STATE OF MICHIGAN
COUNTY OF OAKLAND
CHARTER TOWNSHIP OF WEST BLOOMFIELD

ORDINANCE NO. C-360-F

WETLAND/FLOODPLAIN ADMINISTRATIVE PERMIT ORDINANCE

An Ordinance to provide for administrative and eliminate fast track review and approval of certain use permits and add specific mitigation standards under Chapter 12 of the West Bloomfield Charter Township Code.

THE CHARTER TOWNSHIP OF WEST BLOOMFIELD ORDAINS:

Section 1 of Ordinance

Chapter 12 of the West Bloomfield Charter Township Code is amended to add definitions in Section 12-5, amend Sections 12-32(5), 12-33(1)f, 12-33(5) and 12-35(c) and add Sections 12-34(c), 12-37, 12-38 and 12-39 to read as follows.

Sec. 12-5. Definitions.

Administrative permit means a use permit that may be applied for and approved as provided in Sections 12-32 and 12-33 for a minor project, as defined in this section, that complies with all of the Environmental Design Criteria and Standards in Section 12-37 and includes all Terms and Conditions in Section 12-38.

Director means the director of the township environmental department and/or such other persons as designated by the township board to perform the duties of the director under this chapter.

Michigan Department of Natural Resources means the Michigan Department of Environmental Quality or such other State of Michigan department or agency that administers the State’s Wetland Protection Act, Act No. 203 of the Public Acts of 1979, as amended.

Mitigation means actions designed to compensate for or offset impacts from operations to or in the area for which a use permit is requested.

Minor project means a proposed operation that is on or in connection with the lawful use of a single-family residential property that has received and is or will be in compliance with the conditions of all other required Township permits or approvals and that does not involve, include or propose any of the following as determined by the director upon reviewing a use permit application:

(1) Operations by or on behalf of a public agency or utility for purposes other than maintenance or repair of existing structures.
(2) Operations that require site plan approval under the Zoning Ordinance.

(3) Operations that involve filling, dredging or activities that would alter the shape, condition or function of a wetland or watercourse.

(4) New home construction in a wetland or the environmental features setback.

(5) Placement of new structures in a wetland.

(6) Wetland impacts that are not for enhancement, improvement or the removal of invasive species.

(7) More than 25% impact on the existing environmental features setback area.

(8) A net loss of the function or value of a resource protected by this Chapter.

(9) Operations that have already been commenced, meaning that after-the-fact permits may not be approved administratively.

(10) Property that exists in violation of township or state laws or ordinances or upon or for which there are unsatisfied township permit or approval conditions.

(11) Operations allowed but not commenced and/or completed under a prior use permit approval that has expired in the last six (6) months.

*Wetland/environmental mitigation manual* means a written document that is maintained and available to the public at the environmental department containing definitions of terms and detailed or technical lists, descriptions, characteristics, methods and other information referred to in this chapter that have been recommended by the director and approved by resolution of the township board for use and reference in the administration and enforcement of this chapter.

**Sec. 12-32. Application—Submittal; fee, required information**

(1) - (4) [Unchanged.]

(5) *Administrative permit applications.*
a. For minor projects an applicant may request an administrative permit by including the following in or with an application that also satisfies the requirements in subsections (1) through (4):

(i) Agreement to all of the permit terms and conditions in Section 12-38.

(ii) All plans, documents, agreements and information necessary to establish compliance with all of the Environmental Design Criteria and Standards in Section 12-37.
(iii) Agreement to the standards and procedures in Section 12-33, including the director’s discretion to deny an administrative permit and refer the application to the wetland review board as a new use permit application for purposes of the time period for decisions under Section 12-33(1)f.

(iv) A copy of any contract for the work that identifies the cost and contractor and if there is no contract, an accurate cost estimate for the work and identification of the contractor who will be performing it.

(v) An acknowledgment and agreement by the owners of the property to the recording with the register of deeds of a preservation notice for the areas of the property subject to regulation under this Chapter.

