer shall deny the permit.
  - (e) A permit issued under this Section shall not be effective for fifteen (15) days from the date of issuance.
  - (f) The following general criteria shall be addressed by the applicant and be applied in undertaking the balancing test described in Section 8-208(2):
    - (1) The relative extent of the public and private need for the proposed activity.
    - (2) The availability of feasible and prudent alternative locations and methods to accomplish the expected benefits from the activity.
    - (3) The extent and permanence of the beneficial or detrimental effects which the proposed activity may have on the public and private use to which the area is suited, including the benefits the wetland provides.
    - (4) The probable impact of the proposal in relation to the cumulative effect created by other existing and anticipated activities in the watershed.
    - (5) The probable impact on recognized historic, cultural, scenic, ecological, or recreational values and on the public health or fish or wildlife.
    - (6) The size and quality of the wetland being considered.
    - (7) The amount and quality of remaining wetland in the area.
    - (8) Proximity to any waterway.
    - (9) Economic value, both public and private, of the proposed land change to the general area.
    - (10) The necessity for the proposed project.

**Sec. 8-208. Permit review standards and criteria for wetlands contiguous to inland lakes and streams, wetlands contiguous to watercourses, and noncontiguous wetlands two (2) acres or more in area.**

In arriving at a determination with respect to the issuance of a permit under this Division, the Township Engineer shall take into consideration at least the following standards and criteria:

- (a) A permit shall be issued only if the proposed project or activity is clearly in the public interest, and is otherwise lawful in all respects.
- (b) In determining whether the activity is in the public interest, the benefit which would reasonably be expected to accrue from the proposal shall be balanced against the reasonably foreseeable detriments of the activity, taking into consideration the local, state and national concern for the protection and preservation of natural resources from pollution, impairment and/or destruction. If, as a result of such a balancing, there remains a debatable question whether the proposed project and/or activity is clearly in the public interest, a permit shall not be issued.
- (c) A permit shall not be issued unless it is determined that:
  - (1) The information supplied by the applicant is found to be complete and true;
  - (2) An unreasonable disruption of aquatic resources will not result;
  - (3) The proposed activity is primarily dependent upon being located in the wetland; and
  - (4) A feasible and prudent alternative does not exist.
- (d) The manner in which the activity is proposed to be undertaken will result in the minimum negative impact upon the wetland and attendant natural resources under all of the circumstances.

**Sec. 8-209. Permit application review procedure, standards, and criteria for noncontiguous wetlands less than two acres in area.**

- (a) Review procedure. Following receipt of an application for a permit for a proposed activity or operation in a noncontiguous wetland less than two acres in area, the Township Engineer

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***(CHAPTER 8, ARTICLE IV, DIVISION 2, SECTION 8-209 cont.)***

shall approve a permit unless he determines and documents that the wetland is essential to the preservation of the natural resources of the Township. It shall not be the burden of the

property owner to prove that the wetland is not essential to the preservation of the natural resources of the Township.

- (b) All noncontiguous wetland areas of less than two (2) acres which appear on the wetlands inventory map, or which are otherwise identified during a field inspection by the Township, shall be analyzed for the purpose of determining whether such areas are essential to the preservation of the natural resources of the Township. If there is to be a denial of a permit to dredge, fill, construct, or otherwise undertake an operation, in a noncontiguous wetland area of less than two (2) acres, then, on the basis of data gathered by or on behalf of the Township, findings shall be made in writing and given to the applicant stating the basis for the determination that such wetland is essential to preservation of the natural resources of the Township. In order to make such a determination, there shall be a finding that one (1) or more of the following exist within such wetland:
- (1) The site supports state or federal endangered or threatened plants, fish, or wildlife appearing on a list specified in Public Act 451 of 1994, the Natural Resources and Environmental Protection Act, (MCL 324.36505).
  - (2) The site represents what is identified as a locally rare or unique ecosystem.
  - (3) The site supports plants or animals of an identified local importance.
  - (4) The site provides groundwater recharge documented by a public agency.
  - (5) The site provides flood and storm control by the hydrologic absorption and storage capacity of the wetland.
  - (6) The site provides wildlife habitat by providing breeding, nesting, or feeding grounds or cover for forms of wildlife, waterfowl, including migratory waterfowl, and rare, threatened, or endangered wildlife species.
  - (7) The site provides protection of subsurface water resources and provision of valuable watersheds and recharging groundwater supplies.
  - (8) The site provides pollution treatment by serving as a biological and chemical oxidation basin.
  - (9) The site provides erosion control by serving as a sedimentation area and filtering basin, absorbing silt and organic matter.
  - (10) The site provides sources of nutrients in water food cycles and nursery grounds and sanctuaries for fish.
- (c) In connection with the determination whether the wetland is essential to the preservation of the natural resources of the Township, the property owner may make an election and response under subparagraph (1) or (2) below, relative to each noncontiguous wetland area less than two (2) acres:
- (1) In lieu of having the Township Engineer proceed with the analysis and determination, the property owner may acknowledge that one or more of the criteria in subparagraphs (b)(1) through (10) above, exist on the wetland in question, including a specification of the one (1) or more criteria which do exist; or
  - (2) An election to have the Township Engineer proceed with the analysis on whether each of the criterion in paragraphs (b)(1) through (10) exist or do not exist in the wetland in question, including specific reasons for the conclusion in respect to each criterion.

**Sec. 8-210. Appeals.**

An applicant may request a hearing before the Wetlands Board to appeal the permit application decision of the Township Engineer within 14 days of the date of the written notification of the permit decision.

- (a) Such request for appeal shall be in the form of a written request, accompanied by the appeals hearing fee established by the Township Board. The written request for appeal shall be submitted to the Township Engineer.
- (b) Upon receipt of a request for an appeal, the Township Engineer shall forward the request to the Zoning Official, who shall schedule a Wetlands Board hearing for the next regularly scheduled meeting date of

***(CHAPTER 8, ARTICLE IV, DIVISION 2, SECTION 8-210 cont.)***

- the Planning Commission, or subject to Planning Commission availability, for a special meeting if requested and paid for by the applicant, and notify the Township Engineer of the date scheduled.
- (c) The Township Engineer shall send notice of the time, date and place of the hearing to all Township Board members and to all parties originally notified about the permit application.
  - (d) The Wetlands Board may establish a policy requiring that notice of appeals hearings be published. If the Wetlands Board establishes such a policy, the Township Engineer shall arrange for publication of appeals hearing notices in the manner specified by the Wetlands Board.
  - (e) At the scheduled hearing, the Wetlands Board shall provide an opportunity for the applicant, or the applicant's representative, to make their appeal of the permit decision, and also provide an opportunity for interested persons to address the appeal. The hearing may be adjourned from time to time, as deemed necessary by the Wetlands Board to obtain additional information before making a final appeals decision. If it appears that impairments, pollution and/or destruction of a wetland or other natural resource may result and that technical expertise is required, the Wetlands Board, before making its final appeals decision, may require the applicant to submit an environmental statement, environmental assessment, or environmental impact study for review and report by the Township Engineer.
  - (f) Within a reasonable time following the completion of its consideration, the Wetlands Board shall make a written determination on the appeal, which may include issuance of a permit in conformance with Section 8-211, with or without specified conditions, or denial of the permit.

**Sec. 8-211. Permit contents.**

The permit issued under this Division shall contain at least the following:

- (a) The name, address and telephone number of the person to whom the permit has been issued.
- (b) The name, address and telephone number of the owner of the property on which the activity or operation shall occur.
- (c) A statement of all conditions imposed in connection with the issuance of the permit.
- (d) Any required time period for commencement of one (1) or more operations.
- (e) The date by which any construction, removal, deposit or operation must be completed; i.e., the expiration date of the permit.
- (f) The amount of any cash bond or irrevocable letter of credit and the institution issuing such irrevocable letter of credit as determined necessary by the Township Engineer or Wetlands Board, as the case may be, to ensure compliance with the permit as issued.
- (g) The following statement:  
"All operations permitted or approved by this permit shall be conducted in such a manner as will cause the least possible damage and encroachment or interference with natural resources and natural processes within wetlands."
- (h) The legal description of the zoning lot to which the permit pertains.
- (i) All soil erosion permit requirements shall be met prior to any operation.
- (j) Any and all necessary temporary drainage measures, as approved, shall be undertaken to ensure that no temporary or permanent blockages of drainage result.

**Sec. 8-212. Posting of permit.**

Upon issuance of a permit and prior to the undertaking of any onsite work the persons to whom the permit has been issued shall post a copy of the permit on the property in a conspicuous place which is accessible for inspection and reading by the public.

