

STATE OF MICHIGAN/COUNTY OF WASHTENAW

TOWNSHIP OF SALEM

ORDINANCE NO. 98-6-9-1

WETLANDS ORDINANCE

AN ORDINANCE TO PROVIDE FOR THE PRESERVATION OF WETLANDS IN SALEM TOWNSHIP, TO REGULATE DISTURBANCES OF WETLANDS, AND TO PROVIDE PENALTIES FOR VIOLATIONS.

Section 1 of Ordinance

WETLANDS AND WATERCOURSES

ARTICLE I. FINDINGS; INTENT AND PURPOSE; CONSTRUCTION

Sec. 1.1. Findings.

(1) It is recognized by the Township Board that wetlands conservation is a matter of Township concern, inasmuch as the loss of a wetland, and in cumulation with other losses of other wetlands, will deprive the people of the Township, or others, of flood and/or storm control, wildlife habitat, protection of subsurface water resources, and provision of valuable watersheds and recharging ground water supplies, pollution treatment, erosion control and sources of nutrients. It is further recognized by the Township Board that rapid growth, the spread of development, and increasing demands upon natural resources have resulted in the depletion and loss 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.

(2) The Township Board adopts the legislative findings set forth at Section 30302 of Act 451 of the Public Acts of 1994, as amended, being MCL 324.30301 et seq.

Sec. 1.2 Intent and Purpose.

It is the purpose and intent of this Ordinance, in view of the findings specified in Section 1.1 above, 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 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 environmental deterioration; to secure safety from the dangers of flood and pollution; to prevent loss of life, property damage, and individual and community riparian rights; to preserve the location, character, and extent of natural drainage courses; and to provide for the enforcement of appropriate local, county, and state ordinances or statutes and corresponding agencies.

Sec. 1.3 Validity and Necessity.

The Township Board declares that this Ordinance is essential to the health, safety, economy, 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 the Natural Resources and Environmental Protection Act (Act 451 of the Public Acts of 1994) as amended.

Sec. 1.4 Construction and Application.

(1) The following rules of construction apply in the interpretation and application of this Ordinance:

- (a) In the case of a difference of meaning or implication between the text of this Ordinance and any caption or illustration, the text shall control.
- (b) Particulars provided by way of illustration or enumeration shall not control general language.
- (c) Ambiguities, if any, shall be construed liberally in favor of the protection and preservation of natural resources.

(2) It is the intent of this Ordinance to promote flood protection; however, this Ordinance cannot be relied upon for determining where floods may occur.

ARTICLE II. WETLANDS AND WATERCOURSE PROTECTION

Sec. 2.1 Definitions.

The following words and phrases when used in this Ordinance shall have the meanings respectively ascribed to them:

Aquatic vegetation shall mean plants and plant life forms that naturally occur in, at, near or predominantly near water.

Bottomland shall mean the land area of a lake, stream or watercourse which lies below the ordinary high-water mark and which may or may not be covered by water.

Channel shall mean the geographical area within the natural or artificial banks of a watercourse required to convey continuously or intermittently flowing water under normal or average flow conditions.

Contiguous shall mean any of the following:

- (1) A permanent surface water connection or other direct physical contact with an inland lake or pond, a river or stream
- (2) A seasonal or intermittent direct surface water connection to an inland lake or pond, a river or stream.
- (3) A wetland is partially or entirely located within 500 feet of the ordinary high water mark of an inland lake or pond or a river or stream, unless it is determined by the Township in accordance with Rule 281.924 of the Administrative Rules adopted by the Department of Natural Resources, Land and Water Management Division, Wetland Protection, that there is no surface or groundwater connection to these waters.
- (4) Two or more areas of wetland separated only by barriers, such as dikes, roads, berms, or other similar features, but with any of the wetland areas contiguous under the criteria described in paragraphs 1, 2 or 3 of this definition.

Deposit shall mean to fill, place, or dump.

DEQ shall mean the Michigan Department of Environmental Quality.

Material shall mean soil, sand, gravel, clay, peat, debris, and refuse, or any other substance, organic or inorganic

Official maps shall mean the official watercourse and/or wetlands maps of the Township, as amended or updated from time to time, which maps shall be on file in the offices of the Township Supervisor.

