

**PORTER TOWNSHIP WETLANDS PROTECTION ORDINANCE
52.000**

**ORDINANCE NO. 6-07 REVISED
ADOPTED June 14, 2016
REPLACING ORDINANCE ADOPTED JUNE 12, 2007
EFFECTIVE UPON RELEASE BY TOWNSHIP BOARD
Published June 29, 2016**

Section 52.000

An ordinance enacted under the Michigan Wetland Protection provisions of Act 451 of 1994, to provide for the preservation, management, protection and use of wetlands in the township of Porter, in Cass County, to require permits to alter certain wetlands: to provide for a plan for the preservation, management, protection and use of wetlands; and to provide remedies and penalties for violation thereof.

The Township of Porter, County of Cass, Michigan Ordains:

Section 52.001 - Short Title

This ordinance shall be known and may be cited as the "Porter Township Wetlands Protection Ordinance".

Section 52.002 - Purpose

The purpose of this Ordinance is to:

1. Provide for the protection and appropriate use of wetlands within Porter Township in order to minimize disturbance of these vital natural features.
2. Coordinate the provisions of this Ordinance with state law as well as to provide for coordinated enforcement of wetland protection laws and requirements by responsible township, county and state officials.
3. Assign responsibilities for assuring the protection of wetlands within Porter Township.
4. Establish procedures for the processing of applications for permits involved in the permitted use of wetlands in Porter Township.

Section 52.003 - Definitions

1. **Buffer Area** shall mean all land areas within 25-feet of protected wetlands.
2. **Contiguous** shall mean any of the following:
 - A. A permanent surface water connection or other direct physical contact.
 - B. A seasonal or intermittent direct surface water connection; and/or,
 - C. A ground water connection.

3. **Department** means Department of Environmental Quality
4. **Development** shall mean any man-made change to improved or unimproved real estate including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.
5. **Drainage way** shall mean any drainage course, watercourse, drain, pipe, natural stream, creek, or swale, which serves to transport storm water runoff.
6. **Fill material** shall mean soil, sand, gravel, clay, peat, debris and refuse, waste of any kind, or any other material which displaces sod or water or reduces water retention potential.
7. **Lake** shall mean a natural or permanent artificial water body that has definite banks, a bed, and visible evidence of a continued occurrence of water.
8. **Mitigation of Wetlands** shall mean methods for eliminating or reducing potential damage or destruction to wetlands. Mitigation shall not be considered when it is feasible and prudent to avoid wetland impacts or when the impacts would be otherwise prohibited under federal, state and local wetlands protection regulations.
9. **Ordinary high water mark** shall mean the line between upland and 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.
10. **Person** shall mean an individual, firm, partnership, association, corporation, company, organization or legal entity of any kind, including governmental agencies conducting operations within the Township.
11. **Pond** shall mean a natural or permanent artificial body that has permanent open water.
12. **Locally Protected wetlands** shall mean any of the following and will be indicated on the Porter Township Wetlands Map.
 - A. Any wetlands regardless of size, contiguous to a river, canal, creek, stream, lake or pond.
 - B. Specially designated wetlands determined by the Township Board to be essential to the preservation of the natural resources. In making this determination, the Township Board must find one or more of the following functions apply to the particular site:
 - (1) It supports state or federal endangered or threatened plants, fish or wildlife;
 - (2) It serves as an important water storage or groundwater recharge area.
13. **Prohibited Activity** shall mean activities not permitted in wetlands and/or buffer areas. (see section 52.011)
14. **Special wetlands** are those identified as locally rare or a unique ecosystem and shall be designated by the Porter Township Board and delineated on the Porter Township Wetlands Map.