**Sec. 8-213. Permit denials and property revaluations.**

If a permit for a proposed wetland use is finally denied by the Wetlands Board, the owner may request a revaluation of the affected property for assessment purposes to determine its fair market value under the restriction against the wetland use for which the permit was requested.

**Secs. 8-213--8-230. Reserved.**

(CHAPTER 8, cont.)

## ARTICLE V WELLHEAD PROTECTION

### Division 1. Generally

**Sec. 8-231. Title.**

This Article shall be known and cited as the "Waterford Township Wellhead Protection Ordinance."

**Sec. 8-232. Purpose.**

- (a) The purpose of the Waterford Charter Township Wellhead Protection Ordinance (WHPO) is to safeguard the health, safety, and welfare of persons served by the Township's Public Water Supply System (TPWSS) by achieving the Township's Master Plan goal to protect designated groundwater supplies from contamination resulting from the improper storage, handling, use, production, or discharge of Regulated Substances within areas surrounding existing and proposed municipal drinking water wells and wellfields.
- (b) Appropriate land-use regulations will be imposed specifically to the One (1) Year Time-of-Travel (TOT) Capture Zone, the Five (5) Year TOT Capture Zone, and the Ten (10) Year TOT Capture Zone associated with each of the Township's drinking water wells and wellfields. In addition, the use of Best Management Practices (BMPs) will be encouraged within these Wellhead Protection Areas to minimize the risk of spills, leaks, and other discharges into groundwater supplies.
- (c) It is the intent of this WHPO to minimize public and private losses due to contamination of the public water supply. In addition, it is desired to minimize regulations on land use for those activities that are not a threat to the TPWSS, avoid expenditure of public money for costly pollution remediation projects, and minimize business interruptions while protecting the groundwater and providing a safe potable water supply now and for future generations.

**Sec. 8-233. Compliance with existing federal, state, and local regulations.**

Facility Operators subject to regulation under this WHPO must comply fully with all existing applicable federal, state, and local regulations in addition to any of the requirements established in this WHPO.

**Sec. 8-234. Authority and applicability.**

- (a) This WHPO is enacted pursuant to the powers granted by laws of the State of Michigan including the statutory authority granted in Public Act 33 of 2008, the Michigan Planning Enabling Act (as amended) and other relevant laws of the State. This WHPO applies to all land uses and activities in the Township and within the boundaries of the areas delineated on the Wellhead Protection Areas Map adopted as provided in this WHPO.
- (b) It shall be the responsibility of any person owning real property and/or owning or operating a business within the limits of the Township to make a determination of the applicability of this WHPO as it pertains to property and/or business under his ownership or operation, and his failure to do so shall not excuse any violations of this WHPO.
- (c) Nothing contained in this WHPO shall be construed so as to interfere with any existing or future lawful requirements that may be, or heretofore were, imposed by any other public body authorized to enact sanitary, health or water pollution abatement restrictions so long as such requirements are consistent with, or more stringent than, the stated purpose of this WHPO. Nothing contained in this WHPO shall be construed so as to interfere with the duties and powers of the Township or its agents.
- (d) Should any part or provision of this WHPO be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the WHPO as a whole or any part thereof other than the part held to be invalid.

(CHAPTER 8, ARTICLE V, DIVISION 1 cont.)

Secs. 8-235--8-240. Reserved.

## Division 2. Definitions

### Sec. 8-241. Definitions

In addition to those rules of construction and definitions contained in Sections 1-002 and 8-001, the following terms or words shall apply to this Article:

**Best Management Practices (BMP)** A schedule of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of the environment. BMPs also include treatment requirements, operating procedures, and practices to control runoff, spills, and leaks.

**CERCLA** The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq., Pub. L. 96-510, December 11, 1980), as amended by the Superfund Amendments and Reauthorization Act (SARA) of 1986 (Pub. L. 99-499, October 17, 1986; 100 Stat. 1613). All references to CERCLA within this regulation are meant to indicate CERCLA, as amended by SARA.

#### **Containment**

**Primary Containment.** The first level of containment, i.e., the inside portion of a container or storage device which comes into immediate contact on its inner surface with a Regulated Substance.

**Secondary Containment.** Containment external to and separate from primary containment designed to contain a release from a primary containment unit. Secondary containment may include, but is not limited to, double walls, dikes, vaults, or impervious liners (both natural and synthetic).

**Determination of Compliance** A written review by the Public Works Official, in the form established by the Public Works Official, where required by the Waterford Township Zoning Ordinance to determine and ensure that certain land uses are in compliance with regulations established by this WHPO.

**Dry Well** A type of drainage well used for the underground disposal of storm water runoff from paved areas, which include parking lots, streets, highways, residential subdivisions, and building rooftops; agricultural areas; and industrial areas.

**Facility** A zoning lot upon which a Facility Operator conducts activities involving Regulated Substances, Processes, and Storage Tanks. The term Facility includes all principal and accessory uses conducted on a zoning lot.

**Facility Operator.** The person in possession and/or control of a Facility. The term also includes contractors or site managers at construction sites who are responsible for the general management of Regulated Substances located on site.

**Non-Conforming Facility Or Non-Conforming Storage Unit.** Any existing Facility or Regulated Substance Storage Unit that, as of the effective date of this WHPO, would otherwise be prohibited within a designated wellhead protection area.

**Permanent** A period of more than ninety (90) consecutive days.

**Pesticide** Any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest as defined in Section 2(t) of the Federal Insecticide, Fungicide, and Rodenticide Act (P.L. 100-64, 100-464, to 100-526 and 100-532); as well as any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant. The term shall include all fungicides, insecticides, herbicides, nematocides, or other substances used for the control of pests.

**Restricted Use Pesticide.** Any pesticide or pesticide use classified by the U.S. Environmental Protection Agency for use exclusively by a certified applicator or by an individual working under the direct supervision of a certified applicator.

**(CHAPTER 8, ARTICLE V, DIVISION 2, SECTION 8-241 cont.)**

**Process** The incorporation of a Regulated Substance into a product. Includes making mixtures, repackaging, or using a Regulated Substance as a feedstock, raw material, or starting material for making another chemical.

**RCRA** The Resource Conservation and Recovery Act of 1976 (Pub. L. 94-580; 42 U.S.C. 6901 et seq.), as amended.

**Regulated Substances** Those chemicals and mixtures of chemicals which are potential health hazards if some were to migrate into the drinking water, as identified in the Regulated Substances List established and maintained in accordance with Section 8-271

**Regulated Substance Storage Area** An area on a zoning lot where Regulated Substances are stored. A Regulated Substance Storage Area can include single or multiple Regulated Substance Storage Units.

**Regulated Substance Storage Unit** Any underground storage tank, aboveground storage tank, drum, carboy, or other container used for the storage of one or more Regulated Substance(s), including silo, bag, tank wagon, box, glass, cylinder, tote bin, and truck body, rail car, or tanker when used for the permanent or temporary storage of Regulated Substances.

**Release** The spilling, leaking, pumping, pouring, emitting, emptying, or dumping of Regulated Substances upon or into any land or water. Release includes, without limitation, leakage of such materials from failed or discarded containers or storage systems and disposal of such materials into any on-site sewage disposal system, dry-well, catch basin, or landfill. The term "release" when used and applied in this WHPO does not include the following:

- (1) Disposal, in accordance with all applicable legal requirements and in accordance with the requirements of RCRA regulations, of hazardous wastes in a Facility that has received and maintained all necessary legal approvals for that purpose;
- (2) Disposal or release of any substance in compliance with applicable legal requirements, including without limitation, the terms and provisions of a valid municipal, state, or federal permit if such permits are required by applicable environmental laws;
- (3) Disposal, in accordance with all legal requirements, of any substance to a sanitary sewer system that has received and maintained all necessary legal approvals for that purpose;
- (4) Disposal, in accordance with all legal requirements, of "sanitary sewage" to subsurface sewage disposal systems as defined and permitted by state or County health departments;
- (5) Any discharge of a petroleum substance in a quantity less than twenty-five (25) gallons unless such petroleum discharge enters a dry well, storm sewer, or surface water body;
- (6) Any discharge of hazardous materials listed in SARA Title III or CERCLA when the discharge is less than twenty-five (25) pounds within a twenty-four (24) hour period in the one (1) and five (5) year time-of-travel zone, or less than one hundred (100) pounds within a twenty-four (24) hour period in the ten (10) year time-of-travel zone;
- (7) The application of agricultural chemicals, fertilizers, mineral acids, organic sulfur compounds, etc. as used in routine agricultural operations and applied under best management practices as indicated by soil tests, the Michigan State University Cooperative Extension Service, the Soil and Water Conservation District, and label directions approved by the United States Environmental Protection Agency or the S.E.A.