(vi) An acknowledgement and agreement by the owners of the property that prior to issuance of the administrative permit, the property must be posted as being the subject of a pending permit request, that the proposed work and mitigation areas must be accurately staked and marked and that photographs of the property will be taken and available for public inspection at the environmental department.

b. A complete application for an administrative permit shall be reviewed and acted upon as provided in Sections 12-33(1)f and 12-33(5).

Sec. 12-33. Same—Method of review.

(1) Receipt and initial processing of application:

a. – e. [Unchanged.]

f. A complete application shall be modified, approved or denied within ninety (90) days after receipt, subject to the provisions of subsection g. of this section. For purposes of this time period, an application for an administrative permit that is not approved is a denial, with the referral of such application to the wetland review board to be treated as a new use permit application.

g. – h. [Unchanged.]

(2) – (4) [Unchanged.]

(5) Administrative permit review and approval.

a. The director shall review an application for an administrative permit to determine if it is complete, and if it is not, shall provide written notice to the applicant of the additional requirements. If upon receiving and confirming an application to be complete, the director determines that an administrative permit should be issued, he shall proceed as provided in subsection (b). If upon receiving and confirming an application to be complete, the director determines that the proposed operations warrant a broader review or believes that feasible and prudent alternatives exist, he shall
provide written notice to the applicant that the administrative permit is denied and refer
the application to the wetland review board as a new use permit application for review
and decision as provided in subsection (2).

b. Upon determining that an administrative permit should be issued, the director shall
provide written notice of that determination by first class mail to all persons and
associations entitled to notice of a public hearing under subsection (2), and to the
members of the wetland review board in the manner they designate. The notice shall
also be given to the public by posting on the township’s cable television station and
web site and the director shall cause the property to be posted with a notice that it is the
subject of a pending administrative permit request. In addition to the applicant’s name,
property address and description of the proposed operation, the notice shall also
indicate:

(i) That the application is available for inspection at the environmental
department during hours the township offices are open.

(ii) The date on or after which director may issue the administrative permit which
shall be at least 21 days after the date the notice is given.

(iii) Explain the right of persons, associations and wetland review board members
entitled to the notice, to file written objections or challenges to the administrative
permit on or before the date of intended permit issuance and that such objections
or challenges must be based on and include some substantiation for claims that the
director has not properly interpreted and/or applied this Chapter in determining
that the permit should be issued, that the proposed operations warrant a broader
review by the wetland review board for specified reasons, or that specified
feasible and prudent alternatives exist.

c. If no objections or challenges described in subsection (b)(iii) are filed within the
time allowed, the director shall approve the administrative permit for issuance subject
to the appeal period under Sections 12-34 and 12-35(j).

d. If objections or challenges described in subsection (b)(iii) are filed within the time
allowed, the director shall provide copies to the applicant and may:

(i) Approve the administrative permit for issuance subject to the appeal period
under Sections 12-34 and 12-35(j), and shall provide written notice to all persons
or associations that filed objections or challenges of the decision and their appeal
rights; or,

(ii) Upon determining that the challenges or objections may have merit, provide
written notice to the applicant that the administrative permit is denied and refer
the application to the wetland review board as a new use permit application for
review and decision as provided in subsection (2).
e. An administrative permit shall include a deadline for performance of the
operations and mitigation established by the director and shall not be issued until the
applicant has provided a cash bond, irrevocable letter of credit, secured promissory note
or other form of performance guarantee approved by the township board, for 125% of
the cost of the work to assure the satisfactory and timely completion of the operations
and mitigation and which shall be available to and enforceable by the township for that
purpose upon the applicant’s default.

f. The appeal and stay provisions in Sections 12-34 and 12-35(j) shall apply to
approval and issuance of administrative permits.

Sec. 12-34. Appeal of approval or denial.

(a) – (b) [Unchanged.]

(c) Approval of an administrative permit may be appealed to the township board in
the same time and manner and subject to the same process as provided in subsections (a) and (b)
by a property owner or occupant or subdivision or lake association that would be entitled to
receive notice under subsection (b).

