

ARTICLE 24
WETLAND AND WATERWAYS PROTECTION

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Sec. 24-01 Intent

The intent of this Article is to provide for:

10 (a) The protection, preservation, replacement, proper maintenance and use of the Township wetlands, wetland edges and watercourses in order to prevent their pollution or contamination; minimize their disturbance and the disturbance of the natural habitat therein; and prevent damage from erosion, siltation, and flooding.

15 (b) The encouragement of proper and reasonable economic use of wetlands and wetland edges and watercourses, the discouragement and limitation of improper use, the reduction of financial burdens imposed on the community, the maintenance of harmonious and compatible land use balance within the Township, and prevention of nuisance conditions that would arise with the indiscriminate development of existing wetlands, wetland edges, and watercourses.

20 (c) The protection of the Township's potable water supplies from drought, overdraft, pollution, or mismanagement.

25 (d) The reduction of property damage or other risks associated with flood conditions and/or reduced financial burdens imposed upon the Township by improper use of land subject to periodic flooding; to preserve the location, character, and extent of natural drainage sources.

30 (e) The enforcement of this Article and the coordination of the enforcement and support of applicable Federal, State and County statutes, Ordinances, and regulations including but not limited to:

35 (1) Part 303, Wetlands Protection, of the Natural Resources and Environmental Protection Act 1994 PA 451 (NREPA), as amended, enforced by the Michigan Department of Environmental Quality (MDEQ).

(2) Soil Erosion and Sedimentation Control Act (Act 347, Public Acts of 1972, as amended) enforced by the Livingston County Drain Commission.

5 (3) Floodplain Regulatory Authority (Act 245, Public Acts of 1929, as amended by Act 167 Public Acts of 1968) enforced by the Land and Water Management Division of the MDEQ.

10 (4) Subdivision Control Act (Act 288, Public Acts of 1967, as amended), enforced by the MDEQ.

15 (5) Dam Safety Act (Act 300, Public Acts of 1989, as amended), Plans prepared by Professional Engineer.

(6) Inland Lakes and Streams Act (Act 346, Public Acts of 1972, as amended) enforced by the MDEQ.

20 (7) Natural Rivers Act (Act 231, Public Acts of 1970, as amended) enforced by the Land and Water Management Division of the MDEQ.

25 (f) Compliance with the Michigan Environmental Protection Act (Act 127, Public Acts of 1970, as amended), which imposes a duty on government agencies and private individuals and organizations to prevent or minimize the pollution, impairment or destruction of natural resources that is likely to be caused by their activities.

30 (g) The establishment of standards and procedures for the review and regulation of the use of wetlands, wetland edges, and watercourse.

(h) The issuance of wetland permits for approved activities.

(i) The establishment of enforcement procedures and penalties for the violation of this Article.

Sec. 24-02 Applicability

35 (a) This Article shall apply to all watercourses and to all wetlands that possess one (1) of the following conditions:

(1) Contiguous to any lake, pond, river, or stream.

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CHARTER TOWNSHIP OF BRIGHTON ZONING ORDINANCE

(2) Not contiguous to any lake, pond, river or stream; and more than two (2) acres in size.

5 (3) Not contiguous to any lake, pond, river or stream; and two (2) acres or less in size where the Township determines that the wetland is essential to the preservation of the natural resources of the Township. In making this determination, the Township must find that one (1) or more of the following exist at the particular site:

10 a. The site supports state or federal endangered or threatened plants, fish, or wildlife appearing on a list specified in Part 365 of Act 451 of 1994.

b. The site represents what is identified as a locally rare or unique ecosystem.

15 c. The site supports plants or animals of an identified local importance.

d. The site provides groundwater recharge documented by a public agency.

20 e. The site provides flood and storm control by the hydrologic absorption and storage capacity of the wetland.

f. 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.

25 g. The site provides protection of subsurface water resources and provision of valuable watersheds and recharging groundwater supplies.

30 h. The site provides pollution treatment by serving as a biological and chemical oxidation basin.

35 i. The site provides erosion control by serving as a sedimentation area and filtering basin, absorbing silt, and organic matter.

j. The site provides sources of nutrients in water food cycles and nursery grounds and sanctuaries for fish.