**Storage Tank**

**Aboveground Storage Tank (AST).** Any non-portable container and supporting structure, excluding all pipes connected thereto, which is used to store an accumulation of Regulated Substances and in which more than ninety (90) percent of the final volume of the storage container is at or above the final ground elevation.

**Underground Storage Tank (UST).** One or any combination of tanks, including the underground pipes connected thereto, that are used to contain an accumulation of unregulated or Regulated Substances the volume of which, including the volume of the underground pipes connected thereto, is ten (10) percent or more beneath the surface of the ground. For the purposes of this WHPO, the term does not include:

- (1) Pipeline facilities, including gathering lines, regulated under the Natural Gas Pipeline Safety Act of 1968, 82. Stat, 720, 49 U.S.C.A. 2001, as amended;



*(CHAPTER 8, ARTICLE V, DIVISION 2, SECTION 8-241 cont.)*

- (2) Surface impoundments, pits, ponds, or lagoons;
- (3) Storm or waste water collection systems;
- (4) Flow-through process tanks;
- (5) Septic tanks;
- (6) Storage tanks located in underground areas when the tanks are located on or above the surface of the floor and the integrity of the tank is periodically visually evaluated;
- (7) Liquid traps or associated gathering lines directly related to oil or gas production or gathering operations.

**Temporary** A period of ninety (90) consecutive days or less. Regulated Substances and the individual storage units containing such substances that are used on site as part of regular business operations are not to be considered temporary storage.

**Time of Travel Capture Zone (TOT)** The travel time for water to flow through an aquifer and reach a wellhead from a particular point under the conditions specified by the S.E.A. For the purposes of this WHPO, the following definitions shall apply in defining the scope and extent of Time-of-Travel Capture Zones:

**One (1) Year Time-of-Travel (TOT) Capture Zone** The area of land around the well or wellfield from which groundwater could be drawn for use in a public water supply in a one (1) year time period.

**Five (5) Year Time-of-Travel (TOT) Capture Zone** The area of land located outside the one (1) year TOT zone but within the boundaries of the ten (10) year TOT zone from which groundwater could be drawn in a five (5) year time period.

**Ten (10) Year Time-of-Travel (TOT) Capture Zone** The area of land located outside the one (1) and five (5) year TOT zones but within the boundaries of the ten (10) year TOT zone from which groundwater could be drawn in a ten (10) year time period.

**Township Public Water Supply System (TPWSS)** A public utility owned and operated by the Charter Township of Waterford that provides potable water to its customers.

**Wellhead Protection** For purposes of this WHPO, the following definitions apply:

**Wellhead** An individual well for supplying water.

**Wellhead Protection Area (WHPA)** The surface and subsurface areas supplying water to wells or wellfields through which contaminants are likely to move and reach such wells or wellfields. The WHPA includes the one (1), five (5), and ten (10) year time-of-travel capture zones.

**Wellhead Protection Overlay Zone** One or more areas as outlined on an overlay zoning map as determined to be the wellhead capture zone(s) by computation and in consideration of natural surface runoff boundaries.

**WHPO** This Charter Township of Waterford Wellhead Protection Ordinance.

**Secs. 8-242--8-250. Reserved.**

### **Division 3. Establishment and Identification of Wellhead Protection Areas**

#### **Sec. 8-251. Establishment of wellhead protection areas**

In order to provide effective and consistent protection of the public water supply, certain geographic areas served by the TPWSS are hereby delineated based on geology, local soil conditions, and proximity to TPWSS wellheads as wellhead protection zones. Boundaries for each WHPA shall be developed, maintained, and identified by the Public Works Official on an official township document entitled "Wellhead Protection Areas Map" which shall be considered to be part of this WHPO as if the maps were fully described herein, upon approval in accordance with Section 8-253. The Wellhead Protection Areas Map shall be maintained and provided for public information and official use in the format and dissemination methods established by the Public Works Official in accordance with Section 8-253. Where delineation of capture zones cross

**(CHAPTER 8, ARTICLE V, DIVISION 3, SECTION 8-251 cont.)**

municipal borders, identification of such zones in other municipalities shall in no way be construed as conveying enforcement powers over such non-Township areas; this WHPO is only applicable within the jurisdiction of the Township.

**Sec. 8-252. Wellhead protection area zones**

The Public Works Official shall determine and identify one-year, five-year, and ten-year TOT capture zones around each TPWSS wellhead. The boundaries of all TOT capture zones so identified by the Public Works Official shall be established on a Wellhead Protection Areas Map in accordance with Section 8-253. Where a TOT capture zone contour, which delineates the boundary between two capture zones of varying scope and extent, passes through a property, the entire property shall be considered to be in the more restrictive TOT zone (the one-year TOT is more restrictive than the five-year TOT).

**Sec. 8-253. Wellhead protection areas map**

The Public Works Official shall submit a Wellhead Protection Areas Map identifying the boundaries of all TOT capture zones to the Township Board for consideration and approval by resolution. Upon adoption by the Township Board, the Public Works Official shall have the authority to interpret the Wellhead Protection Areas Map and determine where the boundaries of the different zones fall, if in dispute. The interpretation of the map boundaries by the Public Works Official may be appealed to the Township Board pursuant to Section 8-346. The Township Board shall consider and by resolution may approve any changes to the Wellhead Protection Areas Map as proposed by the Public Works Official.

**Secs. 8-254--8-260. Reserved.**

**Division 4. Use Regulations in Wellhead Protection Areas**

**Sec. 8-261. Prohibited facilities and land uses**

- (a) The insurance of a healthy and safe water supply that is the primary purpose of this WHPO establishes a responsibility to recognize the different levels of potential risk associated with the location of certain facilities and land uses within the proximity of a TPWSS well and/or wellfield. As a result of this responsibility, the following facilities and land uses are prohibited within all one-year, five-year, and ten-year TOT capture zones:
  - (1) Land uses requiring licensing by the Township in accordance with Waterford Code of Ordinances, Distressed Vehicle, Junk, Salvage, and Dismantling Yards.
  - (2) Commercial sanitary/solid waste landfills.
  - (3) Use of a Regulated Substance exceeding fifty-five (55) gallons aggregate for liquid materials or four-hundred forty (440) pounds aggregate for dry weights.
  - (4) Use of oil, waste oil, or similar liquid petroleum-type products for dust suppression.
  - (5) The disposal of shingles, asphalt, and/or lead-based or lead containing materials in an unlicensed landfill.
  - (6) Use of fly ash or other ash material as fill material. This prohibition does not apply where fly ash is used as a component in cement, concrete, or cinder block.
  - (7) Installation of underground storage tanks (USTs), except as permitted by the Township in accordance with the procedures established in the current Zoning Ordinance and other pertinent Ordinances.
  - (8) Installation of water wells for the purpose of drinking water, irrigation, or any other purpose other than the monitoring and/or sampling of monitoring or test wells in association with S.E.A. recognized groundwater contamination studies or approved by the Township, when public water is reasonably available.
  - (9) Any land use that fails to receive a Determination of Compliance from the Public Works Official where such a Determination of Compliance is required by the current Zoning Ordinance.
- (b) Additionally, the following land use is prohibited in the ten-year TOT capture zone:

**(CHAPTER 8, ARTICLE V, DIVISION 4, SECTION 8-261 cont.)**

- (1) Permanent storage of regulated substances in trucks, trailers, tankers, or rail cars where storage, handling, or use of a Regulated Substance exceeds one thousand (1,000) gallons aggregate for liquid materials or eight thousand (8,000) pounds aggregate for dry weights.
- (c) The list of facilities and land uses prohibited by this WHPO is not exhaustive and represents the state of present knowledge and most common description of said facilities and land uses. As it becomes apparent to the Public Works Official that other classes of facilities or land uses also present a health and safety danger to the TPWSS, the prohibited facilities and land uses listing in this section of this WHPO may be expanded after a joint analysis of a facility or land use class is prepared by the Public Works Official and Zoning Official, reviewed and recommended by the Planning Commission, and approved as an amendment of this WHPO by the Township Board.

**Sec. 8-262. Impact of changing technologies upon prohibited facilities and land uses.**

As evidence becomes available to the Public Works Official of industry-wide adoption of new technologies used in the operation and conduct of identified facility and land use classes where there are changes to non-risk materials or methods, facility and land use classes may be removed by the Township Board from the prohibited listing in Section 8-261. In such instances, the Public Works Official and the Zoning Official, after conferring with an expert geologist and other qualified professionals and preparing a written analysis, may propose to the Township Board that a facility or land use be deleted when it is demonstrated convincingly that the facility or land use no longer poses a pollution hazard.