Operation shall mean 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.

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. On an inland lake which has a 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.

Owner shall mean any person who has dominion over, control of, title to, and/or any other proprietary interest in designated wetland and/or watercourse area, or title to an obstruction, natural or otherwise, to wetland and watercourse properties.

Remove shall include to dig, dredge, suck, pump, bulldoze, dragline, or blast.

Runoff shall mean the surface discharge of precipitation to a watercourse or low area. Delayed runoff can occur from sudden warming after winter precipitation accumulated as snow and/or ice.

Seasonal shall mean any intermittent or temporary operation that 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 an operation, obstruction or structure.

Soils:

- (1) *Poorly drained soils* are those 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 shall mean any assembly of 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.

Supervisor shall mean the Township Supervisor, or the Supervisor's designee.

Temporary shall mean a time period as specified in the use permit, or if unspecified, shall mean an uninterrupted time period less than one year in duration.

Upland shall mean the land area adjoining a lake, stream, or watercourse, above the ordinary high-water mark, uses for which are essentially nonaquatic.

Watercourse shall mean any waterway or other body of water having well defined banks, including rivers, streams, creeks, and brooks, whether continually or intermittently flowing, and lakes and ponds, or as otherwise shown on an official watercourse and/or wetland map.

Wetlands shall mean land characterized by the presence of water or 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. For purposes of this ordinance, a "wetland" must be two acres, or more, in size, including the area of any contiguous inland lake, pond, river, or stream.

Sec. 2.2

Words not specifically defined above shall have meanings generally understood in the wetlands and water regulation discipline and otherwise shall have the meanings generally ascribed to them in common usage.

ARTICLE III. PROHIBITIONS

Sec. 3.1

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

- (1) Deposit or permit to be deposited any material, including, without limitation, structures, into, within, or upon any wetland or watercourse area.
- (2) Remove or permit to be removed any materials from any wetland or watercourse area.
- (3) Dredge, fill, or land balance wetlands.
- (4) Construct, place, enlarge, extend, or remove a temporary, seasonal, or permanent operation or structure in any wetlands, including any temporary, seasonal, or permanent dock which serves or is intended to serve more than one single-family home, lot, or parcel.
- (5) Construct, extend, enlarge, or connect any conduit, pipe, or culvert, or open a closed drainage facility erected for the purpose of carrying storm water runoff from any residential site of two (2) or more single-family

residences or from a multiple-family residence, commercial site, industrial site, parking area, unimproved private or public road, 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 DEQ.

- (6) Construct, enlarge, 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 of Washtenaw, State of Michigan and/or the United States, to the extent that such entities have jurisdiction.
- (7) Drain, or cause to be drained, any water from a wetland.

Sec. 3.2 Activities not requiring a permit.

The following uses shall be allowed in a wetland without a permit subject to other applicable laws and ordinances and the owner's regulation:

- (1) Fishing, trapping or hunting.
- (2) Swimming or boating.
- (3) Hiking.
- (4) Grazing of animals.
- (5) Farming, horticulture, silviculture, lumbering, and ranching activities, including plowing, irrigation, irrigation ditching, seeding, cultivating, minor drainage, harvesting for the production of food, fiber, and forest products, or upland soil and water conservation practices. Wetland altered under this subsection shall not be used for a purpose other than a purpose described in this subsection without a permit from the Township.
- (6) Maintenance or operation of serviceable structures in existence on the effective date of this ordinance or constructed pursuant to this Ordinance.
- (7) Construction or maintenance of farm or stock ponds.
- (8) Maintenance, operation, or improvement which includes straightening, widening, or deepening of the following which is necessary for the production or harvesting of agricultural products:
 - (a) An existing private agricultural drain.