15. **Seasonal** shall mean any intermittent or temporary activity which occurs annually and is subject to interruption from changes in weather, water level, or time of year, and may involve annual removal and replacement of any operation, obstruction or structure.
16. **Stream** shall mean a waterway, which has definite banks, a bed and visible evidence of a continued flow or continued occurrence of water.
17. **Structure** shall mean any assembly of materials above or below the surface of the land or water, including, but not limited to, houses, building, bulkheads, piers, docks, rafts, landings, dams, sheds or waterway obstructions.
18. **Watercourse** shall mean any waterway, drainage way, drain, canal, river, stream, lake, or detention basin, or any body of surface water having well-defined banks, either continually or intermittently flowing.
19. **Wetland** means land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support, wetland vegetation or aquatic life, and is commonly referred to as a bog, swamp or marsh, and which is any of the following:
 - A. Contiguous to an inland lake or pond, or a river or stream.
 - B. Not contiguous to an inland lake or pond, or a river or stream; and more than 5 acres in size, except this subparagraph shall not be of effect, except for the purpose of inventorying, in counties of less than 100, 000 population until the department certifies to the commission it has substantially completed its inventory of wetlands in that county.
 - C. Not contiguous to an inland lake or pond, or a river or stream; and 5 acres or less in size if the department determines that protection of the area is essential to the preservation of the natural resources of the state from pollution, impairment, or destruction and the department has so notified the owner; except this subparagraph may be utilized regardless of wetland size in a county in which subparagraph (ii) is of no effect; except for the purpose of inventorying, at the time."
20. **Wetland District** shall mean all protected wetlands and buffer areas located on the site.
21. **Wetlands Map** refers to the Cass County wetlands inventory map, at <http://cassouuntymi.org> based on the National Wetlands Inventory Map of the US Fish and Wildlife Service; the Michigan Resource Information System Mapping (MIRIS) of the State of Michigan, the soils maps of the Soil Conservation Services, the Department of Environmental Quality, aerial photography, and onsite inspections.
22. **Wetland Vegetation** shall mean plants, such as trees, shrubs, and grasses, that exhibit adaptations to allow, under normal conditions, germination or propagation and to allow growth with at least their root systems in water or saturated soil. Wetland vegetation is the macrophysics plant life that occurs in areas where permanently or periodically saturated conditions of sufficient duration to exert a controlling influence on the plant species present.
23. **Ordinance Enforcement Officer** shall mean the Porter Township Ordinance Enforcement Officer.

24. **Planning Commission** shall mean the Porter Township Planning Commission.
25. **Wetlands Protection Advisory Committee** shall mean the Porter Township Wetlands Protection Advisory Committee comprised of at least five and not more than seven members appointed by the Porter Township Board.

Section 52.004 - (Not in use)

Section 52.005 - Legislative Findings

1. Porter Township finds that:
 - A. Wetland conservation is a matter of Township concern for public health, safety, and welfare to support legitimate governmental purposes. In addition, the quality of life, property values, tax base, recreational opportunities and wildlife habitat are enhanced by the presence of the lakes, rivers, streams, and wetlands within the Township.
 - B. A loss of wetland may deprive the people of the Township of some or all of the following benefits to be derived from the wetland:
 - (1) Flood and storm control by the hydro logic absorption and storage capacity of the wetlands.
 - (2) Wildlife habitat by providing breeding, nesting, and feeding grounds and cover for many forms of wildlife, waterfowl, including migratory waterfowl, and rare, threatened, or endangered wildlife species.
 - (3) Protection of subsurface water resources and provision of valuable watersheds and recharging ground water supplies.
 - (4) Pollution treatment by serving as a biological and chemical oxidation basin.
 - (5) Erosion control by serving as a sedimentation area and filtering basin, absorbing silt and organic matter.
 - (6) Sources of nutrients in water food cycles and nursery grounds and sanctuaries for fish.
 - C. Wetlands are valuable as an agricultural resource for the production of food and fiber, including certain crops, which may only be grown on sites developed from wetland.

Section 52.006 - (Not in use)

Section 52.007 - The following responsibilities are assigned for the administration and enforcement of this Ordinance in Porter Township

1. Zoning Administrator:
 - A. In the process of reviewing any or all applications for building permits, septic permits, dredging, earth change/soil erosion control permits, site plans, preliminary sight Condominium requests and subdivision plats, special exception use permits, rezoning requests or similar actions, the Zoning Administrator shall determine if wetlands are on the property as specified in Section 52.008. If the possibility exists that wetlands may be on the property the procedure as specified in 52.008 shall be followed.