Sec. 12-35. Conditions of issuance.

(a) – (b) [Unchanged.]

(c) Unless the final permit approval by the wetland review board, planning
commission or township board specifically decides otherwise, all of the standards, terms and
conditions contained in Section 12-38 and Section 12-39, if applicable, shall apply and be
considered a part of every use permit approved and issued under this Chapter. In addition, a use
permit approval by the township may:

(1) – (3) [Unchanged.]

(d) – (j) [Unchanged.]

Sec. 12-37. Environmental Design Criteria and Standards.

Compliance with the design criteria and standards in this section, as determined by the
director, shall be required for a minor project to be considered for approval by an administrative
permit and may be required for other use permits by the entity with final approval authority in the
absence of a demonstration by the applicant that compliance with a particular design criteria or
standard is not feasible and prudent or is not necessary to assure that the operation will cause the
least possible damage and encroachment or interference with natural resources and natural
processes within the watercourse and wetland areas in the township.

(1) The mitigation area is 0.5 acres or less in size and is to be on the same site as the
proposed operation for which a permit is required. Off-site mitigation may not be approved by
an administrative permit.
(2) The minimum area or volume and location requirements for mitigation are as follows:

a. In an environmental features setback area, the mitigation area shall be at least as large as the area of disturbance (1:1 mitigation ratio).

b. The mitigation volume of material to be removed from the floodplain shall be at least a large as the volume of fill (1:1 mitigation ratio) and the mitigation area shall be directly connected to the floodplain impacted.

c. For operations in a wetland, the mitigation area shall be at least twice as large as the area of disturbance.

d. If providing the wetland mitigation area required by subsection (c) is not feasible, the largest feasible mitigation area that is at least as large as the area of disturbance may be approved if there is an enhancement that increases the number of plant species in the wetland by 30, with the new plant species to be planted required to be native/indigenous plants in accordance with the wetland/environmental mitigation manual.

(3) In addition to information required in Section 12-32(1) - (4), plans for mitigation are required and shall include all of the following:

a. A description of the topography, soils, hydrology, and vegetation. Soil boring information and groundwater monitoring data should supplement this description.

b. The acreage to be restored, created, or preserved by ecological type

c. Cut and fill volumes.

d. A description of the ecological types, hydrology, soils, and vegetation of the wetlands to be impacted.

e. A description of the functions provided by the wetlands to be impacted and the proposed mitigation wetlands.

f. Water budget of inputs and outputs to the proposed mitigation wetland (e.g., precipitation, groundwater, runoff, evapotranspiration).

g. Existing Conditions Plan that includes topographic information (1 or 2 foot contour intervals), roads, trails, structures, property lines, directional arrows, scale, and the exact size and boundaries of existing environmental features setback, wetlands, streams, and 100-year floodplain.

h. Wetland Mitigation Plan that includes:
(i) A description of the sources of hydrology, the source and type of soil amendments, wetland vegetation establishment, and wildlife structures.

(ii) A plan view showing all of the proposed conditions of the mitigation site including all contour elevations (at 1 foot contour intervals), structures, the type and size of all proposed wetland areas, property lines, directional arrows, scale, the conservation easement area, and the proposed method of demarking the environmental features setback.

(iii) Cross-sections showing the existing and proposed grades.

i. Landscape Plan which includes a plan view, installation methods, planting list that specifies plant type, species list with scientific and common names, size, and quantity as well as distribution within the mitigation areas in accordance with the wetland/environmental mitigation manual.

j. Schedule and Construction Methods: A schedule and methods for completion of the mitigation site must be provided (e.g., initiation, planting, completion). The site preparation and soil erosion/sedimentation control methods to be used during construction should be described.

k. Long-term Protection Plan: A preservation notice and an accompanying recordable size site plan showing the wetland, environmental features setback area, and 100-year floodplain must be provided.

(4) Only native(indigenous) trees, shrubs, grasses, sedges, forbs, vines and other herbaceous plants approved by the director pursuant to the wetland/environmental mitigation manual, may be planted in floodplains, floodways, wetlands, watercourses, woodlands/woodland preservation areas and environmental features setback areas.