**Sec. 8-263. Determination of compliance for facilities within wellhead protection areas.**

- (a) In those zoning districts identified in the Waterford Township Zoning Ordinance where land use classes are listed requiring review by the Public Works Official, all requests received by the Zoning Official to establish or expand such a land use on a zoning lot shall be forwarded to the Public Works Official for a Determination of Compliance. A Determination of Compliance shall be prepared and issued by the Public Works Official to ensure that a requested land use is in compliance with the requirements of this WHPO. When the Public Works Official determines that a land use request for a zoning lot governed by this Section does not comply with the regulations of this WHPO as it would establish a prohibited facility or land use, the Zoning Official and Planning Commission shall not grant permission to establish such a land use on the specified zoning lot.
- (b) In order to accomplish this duty in a fair and consistent manner, the Public Works Official shall prepare and, after consultation with the Township Engineer and the Zoning Official, adopt a set of standards for evaluation and issuance of Determinations of Compliance. The Public Works Official may incorporate into this set of standards a list of exempted activities allowed by land use classes requiring a Determination of Compliance, provided that such exemptions do not violate the prohibitions established in Section 8-261.

**Sec. 8-264. Existing non-conforming facilities and land uses.**

- (a) Any facility or land use existing as of the effective adoption date of, or amendment to, this WHPO that is considered a prohibited facility or land use is permitted to continue operation as a non-conforming facility or land use provided it remains otherwise lawful and remains in compliance with the regulations and limitations established for nonconformities by the current Zoning Ordinance.
- (b) An existing facility made non-conforming solely by application of this WHPO shall be treated as non-conforming only as to those uses prohibited by this WHPO. Existing uses not prohibited or otherwise regulated by this WHPO remain conforming such that they may be expanded or otherwise altered without violation of this WHPO.
- (c) In the event such non-conforming use shall pose a direct hazard to the wellhead, the Township may require that a Spill Control Plan be prepared, in accordance with Sections

*(CHAPTER 8, ARTICLE V, DIVISION 4, SECTION 8-264 cont.)*

8-311 – 8-314 of this WHPO and may take any further action permitted by law to abate the hazard.

**Secs. 8-265--8-270. Reserved.**

## **Division 5. Regulated Substances**

### **Sec. 8-271. Regulated substances.**

The Township Board shall establish by resolution a Regulated Substances List, upon the advice and recommendation of the Public Works Official, that shall identify those substances that no person shall place, deposit, or permit to be deposited, store, process, use, produce, dispose of, transport, or discharge, hereinafter referred to as "handle", on public or private property within the Township's WHPA, except as provided by law, statute, ordinance, rule or regulation. This Regulated Substances List shall be applied to and enforced upon all Facilities governed by this WHPO. The Regulated Substances List shall be available for review at the office of the Public Works Official, and all other locations identified by the Public Works Official. The Regulated Substances List may be altered or amended at any time by resolution of the Township Board upon the advice and recommendation of the Public Works Official.

### **Sec. 8- 272. Regulated substance release notification.**

Notwithstanding other requirements of law, as soon as any person responsible for a facility, or responsible for emergency response for a facility, has information of a release, or suspected release, of pollutants, said person shall take all reasonable and necessary steps to discover, contain, and cleanup such release, including, if necessary, contacting emergency response agencies. Said person shall also notify the Public Works Official of the release by an established standard mode of communication no later than 5:00 p.m. of the day following the release. A written record of the release notification, in the form and information content established by the Public Works Official, is mandatory and shall be prepared by the facility operator within three (3) business days of the release and transmitted to the Public Works Official. The owner or operator shall retain a copy of the written notice for at least three years. Such notification in no way alleviates other federal, state, or local reporting obligations imposed by law.

### **Sec. 8-273. Regulated substance release report.**

Within ten (10) days of a release, the responsible party shall submit a Regulated Substance Release Report to the Public Works Official, in the form and information content established by the Public Works Official. The Regulated Substance Release Report shall provide any additional detail on the nature and management of the release, including control and corrective actions taken to prevent a recurrence of the release, fate of the released material, and, where applicable, the name of the contractor responsible for removal of released substances. The Public Works Official shall use the Regulated Substance Release Report to determine if and where any additional investigative work needs to be completed to assess the potential pollution impact of the release.

### **Sec. 8-274. Remediation of regulated substance releases.**

Upon discovery of a release, the facility operator or other responsible party must take appropriate reasonable actions to mitigate the potential impact of the release on groundwater and remediate the release. Remediation must be conducted in a timely manner and in accordance with applicable laws. Wastes and materials generated or used during remediation of a Regulated Substance release must be handled and disposed of in accordance with all applicable legal requirements. Storage of these materials for a period of greater than ninety (90) days must be reported by the Facility Operator to the Public Works Official.

*(CHAPTER 8, ARTICLE V, DIVISION 5 cont.)*

**Sec. 8-275. Liability.**

The Township is authorized to order the cleanup or abatement, or take such other actions as may be necessary to cause cleanup or abatement, of any regulated substance release to soils, surface water, and/or groundwater within a Wellhead Protection Area which may present a threat to groundwater quality or violate Michigan's water quality standards. The entity or person responsible for the release shall be liable for any reasonable expense, loss, or damages attributable to the release incurred by the Township in response to such an incident, in addition to any fines imposed under Michigan and Federal law, and this WHPO.

**Sec. 8-276. Discharges.**

Any person with direct knowledge of a spill, leak or discharge of a Regulated Substance within the Wellhead Protection Area, if such spill, leak or discharge escapes or has potential to escape containment or contacts a pervious ground surface and is not immediately and completely remediated, shall give immediate notice to the Public Works Official. The notification shall include at a minimum, the location of the incident, name and telephone number, date and time thereof, type of substance(s), concentration, volume, and the control of corrective action taken. Such notification shall in no way alleviate other local, state and federal reporting obligations as required by law.

**Secs. 8-277--8-290. Reserved.**

**Division 6. Facility Closures**

**Sec. 8-291. Applicability.**

This Division applies to any non-residential Facility subject to regulation under this WHPO that becomes unoccupied or where operations are permanently discontinued for a period greater than one (1) year any time after the effective date of this WHPO. Facility Operators subject to compliance with any federal, state, or local facility closure program addressing the storage or handling of Regulated Substances at a closing facility are exempt from the requirements of this Division except for compliance with Section 8-293.

**Sec. 8-292. Removal of all regulated substances.**

Except in the case of seasonal discontinuation of operation, the Facility Operator must remove from the property all Regulated Substances not used exclusively for the provision of heating, cooling, and lighting, no later than one (1) year after the date the property initially became unoccupied or operation was permanently discontinued.

**Sec. 8-293. Closure notice.**

Any Facility Operator permanently discontinuing operation of a Facility subject to regulation under this WHPO must submit notice to the Public Works Official. This notice shall include the date on which operations will or have ceased; the current operator's new phone number and address; and the fate of the Regulated Substances stored or otherwise used on the site. Any Facility Operator required to submit closure notification under any federal, state or local closure program may copy the Public Works Official on that notification in lieu of submitting a Closure Notice.

**Sec. 8-294. Facility security.**

Immediately upon initiation of permanent closure of a facility, the Facility Operator must take reasonable steps to secure all Regulated Substance storage units or Regulated Substance storage areas against vandalism. Maintenance of all security measures implemented is required until all Regulated Substances are removed from the site.

**Secs. 8-295--8-310. Reserved.**

(CHAPTER 8, ARTICLE V cont.)

## **Division 7. Spill Control Plans**

### **Sec. 8-311. Applicability.**

Permanent storage or use of Regulated Substances subject to regulation under this WHPO at new and existing facilities in a storage unit where a release from the storage unit would reach a pervious soil surface, dry well, storm sewer, or surface water body requires the development of a Spill Control Plan in accordance with the requirements, content, and form established by the Public Works Official. A Facility Operator is exempt from this requirement if the storage unit or storage/usage area is secondarily contained to the approval of the Public Works Official.

### **Sec. 8-312. Plan implementation.**

Facility Operators required to develop a Spill Control Plan (SCP) shall complete the plan no later than one hundred eighty (180) calendar days from notification by the Public Works Official. The SCP does not require the signature of a professional engineer. The SCP must be stored on site and made available on request to the Fire Chief or other inspection authority. The Public Works Official may accept any SCP developed in compliance with other federal, state, or local regulatory programs when it contains all information required by the Public Works Official. Any deficient information must be amended into the existing SCP to be considered compliant with this Section of this WHPO. Where applicable, one (1) copy of the SCP must be kept in the Facility's repository box (lock box).