2. Ordinance Enforcement Officer
 - A. Conducts necessary field inspections to insure compliance with approved permits and when necessary takes appropriate enforcement action.
 - B. Report violations promptly to the appropriate law enforcement officials of the township, county, or state.
 - C. Keep the Porter Township Board informed of the status of any violations.
3. Building Department
 - A. Conducts necessary field inspections to insure compliance with approved permits and when necessary takes appropriate enforcement action.
 - B. Keep the Porter Township Board informed of the status of any violations.
4. Planning Commission
 - A. Include Porter Township's Wetlands Map as part of the General Development Master Plan.
5. Wetlands Protection Advisory Committee.
 - A. Wetlands Protection Advisory Committee shall perform the following functions:
 - (1) Participate in the process of determining if wetlands are on a property, as specified in Section 52.008. Advise the Porter Township board, the Zoning Administrator, and other officials on issues related to wetlands protection, when requested.
 - (2) Upon request, from the Porter Township Board, the Wetland Protection Advisory Committee shall advise the Porter Township Board on matters pertaining to the protection of wetlands.
 - (3) Maintain liaison with the Michigan Department of Environmental Quality and other state, county, and local agencies concerning wetlands protection.
 - (4) Meet at least semi-annually to carry out its responsibilities. Additional meetings may be called by two members of the Wetlands Advisory Committee or Committee Chairman.
6. Porter Township Board
 - A. The Porter Township Board of Cass County, Michigan shall have the following duties and responsibilities relative to wetlands protection in Porter Township:
 - (1) Participate in the Wetland Permitting Process as specified in Section 52.008.

- (2) The Township Board shall appoint a Wetlands Protection Advisory Committee consisting of at least five but not more than seven members to carry out the functions of the Wetlands Protection Advisory Committee. All appointees shall be residents of Porter Township, Cass County, Michigan. One appointee shall be a Porter Township Board member. All appointments shall be for a maximum of three years.
- (2) Adopt Bylaws defining the Wetlands Protection Advisory Committee's responsibilities. Ensure such Bylaws are in compliance with all applicable Michigan Statutes.
- (3) Budget, allocate, and approve expenditures for the administration, operation and training of the Wetland Protection Advisory Committee.
- (4) Adopt the official wetlands map of Porter Township, located on the Porter Township website.

Section 52.008 – Wetlands Determination and Permitting Process

- 1. When an applicant submits an Application for Zoning Compliance, to the Zoning Administrator, the Zoning Administrator shall determine if wetlands are on the property in question by going to the Porter Township wetland map located on the Porter Township website. A copy of the property, shall be printed and placed in the applicants file.
 - A. If no wetlands are shown on the property the Zoning Administrator may proceed to step 9 A.
 - B. If wetlands are shown on the property the Zoning Administrator shall proceed to step 2.
- 2. The Zoning Administrator shall provide the Wetland Protection Advisory Committee with a copy of the Application for Zoning Compliance, a copy of the site plan and a copy of the wetland map for the property in question.
- 3. Wetland Protection Advisory Committee shall review the Application for Zoning Compliance, the site plan, the wetland map, and conduct a property inspection, if necessary, to determine whether the proposed project is in compliance with the wetland ordinance. If the proposed project does not involve wetlands and/or the buffer zone the Wetland Protection Advisory Committee shall notify the Zoning Administrator to proceed to step 9 A. If the proposed project involves wetlands and/or the buffer zone the Wetland Protection Advisory Committee shall ask the Zoning Administrator to provide the applicant with an Application for Wetland Permit.
- 4. The applicant shall return the completed application with all supporting information to the Zoning Administrator.
- 5. The Zoning Administrator shall forward a copy of the Application for Wetland Permit and all other pertinent information to the Wetland Protection Advisory Committee for review. The Wetland Protection Advisory Committee shall conduct a property inspection, if needed. If additional information is needed a request for the additional information will be made through the Zoning Administrator. If the information provided by the Zoning Administrator indicates that the project does not involve wetlands and or the buffer zone, the Wetland Protection Advisory Committee shall notify the Zoning Administrator to proceed to step 9 A. If the Wetland

Protection Advisory Committee determines that the proposed project involves wetlands and/or the buffer zone proceed to step 6.