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(b) The Official Wetland and Watercourse Map shall serve as a general guide for the location of protected wetlands. It shall not substitute for the on-site field inspection to delineate the precise boundaries of any wetland or wetland edge.

5 (c) "Official Wetland and Watercourse Map" refers to the Brighton Township Official Wetland and Watercourse Map, based on the National Wetland Inventory Map of the U.S. Fish and Wildlife Service; the Michigan Resource Information System Mapping (MIRIS) of the MDEQ; the soil maps of the Soil Conservation Service, aerial photography, and on-site inspection.

10 (d) The Planning Commission shall be empowered to change or alter the boundaries established by the official wetland and watercourse map(s) at any time by amendment, after a public hearing, providing new and substantiated data shows a change in the boundaries.

15 **Sec. 24-03 Existing Non-Conforming Lots, Uses, and Structures**

Existing non-conforming lots, uses, and structures lawfully existing at the effective date of this Ordinance shall be subject to the requirements of this Article, except as follows:

20 (a) Plats that have received tentative preliminary approval and site plans approved prior to the effective date of this Ordinance shall be entitled by right to all uses authorized by those approvals according to the zoning district in which the property is located. Prior to any construction, however, a wetland use permit under this Article shall be required for any construction or structure to ensure that the construction will occur with no damage to the wetland, wetland edge, or watercourse.

25 (b) Any activity, structure or use normally accessory to a structure, lawfully existing at the enactment of, but not in conformity with the provisions of this Article, may be continued, maintained, and operated. Before an existing structure is expanded or enlarged in a manner that increases its infringement on a wetland, wetland edge or watercourse, a wetland use permit shall be required under this Article.

30 (c) All use permit applications involving and possibly impacting on wetlands, wetland edge or watercourse, must be completed and submitted to the Township for their review and determination as to whether a use permit shall be approved, approved with modifications or conditions or denied.

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Sec. 24-04 Acts not Ordinarily Requiring Permits

5 Wetlands may be used for the following activities without the necessity of a Township wetland use permit under this Ordinance. The intent of this Section is to provide consistency with the Goemaere-Anderson Wetland Protection Act (Act 203, Public Acts of 1979, as amended), however the uses listed below may not be permitted by this Ordinance within the various zoning districts. All activities are subject to the regulations and restrictions of all other Township Ordinances.

10 (a) Fishing, trapping, hunting, or bird-watching.

(b) Swimming, boating, or canoeing.

(c) Hiking.

15 (d) Grazing and/or watering of animals.

20 (e) 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. Clear-cutting within forested wetlands where more than seventy percent (70%) of the basal area is removed shall not be allowed without a permit under **Section 24-06**.

25 (f) Maintenance or operation of serviceable structures in existence on the effective date of this amendment or constructed pursuant to this Ordinance.

(g) Construction or maintenance of farm or stock ponds.

30 (h) 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.

35 (2) That portion of a drain legally established pursuant to the drain code of 1956, Act. No. 40 of the Public Acts of 1956, as amended, being Section 280.1 to 280.630 of the Michigan Compiled Laws, which has been constructed or improved for drainage purposes.

40 (3) A drain constructed pursuant to other provisions of this Ordinance.

CHARTER TOWNSHIP OF BRIGHTON ZONING ORDINANCE

- (i) 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.
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- (j) 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 Article, wetland improved under this Section after the effective date of this amendment shall not be used for non-farming purposes without a permit from the Township. This 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. This section shall not apply to wetlands that are connected with other off-site wetlands where drainage may result in impacting the hydrology of the off-site wetland.
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- (k) Maintenance or improvement of public roads or highways 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 road or highway.
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- (l) Maintenance, repair, or operation of gas or oil pipelines and construction of gas or oil pipelines having a diameter of six inches (6) or less, if the pipelines are constructed, maintained, or repaired in a manner to assure that any adverse effect on the wetland will be otherwise minimized.
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- (m) Maintenance, repair, or operation of electric transmission and distribution power lines and construction of distribution power line 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.
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- (n) Operation or maintenance, including reconstruction of recently damaged parts, of serviceable dikes and levees in existence on the effective date of this amendment or constructed pursuant to this Article.
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- (o) Construction of iron and copper mining tailings basins and water storage areas.
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5 (p) Installation of non-commercial docks, rafts, diving platforms, and other recreational devices in a watercourse, provided they do not interfere with reasonable use of the watercourse, as may be regulated by the MDEQ. (Some temporary recreational structures may still require a permit from the MDEQ). Any multi-access riparian sites shall comply with *Section 13-07*.