### **Sec. 8-313. Employee training.**

A Facility Operator required to prepare a SCP shall train all employees annually on the release procedures outlined in the SCP. The Facility Operator shall maintain a log of employee training and make the log available to the Public Works Official upon request. Copies of the SCP must be readily available for employee use in work areas in or near Regulated Substance storage areas.

### **Sec. 8-314. Plan amendments.**

A Facility Operator shall review and amend the SCP as necessary every two (2) years and when any of the following occur:

- (a) There is a change in ownership or management at the Facility;
- (b) An out-of-service AST system lacking secondary containment is returned to service; and/or
- (c) Changes, structural or otherwise, are made at the Facility that will affect the anticipated flow direction of any release from the storage area or unit.

### **Secs. 8-315--8-320. Reserved.**

## **Division 8. Site Plan Review Standards**

### **Sec. 8-321. Applicability.**

In addition to the site plan submission and review requirements established by the Township in the current Zoning Ordinance, projects within a WHPA are subject to the additional requirements outlined in the following subsections.

### **Sec. 8-322. Required site information.**

An applicant for land development, redevelopment, and/or change of use of a zoning lot regulated by this WHPO shall include a written listing of the types and quantities of Regulated Substances which will be used or stored on-site at the facility in quantities greater than one hundred (100) kilograms per month (equal to about twenty-five [25] gallons per month) if necessary to ensure compliance with the provisions of this or other township ordinances. The applicant shall provide on the final site plan the location of all existing and proposed above and below ground service

*(CHAPTER 8, ARTICLE V, DIVISION 8, SECTION 8-322 cont.)*

facilities and structures, delineation of areas on the site which are known or suspected to be contaminated, soil characteristics of the zoning lot, and/or the location of existing inland lakes and streams, wetlands, and watercourses. The applicant shall also submit to the Public Works Official all forms, checklists, and reports adopted by the Public Works Official as requirements for compliance with this WHPO Section.

**Sec. 8-323. Groundwater protection review standards.**

An applicant for land development, redevelopment, and/or change of use of a zoning lot regulated by this WHPO shall ensure that the project and related improvements are designed to protect the natural environment, including water resources, and to ensure the absence of an impairment, pollution, and/or destruction of the air, water, natural resources and the public trust therein by incorporating the following elements into the final site plan to the satisfaction and approval of the Public Works Official and Township Engineer:

- (a) Storm water management and drainage facilities shall be designed to retain the natural retention and storage capacity of any wetland, water body, or watercourse, and shall not increase flooding or the potential for pollution of surface water or groundwater, on-site or off-site, and shall not result in a loss of the use of property by any third party.
- (b) General purpose floor drains shall be connected to a public sewer system, an on-site holding tank, or a system authorized through a state groundwater discharge permit.
- (c) Sites at which hazardous substances and polluting materials are stored, used, or generated shall be designed to prevent spills and discharges to the air, surface of the ground, groundwater, lakes, streams, rivers or wetlands.
- (d) State and federal agency requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of hazardous substances and polluting materials shall be met. No discharges to groundwater, including direct and indirect discharges, shall be allowed without required permits and approvals.

**Sec. 8-324. Above-ground regulated substance storage review standards.**

An applicant for land development, redevelopment, and/or change of use of a zoning lot where the regulations of this WHPO are applicable shall incorporate the following elements into the final site plan to the satisfaction and approval of the Public Works Official, Township Engineer, and Fire Chief:

- (a) Secondary containment of hazardous substances and polluting materials shall be provided. Secondary containment shall be sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released substance.
- (b) Outdoor storage of hazardous substances and polluting materials shall be prohibited except in product-tight containers which are protected from weather, leakage, accidental damage and vandalism.
- (c) Secondary containment structures such as out buildings, storage rooms, sheds and pole barns shall not have floor drains which outlet to soils, groundwater, or nearby drains or natural water bodies.
- (d) Areas and facilities for loading/unloading of hazardous substances and polluting materials, as well as areas where such materials are handled and utilized, shall be designed and constructed to prevent discharge or runoff to floor drains, rivers, lakes, wetlands, groundwater, or soils.

**Sec. 8-325. Underground regulated substance storage review standards.**

An applicant for land development, redevelopment, and/or change of use of a zoning lot where the regulations of this WHPO are applicable shall incorporate the following elements into the final site plan to the satisfaction and approval of the Public Works Official, Township Engineer, and Fire Chief:

- (a) Existing underground storage tanks shall be registered with the authorized state agency in accordance with requirements of the U.S. Environmental Protection Agency and the State Police Fire Marshal Division.
- (b) Installation, operation, maintenance, closure, and removal of underground storage tanks shall be in accordance with requirements of the State Police Fire Marshal Division. Leak detection, corrosion

**(CHAPTER 8, ARTICLE V, DIVISION 8, SECTION 8-325 cont.)**

protection, spill prevention and overflow protection requirements shall be met. Records of monthly monitoring or inventory control must be retained and available for review of government officials.

- (c) Out-of-service abandoned underground tanks shall be emptied and removed from the ground in accordance with the requirement of the State Police Fire Marshal Division, and the MDEQ.

**Sec. 8-326. Contaminated sites review standards.**

An applicant for land development, redevelopment, and/or change of use of a zoning lot where the regulations of this WHPO are applicable shall incorporate the following elements into the final site plan to the satisfaction and approval of the Public Works Official, Township Engineer, and Fire Chief:

- (a) Site plans shall take into consideration the location and extent of any contaminated soils and/or groundwater on the site, and the need to protect public health and the environment.
- (b) Land development shall not be allowed on or near contaminated areas of a site unless information from the MDEQ is available indicating that cleanup will proceed in a timely fashion and that such land development is authorized.

**Secs. 8-327--8-340. Reserved.**

**Division 9. Violations, Penalties, and Administrative Remedies**

**Sec. 8-341. Violations.**

- (a) Any condition caused or permitted to exist in violation of any of the provisions of this WHPO is a threat to public health, safety, and welfare, and is declared and deemed a nuisance per se, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken by the Township.
- (b) Any Facility Operator or property owner who knowingly submits false or inaccurate information to the Township, or who violates, disobeys, omits, neglects, or refuses to comply with any provision of this WHPO is considered in violation of this WHPO and subject to penalty as set forth herein.

**Sec. 8-342. Penalties.**

The first violation of this WHPO is a civil infraction, punishable as provided in Section 1-010(b). A second or subsequent violation of this WHPO by a person may be punishable as a civil infraction as provided in Section 1-010(b), or as a misdemeanor as provided in Section 1-010(a).

**Sec. 8-343. Administrative remedies.**

- (a) The Public Works Official, upon discovery of violation of any provision of this WHPO, may pursue with reasonable notice any legally available administrative remedies or enforcement actions including, but not limited to, the following:
  - (1) Ordering cessation of any use or activity that may create hazards or have deleterious effects on the water supply or facilities;
  - (2) Discontinuing utility service to any Facility operating in violation of this WHPO;
  - (3) Ordering remedial actions;
  - (4) Requiring pollution control and abatement; and
  - (5) Requiring development of compliance schedules to implement corrective action.
- (b) When considering the exercise of any of the above powers or actions, the Township Board may take into consideration any evidence presented by the entity regarding cost effectiveness and the economic impact imposed by the requirements or actions.



*(CHAPTER 8, ARTICLE V, DIVISION 9 cont.)*

**Sec. 8-344. Liability.**

The Township is authorized to order the cleanup or abatement, or take such other actions as may be necessary to cause cleanup or abatement, of any hazardous material release to soils, surface water, and/or groundwater in or near a WHPA which may present a threat to groundwater quality or violate Michigan's water quality standards. The entity or person responsible for the release shall be liable for any reasonable expense, loss, or damages attributable to the release incurred by the Township in response to such an incident, in addition to any fines imposed under Michigan and Federal law, and this WHPO.

**Sec. 8-345. Cost of abatement of the violation.**

Within 90 days after abatement of the violation, the owner of the property will be notified of any cost of abatement, including administrative costs, which the Township seeks from said owner as reimbursement. The property owner may file a written protest objecting to the amount sought within thirty (30) days. If the amount due is not paid within thirty (30) days of the final decision of the Township or the expiration of the time in which to file an appeal, the Township may cause the charges to become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

**Sec. 8-346. Appeals.**

Any person aggrieved by any order issued by the Public Works Official or other official under the provisions of this WHPO may appeal such decision to the Township Board by filing a written notice of appeal with the Township Clerk and the Public Works Official within 14 days of the date of the order.