- (b) That portion of a drain legally established pursuant to Michigan drain law that has been constructed or improved for drainage purposes.
 - (c) A drain constructed pursuant to other provisions of applicable law and ordinance.
- (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) 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 this Ordinance, wetland improved under this subsection after the effective date of this Ordinance shall not be used for non-farming purposes without a permit from the Township. This subsection shall not apply to a wetland which is contiguous to a lake or stream, or to a tributary of a lake or stream, or to a wetland which the Township has determined by clear and convincing evidence to be a wetland which is necessary to be preserved for the public interest, in which case a permit shall be required.
- (11) Maintenance or improvement of public streets, highways, or roads, within the right-of-way and in such a manner as to assure that any adverse effect on the wetland will be otherwise minimized. Maintenance or improvement does not include adding extra lanes; increasing the right-of-way; or deviating from the existing location of the street, highway, or road.
- (12) Maintenance, repair or operation of gas or oil pipelines and construction of gas or oil pipelines having a diameter of six inches or less, if the pipelines are constructed, maintained, or repaired in a manner to assure that any adverse effect on the wetland will be otherwise minimized.
- (13) Maintenance, repair or operation of electric transmission and distribution power lines and construction of distribution power lines if the distribution power lines are constructed, maintained, or repaired in a manner to assure that any adverse effect on the wetland will be otherwise minimized.
- (14) Operation or maintenance, including reconstruction of recently damaged parts, of serviceable dikes and levees in existence on the effective date of this Ordinance or constructed pursuant to this Ordinance.
- (15) Construction of iron and copper mining tailings, basins and water storage areas.

- (16) In cases where a permit is not required under Section 6(3) of Act 203 of the Public Acts of 1979, as amended, being MCL 281.706(3), involving activities permitted under Section 404 of Title 4 of the Clean Water Act of 1977, 33 USC, Section 1344.

ARTICLE IV. APPLICATION PROCESS; PERMIT; FEES

Sec. 4.1

Permits required under this Article shall be issued only following the submission of an application to the Township Supervisor as provided below, and review in accordance with this Article.

- (1) Application for a Township wetland permit shall be made on the form supplied by the Michigan Department of Environmental Quality.
- (2) Each person applying for a Township wetland permit shall make application directly with the Township, through the Township Supervisor.
- (3) Upon receipt, the Township Supervisor shall forward a copy of each application to the Michigan Department of Environmental Quality.
- (4) The Township Planning Commission, with the assistance of its consultants in those cases deemed by the Township to be appropriate, shall review the application pursuant to this Ordinance.
- (5) The application shall be modified, approved, or denied within 90 days after receipt, subject to the following provision.
- (6) The applicant for an 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 (a) or subsection (b), below:
 - (a) The wetland 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,
 - (b) The wetland 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 90-day review period limitation specified in Section 30307 of Act 451 of the Public Acts of 1994, as amended, being MCL 324.30307, shall thereby be extended accordingly.

- (7) The denial of a permit shall be accompanied by a written reason for denial; which may take the form of the minutes of the meeting at which the decision is made. The failure to supply complete information with a permit application may be reason for denial of a permit.

Sec. 4.2 Application review.

- (1) General review procedure.
 - (a) For all proposed projects and/or activities not reviewed pursuant to subsection (2), below, and in cases where a hearing has been requested pursuant to the provisions of subsection (b), below, the following review process shall apply.
 - (b) Upon receipt of an application, or upon request for a hearing, as the case may be, the Township Supervisor shall forward the application to the Planning Commission after verifying that all required supporting material is available. If it appears to the Supervisor or to the Planning Commission that the expertise of an engineer or other consultant shall be necessary in order to review the application, for purposes of expediting the review, the Supervisor or Planning Commission shall be authorized to obtain an escrow for consulting fees from the applicant and retain an engineer or other wetland consultant for such purpose.
 - (c) The Planning Commission shall set a date for hearing on the application, and shall send notice of the time, date and place of the hearing to the owners of property, based upon Township records, within three hundred (300) feet of the property on which the proposed project or activity is to take place. Such notice shall also be sent to all Township Board members, and to all persons, subdivision associations and lake associations registered with the Township which are contiguous to the property and/or wetland affected. The notice shall include a summary of the proposed project or activity, or a copy of the permit application. The Planning Commission may further direct that notice of the hearing be published.
 - (d) At the scheduled hearing, the Planning Commission shall consider the application, provide an opportunity for the applicant to address the Planning Commission, and provide an opportunity for interested persons to address the matter. The hearing may be adjourned from time to time, as deemed necessary by the Planning Commission, and, if it appears that impairment, pollution, and/or destruction of a wetland or other natural resource may result, and that technical expertise is required, the Board may require an environmental statement, environmental assessment, or environmental impact study to be

provided by the applicant, or may submit the application to an engineer or other wetland consultant as deemed appropriate for examination and investigation upon payment by the applicant of the monies projected by such engineer or other consultant to be reasonably necessary to make an examination and investigation of the application and provide a report thereon.