(5) The location of structures (permanent or temporary) is not allowed within recorded and/or township established preservation areas or easements.

(6) No direct discharge of storm water, sump water or wastewater is permitted to wetlands, watercourses, woodlands/woodland preservation areas and environmental features setback areas.

(7) Seawalls must meet the following design standards:

a. Any type must be installed at or above the ordinary high water mark of a watercourse.

b. Existing vertical and horizontal contours of the shoreline shall be maintained.

c. Vertical seawalls (steel or vinyl) are not permitted where vertical walls do not currently exist.
d. Boulder seawalls will be installed on a 1:1 slope (45° angle), approved geotextile fabric shall be installed behind the proposed seawall, and approved stone backfill shall be used to provide adequate drainage.

e. Four (4) to eight (8) inch diameter natural cobblestone must be placed (minimum width of twelve (12) inches) at the toe of the entire length of the seawall.

(8) Impervious surfaces within an environmental features setback area must be constructed such that runoff is directed away from watercourses and wetlands or to a native plant area to provide the maximum infiltration as possible.

(9) Impervious surfaces can not exceed 25% of an environmental features setback area and shall be constructed in a way to increase infiltration of storm water.

(10) Trees within the environmental features setback can be trimmed to a height of 12 feet and herbaceous and/or shrubs can be cut to a minimum height of 4 feet for the creation of a viewshed.

(11) Beach sanding must meet the following design standards:

   a. The purpose of the fill is for the creation, improvement, or restoration of swimming areas & beaches.

   b. The fill is placed above the ordinary high water mark.

   c. The fill is 10 cubic yards or less and is completed as one complete project.

   d. The material is from a source approved by the director and is clean, nonpolluting, free from debris, organic materials, & waste metal products.

   e. The total area filled should not exceed 25% of the environmental features setback.

(12) Driveways must meet the following design standards:

   a. Any upland on the property or other alternatives, such as obtaining a permanent easement for access from adjacent upland if available or a shared driveway shall be utilized to the greatest degree possible.

   b. The location of the driveway is at the least damaging place on the property and creates the minimum wetland impact.

   c. The portion of the driveway in the wetland can have a maximum base width of 16 feet and paved width of 12 feet. The maximum length of the driveway is 50 feet.

   d. No ditches may be placed in the wetland in association with the driveway.
e. The driveway must terminate at a buildable upland site.

Sec. 12-38. Permit Terms and Conditions.

The following terms and conditions shall apply and be considered a part of every use permit approved and issued under this Chapter unless the final permit approval decision by wetland review board, planning commission or township board specifically decides otherwise. Administrative permits may not be approved without all these terms and conditions.

(1) The following terms and conditions apply to all permits.

a. A pre-construction meeting between the Petitioner and the director or director’s designee and any contractors/subcontractors is required prior to any construction. A copy of the permit shall be posted in a visible location onsite.

b. At the time of the pre-construction meeting, the exact location of the request must be measured in the field by the director or director’s designee and then field staked by the Petitioner or any contractor prior to installation.

c. Soil protection measures shall be installed prior to any construction and be inspected by the director or director’s designee for proper location and installation.

d. The Petitioner and his/her contractor(s) shall be responsible for maintaining all soil erosion and sedimentation control measures throughout the duration of the project with daily inspections.

e. No materials (organic or inorganic), spoils, and/or equipment shall be stored within the wetland, environmental features setback area, and 100-year floodplain during and after construction.

f. No direct discharge of storm water, sump water, or wastewater unless pretreated is allowed to wetlands and/or watercourses. Any existing direct discharge must be eliminated and discharged in a location approved by the director or director’s designee.

g. No fill material beyond the request shall be deposited within any wetland, environmental features setback area and/or 100-year floodplain.

h. Any and all fill utilized for installation shall be from an approved source.