**Secs. 8-347--8-370. Reserved.**

## **ARTICLE VI STORMWATER MANAGEMENT**

### **Division 1. Generally**

**Sec. 8-371. Short title.**

This Article shall be known and cited as the "Waterford Township Stormwater Management Ordinance"

**Sec. 8-372. Purposes.**

The purpose of this Article is declared to be:

- (a) To protect public health, safety and welfare by requiring stormwater best management practices whenever new, expanded or modified developments are proposed.
- (b) To assure that stormwater runoff from development is controlled so that the water quality in inland lakes and streams, watercourses, wetlands, groundwater recharged by stormwater, and habitat situated in areas impacted by stormwater are protected, and that siltation and pollution are minimized.
- (c) To provide for cost-effective and functionally-effective stormwater management, and to reduce the need for future remedial projects.
- (d) To prevent soil erosion and sedimentation.
- (e) To ensure that the natural functions and quality of wetlands for stormwater filtering and detention throughout the Township are protected to the maximum extent feasible.
- (f) To recognize private responsibility to incorporate stormwater best management practices and systems into the early stages of site planning and design.
- (g) To ensure that all stormwater conveyance and detention facilities will be properly maintained.
- (h) To promote the avoidance of degradation of water resources by reducing and/or avoiding impacts on the hydrology of stormwater runoff.

(CHAPTER 8, ARTICLE VI, DIVISION 1, SECTION 8-372 cont.)

- (i) To establish regulations to prevent harmful effects of changes in the quantity and quality of surface water discharge into the Township's water resources.
- (j) To achieve compliance with state and federal law and regulations relating to water quality.

**Sec. 8-373. Definition of terms.**

In addition to those rules of construction and definitions contained in Sections 1-002 and 8-001, the following definitions shall apply to this Article:

The following terms, phrases, words and derivatives shall have the meaning defined below:

**Accelerated Soil Erosion** The increased movement of soils that occurs as a result of the impact of development upon the flow of stormwater.

**Appeal** means a request for a review of or variance from the Township Engineer's decision based upon, or interpretation of, any provision of this Article.

**Best Management Practice (BMP)** structural and nonstructural stormwater management control measures taken to mitigate changes to both quantity and quality of run-off caused through changes to land use. BMP's are designed to reduce volume, peak flows, and/or treat non-point source pollution through evapotranspiration, infiltration, detention, retention, filtration, or biological and chemical actions.

**Catchment Area** An area in which there is a common receiving body of water into which stormwater ultimately flows, otherwise known as a drainage area.

**Conveyance Facility** A storm drain, as defined in this Article.

**Detention** A method of *detaining* a certain volume of stormwater runoff generated from a development area, based on a given design storm event, for a limited period of time and releasing it at a controlled rate, thereby, providing protection to the downstream drainage system.

**Development** Any change in land or vegetative cover that will or may alter stormwater discharge or impact. This term shall not include customary lawn maintenance or gardening.

**Discharge** Any addition or introduction of any pollutant, stormwater, or any other substance into the stormwater system or into ground water.

**Disturbed Area** An area of land subjected to development.

**Drainage System** All facilities, measures, areas, and structures which serve to convey, catch, hold, filter, store, and/or receive stormwater, either on a temporary or permanent basis.

**Earth Change** A human-made change in the natural cover or topography of land, including but not limited to cut and fill activities, which may result in or contribute to soil erosion or sedimentation of watercourses or wetlands.

**French Drain** A below-ground drain consisting of a trench filled with gravel to permit movement of water through the gravel and into the ground. Perforated pipe may be used to enhance the efficiency of the system.

**Grading Plan** As defined in the Waterford Township Zoning Ordinance.

**Infiltration** The percolation of water into the ground, expressed in inches per hour.

**Infiltration Facility** A structure or designated area which allows runoff to seep gradually into the ground, e.g., French drains, seepage pits, infiltration trenches, dry well, or perforated pipe.

**Maintenance Agreement** A binding agreement that sets forth the terms, measures and conditions for the maintenance of stormwater systems and facilities.

**Non-Erosive Velocity** Stormwater flow that does not cause accelerated soil erosion.

**Offsite Facility** All or part of a drainage system that is located partially or completely off the development site which it serves.

**Peak Rate of Discharge** The maximum rate of stormwater flow at a particular location following a storm event, as measured at a given point and time in cubic feet per second (CFS).

(CHAPTER 8, ARTICLE VI, DIVISION 1, SECTION 8-373 cont.)

**Receiving Body of Water** Any watercourse or wetland into which stormwaters are directed, either naturally or artificially.

**Retention** A method of *retaining* a certain volume of stormwater runoff generated from a development area based on a given design storm event for an indefinite period of time, thereby, providing protection to downstream areas.

**Runoff** That part of precipitation which flows over the land.

**Sediment** Mineral or organic particulate matter that has been removed from its site of origin by the processes of soil erosion, is in suspension in water, or is being transported.

**Soil Erosion** The wearing away of land by the action of wind, water, gravity or a combination thereof.

**Soil Erosion Control Measures** A structure, facility, barrier, berm, process, vegetative cover, basin, and/or other installations designed to control accelerated soil erosion. Temporary measures are installed to control soil erosion during construction or until soils in the contributing drainage area are stabilized. Permanent measures remain after the project is completed.

**Storage Facility** A basin, structure, or area, either natural or human made, which is capable of holding stormwater for the purpose of controlling or eliminating discharge from the site.

**Stormwater Discharge** The volume of water passing a given point at a given time expressed in cubic feet per second. Also referred to as the rate of flow.

**Storm Drain** A conduit, pipe, swale, natural channel or manmade structure which serves to transport stormwater runoff. Storm drains may be either enclosed or open.

**Stormwater Management Plan** Drawings and written information prepared in accordance with the Township Engineering Standards by a registered engineer or registered surveyor which describe and detail the means and methodology in which accelerated soil erosion and/or stormwater flows are proposed to be controlled through BMPs and stormwater management systems, both during and after construction, having as its purpose to ensure that the objectives of this Article are met.

**Stormwater Management System** Entire stormwater conveyance and storage facilities and all appurtenances thereto.

**Swale** Defined contour of land with gradual slopes that transports and directs the flow of stormwater.

**Watershed** A geographical area of land in which stormwater drains from a higher elevation to a common low-lying water course; is generally comprised of smaller catchment areas as together they are linked hydraulically to the common low-lying water course.

**Sec. 8-374. Applicability.**

(a) The following types of developments shall require a Stormwater Management Plan to be submitted along with the Grading Plan to be reviewed and approved by the Township Engineer during the applicable plan review process as required by the Waterford Township Zoning Ordinance or Chapter 15, Subdivision and Land Management Regulations, of this Code:

- (1) All land development proposals requiring major site plan review in accordance with the Waterford Township Zoning Ordinance.
- (2) Subdivision plat proposals.
- (3) Any land division which results in the creation of a public or private street.
- (4) Any development activity not listed above where the Township Engineer has determined that a Stormwater Management Plan is necessary to ensure that stormwater is contained on the zoning lot to be developed and ensures the health, safety, and general welfare of adjoining property owners.

***(CHAPTER 8, ARTICLE VI, DIVISION 1, SECTION 8-374 cont.)***

- (b) No development requiring a Stormwater Management Plan or preparation for such a development on a site shall occur unless and until the Stormwater Management Plan is approved by the Township Engineer.

**Sec. 8-375. Exempt activities.**

Notwithstanding the requirements of Section 8-374, a Stormwater Management Plan shall not be required for the following:

- (a) Activities protected by rights accorded to citizens by the Right to Farm Act.
- (b) Routine landscaping and/or gardening.
- (c) Development on one single family zoning lot where the Township Engineer determines that, due to the size of the site, scope of the development activity, or due to other circumstances, the quantity, quality and/or rate of stormwater leaving the site will not be significantly altered.
- (d) Developments that have received final site plan approval prior to the effective date of this Article. In the case of a phased development in which one or more phases have been constructed prior to the effective date of this Article, then this Article shall apply to those phases for which detention or retention facilities have not been constructed and approved.

**Sec. 8-376. Fees.**

The Township Board shall establish by resolution a schedule of fees and escrow requirements intended to cover the costs of processing and approving a Stormwater Management Plan, and plan implementation compliance monitoring. Fees and escrow account payments shall be sufficient to cover administrative and technical review costs anticipated to be incurred by the Township including the costs of on-site inspections.

**Sec. 8-377. Responsibilities of applicant not limited to this Article.**

- (a) Compliance with the requirements of this Article does not relieve an applicant from the responsibility to obtain required permits and approvals from the Township, County agencies, and S.E.A. for activities including but not limited to soil erosion, drainage, and wetlands.
- (b) Compliance with the requirements of this Article does not relieve an applicant from the responsibility to comply with other applicable township ordinances and regulations.

**Sec. 8-378. Violations; Civil Infraction.**

Violation of this Article is a civil infraction punishable as provided in Section 1-010(b).

