

## WETLAND CONSERVATION ORDINANCE

### 17.5.19 Wetland Conservation Ordinance.

**Subd. 1 Purpose.** This Section is adopted to implement the *Wetland Conservation Act of 1991 (Minnesota Laws 1991 Chapter 354, as amended)*, and the accompanying rules of the *Minnesota Board of Water and Soil Resources (Minnesota Rules Chapter 8420, as amended)*.

**Subd. 2 Incorporation by Reference.** This Section incorporates by reference the Act and the Rules. Terms used in this Section which are defined in the Act of the Rules have the meanings given there.

**Subd. 3 Scope.** This Section regulates the drainage and filling of wetlands and parts of wetlands within the corporate limits of the City of Cloquet. It is part of the official controls of the City of Cloquet. Conflicts with other official controls must be resolved in favor of providing the most wetland protection.

#### **Subd. 4 Procedures.**

- A. Exemption and No-Loss Determinations. Exemptions and no-loss determinations under *Minnesota Rule parts 8420.0210 and 8420.0220* shall be made by the Zoning Administrator. The Zoning Administrator should seek the advice of the Technical Evaluation Panel on questions of wetland delineation and type. The Zoning Administrator's decision is final unless appealed to the Planning Commission, acting as the Zoning Board of Adjustments and Appeals within thirty (30) days.
- B. Sequencing and Replacement Plan Decisions. Sequencing and replacement plan decisions under *Minnesota Rule part 8420.0520-.0550* shall be made following the same procedures as for Conditional Use Permits *Section 17.2.10* plus the additional notice and time requirements of part *8420.0230*. If the amount of wetland to be drained or filled is less than one-tenth (1/10) of an acre, the sequencing determination under *Minnesota Rule part 8420.0520* shall be made by the Zoning Administrator. If the amount of wetland to be drained or filled is less than one-tenth (1/10) of an acre, or less than one-quarter (1/4) of an acre and will result from a private road fill or the construction or expansion of a single-family dwelling unit or farm building, an annual notice shall be published in the EOB Monitor as per *Minnesota Rule part 8420.0230*.
- C. Monitoring. The Zoning Administrator shall assure that the replacement plan monitoring and enforcement requirements of *Minnesota Rule part 8420.0600-.0630* are fulfilled.
- D. Wetland Banking. Wetlands may be restored or created within the City of Cloquet for purposes of deposit in the wetland bank in accordance with *Minnesota Rules parts 8420.0700-.0760*. The Zoning Administrator is responsible for approving bank plans, certifying deposits, and monitoring of banked wetlands and enforcement under the rules.
- E. Appeals. Decisions made under this Section may be appealed to the Board of Water and Soil Resources under *Minnesota Rule part 8420.0250*, after administrative appeal rights under the official controls, as stipulated in the Zoning Ordinance, have been exhausted.

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- F. Variances. The Planning Commission, acting as the Zoning Board of Adjustments and Appeals may issue variances from the Zoning Ordinance of the City of Cloquet so long as the variances do not vary requirements of the Act or the Rules.
- G. Technical Evaluation Panel. The City Council of the City of Cloquet shall appoint a person to serve on the Technical Evaluation Panel. The person must be a technical professional with expertise in water resources management.

Decisions under this Section must not be made until after receiving the determination of the Technical Evaluation Panel regarding wetland public values, location, size and / or type if the decision-maker, the landowner, or a member of the Technical Panel asks for such determinations. This replacement does not apply to wetlands for which such data is included in an approved comprehensive wetland management plan per *Minnesota Rule part 8420.0240*.

The Planning Commission may seek and shall consider recommendations, if any, made by the Technical Evaluation Panel in making replacement plan decisions.

- H. Wetland Delineation. When it is deemed a wetland boundary delineation is necessary, the property owner / developer will be responsible for such delineation.

**Subd. 5 High Priority Areas.** Decisions regarding sequencing, replacement plans, and banking shall particularly favor preservation, restoration, and creation of wetlands in high priority areas as identified in water management plans pursuant to *Minnesota Rule part 8420.0650*.

**Subd. 6 Delegation.** The City Council of the City of Cloquet may, by joint powers agreement, delegate to the Soil and Water Conservation District under *M.S. sections 471.59 and 103C.331, Subdivision 19*, the authority to administer all or any parts of this Section.

### **Subd. 7 Violations, Penalties and Enforcement.**

- A. Violations and Penalties. Any person, firm or corporation who shall violate any of the provisions of this Section, or who shall fail to comply with any of the provisions hereof, or who shall make any false statement in any document required to be submitted under the provisions hereof, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine and / or imprisonment in accordance with applicable state law. Each day that a violation continues shall constitute a separate offence.

- B. Administration and Enforcement.

- (1) This Section shall be administered and enforced by the Zoning Administrator, who is hereby designated the enforcing officer.
- (2) In the event of a violation or a threatened violation of the Section, the Zoning Administrator, in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain, correct or abate such violations or threatened violations, and it shall be the duty of the City Attorney to institute such action.

**Subd. 8 Fees.** The following fee schedule shall be used for Wetland Mitigation Permit applications, and Certificates of Exemption, Compliance or No Loss. The fees shall be paid

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in accordance with established policies of the City Administrator's office, and shall be non-refundable.

Wetland Mitigation Permit - \$200.00 plus \$5.00 per acre, or portion thereof, of  
wetland

Certificate of Exemption - \$50.00

Certificate of Compliance - \$50.00

Certificate of No Loss - \$50.00

Permits and / or Certificates issued in accordance with this Section shall be valid for one (1) year from the date of issuance. Activities authorized as a result of such Permit and / or Certificate must be started within this one (1) year period, and thereafter diligently pursued to completion, or the Permit / Certificate will become null and void.