

CHAPTER 20

WETLANDS

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20.01 PURPOSE

- (1) This Wetlands Section is created to maintain safe and healthful conditions, to prevent water pollution, to protect fish spawning grounds and wildlife habitat, to preserve shore cover and natural beauty and to control building and development in wetlands whenever possible. No development shall be permitted unless all necessary approvals are obtained from the Wisconsin Department of Natural Resources and the Town Board makes the discretionary determination to issue a permit under Section 20.08.
- (2) Wetlands are seldom suitable as building sites because:
 - (a) Septic tank systems do not function well because of high groundwater.
 - (b) Water supplies are often polluted by septic tank wastes that have not been adequately absorbed by the soil.
 - (c) Foundations and roads crack due to poor support capabilities and frost action.
 - (d) Flooding is common in spring and other times of high water.
- (3) This chapter also regulates development to protect life, health and property.
- (4) This chapter contributes to the protection of the functions and values of wetlands including biological diversity and wildlife habitat and human uses such as recreation and education.

20.02 DEFINITIONS. Unless specifically defined below, words and phrases used in this Chapter shall have the same meaning as they have at common law and to give this Chapter its' most reasonable application. Words used in the present tense include the future, the singular number includes the plural and the plural number includes the singular. The word "may" is permissive, "shall" is mandatory and not discretionary.

- (1) **DEVELOPMENT.** Any artificial change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or substantial improvements to buildings, structures or accessory structures; the placement of buildings or structures; mining, dredging, filling, grading, paving, excavation or drilling operations; and the storage, disposal or extraction of materials, public or private sewage disposal systems or water supply facilities.
- (2) **HYDRIC SOIL.** A hydric soil is a soil that, in an undrained condition, is saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part, and supports the growth and regeneration of hydrophytic vegetation.
- (3) **HYDROPHYTIC VEGETATION.** Plant life growing in water or on a substrate

that is at least periodically deficient in oxygen during the growing season as a result of excessive water content.

- (4) MUNICIPALITY OR MUNICIPAL. The county, city or village governmental units enacting, administering and enforcing zoning ordinances.
- (5) OBSTRUCTION TO FLOW. Any development which physically blocks the conveyance of floodwaters such that this development by itself or in conjunction with any future similar development may cause a wetland to be damaged or destroyed.
- (6) OFFICIAL WETLAND MAP. Wisconsin Department of Natural Resources Wetland Inventory Map.
- (7) OPEN SPACE USE. Those uses having a relatively low flood damage potential and not involving structures.
- (8) PERSON. An individual, or group of individuals, corporation, partnership, association, municipality or state agency.
- (9) PRIVATE SEWAGE SYSTEM. A sewage treatment and disposal system serving a single structure with a septic tank and soil absorption field located on the same parcel as the structure. This term also means an alternative sewage system approved by the Department of Industry, Labor and Human Relations including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure.
- (10) PUBLIC UTILITIES. Those using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer and storm sewer.
- (11) STRUCTURE. Any man-made object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lake bed, including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.
- (12) WELL. An excavation opening in the ground made by digging, boring, drilling, driving or other methods, to obtain groundwater regardless of its intended use.
- (13) WETLAND
 - (a) Wetlands are defined as lands that:
 1. Have a predominance of hydric soil.
 2. Are inundated or saturated by surface water or groundwater at a frequency

and duration sufficient to support a prevalence of hydrophytic vegetation typically adopted for life in saturated soil conditions.

3. Under normal circumstances do support a prevalence of hydrophytic vegetation.

(b) Wetlands are identified through the confirmation of the three wetland criteria:

1. Hydric soil.
2. Hydrology.
3. Hydrophytic vegetation.

20.03 GENERAL PROVISIONS

- (1) The areas regulated by this chapter shall include all areas within the Town shown to be hydric soils in the Soil Survey of Pierce County, Wisconsin, any delineation of wetland or prior converted cropland on either the certified U.S.D.A. Natural Resources Conservation Service (NRCS) Wetland Inventory Map or the Wisconsin Department of Natural Resources Wetland Map, and any other areas designated on any Town official wetlands map as may be prepared and developed by the Town Board. All hydric soils are listed on the Pierce County Hydric Soil List in the NRCS Field Office Tech Guide.
- (2) Any development or use within the areas regulated by this chapter shall be in full compliance with the terms of this chapter and other applicable local, state and federal regulations.
- (3) Unless specifically exempted by law all governmental agencies and persons are required to comply with this chapter and obtain necessary permits.
- (4) Where another Chapter is more restrictive than the provisions contained in this Chapter, that Chapter shall continue in full force.
- (5) This Chapter is not intended to repeal, abrogate or impair any existing deed restrictions, converts or easements. However, where this Chapter imposes greater restrictions, the provisions of this Chapter shall prevail.
- (6) Should any portion of this Chapter be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Chapter shall not be affected.

20.04 GENERAL STANDARDS

- (1) No development, except as provided herein, shall be allowed in wetland areas which:

- (a) Causes an obstruction to flow which physically blocks conveyance of flood waters thus destroying wetlands.
- (b) Destroy or cause to destroy wetlands by filling or grading or draining these areas.

20.05 PERMITTED USES

- (1) Agricultural uses such as general farming, pasturing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming and wild crop harvesting.
- (2) Nonstructural private and public recreational uses such as parks, wildlife and nature preserves, game farms and alike.
- (3) Other uses allowed by the Town Board in accordance with the standards set forth in Section 20.08.

20.06 STRUCTURES

- (1) Accessory structures functionally dependent to/upon permitted uses may be allowed by permit, provided:
 - (a) The structure is not designed for human habitation; and
 - (b) If fill or other material is used it shall be protected against erosion by riprap, vegetative cover or sheet piling to prevent erosion. Fill material shall not be that associated with private or public solid waste disposal.
- (2) Public utilities, streets and bridges may be allowed by permit.

20.07 PROHIBITED USES

- (1) All uses not listed as permitted uses are prohibited within wetland areas.
- (2) Prohibited uses include the following:
 - (a) Structures in or on or over wetland areas which are designed for human habitation and not associated with permitted use.
 - (b) Storage of any materials flammable, explosive or injurious to property, water quality or human, animal, plant, fish or other aquatic life.
 - (c) Any uses which are not in harmony with, or which may be detrimental to, the uses permitted in adjoining districts.
 - (d) Any private or public sewage system except portable latrines.

- (e) Any private or public wells which are used to obtain water for ultimate human consumption.

20.08 BOARD DETERMINATION

- (1) The Town Board shall review all proposed activity subject to this Chapter and determine whether the activity is in conformance with the provisions of this Chapter.
- (2) The following factors shall be considered by the Board in making determination whether to issue permits under Section 20.05.
 - (a) Whether the activity has a detrimental effect on the maintenance, protection or enhancement of wetlands.
 - (b) Practicable alternatives to the proposal which will not adversely affect wetlands and will not result in other significant adverse environmental consequences.
 - (c) Cumulative adverse effects attributable to the proposed activity.
- (3) The applicant shall be responsible for providing the information needed to determine compliance with this Chapter. Issuance of a permit by the Town Board shall not be deemed approval of or substitute for any permits or compliance as may be necessary under other federal, state or local ordinances, rules, statutes or regulations.

20.09 PENALTY. The penalty for violating this Chapter shall be as provided under Section 25.04(4).