

# MODEL "RIPARIAN" PROTECTION ORDINANCE

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**(Much of the ordinance which follows has been taken from other local riparian, floodplain and wetland ordinances posted on the internet or contained in books, papers, and reports. It has been prepared for discussion purposes and will need to be modified to meet community needs.)**

## **INTRODUCTION**

A growing number of communities have adopted “riparian” ordinances. Such ordinances, like wetland and floodplain ordinances, may be (1) “stand-alone” ordinances, or (2) broader ordinances with riparian provisions contained within them such as broader river protection and management, shoreland zoning, floodplain zoning, watershed management, or comprehensive planning and zoning regulations. The model ordinance which follows has been prepared as a “stand alone” ordinance. However critical provisions could be extracted for inclusion in broader ordinances.

Critical portions which could be extracted include:

- Definition of riparian,
- Identification of the regulated riparian area,
- Regulated activities,
- Standards for issuance of permits, conditions (e.g., no net loss),and
- Penalties for violation of the ordinance

## **THE REGULATED RIPARIAN AREA**

The definition of the regulated riparian area is, like the definition of wetland in a wetland ordinance, a critical feature of the ordinance because it determines the geographical scope of the regulations.

A community has three principal options for defining the overall regulated riparian area. These include:

- The riparian area is defined to include lands and waters within a fixed, uniform distance from rivers, streams, or other watercourses. For example, a community may define the regulated riparian area to include all areas within 100 feet of the ordinary high water mark of rivers, streams or other watercourses. Definition of the riparian area to include a single, fixed, uniform distance has the advantages of simplicity and uniformity. It has the disadvantage in under-regulating some areas and over-regulating others because rivers, streams and associated riparian areas vary in characteristics including the width of the floodplain, vegetation, and sensitivity to various activities.
- The riparian area is defined to include all lands and waters within a number of different fixed distances of various categories of rivers and streams, depending upon the size of the stream, sensitivity to development and other factors. For example, a community can define the regulated riparian area to include areas within 300 feet or large rivers and streams, 200 feet for middle-sized rivers and streams, and 100 feet for small creeks and watercourses.

- The riparian areas is defined to include all lands within a mapped floodplain or riparian area. Using maps to designate regulated riparian areas permits more careful tailoring of the area to the size and other characteristics of a river or stream and adjacent floodplain and width of riparian vegetation. Riparian area maps may be based upon air photo interpretation of vegetation and/or flood and erosion maps. For example, a community may designate the regulated riparian area to include the 100-year floodplain as shown on FEMA or other flood maps. Alternatively, it may include a lesser area defined by soil maps or some combination of data sources.

Whatever approach is taken, tight regulations are usually appropriate for the area immediately adjacent to a river, stream, creek, arroyo or wash because this area is subject to particularly high velocity flows, deep flooding, and severe erosion. Control of fills and grading and removal of natural vegetation is particularly important to protect flood conveyance and storage and prevent erosion and stream meander. It is also important to protect the water temperature of streams and to protect wildlife.

The model ordinance which follows provides a variable riparian buffer for different sizes/types of rivers, streams, and watercourses and will need to be tailored to community needs and preferences.

## **MODEL RIPARIAN AREA PROTECTION ORDINANCE**

### **Section 1. Findings of Fact**

The legislative body of .....(*community name*) determines that:

- Many of the riparian areas of.....(*community name*) have already been lost to drainage, channelization, levees, fills, grazing, and other activities. Loss of riparian areas results in flooding and erosion and the destruction of riparian functions:
- Riparian area functions include but are not limited to:
  - Provide flood conveyance and storage which reduce downstream flood hazards by absorbing peak flows, slowing the velocity of flood waters, and regulating base flow;
  - Reduce the need for costly engineering solutions for flooding and erosion such as rip rap, retention basins, and dams;
  - Stabilize the banks of watercourses to reduce bank erosion and downstream transport of sediments eroded from banks;
  - Provide storm water detention;
  - Provide living, breeding, nesting and feeding environments for many forms of wildlife by maintaining diverse and connected riparian vegetation including waterfowl, shorebirds, salamanders, frogs, and deer;
  - Treat polluted surface/subsurface waters in times of high flows through biological degradation and chemical oxidation;