i. Any and all areas of mitigation, restoration, or planting within a wetland, environmental features setback area and 100-year floodplain shall be planted with native/indigenous plants (trees, shrubs, herbs, and/or vines) only in accordance with the wetland/environmental mitigation manual.
j. Ongoing monitoring by the director or director’s designee shall be conducted with inspection reports recorded in the case file.

k. A final inspection by the director or director’s designee shall be conducted with a report added to the case file.

l. The Petitioner shall be responsible for the integrity of all landscaping materials in the mitigation areas for a period of 24 months, and replace any vegetation that dies.

m. Invasive and noxious plant eradication by herbicide applications must be completed by a Certified Applicator with documentation of the work upon completion submitted to the Environmental Department.

n. The Petitioner shall be responsible for installation of department approved preservation signage.

o. The property owner(s) shall be given a copy of the Township’s fertilizer ordinance.

p. A preservation notice and an accompanying recordable size site plan showing the wetland, environmental features setback area, and 100-year floodplain shall be recorded for the property indicating that the preservation methods have been employed to protect the environmental features and cannot be disturbed without a permit.

q. The Petitioner shall place sufficient funds in an escrow account to cover the costs connected with the application, including consultant fees, issuance of a permit, and monitoring.

r. The initiation of any work on a permitted project confirms the permittee’s acceptance and agreement to comply with all terms and conditions of the permit.

(2) The following are additional conditions that apply to Floodplain Permits.

a. No fill shall be placed within a designated floodway.

b. The placement of fill shall not fragment or create separation of 100-year floodplain areas.

c. There will be no loss of floodplain storage (i.e. mitigation volume of material to be removed from the floodplain shall be at least as large as the volume of fill (1:1 mitigation ratio)).

d. The mitigation area is directly connected to the floodplain impacted.

(3) The following are additional conditions that apply to Seawall Permits.
a. At the time of the pre-construction meeting, the exact location of the ordinary high water mark (OHWM) shall be measured and documented using benchmarks in the field by the director or director’s designee prior to installation.

b. Existing vertical and horizontal contours of the shoreline shall be maintained.

c. Boulder seawalls will be installed on a 1:1 slope (45° angle), approved geotextile fabric must be installed behind the proposed seawall, and approved stone backfill must be used to provide adequate drainage.

d. Four (4) to eight (8) inch diameter natural cobblestone must be placed (minimum width of twelve (12) inches) at the toe of the entire length of the seawall.

e. Any existing direct discharge to a wetland or watercourse must be eliminated and discharged in a location approved by the director or director’s designee.

Sec. 12-39. Wetland mitigation areas larger than 0.5 acres.

The following design standards, permit terms and conditions shall apply to all wetland mitigation areas that are greater than 0.5 acres in size.

(1) Wetland Mitigation Plans. In addition to information required in Sections 12-32(1)-(4) and 12-37(3), plans for wetland mitigation of more than 0.5 acres must include all of the following:

a. A map showing the location of the wetland mitigation site in relation to surrounding roads and other landmarks.

b. Baseline conditions: Characterization of the existing conditions at the proposed wetland mitigation site including:

(i) A description of the topography, soils, hydrology, and vegetation. Soil boring information and groundwater monitoring data should supplement this description.

(ii) A plan view that includes topographic information (1 or 2 foot contour intervals), roads, trails, structures, property lines, directional arrows, scale, and the exact size and boundaries of existing wetlands, streams, and floodplain to the 100-year elevation.

(iii) Typical cross-sections.

(iv) An explanation of why the site was selected.

c. Monitoring Plan: A monitoring plan is required as outlined in Section 12-39(4). The locations of vegetative sampling transects, photo points, monitoring wells, and staff gauges for monitoring should be shown on a plan view.
(2) Wetland Mitigation Standards. In addition to the environmental design criteria and standards in Section 12-37, wetland mitigation areas greater than 0.5 acres must meet all of the following:

a. Construction has been completed in accordance with plans and specifications.

b. The mitigation wetland is designed to have certain hydrological characteristics, such as water elevation, water depth, water level fluctuations, and frequency and duration of inundation, consistent with the ecological wetland types proposed as set forth below. Wetland design hydrology will be considered to be established when the director determines the following conditions are met for at least 1 calendar year, based on monitoring of the mitigation site:

(i) Forested and scrub-shrub wetlands will be consecutively saturated within 12 inches of the soil surface for at least 15 percent of the growing season and the water depth will not be more than 2 inches above the surface for more than 30 percent of the growing season.