6. With all the pertinent information available, the Wetland Protection Advisory Committee shall hold a public meeting to review the information and develop a recommendation for the Porter Township Board. The applicant shall be invited to the public meeting and the Wetland Protection Advisory Committee's recommendation shall be communicated to the Porter Township Board. The recommendation from the Wetland Protection Advisory Committee to the Porter Township Board may be any one of the following:
 - A. A wetland permit shall be issued for the project with stipulations and the stipulations shall be enumerated on the permit.
 - B. No permit shall be issued because the project involves wetlands and/or the buffer zone and no appreciate stipulation(s) can be defined or identified.
7. Upon receipt of a recommendation from the Wetland Protection Advisory Committee, the Porter Township Board shall, at a public meeting:
 - A. Approve the project without the issuance of a Wetland Permit, and proceed to step 9 A.
 - B. Approve the project with the issuance of a Wetland Permit including stipulations as specified by the Porter Township Board, then proceed to step 9 B.
 - C. Disapprove the project, and proceed to step 9 C.
8. The Zoning Administrator shall be notified of the Porter Township Board's decision.
9. The Zoning Administrator shall proceed as directed.
 - A. The Zoning Administrator may proceed with zoning compliance.
 - B. The Zoning Administrator shall proceed with zoning compliance and issue a Wetland Permit with stipulations as specified by the Porter Township Board.
 - C. The Zoning Administrator shall not issue zoning compliance.

Section 52.009 - Studies and Agreements

The Porter Township Board may enter into an agreement to make contracts with the federal government, state agencies, municipalities, private agencies and persons for the purpose of making studies and/or maps for the efficient preservation, management, protection and use of wetland resources. Such a study shall be available as a public record for distribution at cost.

Section 52.010 - Notice to Michigan Department of Environmental Quality

The Porter Township Clerk shall notify the Michigan Department of Environmental Quality of the adoption of this ordinance. The Porter Township Board shall enter into an agreement with the Michigan Department of Environmental Quality providing for the exchange of information and for the coordination of permit and

use approvals as required by Section 8 of the Goemaere-Anderson Wetland Protection Act (Act 203, Public Acts of 1979).

Section 52.011 - Prohibited Activities

1. It shall be unlawful for any person to do any of the following unless and until written approval is obtained from the township pursuant to this ordinance.
 - A. Deposit or permit to be deposited any material or structures, into, within or upon any wetlands; or into any drainage way.
 - B. Remove or permit to be removed any soil or minerals from any protected wetlands; or from or onto buffer areas adjacent to protected wetlands or from or onto any drainage way.
 - C. Create, enlarge, diminish or alter a lake, creek, stream, canal, river or any other naturally or artificially occurring water body or drainage way.
 - D. Construct or place a temporary, seasonal or permanent use or development not in existence on October 1, 1980 or constructed pursuant to Act 207 of 1979 within any protected wetland or buffer area, except by special permit from the Porter Township Board.
 - E. Construct, extend, or enlarge any pipe, culvert or open or closed drainage facility except as allowed in Section 52.012.
 - F. Construct, enlarge, extend or connect any private or public sewage or waste treatment plant discharge to any lake, stream, drainage way or watercourse, or wetland except in accordance with the requirements of Cass County, State of Michigan and/or the United States, to the extent that such entities have jurisdiction.
 - G. Drain or cause to be drained, any water from a protected wetlands.
 - H. Alter the flow of surface water or groundwater, which is essential for sustaining wetland hydrology, wetland vegetation, or aquatic life.
 - I. Activities that would intentionally destroy, erode, or harm a wetland area, which could result in the harm and destruction of a wetland area or its plants and soil.

Section 52.012 - Activities Not Requiring Permit

1. Activities, which require a permit under Act No. 247 of the Public Acts of 1955, as, amended; being Sections 322.701 to 322-715 of the Michigan Compiled Laws Act No., 346 of the Public Acts of 1972, being Sections 281.965 of the Michigan Compiled Laws, shall not require a permit under this ordinance.
2. The following uses shall be allowed in a wetland without a permit subject to other laws of this township, county, or state and the owner's regulation:
 - A. Fishing, trapping, or hunting.