**Secs. 8-379--8-390. Reserved.**

**Division 2. Administration**

**Sec. 8-391. Contents of stormwater management plan.**

- (a) The Stormwater Management Plan shall be drawn to the scale and on the plan sheet size required for Grading Plans as defined in the Waterford Township Zoning Ordinance.
- (b) The Stormwater Management Plan shall contain the information required on a Grading Plan as well as all information specified in the Township Engineering Standards.
- (c) When development of a zoning lot is proposed to be accomplished in two or more phases, the Stormwater Management Plan shall be prepared and submitted for the total project. Moreover, it shall be demonstrated that a sufficient "stand alone" plan for stormwater management shall exist upon the completion of each phase, i.e., assuming that future phases shall never be developed.

**Sec. 8-392. Plan submission.**

- (a) Stormwater Management Plans shall be submitted, along with the required fees and escrow payment, to the Township Engineer for review and approval before submittal of construction plans and in accordance with the review schedule established by the Township Engineer.

***(CHAPTER 8, ARTICLE VI, DIVISION 2, SECTION 8-392 cont.)***

- (b) The Township Engineer may establish a Stormwater Management Plan review process that is integrated and concurrent with major site plan review and subdivision plat review procedures to provide for a streamlined review process.

**Sec. 8-393. Standards for stormwater management plan approval.**

A Stormwater Management Plan shall be designed to prevent flooding and soil erosion and protect water quality. The particular facilities and measures shown on the plan shall provide:

- (a) Stormwater management conveyance, storage and infiltration measures and facilities designed to prevent flood hazards and water pollution related to stormwater runoff, to prevent accelerated soil erosion from the proposed development, and to conform to the Township Engineering Standards.
- (b) Preservation of natural topography and natural site drainage to the maximum extent feasible.
- (c) Unless otherwise approved, stormwater runoff conveyed through swales and vegetated buffer strips so as to decrease runoff velocity, allowance for natural infiltration, allowance for suspended sediment particles to settle, and removal of pollutants.
- (d) Runoff rates from detention basins conforming to the requirements specified in the Township Engineering Standards.
- (e) Inland lakes and streams and watercourses shall not be deepened, widened, dredged, cleared of vegetation, straightened, stabilized or otherwise altered without applicable permits or approvals from the Township, relevant County agencies and the S.E.A.
- (f) Drainage systems designed to protect public health and safety and to facilitate efficient and effective maintenance.
- (g) Promotion of on-site retention and detention through the design of site contours, yards, paved areas, street roadways, driveways, landscaping, and infiltration measures (including but not limited to native landscaping, French drain, or leaching basin.)
- (h) No alterations of stormwater runoff to adjacent and downstream properties that result in off-site impacts such as flooding, accelerated soil erosion, or damage to natural features.
- (i) Wetlands will be protected from damaging modification and adverse changes in runoff quality and quantity associated with land developments, as well as from direct discharge of untreated stormwater. Documentation shall also provide that all runoff from the development will be pre-treated to remove sediment and other pollutants prior to discharge to a wetland and that such treatment facilities shall be constructed and operational before site grading begins.
- (j) Site drainage patterns will not be altered in any way that will modify existing water levels in protected wetlands without proof that all applicable permits from the S.E.A. and the Township have been obtained.

**Sec. 8-394. Stormwater storage and infiltration facilities.**

Stormwater storage and/or infiltration facilities required pursuant to this Article shall comply with the Township Engineering Standards.

**Sec. 8-395. Off-site stormwater management.**

- (a) The Township Engineer may approve Stormwater Management Plans for off-site stormwater management systems provided that they are governed by permanent cross-access easements and maintenance agreements, whose language and provisions are reviewed and approved by the Township Attorney, that ensure:
  - (1) easements are placed on all properties from which stormwater is directed and all properties to which stormwater is directed to be collected;
  - (2) access for inspections;
  - (3) access to stormwater management facilities for maintenance purposes; and
  - (4) preservation of primary and secondary drainageways which are needed to serve stormwater management needs of other properties.
- (b) Easements shall be recorded with the Oakland County Register of Deeds according to Oakland County requirements as a condition of stormwater management plan approval and prior to the issuance of any temporary or final certificates of occupancy for any portion of the development associated with the shared off-site stormwater management system.

***(CHAPTER 8, ARTICLE VI, DIVISION 2, SECTION 8-395 cont.)***

- (c) The purpose of the maintenance agreement is to provide the means and assurance that maintenance of stormwater management and facilities shall be undertaken. The maintenance agreement shall include a plan for routine, emergency and long term maintenance and repair by the property owners who are party to the maintenance agreement.
- (d) The maintenance agreement shall be binding on all subsequent owners of the properties identified as part of the subject stormwater management system, and shall be recorded with the Oakland County Register of Deeds according to Oakland County requirements as a condition of stormwater management plan approval and prior to the issuance of any temporary or final certificates of occupancy for any portion of the development associated with the shared off-site stormwater management system.

**Sec. 8-396. Performance guarantees.**

When required by the Township Engineer, the applicant shall post an acceptable form of an irrevocable letter of credit, cash escrow, certified check, or other Township approved performance security to assure completion of a stormwater management system. Required performance guarantees shall be provided to the Township after Stormwater Management Plan approval but prior to the initiation of any earth change.

**Sec. 8-397. Variance and appeal power of Township Board.**

The Township Board shall have full power and authority to vary the application of the provisions of this Article. The Township Board shall hear appeals from any requirement, decision or determination made by the Township Engineer in the enforcement and administration of this Article. In passing upon such matters, the Township Board shall consider:

- (a) All technical factors and standards specified in this Article.
- (b) Danger to life, health or property by improperly managed stormwater.
- (c) Special conditions and circumstances which are unique to a zoning lot and which are not generally applicable to other zoning lots.
- (d) Other factors as are in keeping with the purpose of this Article.

**Secs. 8-398--8-420. Reserved.**

**ARTICLE VII WOODLANDS MANAGEMENT**

**Division 1. Generally**

**Sec. 8-421. Short title.**

This Article shall be known and cited as the “Waterford Township Woodlands Management Ordinance”

**Sec. 8-422. Purpose.**

- (a) The unregulated and unnecessary removal of protected trees is a threat to the public health, safety, and general welfare of the citizens of Waterford Township through the elimination of important physical, aesthetic, recreational and economic assets for both present and future generations. Specifically, it is found that:
  - (1) Protected trees provide for public safety through the prevention of erosion, siltation, and flooding in woodland areas;
  - (2) Protected trees aid in the protection of public health through the absorption of air pollutants and contamination, including the reduction of excessive noise and mental and physical damage related to noise pollution;
  - (3) Protected trees provide a significant aspect of the character of the Township; and
  - (4) Protected tree growth serves as an essential component of the general welfare by maintaining natural beauty, recreation and irreplaceable natural heritage.

**(CHAPTER 8, ARTICLE VII, DIVISION I, SECTION 8-422 cont.)**

- (b) The purposes of this Article are as follows, to be applied throughout the Township:
- (1) To provide for the protection, preservation, proper maintenance and use of protected trees through effective management of woodlands in order to minimize disturbance to them and to prevent damage from erosion and siltation, a loss of wildlife and vegetation, and/or from the destruction of the natural habitat;
  - (2) To assist in the sustainability of protected trees in woodlands to ensure their crucial role in contributing their economic support of community property values when allowed to remain in place, and for their natural beauty, character, and geological, ecological, or historical significance.
  - (3) To provide for the paramount public concern for these natural resources in the interest of health, safety and general welfare of the residents of this Township, in keeping with Article IV, Section 52 of the Michigan Constitution of 1963, and the intent of Public Act 451 of 1994, the Natural Resources and Environmental Protection Act.

**Sec. 8-423. Definitions.**

In addition to those rules of construction and definitions contained in Sections 1-002 and 8-001, the following definitions shall apply to this Article:

**Affected Tract** A zoning lot that is vacant with no buildings or structures.

**Diameter Breast Height (D.B.H.)** A tree's diameter in inches measured by diameter tape at four and one-half (4 ½) feet above the ground. On multi-stem trees, the largest diameter stem shall be measured.

**Drip Line** An imaginary vertical line extending downward from the outermost tips of the tree branches to the ground.

**Protected Tree** Any tree having a diameter breast height (d.b.h.) of six (6) inches or greater and belonging to a genus and species identified in a Protected Tree List established by the Township Board as provided in Section 8-424 as a tree to be regulated.

**Removal** The direct or indirect act of removing or causing the removal of a tree by digging up, cutting down, or other activities that damage and cause the eventual death of a tree.