(ii) Emergent wetlands will be consecutively saturated within 12 inches of the soil surface for at least 15 percent of the growing season and water depth will not exceed 18 inches over more than 15 percent of the emergent wetland.

(iii) Water levels in wet prairie wetland types will be consecutively saturated within 12 inches of the soil surface for at least 15 percent of the growing season, will have a minimum annual depth of saturation 12 inches below the soil surface for at least 15 percent of the growing season, with maximum inundation to occur permanently at a depth of 3 inches.

(iv) The growing season is defined as April 21 through October 24.

c. A layer of high-quality soil, from the A horizon of an organic or loamy surface texture soil, exists over the entire mitigation wetland area at a minimum thickness of 6 inches.

d. The mitigation wetland is free of oil, grease, man-made debris, and all other contaminants.

e. A minimum of 6 habitat structures, consisting of at least 3 types, will be placed per acre of mitigation wetland. At least 50 percent of each structure will extend above the normal water level. The types of acceptable wildlife habitat structures are provided below.

(i) Tree stumps laid horizontally within the wetland area. Acceptable stumps will be a minimum of 6 feet long (log and root ball combined) and 12 inches in diameter.
(ii) Logs laid horizontally within the wetland area. Acceptable logs will be a minimum of 10 feet long and 6 inches in diameter.

(iii) Whole trees laid horizontally within the wetland area. Acceptable whole trees will have all of their fine structure left intact (i.e., not trimmed down to major branches for installation) and be a minimum of 20 feet long (tree and root ball) and a minimum of 12 inches in diameter at breast height (DBH).

(iv) Snags which include whole trees left standing that are dead or dying, or live trees that will be flooded and die, or whole trees installed upright into the wetland. A variety of tree species should be used for the creation of snag habitat. Acceptable snags will be a minimum of 20 feet tall (above the ground surface) and a minimum of 12 inches DBH. Snags should be grouped together so as to provide mutual functional support as nesting, feeding, and perching sites.

(v) Sand mounds at least 18 inches in depth and placed so that they are surrounded by a minimum of 30 feet of water measuring at least 18 inches in depth. The sand mound will have at least a 200 square foot area that is 18 inches above the projected high water level and oriented to receive maximum amounts of sunlight.

f. Mean percent cover of native wetland species, as specified in the wetland/environmental mitigation manual, in the herbaceous layer across the wetland area to achieve 50 percent design cover is not less than:

(i) 80 percent for forested wetland,

(ii) 80 percent for scrub-shrub wetland,

(iii) 80 percent for wet meadow/ prairie wetland, and

(iv) 60 percent for emergent wetland.

g. Extensive open water and submersed vegetation areas with little or no emergent or floating vegetation will not exceed 15 percent of the mitigation wetland area.

h. Extensive areas of bare soil will not exceed 5 percent of the mitigation wetland area. For the purposes of these performance standards, extensive refers to areas greater than 0.01 acre in size.

i. No mitigation credit will be given for areas deeper than 2.5 feet.

j. The total percent cover of wetland species in each plot will be averaged for samples taken in the same wetland type to obtain a mean percent cover value for each wetland type. Plots within identified extensive open water and submersed areas, bare soil areas, and areas without a predominance of wetland vegetation
will not be included in this average. Wetland species refers to species listed as Facultative and wetter in the wetland/environmental mitigation manual.

k. The wetland supports a predominance of wetland vegetation (as defined in the wetland/environmental mitigation manual) in each vegetative layer and is represented by a minimum number of native perennial wetland species. The minimum number of native wetland species per wetland type will not be less than:

(i) 20 species within the forested wetland.