- B. Swimming or boating.
- C. Placement of seasonal docks, rafts or boat hoists as governed by other state or federal regulations.
- D. Hiking.
- E. Grazing of animals.
- F. Farming, horticulture, silviculture, lumbering, and ranching activities, including plowing, irrigation, seeding, cultivating, harvesting, for the production of food, fiber, and forest products, or upland soils and water conservation practices. Wetlands altered under this subsection shall not be used for a purpose other than one described in this subsection without a permit.
- G. Maintenance or operation of serviceable structures in existence on the effective date of this ordinance, in existence under state law prior to October 1, 1980 or constructed pursuant to this Ordinance.
- H. Construction or maintenance of farm or stock ponds.
- I. Maintenance, operation, or improvement which includes straightening, widening, or deepening of the following which is necessary for the production or harvesting of agricultural products.
 - (1) An existing private agricultural drain.
 - (2) That portion of a drain legally established, which has been constructed or improved for drainage purposes.
 - (3) A drain constructed pursuant to other provisions of this ordinance.
- J. 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.
- K. Drainage necessary for the production and harvesting of agricultural products if the wetland is owned by a person who is engaged in commercial farming and the land is to be used for the production and harvesting of agricultural products. Except as otherwise provided in the ordinance, land improved under this subdivision after the effective date of this ordinance or improved under state law prior to October 1, 1980 shall not be used for non-farming purposes without a permit from the Township. This subsection shall not wetland, which are determined to be locally protected wetlands in which case, a permit shall be required.
- L. Maintenance or improvement of public streets, highways, or roads, within the right of way and in such a manner as to assure that any adverse effect on the wetland will be otherwise minimized. Maintenance or improvement does not include adding extra lanes-increasing the right of way, or deviating from the existing location of the street, highway or road.

- M. Maintenance repair, or operation of gas or oil pipelines and construction of gas or oil pipelines having a diameter if 6 inches or less, if the pipelines are constructed, maintained, or repaired in a manner to assure that any adverse effect on the wetland will be minimized.
 - N. Maintenance repair or operation of electric transmission and distribution power lines and construction of distribution power lines if the distribution power lines are constructed, maintained, or repaired in a manner to assure that any adverse effect on the wetland will be otherwise minimized.
 - O. Operation or maintenance, including reconstruction of recently damaged parts or serviceable dikes and levees in existence on the effective date of this ordinance or constructed pursuant to this ordinance.
 - P. Maintenance and repair of existing landscape.
3. After the effective date of this ordinance but immediately prior to the approval of a state program under Section 404 of Title 4 of the Clean Water Act of 1977, 33 USC 1344, where a project solely involved the discharge of fill material subject to the individual permit requirements of Section 404 of Title 4 of the Clean Water Act of 1977, 33 USC 1344, an additional permit shall not be required by this ordinance.

Section 52.013 - Continuation of pre-existing non-conforming uses.

- 1. A regulated activity that was lawful before the enactment of this ordinance, but which is not in conformity with the provisions of this ordinance, may be continued provided that it is not:
 - A. Changed to another non-conforming location or operation;
 - B. Expanded, except in conformity with this ordinance; nor
 - C. Rebuilt or repaired after complete or partial destruction, when the destruction exceeds fifty (50) percent of the fair market value immediately prior to damage.

Section 52.014 – (Not in use)

Section 52.015 - Site Surveys

- 1. The Wetlands Map shall not be considered a substitute for an on-site field inspection. The applicant for a use approval shall be responsible for identifying boundaries of protected wetlands, buffer areas, and drainage ways located on the project site.
- 2. The landowner is responsible for having the locations of protected wetlands, buffer areas, and drainage ways on the project site identified and marked by qualified personnel of either the Michigan Department of Environmental Quality or a consulting firm competent in this field.

Section 52.016 – (Not in use)

Section 52.017 - Application Submission Procedures for use of Wetlands or Drainage ways.

Applications for approval to use wetlands or drainage ways shall be submitted to the Zoning Administrator and shall consist of the following:

1. One (1) copy of Porter Township's Application for Wetland Permit and a copy of a permit, pertaining to the proposed project, from the Michigan Department of Environmental Quality.
2. One (1) copy of a drawing of the proposed activity, including at least the following.
 - A. Title block, including the applicant's name, name of body of water, section of township, description of activity, scale of drawing, and date drawing was prepared. The title block shall indicate the name and professional credentials of the engineer, architect, planner, or other person preparing the site drawing and the name and professional credentials of the wetlands scientist or environmental specialist who has delineated wetlands boundaries and types.
 - B. Location and extent of protected wetlands, buffer areas and drainage way on the site, as identified through field survey and presented on a topographic map of suitable scale. For projects five (5) acres, a scale of at least one (1) inch equals one hundred (100) feet is acceptable.
 - C. A site plan, preliminary sight condominium requests, and subdivision plats, or planning map which overlays the proposed development or project on the wetland district and/or drainage ways. Existing and proposed structures shall be clearly identified in relation to existing shore features (length of frontage, water depth and bottom configuration). If existing structures were previously authorized by a township, state or federal permit show corresponding permit numbers.
 - D. Typical cross sections of existing and proposed shoreline, waterline, structures, dredge cuts and fills, including dimensions and elevations, and location of wetlands.
 - E. Type and location of soil erosion control measures, such as silt fences, straw bale berms and sediment basins to be used during construction, including measures which will be used to trap sediment which might otherwise run off into wetlands.
 - F. If the proposed activity involved bulkhead construction, show the distance along both property lines from the face of the bulkhead to the center line of a street or other definable reference point (e.g. northeast corner of concrete patio, twelve-inch maple on west property line).
 - G. If the proposed activity involves dredging, furnish the following:
 - (1) If the dredging material is to be placed on-site, outline the disposal areas of the drawing. If the dredge material is to be hauled away, provide a vicinity map showing the disposal area.
 - (2) Show method of containing dredge material to prevent reentry of the material into any drainage way or wetlands. Describe all procedures which the applicant will use to minimize adverse effects of construction.
3. If the proposed activity requires an easement or other approvals from adjoining property owners, proof of same must be provided.

4. The Application for Wetland Permit shall be submitted to the Zoning Administrator on or before the date that the application is made for a preliminary review of subdivision plats, site plans, lot splits, grading approvals, or building permits.
5. Upon receipt, the Wetlands Protection Advisory Committee shall review the use application for completeness. Applicants shall be notified of any missing items.
6. Township approvals for preliminary subdivision plats, site plans, lot splits, grading approvals, or building permits shall not be granted until a Wetlands Control Permit has been issued for the use of protected wetlands, buffer areas, or drainage.

Section 52.018 - Fees

With the filing of a Wetland application, a non-refundable application fee shall be paid to the Township, in an amount specified by resolution of the Township Board, to cover Administration and inspection costs related to the use application. The fees shall be as determined and adopted by the Porter Township Board and may be revised from time to time.

Section 52.019 – (Not in use)

Section 52.020 – Permit Recommendation

A recommendation for the issuance of a Wetland Permit, by the Wetland Protection Advisory Committee, to the Porter Township Board, shall be based on insuring that there is no interference between the wetlands and buffer zone with the planned project. The wetlands delineation and the site plan for the project, provided by the property owner, along with a property inspection, if needed, shall be used to determine if the planned project will involve the wetlands and/or buffer zone.

The recommendation from the Wetland Protection Advisory Committee to the Porter Township Board may be as follows:

- B. A Wetland Permit should be issued with stipulations and the stipulations shall be enumerated in the recommendation.
- A. No permit need be issued because the project involves wetlands and /or the buffer zone and the project should not be permitted.

Section 52.021 - Appeal Procedures

1. An applicant who is aggrieved by a decision of the Porter Township Board, or other township official concerning the use of wetlands and drainage ways may appeal the decision to the Porter Township Board. In reviewing the appeal, the Porter Township Board shall determine whether the review criteria and standards set forth in this ordinance have been met. The Porter Township Board, based upon its appellate review, may reverse, affirm or modify their previous decision. An appeal of an administrative decision under this section must be filed pursuant to Michigan state law.

2. An applicant who is aggrieved by a decision of the Porter Township Board concerning the use of wetland and drainage ways may make an appeal to the Cass County Circuit Court. In reviewing the appeal, the Cass County Circuit Court shall determine whether the review criteria and standards set forth in this ordinance have been met. An appeal of a decision of the Porter Township Board must be filed pursuant to Michigan state law.

