

Notes regarding the MDEQ's model wetlands ordinance:

Requirements for local wetland ordinances:

1. Must use state definition of wetland, except that it can regulate isolated wetlands smaller than 5 ac
2. Must regulate the same activities and must exempt what the state exempts
3. Must use application form provided by the state
4. Must process in similar manner as other permits and coordinate permit applications (for state jurisdictional wetlands) with state
5. Must produce wetland inventory map

Though the model ordinance (as presented by DEQ) must mirror state language, and the community's ordinance must abide by the 5 provisions mentioned above, there is some room for additional provisions and clarifications, as adopted by communities.

Expanding regulated activities:

Many communities and wetland experts feel communities need the opportunity to decide if removal of vegetation from a wetland should be prohibited without first obtaining a permit. Vegetation removal can have great impact on wetlands. A community could further clarify the model ordinance in one of two ways. A community could add vegetation removal to its list of regulated (i.e. prohibited without a permit) activities. Below is an example from one community:

Section 5. ACTIVITIES IN WETLAND

5.1.1 – 5.1.4. Activities as listed in the model ordinance.

5.1.5. Mowing, cutting, removing, or causing to be removed or damaged, native vegetation or trees from the wetland, except for the mowing of a walkable path not to exceed ten (10) feet wide, unless as an ecological restoration project approved by the Ordinance Enforcement Officer.

Or, if the community does not wish to alter the list of prohibited activities in the model ordinance, it could clarify the model ordinance by providing a definition for the term "use," as it appears in the following prohibited activity in the model:

Section 5. ACTIVITIES IN WETLAND

Section 5.1 - Activities Prohibited Without First Obtaining A Wetlands Use Permit

C. Construct, operate or maintain any **use** or development in a wetland.

To clarify prohibited activities, the community could include in its DEFINITIONS section this definition of "use" (or other definitions desired by the community):

SECTION 2 - DEFINITIONS

Section 2.1 - Definition of Terms

USE as the term appears in Section 5.C of this ordinance means any of the following:

- A. Removal of vegetation or other organic material from a wetland
- B. Create, enlarge, diminish or alter a wetland.
- C. Erect or build any structure including but not limited to buildings, roadways, bridges, tennis courts, paving, utilities, or private poles or towers in or upon wetlands.
- D. Construct, extend or enlarge any pipe, culvert, or open or closed drainage facility which discharges stormwater, silt, sediment, organic or inorganic materials, chemicals, fertilizers, flammable liquids or any other pollutants to wetlands.
- E. Construct, enlarge, extend or connect any private or public sewage or waste treatment plant discharge to any wetlands except in accordance with the requirements of [county] County, State of Michigan and/or the United States, to the extent that such entities have jurisdiction.
- F. Drain, or cause to be drained, any water from wetlands.
- G. Fill or enclose any ditch which would result in a significant reduction of storm water absorption and filtration into the ground or would otherwise have an adverse impact on receiving wetlands.

Note: A – G are activities that are included as prohibited (without first obtaining a permit) in several existing ordinances (including Ann Arbor and Superior townships) that were written before the publishing of the model ordinance.

Expanding exempted activities:

Some communities have chosen to exempt activities in wetlands that are not necessarily listed as exempt in the model. Here are some examples:

- C. Education, scientific research, and nature study.
- D. Installation for noncommercial use of temporary seasonal docks, rafts, diving platforms and other recreational devices customarily used for residential purposes.
- F. Excavation and filling of no more than fifty (50) cubic yards of material if necessary for the repair and maintenance of bridges, walkways, and other existing structures, provided that such structures allow for the unobstructed flow of water and preserve the natural contour of the protected wetland, except as authorized by permit or in connection with Section G (below).
- G. Improvement or maintenance of the _____ River or _____ River [insert River(s) within your community] or its tributaries when such operations are organized or sponsored or approved by the [community] and are specifically intended to preserve natural resources. Such permitted activities shall include, but not be limited to: (1) removal of materials which may cause diverted flows

and bank erosion, including the removal of trees, brush, and debris; (2) bank stabilization projects which require minimal disturbance of existing conditions; and (3) wildlife and aquatic habitat improvement projects; and (4) removal of pernicious, invasive plant species (e.g. purple loosestrife).

S. Ecological restoration efforts when such operations are reviewed by the wetland consultant and organized or sponsored or approved by [community]. Such permitted activities shall include, but not be limited to: (1) removal of materials which may cause diverted flows and bank erosion to waterways; (2) waterway bank stabilization projects which require minimal disturbance of existing conditions; (3) wildlife and aquatic habitat improvement projects; and (4) removal of invasive species (e.g. purple loosestrife).