(ii) 20 species within the shrub-shrub wetland.

(iii) 30 species within the emergent wetland.

l. The total number of native wetland plant species (as listed in the wetland/environmental mitigation manual), will be determined by a sum of all species identified in sample plots of the same wetland type.

m. The wetland supports a minimum of:

(i) 300 individual surviving, established, and free-to-grow trees per acre in the forested wetland that are classified as native wetland species and consisting of at least 3 different plant species.

(ii) 300 individual surviving, established, and free-to-grow shrubs per acre in the shrub-shrub wetland, that are classified as native wetland species and consisting of at least 4 different plant species.

(iii) For the purposes of this performance standard, *Fraxinus pennsylvanica* (Green Ash) and *Populus* spp. (Aspen) are not acceptable species.

n. The mean percent cover of invasive species including, but not limited to, *Phragmites australis* (Common Reed), *Lyturum salicaria* (Purple Loosestrife), and *Phalaris arundinacea* (Reed Canary Grass) and others listed in the wetland/environmental mitigation manual, will in combination be limited to no more than 10 percent within each wetland type. Invasive species will not dominate the vegetation in any extensive area of the mitigation area.

o. If the mean percent cover of invasive species is more than 10 percent within any wetland type or if there are extensive areas of the mitigation wetland in which an invasive species is one of the dominant plant species, the owner will submit an evaluation of the problem to the director. If the owner determines that it is not feasible to reduce the cover of invasive species to meet the above performance standard, the director may approve an alternative invasive species standard. The owner must submit an evaluation of the problem, a control plan, and the percent cover that can be achieved to the director for review. Any alternative invasive species standard must be approved in writing by the director.
p. Any plantings or replantings must be completed at least 1 calendar year before final approval of a fully functional mitigation site.

(3) Wetland Mitigation Construction Conditions. In addition to the environmental design criteria and standards in Section 12-37, the owner must comply with all of the following mitigation construction conditions:

a. The owner must notify the director in writing 5 days before construction of the wetland mitigation area is commenced, and undertake construction in conformity with the terms and conditions specified in the permit, plans, specifications, and appendices that are part of the approved plans.

b. If during construction of the wetland mitigation area a previously unknown or unreported material and/or regulated condition, such as an archaeological or historic site, threatened or endangered species, waste, or contamination, is encountered, the owner will discontinue work, notify the director, and initiate contact with appropriate local, state, and federal agencies to determine what response the condition requires.

c. Construction methods, including water control structures, berms, and tile breaking, must be in accordance with the wetland/environmental mitigation manual.

d. The owner shall notify the director in writing within 5 days after completing construction of the mitigation wetland so it may be inspected for conformity to the permit and approved plans.

e. Modification or adjustment of any water control structures, or manipulation of hydrology, may be made only with the written approval of the director.

(4) Mitigation Monitoring Conditions. After the director or director’s designee determines that construction is complete, the owner or his authorized agent will commence monitoring as provided in this subsection for a minimum of two years. Monitoring will be required until the wetlands and environmental features setback areas are approved by the director as fully functional, meaning that they are in compliance and consistent with all of the standards in subsection (2). Once deemed fully functional no additional monitoring reports will be required and any performance guarantee that was required will be released.

a. Measure inundation and saturation at all staff gauges, monitoring wells, and other stationary points to assess the periods and degree of inundation and saturation, according to the monitoring plan. A minimum of two measurements are required during the growing season.

b. Sample vegetation in plots located along transects once between July 15 and August 31. The owner will determine the number of sample plots necessary within each wetland type and environmental features setback area by use of a
species-area curve or other approach approved by the director. If the wetland area is less than 1 acre, then the minimum number of sample plots for each wetland type shall be no fewer than 5. Sample plots shall be located on the sample transect at evenly spaced intervals or by another approach approved by the director. If additional or alternative sample transects are needed to sufficiently evaluate each wetland type, they must be approved in advance in writing by the director.