- (e) Within a reasonable time following the completion of its consideration, the Planning Commission shall make a written determination to issue the permit, issue the permit with specific conditions, or to deny issuance of the permit.
- (f) If the permit is issued, conditions imposed shall be for the purpose of insuring that the project or activity complies with this Article and/or results in minimum impact upon natural resources. The permit shall also specify a time period for commencement and completion of all activities. Additionally, the permit may require the posting of a cash bond or irrevocable letter of credit in a reasonable amount to insure compliance with the permit.
- (g) Effectiveness of a permit shall be conditioned upon a signature of or on behalf of the applicant attesting to the following:

All operations permitted or approved by this permit shall be conducted in such a manner as will cause the least possible impairment, pollution and/or destruction of natural resources.

- (2) Special review procedure for certain projects and/or activities.
 - (a) If the project and/or activity is not otherwise reviewable by the Planning Commission under any provision of the Zoning Ordinance or Ordinance Code, review shall be conducted by the Township Supervisor in accordance with the provisions of subsections (1)(d) through (1)(g), above, and in light of the standards and criteria set forth in subsection (3) of this section.
 - (b) If the proposed project or activity is found to conform with the standards and criteria of subsection (3)(c) below, and with all of the requirements of this article, a notice of intent to issue a permit shall be sent by first-class mail to the owners of property within three hundred (300) feet of the property on which the proposed project or activity is to take place, based upon the records on file at the Township. Such notice shall also be sent to all members of the Township Board and the Planning Commission and to all persons, subdivision associations registered with the Township which are contiguous to the property and/or wetland affected. The notice shall include either a copy of the

permit application or a summary of the proposed activity or project, and a specification that it is the intent of the Township to issue a permit unless a written request for an appeal is received within thirty (30) days from the date of mailing. The Township Supervisor may also publish a summary of the proposed activity and intent to issue a permit in a newspaper of local circulation, specifying the required date within which a hearing must be requested, which date shall correspond to the end of the thirty-day period from the date on which the aforementioned notices were mailed. Any person interested in the activity and/or project may request that the application be reviewed pursuant to subsection (a) of this section. Such request shall be forwarded to the Planning Commission, and the Planning Commission shall at its sole discretion determine either to proceed with the application under subsection (a) of this section, or to return the application for administrative review under subsection (b) of this section.

(3) Review standards and criteria.

In arriving at a determination with respect to the issuance of a permit under this Article, the Township Supervisor and/or the Planning Commission 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, as defined below, 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 to the property owner from the proposal shall be balanced against the reasonably foreseeable detriments of the activity to members of the public, 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. The following general criteria shall be applied in undertaking this balancing test:
 - 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 historical, 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.

(c) A permit shall not be issued unless it is shown that:

1. An unreasonable disruption will not result to aquatic resources; and
2. The proposed activity is primarily dependent upon being located in the wetland; and
3. 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. 4.3 Permit issuance and appeal.

- (1) A permit issued by the Planning Commission after hearing shall not be effective until ten (10) days following the date of issuance.

- (2) Following approval of a wetland application, a wetland permit shall be issued upon determination that all other requirements of ordinance and law have been met, including site plan, plat or land use approval, as applicable, and including issuance of a permit by the Michigan Department of Natural Resources, if required under Act 451 of the Public Acts of 1994, as amended. In cases where a Department of Environmental Quality permit allows activities not permitted by the wetland approval granted under this Ordinance, the restrictions of the approval granted under this Ordinance shall govern.
- (3) An interested person who is aggrieved by the determination of the Planning Commission may request an appeal of the Planning Commission's decision to the Township Board.
- (4) A request for appeal must be filed within ten (10) days following the Planning Commission's decision. If an appeal is requested during such ten-day period, the effectiveness of the permit shall be suspended pending the outcome of the appeal.
- (5) The Township Board shall determine whether to consider the appeal based upon the minutes of the Planning Commission, or based upon an entirely new hearing. If a new hearing shall be conducted, notice of the time, date, and place of the hearing shall be mailed to the owners of property, based upon Township records, within three hundred (300) feet of the property, and also mailed to all persons, subdivision associations, and lake associations registered with the Township to receive such notices.
- (6) The procedure for the hearing shall be the same as set forth in Section 4.2(1)(a), above, governing the procedure before the Planning Commission.
- (7) If the Township Board determines to consider the appeal based upon the minutes of the Planning Commission, the applicant, and other interested parties as allowed by the Township Board, shall be entitled to be heard by way of argument and citation of authorities prior to the Board's determination.
- (8) The Township Board, based upon its appellate review, may reverse, affirm or modify the determination and/or permit issued by the Board.