10 (q) Operation and maintenance of existing dams and water control devices, (Huron-Clinton Metropolitan Authority, re: Kensington Metropark; Woodland Lake; Lake Moraine) for temporary maintenance or aquaculture purposes, if in compliance with federal, state and county statutes as may be regulated by the MDEQ.

15 (r) Any activity normally accessory to a structure consistent with this Article and not requiring a permit including but not limited to gardening, mowing, landscaping, lawn maintenance and improvements and the erection of swing sets, fences and similar structures not requiring a building permit as may be required by the MDEQ.

20 (s) Educational programs, wildlife preserves and natural trails as may be regulated by the MDEQ.

25 (t) Actions taken in time of emergency, including the repair or restoration of existing public roads, electrical lines, natural gas lines, storm drainage systems, when immediate action is necessary to prevent public health or safety or to prevent damage to property. A person taking such emergency action shall, within fourteen (14) days thereof provide a written report to the Planning Commission describing the action taken and the nature of the emergency necessitating the action. State permits may still be required for the action as may be required by the MDEQ.

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Sec. 24-05 Acts Requiring Permits

35 The Planning Commission may issue use permits for certain acts in the watercourses and wetlands of the Township, provided such use permit does not violate the intent of this Ordinance nor of other Federal, State or County statutes as may be regulated by the MDEQ. To preserve and protect wetland, wetland edge and watercourse habitat and wildlife in an undisturbed natural state, the following activities are strictly prohibited in a wetland, wetland edge, and watercourse unless reviewed, and approved by the Planning Commission and appropriate permits issued.

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CHARTER TOWNSHIP OF BRIGHTON ZONING ORDINANCE

- (a) Remove any and all vegetation from a wetland, wetland edge or watercourse, which includes the cutting of trees, removal of stumps, plants, wildlife, and natural habitat except agricultural uses allowed under **Section 24-04**.
- 5 (b) Drain or causing to be drained, any water into or from a wet land, wetland edge or watercourse which is contiguous to a lake or stream, or to a tributary of a lake or stream, or to a wetland or wetland edge or watercourse being preserved for the public interest.
- 10 (c) Construct sewer, gas, or oil pipelines through or in a wetland, wetland edge, or watercourse.
- (d) Mine, drill, remove or permit the removal of soil or materials or any other natural resource from a wetland, wetland edge, or watercourse.
- 15 (e) Drill wells within a wetland, wetland edge, or watercourse.
- (f) Drain surface waters from man-made structures including roads, parking lots, retention and detention basins, agricultural runoff into wetland, wetland edge, or watercourse, including any other land or water use permitting the discharge of silt, salts, sediment, organic or inorganic materials, chemical, fertilizers, flammable liquids, or any substance producing turbidity, dyes, insecticides, herbicides, or detergents.
- 20 (g) Construct, enlarge, extend or connect any private or public sewage or waste treatment plant discharge to any lake, pond, stream, water or drainage course or wet land, wetland edge, or watercourse not in compliance with the latest requirements of the Federal, State, County and Township regulations governing the improvement and maintenance of clean waters.
- 25 (h) Deposit or permit to be deposited any material, including structures, into, within or upon any bottomland, wetland, wetland edge, or watercourse in a manner that would interfere with natural conditions of the wet land, wetland edge, or watercourse.
- 30 (i) Construct any structure, building, road, tennis court, paving, towers, or stanchions upon a bottomland, wetland, wetland edge, or watercourse.
- 35 (j) Dredge, fill, or otherwise alter the profile of bottomlands, wetlands, wetland edge, or watercourse.
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(k) Enlarge, diminish, or alter a lake stream or other natural occurring waterway; create, enlarge, or diminish any natural or artificially constructed canal, channel, ditch, lagoon, pond, lake for navigation or any other purpose, whether or not connected to an existing lake, stream, or watercourse.

5 (l) Construct, place, enlarge, extend, or remove a temporary, seasonal, or permanent operation or structure upon a bottomland, or over, on, or under the surface of a wetland, wetland edge, or watercourse.