**Transplant** The relocation of a tree from one place to another on the same zoning lot.

**Tree** Any self-supporting, woody plant of a species which normally grows to an overall height of fifteen (15) feet or more.

**Undeveloped** A zoning lot which is unimproved by virtue of building(s), structure(s), or other improvement(s).

**Woodlands** Areas, groves, or stands of protected trees covering an area greater than one acre; or without regard to minimum area, containing more than ten individual genus and species of protected tree.

**Sec. 8-424. Protected tree list.**

The Township Board shall establish by resolution a Protected Tree List, upon the advice and recommendation of the Township Engineer, which shall identify the genus and species of each tree to be regulated by this Article. The Township Engineer may consult registered foresters and landscape architects while assembling the list. This Protected Tree List shall be applied to and enforced upon all properties within the Township. The Protected Tree List shall be available for review at the office of the Township Engineer and Township Clerk, and all other locations identified by the Township Engineer. The Protected Tree List may be altered or amended at any time by resolution of the Township Board upon the advice and recommendation of the Township Engineer.

**Sec. 8-425. Actions requiring a woodlands management permit.**

Subject to the exceptions enumerated in Section 8-426 below, no person shall remove, cause to be removed, or destroy any protected tree on an affected tract without first obtaining a woodlands management permit.

**(CHAPTER 8, ARTICLE VII, DIVISION I cont.)**

**Sec. 8-426. Actions not requiring a woodlands management permit.**

The following activities, unless otherwise prohibited by statute or other ordinance provision, shall not require a woodlands management permit:

- (a) Tree removal and transplant activities on zoning lots or parcels that are not an affected tract.
- (b) Protected tree removal activities protected by rights accorded to citizens by the Right to Farm Act.
- (c) Protected tree removal activities necessary by an emergency, such as tornado, windstorm, flood, freeze, dangerous and infectious insect infestation or disease, or other disaster, in order to prevent injury or damage to persons or property or restore order.
- (d) Protected tree removal performed by, or on behalf of, governmental entities or agencies.
- (e) Repair or maintenance work performed by public utilities necessitating the trimming or cutting of protected trees.
- (f) Removal or trimming of dead, diseased or damaged protected trees, where the damage resulted from an accident or non-human cause.

**Sec. 8-427. Fees.**

The Township Board shall establish by resolution a schedule of fees and escrow requirements intended to cover the costs of processing and approving a woodlands management permit, and permit compliance monitoring. Fees and escrow account payments shall be sufficient to cover administrative and technical review costs anticipated to be incurred by the Township including the costs of on-site inspections.

**Secs. 8-428--8-440. Reserved.**

**Division 2. Permit**

**Sec. 8-441. Application for woodlands management permit.**

- (a) Applications for woodlands management permits shall be submitted, along with the required fees and escrow, to the Township Engineer for review and approval before removing protected trees in accordance with the review schedule established by the Township Engineer.
- (b) The Township Engineer may establish a woodlands management permit review process that is integrated and concurrent with major site plan review procedures to provide for a streamlined review process.

**Sec. 8-442. Woodlands management plan.**

The Township Engineer may require an applicant to submit:

- (a) A woodlands management plan that includes documentation of the means and process by which cut protected trees shall be removed from the property without damaging remaining protected trees.
- (b) A tree survey in accordance with standards established by the Township Engineer; and/or
- (c) A tree survey prepared by a State of Michigan registered forester as part of a permit application when the scope of the woodlands management activity shall be for the purpose of reducing the density of woodlands so as to promote and maintain the health and viability of the remaining protected trees.

**Sec. 8-443. Hiring of woodlands consultant.**

The Township Engineer is authorized to engage the services of a registered forester as a woodlands consultant to provide scientific expertise and analysis during permit application processing and compliance monitoring for those cases where the Township Engineer has determined such scientific documentation is required to achieve the objectives of this Article.

**Sec. 8-444. Standards for woodlands management permit approval.**

The following standards shall govern approval of a woodlands management permit:

- (a) Removal of protected trees shall be limited to instances where:
  - (1) Removal is necessary for the construction of a building, structure, or other site improvement, and the permit applicant has shown there is no feasible and prudent location alternative on site for improvement; or



**(CHAPTER 8, ARTICLE VII, DIVISION 2, SECTION 8-444 cont.)**

- (2) The density of protected trees is proposed to be reduced to preserve the health and viability of the protected trees in accordance with an approved woodlands management plan.
- (b) Protected tree preservation and conservation shall be of paramount concern and importance, provided, that an application shall not be denied solely because of the presence of individual protected trees scattered throughout an affected tract.
- (c) Preservation and conservation of protected trees shall have priority over land development when there are feasible and prudent location alternatives on site for proposed buildings, structures or other site improvements.
- (d) Diversity of protected tree species shall be maintained where essential to preserving protected trees.
- (e) Where the proposed activity consists of land clearing, it shall be limited to areas to be improved for street roadways, sidewalks, drainage and utilities and areas necessary for the construction of buildings, structures or other site improvements as shown on an approved site plan or subdivision plat.
- (f) The proposed activity shall comply with all applicable statutes and ordinances.

**Sec. 8-445. Protected tree replacement.**

In order to achieve the objectives of this Article and as a condition of approval of a woodlands management permit, the Township Engineer may require that protected trees removed under the permit shall be relocated or replaced with comparable protected trees in accordance with protected tree replacement requirements recommended by the Township Engineer and established by resolution of the Township Board.

**Sec. 8-446. Performance guarantees.**

- (a) When required by the Township Engineer, the applicant shall post an acceptable form of an irrevocable letter of credit, cash escrow, certified check, or other Township approved performance security. The performance guarantee shall be an amount determined by the Township Engineer required to complete all woodlands management activities as specified in the permit, together with reasonable administrative expenses. Required performance guarantees shall be provided to the Township after approval of the woodlands management permit but prior to the initiation of any of the activities governed by the permit.
- (b) After all woodlands management activities are completed in compliance with the woodlands management permit, the letter of credit or other securities shall be released.

**Sec. 8-447. Woodlands management permit.**

Whenever an application for a woodlands management permit is granted, the Township Engineer shall:

- (a) Attach to the permit any reasonable conditions established as necessary to ensure the purpose of this Article will be fulfilled.
- (b) Fix a reasonable time for permitted activities to be undertaken and completed. Permitted activities that are not completed before the permit deadline will be cause for the permit to become null and void and will require new application.
- (c) Identify on the permit any performance guarantee requirement in accordance with Section 8-446.

**Sec. 8-448. Protected tree conservation during construction.**

- (a) During construction, no person shall:
  - (1) Conduct any activity within the drip line of any protected tree designated to remain, including, but not limited to, placing solvents, building material, construction equipment or soil deposits within the drip line.
  - (2) Attach any device to any remaining protected tree except for the protection of a tree in accordance with forestry procedures.
- (b) Street right-of-way and utility easements may be cordoned by placing stakes a minimum of fifty (50) feet apart and tying ribbon, plastic tape, rope, etc. from stake to stake along the outside perimeters of areas authorized under the permit to be cleared.
- (c) Large property areas separate from the construction or land clearing area onto which no equipment will venture may also be cordoned off as described in subsection (b) above.

***(CHAPTER 8, ARTICLE VII, DIVISION 2, SECTION 8-448 cont.)***

- (d) Protective barriers shall be required and maintained in accordance with permit conditions established by the Township Engineer.

**Sec. 8-449. Display of permit; stop work, certificate of occupancy.**

- (a) The woodlands management permit shall be conspicuously and continuously displayed on-site during the active timeframe of the permit.
- (b) The permit grantee shall allow the Township Engineer to enter and inspect the premises at any reasonable time, and failure to allow inspection shall constitute a violation of this Section.
- (c) The Building Official may issue a stop work order or withhold issuance of a certificate of occupancy, permits or inspections if this Article is being violated and/or until the provisions of this Article, including any conditions attached to a woodlands management permit, have been fully met.

**Sec. 8-450. Variance and appeal power of Township Board.**

The Township Board shall have full power and authority to vary the application of the provisions of this Article. The Township Board shall hear appeals from any requirement, decision or determination made by the Township Engineer in the enforcement and administration of this Article. In passing upon such matters, the Township Board shall consider:

- (a) All technical factors and standards specified in this Article.
- (b) Danger to life, health or property by improperly managed protected trees.
- (c) Special conditions and circumstances which are unique to a zoning lot and which are not generally applicable to other zoning lots.
- (d) Other factors as are in keeping with the purpose of this Article.

**Sec. 8-451. Violations; Civil Infraction.**

Violation of this Article is a civil infraction punishable as provided in Section 1-010(b).

**Secs. 8-452--8-470. Reserved.**