Sec. 4.4 Permit Contents.

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

- (1) The name, address, and telephone number of the person to whom the permit has been issued.

- (2) The name, address, and telephone number of the owner of the property on which the activity or operation shall occur.
- (3) A statement of all conditions imposed in connection with the issuance of the permit.
- (4) Any required time period for commencement of one or more operations.
- (5) The date by which any construction, removal, deposit, or operation must be completed; i.e., the expiration date of the permit.
- (6) 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's engineering or wetland consultant or Planning Commission, as the case may be, to ensure compliance with the permit as issued.
- (7) 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.
- (8) The legal description of the parcel to which the permit pertains.
- (9) All soil erosion permit requirements shall be met prior to any operation.
- (10) Any and all necessary temporary drainage measures, as approved, shall be undertaken to insure that no temporary or permanent blockages of drainage result.

Upon issuance of a permit and prior to the undertaking of any on-site 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. 4.6 Fees

- (1) With the filing of an application, a deposit shall be made payable to the Township in an amount specified by resolution of the Township Board, intended to cover all fees, including inspection, public hearing, and monitoring fees.
- (2) If an environmental statement, environmental assessment, or an environmental impact study is required, or if other consultant fees are required to be expended in reviewing the application, a further deposit shall be made in an amount determined by the Zoning Administrator at the time

the reviewing body or individual imposes or learns of the requirement of such submission and/or consultants based upon the nature and extent of the study and/or consultants.

- (3) All amounts of deficiency shall be paid, and all amounts of overage shall be returned, prior to or concurrent with final action on the application.

ARTICLE V. CONCURRENT JURISDICTION

Sec. 5.1.

The Township shall have jurisdiction for the regulation of wetlands under this Ordinance concurrent with the jurisdiction of the Michigan Department of Environmental Quality.

Sec. 5.2

Issuance of a permit under this Ordinance shall not relieve a property owner from obtaining a permit from the Department of Environmental Quality and/or from the Army Corps of Engineers or other agency, if required.

Sec. 5.3

Issuance of a permit by the Department of Environmental Quality and/or Army Corps of Engineers shall not relieve a property owner from obtaining a permit under this Ordinance if a permit is required by the terms of this Ordinance, and all permit requirements under this Ordinance shall be met.

ARTICLE VI. PROPERTY TAX ASSESSMENT

If a permit is denied for a proposed wetland use, a land owner may appear at the annual Board of Review for the purpose of seeking a revaluation of the affected property for assessment purposes to determine its fair market value under the use restriction.

ARTICLE VII. WETLAND MAPPING

- (1) The Township Board has adopted a generalized wetland map, showing an inventory of wetland within the municipality.
- (2) Upon amendment of the wetland map, the Township shall notify each record owner (determined by reference to the property tax roll of the Township) of the affected property that the wetland map has been amended, where the map may be reviewed; that the owner's property may be designated as a wetland on the inventory map; and that the Township has an ordinance regulating wetland. Such notice shall also inform the property owner that the wetland map does not necessarily include all of the wetlands within the Township that may be subject to the Wetlands Ordinance.

- (3) 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.

ARTICLE VIII. MITIGATION

- (1) Mitigation under this Article shall be permissible only in an instance where it is determined that if a permit is not issued there would be no viable use of the property. Mitigation shall not be permissible when it is feasible and prudent to avoid impacts on the wetlands and concurrently make viable use of the property.

A finding shall be made that all feasible and prudent efforts have been made to analyze a use of the property without the necessity of the issuance of a permit which would require mitigation.