- Prevent additional nonpoint pollution of waters by providing pollution buffers;
  - Remove pollutants from urban stormwater;
  - Serve as nursery grounds and sanctuaries for fish during high flows;
  - Provide tree canopy to shade streams;
  - Provide high-quality watercourse habitats with shade and food for fish and other wildlife;
  - Provide recreation areas for hiking, bird watching, biking, photography and other recreation uses;
  - Maintain potable water supplies in rivers and streams;
  - Maintain the base flows of streams;
  - Furnish scenic values and recreational opportunities; and
  - Reduce community flood, erosion, and other natural hazard losses.
- Activities in riparian areas are not only characterized by a broad range of natural functions but are also subject to severe flood, erosion, and subsidence hazards. Buildings, roads, and other infrastructure located in such areas are often damaged by flooding and erosion, requiring emergency rescue and disaster assistance. Such structure and infrastructure also exacerbate hazards on other lands.
  - Further loss of riparian buffer areas is contrary to the public health, safety, and welfare,

## **Section 2. Purposes**

The overall goal of this ordinance is to protect riparian resources of .....(*community name*) in order to protect the public health, safety, and welfare. More specific goals include:

- Restore and maintain the chemical, physical and biological integrity of water resources;
- Achieve no net loss in the quantity, quality, and biological diversity of riparian areas and riparian area functions;
- Avoid direct or indirect impacts from activities that destroy or diminish the quantity, quality and biological diversity of riparian areas;
- Provide an ecologically sound transition between waters and upland areas;
- Replace riparian area functions and acreage where avoidance of activities is not possible and all practical measures have been taken to reduce impacts;
- Prevent increases in flood, erosion, and other natural hazard losses due to destruction of riparian flood conveyance, flood storage, and erosion control functions, acreages and values;
- Incorporate riparian area protection into the.....( *community name*) land use, planning and development approval procedures.

## **Section 3. Authority**

This ordinance has been adopted pursuant to and in accordance with .....(*statutory cite*).

## **Section 4. Definitions**

**“Board”** means... *(Note, the local government must choose the local government body it wishes to authorize to issue riparian permits. This may be the Planning Board, Board of Adjustment, Conservation Board or other board with the power to issue regulatory permits. See Section 7.*

**“Compensatory mitigation”** means the replacement of riparian area acreage, function, and value to compensate for losses.

**“Creation”** means a human activity bringing a riparian area into existence at a site in which it did not formerly exist.

**“Enhancement”** means manipulating the physical, chemical or biological characteristics of a riparian area to increase or improve specific functions or to change the growth stage or vegetation present.

**“Floodplains”** mean areas subject to periodic inundation when a river, stream, or other watercourse overflows its banks. They are typically relatively flat areas or lowlands adjoining the channel of a river, stream or watercourse or other body of water. They include but are not limited to those mapped by the Federal Emergency Management Agency and shown as flood hazard areas on the ...*(community name)* Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency for the administration of the National Flood Insurance Program numbered and dated.....

**“Floodways”** means the channel of any river, stream or other watercourse and the portions of the adjoining floodplain required to carry a discharge flood without raising flood waters and velocities more than a defined amount.

**“National Wetlands Inventory Maps (NWI)”** are a series of maps produced by the U.S. Fish and Wildlife Service showing the general location and classification of wetlands. Some wetlands, particularly smaller wetlands, are not shown on these maps. In addition, the criteria used for mapping wetlands in the NWI do not fully coincide with the definition of wetland provided below. The definition of wetland provided below and field surveys undertaken by the Board or provided by a permit applicant and reviewed and approved by the Board shall provide the basis for more specific and accurate designation of wetlands and wetland boundaries.

**“Ordinary High Water Mark”** means the point of the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other recognizable characteristic.

**“Regulated Activities”** means all activities in regulated riparian areas involving filling, excavation, dredging, clear-cutting, dumping, excavation, changing of drainage, grading, placing of objects in water, excavation, or any other alteration of a riparian area.

**“Restoration”** means manipulating the physical, chemical or biological characteristics of a site to achieve a former condition with improved riparian functions, values, or acreage.

**“Riparian Area”** means the area adjacent to rivers, streams, creeks, washes, arroyos, and other bodies of water or channels having banks and bed through which waters flow at least periodically. These areas are subject to periodic flooding and are generally characterized by plant species with an increase in the size and/or density of vegetation as compared to upland areas.

**“Riparian Area Delineation”** means the establishment of riparian area boundaries.

**“Watercourses”** mean rivers, streams, intermittent streams, ditches, brooks, channels, lakes, ponds, manmade ponds, estuarine waters, swamps, bogs, vernal pools, playas, and all other bodies of water, natural or artificial, intermittent or permanent, public or private which has defined banks and water at least a portion of each year. These areas are typically shown on United States Geologic Survey topographic maps of the community.