10 (m) Any other activities which, upon review, conflict with the intent of this Article.

Sec. 24-06 Application Requirements for Wetland Use Permits

15 Application, approval, appeal, and issuance of wetland use permits shall be concurrent with the issuance of other necessary Township approvals. The applicant for a wetland use permit shall submit to the Planning Commission, copies of the following:

20 (a) One (1) copy of a wetlands use permit application form of the MDEQ.

(b) Wetlands use permit review fee.

25 (c) One (1) copy of a drawing of the proposed activity, including at least the following:

30 (1) 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, such as a biologist, landscape architect or horticulturists, who has delineated wetlands boundaries and types. Professional credentials will include a resume and list of experience for the firm or individual preparing the wetland delineation, confirmed by the Township.

35 (2) Location and extent of protected wetlands and waterways on the site, as identified through field survey and presented on a topographic map of suitable scale. For wetland use permit applications that are accompanying

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a site plan or plat, the wetlands map/survey shall be at the same scale as the site plan or plat. For wetland use permit applications that are not accompanying a site plan or plat, projects five (5) acres or smaller, shall be at a scale of at least one (1) inch equals fifty (50) feet is required; projects larger than five (5) acres, shall be at a scale of at least one (1) inch equals one hundred (100) feet is acceptable.

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(3) Types of wetlands on the site, i.e., forested, shrub, emergent marsh, wet meadow, and aquatic bed, identified by using methods approved by the MDEQ as set forth in the Michigan "Wetland Determination Manual Draft for Field Testing" or other official publications.

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(4) A site plan, subdivision plat, or planning map which overlays the proposed development or project onto the wetland district and waterways. 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 Township, State or Federal permit show corresponding permit numbers.

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(5) Typical cross sections of existing and proposed shoreline, waterline, structures, dredge cuts and fills, including dimensions and elevations, and location of wetlands.

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(6) Type, volume, and area for proposed shoreline construction materials, dredge material, and fill materials.

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(7) 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.

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(8) If the proposed activity involves bulkhead construction, show the distance along both property lines from the face of the bulkhead to the center line of a road or other definable reference point (e.g. northeast corner of concrete patio, twelve (12) inch maple on west property line).

(9) If the proposed activity involves dredging, furnish the following:

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a. If the dredging material is to be placed on-site, outline the disposal areas on the drawing. If the dredge material is to be hauled away,

provide a vicinity map showing the disposal area.

5 b. Show method of containing dredge material to prevent reentry of the material into any waterway or wetlands. Describe all procedures which the applicant will use to minimize adverse effects of construction.

(10) If the activity involves a bridge or culvert crossing, furnish the following:

10 a. Typical cross section of the waterway representative of the channel and area downstream of the proposal.

b. Plan view of the proposal.

15 c. Cross section view of the proposed structure on the existing structure (if applicable). This view should include the existing and proposed road center line for the width of the watercourse or a minimum of three hundred (300) feet on either side of the structure.

20 d. A profile view of the proposed structure showing the proposed end treatment and bank stabilization.

(d) One (1) copy of a cover letter signed by the landowner including the following information:

25 (1) Name of project and one sentence description.

(2) Date upon which the activity is proposed to commence.

30 (3) A full description of any potential pollution, impairment or destruction to the water or any natural resources resulting from the project.

35 (4) List of all Federal, State, County or other local government agency permits or approvals required for the proposed project including permit approvals or denials already received. In the event of denials, the reasons for denials shall be given. Attach copies of all permits which have been issued.

(5) Signature of applicant.

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(e) Use applications shall be submitted to the Township Planner on or before the date that application is made for Township approvals including, but not limited to preliminary subdivision plats, site plans, lot splits, grading approvals, or building permits. Township approvals for preliminary subdivision plats, site plans, lot splits, grading approvals, or building permits shall not be granted until approval for the use of protected wetlands, or waterways has been obtained.

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(f) If the use application is for a wetland which is regulated by the MDEQ, then the applicant shall make complete application for a use permit with the MDEQ. The Township shall review a copy of the application and may make written recommendations to the MDEQ that the wetland use permit application has been filed. The Township shall request that such agency hold a public hearing prior to making a determination on the wetland use permit application, as provided for by Section 8 of the Goemaere-Anderson Wetland Protection Act (Act 203, Public Acts of 1979, as amended), being Section 281.708 of the Michigan Compiled Laws.

