

STATE OF MICHIGAN  
COUNTY OF OAKLAND  
CHARTER TOWNSHIP OF WEST BLOOMFIELD

ORDINANCE NO. C-426-C

**ENVIRONMENTAL FEATURES SETBACK ADMINISTRATIVE PERMIT  
ZONING ORDINANCE AMENDMENT**

An Ordinance to provide for administrative and eliminate fast track review and approval of certain environmental features setback use permits under the Township Zoning Ordinance codified in Section 26-48, Chapter 26 of the West Bloomfield Charter Township Code.

**THE CHARTER TOWNSHIP OF WEST BLOOMFIELD ORDAINS:**

**Section 1 of Ordinance**

Section 26-48 of Chapter 26 of the West Bloomfield Charter Township Code is amended to add subsections (c)(4)j, (c)(5) and (g)(9) and amend subsections (d)(2) and (g)(2) to read as follows.

**Sec. 26-48. Environmental features setback.**

- (a) *Intent and purpose.* [Unchanged.]
- (b) *Regulation.* [Unchanged.]
- (c) *Authorization, prohibition and method of review:*
  - (1) – (3) [Unchanged.]
  - (4) Lead paragraph [Unchanged.]
    - a. – i. [Unchanged.]
    - j. Mitigation and the other applicable environmental design criteria and standards in subsection (c)(5).

(5) *Mitigation and Environmental Design Criteria and Standards* As used in this section, mitigation means actions designed to compensate for or offset impacts from operations to or in the area for which a use permit is requested. Compliance with the applicable design criteria and standards in this section, as determined by the environmental department director, shall be required for a minor project to be considered for approval by an administrative permit under subsection (d)(2) 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 the environmental features setback and the natural resources and natural processes within the

watercourse and wetland areas in the township. References in this section to the *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 section.

- a. The mitigation area which shall be at least as large as the area of disturbance (1:1 mitigation ratio), shall not exceed 0.5 acres in size and shall 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.
- b. Plans for mitigation are required and shall include all of the following:
  - (i) A description of the topography, soils, hydrology, and vegetation.
  - (ii) The acreage to be restored, created, or preserved by ecological type
  - (iii) Cut and fill volumes.
  - (iv) A description of the ecological types, hydrology, soils, and vegetation of the wetlands to be impacted.
  - (v) A description of the adjacent protected resource (wetland and/or watercourse).
  - (vi) 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.
  - (vii) 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.
  - (viii) Cross-sections showing the existing and proposed grades.
  - (ix) 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.
  - (x) 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.

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

- c. Only native/indigenous trees, shrubs, grasses, sedges, forbs, vines and other herbaceous plants approved by the environmental department director pursuant to the wetland/environmental mitigation manual, may be planted in floodplains, floodways, wetlands, watercourses, woodland or tree preservation areas and environmental features setback areas.
- d. The location of structures (permanent or temporary) is not allowed within recorded and/or township established preservation areas or easements.
- e. No direct discharge of storm water, sump water or wastewater is permitted to wetlands, watercourses, woodlands/woodland preservation areas and environmental features setback areas.
- f. Seawalls must meet the following design standards:
  - (i) Any type must be installed at or above the ordinary high water mark of a watercourse.
  - (ii) Existing vertical and horizontal contours of the shoreline shall be maintained.
  - (iii) Vertical seawalls (steel or vinyl) are not permitted where vertical walls do not currently exist.
  - (iv) 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.
  - (v) 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.
- g. Impervious surfaces can not exceed 25 % of an environmental features setback area and must be constructed such that runoff is directed away from watercourses and wetlands or to a native plant area to provide the maximum infiltration of storm water and runoff as possible.

- h. 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.
- i. Beach sanding must meet the following design standards:
  - (i) The purpose of the fill is for the creation, improvement, or restoration of swimming areas & beaches.
  - (ii) The fill is placed above the ordinary high water mark.
  - (iii) The fill is 10 cubic yards or less and is completed as one complete project.
  - (iv) The material is from a source approved by the environmental department director and is clean, nonpolluting, free from debris, organic materials, & waste metal products.
  - (v) The total area filled shall not exceed 25% of the environmental features setback.
- j. Driveways must meet the following design standards:
  - (i) 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.
  - (ii) The location of the driveway is at the least damaging place on the property and creates the minimum wetland impact.
  - (iii) No ditches may be placed in the wetland in association with the driveway.
  - (iv) The driveway must terminate at a buildable upland site.
- (d) *Exemption and administrative permits.*
  - (1) *Exemption.* [Unchanged.]
  - (2) *Administrative permits.*

a. A use permit may be approved administratively as provided in this subsection for the installation of native plants listed in the wetland/environmental mitigation manual, on any property or for proposed operations 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 environmental department director upon reviewing a use permit application:

- (i) Operations by or on behalf of a public agency or utility for purposes other than maintenance or repair of existing structures.
- (ii) Operations that require site plan approval under the Zoning Ordinance.
- (iii) New home construction.
- (iv) More than 25 % impact on the existing environmental features setback area.
- (v) A net loss of the function or value of a resource protected by this Chapter.
- (vi) Operations that have already been commenced, meaning that after-the-fact permits may not be approved administratively.
- (vii) 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.
- (viii) Operations allowed but not commenced and/or completed under a prior use permit approval that has expired in the last six (6) months.

b. *Administrative permit applications.* An applicant may request an administrative permit by including the following in or with the application:

- (i) Agreement to all of the permit terms and conditions in subsection (g)(9).
- (ii) All plans, documents, agreements and information necessary to establish compliance with all of the mitigation and environmental design criteria and standards in subsection (c)(5).
- (iii) Agreement to the standards and procedures in subsection (d)(2)c., including the environmental department 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 any applicable time period for decisions.
- (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 section.
- (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.

c. *Administrative permit review.* The environmental department 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 environmental department director determines that an administrative permit should be issued, he shall proceed as provided in subsection (d)(2)d. If upon receiving and confirming an application to be complete, the environmental department 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 (c)(2).

d. *Administrative permit notice.* Upon determining that an administrative permit should be issued, the environmental department 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 (f), 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 environmental department 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 environmental department 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 environmental department director has not properly interpreted and/or applied this section 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.

e. *Administrative permit decision.* If no objections or challenges described in subsection (d)(2)d.(iii) are filed within the time allowed, the environmental department director shall approve the administrative permit for issuance subject to the appeal period under subsection (f). If objections or challenges described in subsection (d)(2)d.(iii) are filed within the time allowed, the environmental department director shall provide copies to the applicant and may:

(i) Approve the administrative permit for issuance subject to the appeal period under subsection (f), 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 (c)(2).

f. *Administrative permit requirements.* An administrative permit shall include a deadline for performance of the operations and mitigation established by the environmental department 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.

g. *Administrative permit appeals.* 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 (f) by a property owner or occupant or subdivision or lake association that would be entitled to receive notice under that subsection.

(g) *Conditions of issuance.*

(1) [Unchanged.]

(2) 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 subsection (g)(9) shall apply and be considered a part of every use permit approved and issued under this section. In addition, a use permit approval by the township may:

a. – c. [Unchanged.]

(3) – (8) [Unchanged.]

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

a. A pre-construction meeting between the Petitioner and the environmental department director or environmental department 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 environmental department director or environmental department director's designee and then field staked by the Petitioner or any contractor prior to installation, which for seawalls shall include the exact location of the ordinary

high water mark (OHWM) which shall be measured and documented using benchmarks in the field by the director or director's designee.

c. Soil protection measures shall be installed prior to any construction and be inspected by the environmental department director or environmental department 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 environmental department director or environmental department 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 and the existing vertical and horizontal contours of the shoreline shall be maintained in connection with all seawalls.

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 environmental department director or environmental department director's designee shall be conducted with inspection reports recorded in the case file.

k. A final inspection by the environmental department director or environmental department 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.

### **Section 2 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 3 of Ordinance**

The effective date of this Ordinance shall depend on whether it is requested to be submitted to the Township electors for approval. A notice of intent to file a petition for submission of such a request by a registered elector residing in the Township must be filed with the Township Clerk within seven (7) days after publication of this ordinance. If such a notice is not timely filed, this ordinance shall take effect on July 3, 2007, or the first day after that date that is at least seven (7) days after publication. If a notice of intent is timely filed, a petition requesting the submission of this ordinance to the Township electors must be filed within 30 days after publication. If such a petition is not timely filed, this ordinance shall take effect upon the expiration of 30 days after publication. If a petition is timely filed, this ordinance shall take effect upon a determination by the Township Clerk that the petition is inadequate or if adequate, that it has been approved at an election by a majority of the registered electors residing in the Township. A petition requesting submission of this ordinance to a vote of the electors must be signed by a number of registered Township electors equal to not less than 15% of the total vote cast in the Township for all candidates for governor at the last preceding general election at which a governor was elected.

**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.

By:   
Sharon A. Law, Clerk

INTRODUCED: June 4, 2007  
ADOPTED: June 18, 2007  
PUBLISHED: June 24, 2007  
EFFECTIVE: July 3, 2007 (Earliest effective date)

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