- (2) If mitigation is permissible, as specified under Paragraph (1), above, the Planning Commission or the Supervisor, as the case may be, may require mitigation as a condition to the issuance of a permit, as contemplated under Section 4.2(1)(e).
- (3) Mitigation shall be designed to remove an impairment to the wetland benefits, to mitigate the impact of a discharge of fill material, or otherwise improve the water quality. Mitigation may be designed for the improvement of the existing wetland resources or the creation of new wetland resources to offset wetland resources lost as a result of the proposed project.
- (4) As part of the authorization or direction of mitigation, financial assurances may be required in order to ensure that mitigation is accomplished as specified by the permit conditions, and that the mitigation remains successful for a reasonable period of time in the future.
- (5) The mitigation plan shall be prepared by a qualified wetland consultant retained by the applicant and shall be reviewed by the Township's wetland consultant utilizing the monies escrowed for such purpose by the applicant.
- (6) If the Planning Commission or the Supervisor, as the case may be, determines that it is practical to replace the wetland resource values which will be unavoidably impacted, the following criteria shall be utilized when reviewing the applicant's mitigation proposal:
 - (a) Mitigation shall be provided on-site where practical and beneficial to the wetland resources

- (b) If on-site mitigation is not practical and beneficial to the wetland resources, mitigation shall be provided in the immediate vicinity of the permitted activity where practical and beneficial to wetland resources. When possible, this means within the same watershed within the Township as the location of the proposed project.
- (c) Only when it has been determined that mitigation as specified in subparagraphs (a) and (b) would be inappropriate and impractical may mitigation be considered elsewhere.
- (d) Any proposal shall assure that, upon completion, there will be no net loss to the wetland resources.
- (e) The proposal shall give consideration to replacement of the predominant functional values lost within the impacted wetland.

ARTICLE IX. INVESTIGATION AND INITIAL WETLAND DETERMINATION

Sec. 9.1

This Article 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.

Sec. 9.2

In those cases where the Township learns that activities may be occurring in a regulated wetland without a permit, Township staff will make an initial determination, in the reasonable discretion of the staff official, whether there may be an activity occurring which requires a permit, i.e., whether there may be a violation of this Ordinance.

Sec. 9.3

In a case in which staff makes a determination that there may be a violation of this Ordinance, 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 Ordinance; or
- (2) Request an official determination by the Township on whether a permit shall be required.

Sec. 9.4

In the event a property owner, or the property owner's agent, requests an official determination as provided in Section 9.3(2), an escrow in an amount reasonably determined to cover the costs of the Township's wetland consultant in connection with such determination shall be established with the Township for such purpose.

Sec. 9.5

If a notice to cease activities has been issued by the Township in accordance with this Article, such activities shall not continue, and shall not again commence until such time as a permit has been issued under this Ordinance, or a determination has been made that a permit is not required.

ARTICLE X. VIOLATION; PENALTIES

Sec. 10.1

Every person convicted of a violation of any provision of this Ordinance shall be punished by a fine of not more than Five Hundred Dollars (\$500) or by imprisonment of not more than ninety (90) days or both such fine and imprisonment.

Sec. 10.2

Each act of violation, and every day upon which any violation shall occur, shall constitute a separate offense.

Sec. 10.3

The penalties provided for in this Ordinance shall not be exclusive and the Township shall be entitled to seek any and all other remedies available at law or in equity in connection with the violation of this Ordinance.

Section 2 of Ordinance

All proceedings pending and all rights and liabilities which are vested at the time this Ordinance takes effect shall be, and the same are hereby, saved, and may be consummated in accordance with the law and ordinance in effect immediately preceding the adoption of this Ordinance.

Section 3 of Ordinance

Except as expressly provided above, the Township of Salem Code of Ordinances shall remain in full force and effect.

Section 4 of Ordinance

The provisions of this Ordinance are hereby ordered to take effect 30 days after publication in the manner prescribed by law.

CERTIFICATION

The foregoing Ordinance was duly adopted by the Township Board of the Township of Salem at a meeting duly called and held on the 9TH day of June, 1998.

TOWNSHIP OF SALEM

BY: _____

INTRODUCED

ADOPTED: June 9, 1998

PUBLISHED: June 18, 1998, "South Lyon Herald"