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(g) If the use application is for a wetland which is regulated solely by the Township, the applicant shall submit a complete application to the Township Planner. Upon receipt, the Township Planner shall review the use application for completeness. Applicants shall be notified in writing of any missing items. Following a determination that a use application is complete, the Township Planner shall specify the number of copies to be submitted by the applicant. The application shall be reviewed under the procedures of **Section 24-07**. The Township Planner shall forward one copy of the use application to the MDEQ.

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Sec. 24-07 Review of Wetland Use Permit Application

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(a) At the request of the applicant, an administrative meeting may be held to review the proposed activity in light of the purposes of this Ordinance.

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(b) Upon receipt of a complete application, the Township Planner shall examine wetland mapping and shall conduct or authorize the completion of a field inspection to verify the accuracy of information received. The receipt of a use application shall comprise permission from the owner to complete a wetlands and waterways inspection.

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(c) The Planning Commission shall be responsible for reviewing the use application for approval, approval with conditions, or disapproval. Applicants shall be notified in writing of the Township decision, including reasons for denial of the use application, within ninety (90) days of filing a complete application meeting all of the requirements of **Section 24-06**.

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(d) The Township shall notify the MDEQ of the Township decision.

(e) Prior to review of any use application by the Planning Commission, notice shall be provided to adjacent property owners within three hundred (300) feet of the subject parcel containing the wetland (including property directly across public right-of-ways and easements). The notice shall identify the location and proposed use of wetlands and waterways, the time and place at which the use application may be inspected, and the date, time, and place of any scheduled public meetings where the proposed use application will be discussed.

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(f) Township administrative officials may coordinate field inspections and assessments with state and federal agencies to the maximum feasible extent.

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(g) Final Township authorization to undertake any approved project in wetlands and waterways shall be contingent upon receipt of evidence that required State and Federal permits, if any, have been obtained.

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(h) Any change in the size, scope, or use of a project site shall be considered to be a new activity and shall require the filing of a new wetlands and waterways use application.

Sec. 24-08 Review Standards for Wetland Use Permits

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The decision shall reflect the national, state, and local concern for the protection of natural resources from pollution, impairments, and destruction. The following general criteria shall be applied in undertaking this decision:

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- (a) The relative extent of the public and private need for the proposed activity.
- (b) The availability of feasible and prudent alternative locations and methods to accomplish the expected benefits from the activity.

- (c) The extent and permanence of the beneficial or detrimental effects which the proposed activity may have on the public and private uses to which the area is suited, including the benefits the wetlands provides.
- 5 (d) The probable impact of each proposal in relation to the cumulative effect created by other existing and anticipated activities in the watershed.
- 10 (e) The probable impact on recognized historic, cultural, scenic, ecological, or recreational values, and on the public health, safety, and welfare of fish or wildlife.
- (f) Economic value, both public and private, of the proposed land change to the general Township area.
- 15 (g) The size and quality of the wetland being considered.
- (h) The amount and quality of remaining wetland in the area.
- (i) Amount of wetland remaining in general area and proximity to a waterway.
- 20 (j) Extent to which upland soil erosion adjacent to protected wetlands or waterways is controlled.

Sec. 24-09 Wetland Use Permit Conditions of Issuance

25 The issuance of a wetland use permit shall be governed by the following conditions:

- (a) The Planning Commission may attach any reasonable conditions considered necessary to insure that the intent of this Article will be filled and to minimize or mitigate damage or impairment to, encroachment in, or interference with natural resources and processes within the protected wetlands or wetland edge, or to otherwise improve or maintain the water quality.
- 30 (b) The Planning Commission shall fix a reasonable time for the undertaking and completion of all activities and structures.
- (c) The Planning Commission, upon issuance of a wetland use permit, may require the applicant to file with the Township treasurer, cash, certified check,

or irrevocable bank letter of credit to the amount determined is necessary to insure compliance with the wetland use permit approval conditions and this Article.

5 (d) At no time shall the Planning Commission issue a wetland use permit that allows a more extensive alteration of the wetland than permitted by State or Federal law.

10 (e) Wetland use permits for seasonal operations must be renewed annually unless otherwise stated in the permit.