c. The herbaceous layer (all non-woody plants and woody plants less than 3.2 feet in height) shall be measured with a 3.28 foot by 3.28 foot (one square meter) sample plot. The shrub and tree layer shall be measured with a 30 foot radius plot. The data recorded for each herbaceous layer sample plot shall include a list of all living plant species, and an estimate of percent cover in 5 percent intervals for each species recorded, bare ground, and open water relative to the total area of the plot. (The total percent cover for the plot should exceed 100 percent.) The number and species of surviving, established, and free-to-grow trees and surviving, established, and free-to-grow shrubs shall be recorded for each 30 foot radius plot.

d. Provide plot data and a list of all the plant species identified in the plots and otherwise observed during monitoring. Data for each species must include common name, scientific name and wetland indicator category from the wetland/environmental mitigation manual.

e. The location of sample transects and plots should be identified in the monitoring report on a plan view showing the location of wetland types and the environmental features setback areas. Sample transects shall be staked at a frequency sufficient to locate the transect in the field.

f. Delineate any extensive (greater than 0.01 acre in size) open water areas, bare soil areas, areas dominated by invasive species, and areas without a predominance of wetland vegetation and provide their location on a plan view.

g. Delineate any areas of the environmental features setback areas that are being mowed or are dominated by invasive species.

h. Document any sightings or evidence of wading birds, songbirds, waterfowl, amphibians, reptiles, and other animal use (lodges, nests, tracks, scat, etc.) within the wetland noted during monitoring. Note the number, type, date, and hour of the sightings and evidence.

i. Inspect the site during all monitoring visits and inspections for oil, grease, man-made debris, and all other contaminants and report findings. Rate (e.g., poor, fair, good, excellent) and describe the water clarity in the mitigation wetland.

j. Provide annual photographic documentation of the development of the mitigation wetland and environmental features setback areas during vegetation sampling.
from permanent photo stations located within the mitigation wetland. At a minimum, photo stations shall be located on both ends of each transect. Photos must be labeled with the location, date photographed, and direction.

k. Provide one-time photographic documentation of at least 6 inches of high quality soil, from the A horizon of an organic or loamy surface texture soil, across the site during construction.

l. Provide one-time photographic documentation of the preservation signage and/or demarcation of the environmental features setback areas.

m. Provide the number and type of habitat structures placed and representative photographs of each structure type.

n. Provide a written summary of data from previous monitoring periods and a discussion of changes or trends based on all monitoring including a calculation of the acres of each wetland type established.

o. Provide a written summary of all the problems that have been identified and potential corrective measures to address them.

p. Two (2) copies of a monitoring report which compiles and summarizes all data collected during the monitoring period shall be submitted annually by the owner. Monitoring reports shall cover the period of January 1 through December 31 and be submitted to the director prior to January 31 of the following year.

Section 2 of Ordinance

Chapter 12 of the West Bloomfield Charter Township Code is amended to delete the definition of “Fast track permit” in Section 12-5 and to delete Sections 12-75 and 12-94, each titled, Fast track permits.

Section 3 of Ordinance

Except as amended, all of the regulations of the West Bloomfield Charter Township Code shall remain in effect and all proceedings pending and rights and liabilities existing, acquired or incurred at the time this ordinance takes effect are saved and may be consummated according to the law in force when they are commenced. Should any section, subdivision, sentence, clause or phrase of this ordinance be declared by the Courts to be invalid, the same shall not affect the validity of the ordinance as a whole or any other parts not invalidated.

Section 4 of Ordinance

This ordinance shall be published on or before July 3, 2007, and take effect on that date.
CERTIFICATION

I certify that this Ordinance was duly adopted by the Charter Township of West Bloomfield Board of Trustees at a meeting duly called and held on June 18, 2007.

CHARTER TOWNSHIP OF WEST BLOOMFIELD

By: ____________________________
Sharon A. Law, Clerk

INTRODUCED: June 4, 2007
ADOPTED: June 18, 2007
EFFECTIVE: July 3, 2007
PUBLISHED: June 24, 2007