Section 52.022 - Wetland Mitigation

1. Prior to considering a proposal for wetland mitigation, the applicant shall submit evidence that all of the following requirements have been satisfied.
 - A. That all feasible and prudent efforts have been made to avoid the loss of wetland resource values.
 - B. That all practical means have been considered to minimize impacts.
 - C. That it is practical to replace the wetland resource values which will be unavoidably eliminated.
2. If the reviewing authority determines that it is practical to replace the wetland resource values, which will be unavoidably impacted, the following criteria shall be considered when reviewing an applicant's mitigation proposal:
 - A. Mitigation shall be provided on-site and shall be beneficial to the wetland resources.
 - B. Any proposal shall assure that, upon completion, there shall be no net loss to the wetland resources.
 - C. The proposal shall give consideration to replacement of the predominant functional values lost within the impacted wetlands.
 - D. Any mitigation activity shall be completed before initiation of other permitted activities.
 - E. Monitoring to establish documentation of the functional performance of the mitigation may be required as permit conditions, as well as necessary corrective action required, to deliver the wetland resource values identified.
3. Wetland impact mitigation and monitoring plans shall become conditions of use approval.
4. All costs for preparing and carrying out mitigation and monitoring plans shall be the responsibility of the applicant.

Section 52.023 - On-Site Demarcation of Protected Wetlands and Drainage ways

Through staking or other means, the landowner shall identify the location of protected wetlands, buffer areas, and drainage ways on the project site. (See also Section 52.015.)

Section 52.024 - Display of Use Approval Certification; Inspections

A certificate or authorization for activities in protected wetlands buffer areas and drainage ways shall be prominently displayed at the project site. The owner shall display the certificate or authorization

continuously while authorized activities are conducted and for ten (10) days following completion. The owner shall allow township representatives to enter and inspect the premises at any reasonable time, with reasonable notice. Failure to allow inspections shall constitute a violation of this ordinance.

Section 52.025 - Maintenance of Erosion Control Measures

Maintenance of erosion control measures, including but not limited to silt fences, straw bale berms, and sediment traps, as specified by the Cass County Drain Commissioner, shall be the responsibility of the landowner. The same shall be maintained throughout the wetland and buffer area.

Section 52.026 - (Not in use)

Section 52.027 – Violations

Provisions specified in a Wetland Permit, issued by the Zoning Administrator that are violated, shall be enforced through the Building Department and/or the Ordinance Enforce Officer.

Section 52.028 - (Not in use)

Section 52.029 - (Not in use)

Section 52.030 - Stop-Work Order

The Building Department, Township Zoning Administrator, or Ordinance Enforcement Officer may issue a stop-work order or withhold issuance of a certificate of occupancy, permits or inspections until the provisions of this ordinance, including any conditions attached to a use approval, have been fully met.

Section 52.031 - Restoration Requirements for Illegal Wetlands Alteration

In the event of a violation involving illegal alteration of wetlands protected under this ordinance, the Porter Township Board shall have the power to order complete restoration of the wetland area by the person or agent responsible for the violation. If such responsible person or agent does not complete such restoration within the time limit specified by the Porter Township Board, the Porter Township Board shall have the authority to restore the affected wetlands to their prior condition wherever possible, and the person or agent responsible for the original violation shall be held liable to Porter Township for the cost of restoration. Requirements and specifications for wetland restoration ordered by the Porter Township Board shall be coordinated with state and/or federal agency requirements and specifications for wetland restoration, if any.

Section 52.032 – (Not in use)

Section 52.033 - Severability

Should any provision or a part of the within ordinance be declared by any court of competent jurisdiction to be invalid or unenforceable, the same shall not affect the enforceability of the balance of this ordinance which shall remain in full force and effect.

Section 52.034 – Savings Clause

Legal proceedings presently pending on an Ordinance provision which is hereby repealed or under a provision of the Porter Township Wetlands Protection Ordinance that as renumbered by this Ordinance may proceed to judgment or decision and shall not be affected by this Ordinance.

Section 52.035 – Enactment and Effective Date

The effective date of this amendatory ordinance shall be 30 days following a publication of a summary thereof after adoption by the Porter Township Board.

Section 52.036 – Repeal Clause

All Ordinances inconsistent with the provisions of this Ordinance are hereby repealed. All previous Wetlands Ordinances are hereby repealed.

ADOPTED: JUNE 14, 2016
PUBLISHED: JUNE 29, 2016
EFFECTIVE: JUNE 29, 2016

Marty Russell
Porter Township Clerk