(f) Any change that increases the size or scope of the operation must be examined as a new operation and shall require filing of a new wetland use permit application.

15 (g) Any temporary, seasonal or permanent operation that is discontinued for one (1) year or one (1) season shall be presumed to have been abandoned and the wetland use permit automatically voided.

20 (h) Any permit granted under this Article may be revoked or suspended by the Planning Commission, after notice, for any of the following causes:

(1) A violation of a condition of the permit.

25 (2) Misrepresentation or failure to fully disclose facts in the application.

(3) A change in condition that requires a temporary or permanent change in the activity.

30 (i) An applicant who has received a wetland use permit under this Article shall comply with the following in connection with any construction or other activity on the property for which the wetland use permit has been issued:

35 (1) Maintain soil erosion control structures and measures, including but not limited to site fences, straw bail berms, and sediment traps. The permittee shall provide for periodic inspections throughout the duration of the project.

40 (2) Maintain clear delineation of the protected wetlands and wetland edges, (so marked by the wetland administrator/enforcement official, during the

on-site inspection) so that such locations are visible to all construction workers.

5 (3) Post on the site, prior to commencement of work on the site and continuing throughout the duration of the project, a copy of the approved wetland use permit containing the conditions of issuance, in a conspicuous manner such that the wording of that permit is available for public inspection.

10 (j) A wetland use permit shall remain in effect for one (1) year from the date of approval by the Planning Commission or until the permitted activity is completed, whichever occurs sooner. If applied for prior to the expiration date, the applicant may be granted a one (1) year extension by the Planning Commission.

Sec. 24-10 Wetland Mitigation

20 (a) Prior to considering a proposal for wetland mitigation, the applicant shall submit evidence that all of the following requirements have been satisfied:

25 (1) That all feasible and prudent efforts have been made to avoid the loss of wetland resource values.

(2) That all practical means have been considered to minimize impacts.

(3) That it is practical to replace the wetland resource values which will be unavoidably eliminated.

30 (b) If the Planning Commission 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:

35 (1) Mitigation shall be provided on-site where practical and beneficial to the wetland resources. If mitigation on-site is not practical and beneficial, mitigation in the immediate vicinity of the permitted activity may be considered. In all cases, mitigation shall be provided within the jurisdiction of Brighton Township. Wetland replacement may be done off site on public land or other habitat area within the Huron River watershed.

(2) Any proposal shall assure that, upon completion, there shall be no net loss to the wetland resources. To ensure adequate replacement of wetland resources lots, wetland replacement shall be done at a 2:1 ratio.

5 (4) The proposal shall give consideration to replacement of the predominant functional values lost within the impacted wetland.

10 (5) Any mitigation activity shall be completed before initiation of other permitted activities, unless a phased concurrent schedule can be agreed upon between the Township and the applicant.

15 (6) Monitoring to establish documentation of the functional performance of the mitigation shall be required as permit conditions, as well as necessary corrective actions required, to deliver the wetland resource values identified. Monitoring shall be conducted for a period of three (3) to five (5) years, as determined by the Township reviewing authority (Township Planner or Planning Commission), with written reports provided to the Township on an annual basis. If wetland mitigation is not successful, as measured by the establishment of wetland hydrologic conditions and vegetation, then additional mitigation and monitoring may be required by the Township.

20 (7) The applicant shall be required to post a performance bond with the Township prior to undertaking any wetland activity approved by the Township under this Ordinance. The Township shall refund the performance bond to the applicant after the monitoring period is successfully completed.

25 (c) If the Planning Commission determines that it is not practical to replace the wetland resource values which will be unavoidably impacted, then the Township may require other measures to ensure preservation or enhancement of the natural ecosystems associated with the on-site wetlands to remain. This may include the following:

30 (1) Restoration to a natural state of an area which is an ecologically integral part of the on-site wetlands to remain.

35 (2) Dedication of a preservation easement over an area which is an ecologically integral part of the on-site wetlands to remain. This shall be done to preserve the natural quality of these wetlands and minimize additional wetland impacts.

(d) Wetland impact mitigation and monitoring plans shall become conditions of use approval.

5 (e) All costs for preparing and carrying out mitigation and monitoring plans shall be the responsibility of the applicant.

Sec. 24-11 Wetland Administration

The Township Planner shall:

10 (a) Identify conflicts with wetland protection by present Township Ordinances.

15 (b) Provide recommendations and assist the Planning Commission in completing the wetland inventory, including coordination with State, Federal and County agencies.

20 (c) Coordinate with the MDEQ in keeping up-to-date on issues affecting wetland protection.

25 (d) Recommend a program to protect and acquire important wetlands through tax incentives, donations, development rights, easements, land exchange, purchase and other means.

(e) Develop educational programs for the public and for Township schools. The programs should promote awareness of wetland values and the hazards and threats to wetlands. The program should be particularly targeted to landowners with wetlands and emphasize how best to protect wetland values on their property.

30 (f) Develop an adopt-a-wetland program for interested citizens to participate more directly in preservation of specific wetlands.

(g) Review degraded or destroyed wetlands in the Township for possibility of rehabilitation or restoration.

35 (h) Plan for wetland determination training by the MDEQ.

Sec. 24-12 Penalties and Enforcement

The provisions of this Article shall be administrated and enforced by the Township Planner.

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(a) In addition to the rights and remedies herein provided to the Township, any person violating any of the provisions of this Article shall be subject to the penalties and sanctions for violations of **Section 23-09**.

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(b) Any person violating the provisions of this Article shall become liable to the Township for any expenses or loss or damage occasioned by the Township by reason of such violation. Furthermore, if it is determined by the Planning Commission that the effects of the violation can be repaired, the violator shall be liable for such repair.

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(c) Whenever any work is being done contrary to the provisions of this Article, the Township Planner shall order the work stopped by notice in writing served on any persons engaged in the doing or causing such work to be done, and any such person shall forthwith stop work until authorized by the Township Planner to proceed with the work.

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(d) Any use of the land or premises carried on in violation of any provision of this Article is declared to be a nuisance. Whenever any work is being done contrary to the provisions of this Article, the Township may commence judicial proceedings for injunctions, mandamus, or other appropriate relief to prevent, enjoin, correct, restore, or remove any violation of this Article. The rights and remedies herein provided are civil in nature and in addition to any criminal remedies under this Ordinance or provided by state law.

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30 Sec. 24-13 Inventory of Wetlands

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(a) The wetlands administrator/enforcement official shall make or cause to be made a preliminary inventory of all wetlands in the Township and file the inventory with the agricultural extension office, register of deeds, and county clerk. The inventory may consist of wetland type, location, acreage, the role each wetland plays in the ecosystem and any other important information needed to adequately inventory wetlands. Fish and Wildlife Service Maps, MDEQ Maps, and Soil Conservation Service Soils Maps shall be used as guidelines for locating wetlands.

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(b) At least two (2) hearings on the proposed wetland inventory, shall be held in the Township. The hearings shall be held by the Planning Commission, after publication and due notice, so that interested parties may comment on the inventory. After the hearings, the Planning Commission shall issue a final inventory which shall be sent and kept by the agricultural extension office, register of deeds, county clerk, Planning Commission and building department.

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(c) Before an inventory is made of the Township, interested persons may request the Township Planner to inspect property and make a written wetlands determination. The determination shall be made within thirty (30) days after on-site evaluation. Completion of the inventory shall not delay implementation of this Article.

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(e) When the inventory of wetlands is completed, the inventory shall be used in reviewing the criteria and updating the official map. The inventory shall be periodically updated. The map's ground surveys, and descriptions of wetlands shall be submitted to the county register of deeds and shall become a public document available to review by any member of the public.

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(f) As wetland determinations or inventoried are completed, owners of record as identified by current property tax roll shall be notified of the possible change in status of their property. Notification shall be permitted on the next tax bill mailed to the property owners of the Township. The notice shall contain information specifying that a wetland determination or inventory has been completed and is on file with the Agricultural Extension Office, Register of Deeds, County Clerk, Township Clerk, Planning Commission, and Building Department and that property owners may be subject to regulation under this Article.

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30 **Sec. 24-14 Notice to the MDEQ**

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The Township clerk shall notify the MDEQ of the adoption of this Ordinance. The Township shall enter into an agreement with the MDEQ providing for the exchange of information and for the coordination of the granting of permits, as required by Section 8 (4) of the Goemare-Anderson Wetlands Protection Act (Act 203, Public Acts of 1979, as amended).