**“Wetlands”** are areas and waters that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated conditions. Wetlands generally include but are not limited to lands and waters meeting this definition and otherwise often referred to as swamps, marshes, bogs, wetland meadows, ephemeral and tributary streams, vernal pools, banks, reservoirs, ponds, lakes, and lands under water bodies. The primary ecological parameters for identifying wetlands include hydric soils, hydrophytic vegetation, and hydrologic conditions reflecting temporary or permanent inundation or saturation. *(Note, we are utilizing the Corps of Engineers wetland definition here. A community may wish to substitute its own definition.)*

### **Section 5: Riparian Review Board**

The.....(*name of local government governing body*) shall appoint a Riparian Review Board of not more than *eight but not less than four members for terms to be specified by the governing body*).

The Board may issue, deny, or conditionally approve riparian area permits consistent with the standards, goals, and criteria set forth in this ordinance.

The Board may also advise the .....(*community name*) with regard to riparian area policies and activities and may help the Board undertake the following activities:

- Mapping and delineation of riparian areas;
- Assessment of riparian area functions and values;
- Location of riparian area boundaries on the ground;
- Acquisition of riparian area and related wildlife or recreation areas; and
- Initiation of riparian area enforcement actions.

## **Section 6: Riparian Areas Regulated by This Ordinance**

Riparian areas subject to the this ordinance include the following areas measured horizontally from the top of the bank of a river, stream, creek, arroyo, wash or other body of water or channel having banks and bed through which waters flow at least periodically:

- 300 feet of following rivers and streams or to the landward side of the 100-year floodplain identified on FEMA flood maps for these rivers and streams if this distance is greater:  
*(Note, major regulated rivers and streams should be listed here.)*
- 200 feet of the following creeks and streams or to the landward side of the 100-year floodplain identified on FEMA flood maps for these creeks and streams if this distance is greater.  
*(Note, mid-sized, regulated rivers and streams should be listed here.)*
- 100 feet of any other river, stream, creek, wash, arroyo, or other body of water or channel having banks and bed through which waters flow at least periodically or to the landward side of the 100-year floodplain identified on FEMA flood maps if this distance is greater.

If there is dispute with regard to the boundaries of a riparian area, the Board shall carry out a field investigation to delineate the boundaries of the area. In this determination, the Board may take into account the available maps, the actual character of the land, distribution of soil types, degree of saturation or inundation and overall hydrology, plant species and other features.

## **Section 7: Coordination With Other Regulatory Agencies**

*(Note, this is an optional section. It is designed to help coordinate regulatory reviews and to permit the Board to require that a project applicant obtain other required permits prior before seeking a riparian area permit pursuant to this ordinance. Alternatively, a local government may wish to allow the permit applicant to simultaneously apply for a number of permits. Some communities have developed joint permit processing procedures with other regulatory agencies.*

The Board may require that a permit applicant obtain other federal, state, or local regulatory permits needed for a proposed activity before applying for a riparian permit from the Board. The following activities may require additional state, federal, or local permits:

*(Note this needs to be tailored to state laws and local laws. The additional permits required will depend upon the type of activity, the type of riparian area affected, and the local government and state.)*

- Construction of any dam, dike or levee regulated by..... *(name of regulatory agency, statutory cite.)*
- Construction, encroachment or placement of any obstruction within a stream channel, lake, or tidal water regulated by..... *(name of regulatory agency, statutory cite.)*
- Diversion of water including withdrawals in excess of .....gallons per day regulated by.....*(name of regulatory agency, statutory cite.)*

- Discharges of fills or pollutants into the waters of the state regulated by.....  
(*name of regulatory agency, statutory cite.*)
- The undertaking of any regulated activity in a floodplain or floodway regulated by.....(*name of regulatory agency, statutory cite.*)
- The construction of septic tank/soil absorption fields in any riparian area requiring a permit from.....(*name of regulatory agency, statutory site.*)
- Any filling or grading requiring a permit from.....(*name or regulatory agency, statutory site.*)
- Any land use, building construction, or subdivision permit required from.....(*name of the local regulatory agency, statutory site.*)
- The discharge of fill or dredged material into wetlands and watercourses regulated by the U.S. Army Corps of Engineers pursuant to Section 10 of the Rivers and Harbor Act or Sections 404 and 401 of the Federal Clean Water Act, as amended.

### **Section 8. Activities Allowed as of Right**

The following uses are allowed in riparian areas without a permit providing they do not involve fills or drainage:

- Conservation of soil, vegetation, water, fish, and wildlife;
- Wildlife sanctuaries, woodland preserves;
- Outdoor recreation including nature study, hiking, horseback riding, swimming, camping, trapping, hunting, fishing, shell fishing, cross-country skiing where otherwise legally permitted;
- Grazing, farming, nurseries, gardening and harvesting of crops, providing a minimum setback of 25 feet from all watercourses is maintained. This shall not be construed to include road construction, erection of buildings, or relocation of wetlands or watercourses, clear-cutting of timber, or the mining of top soil, peat, sand or gravel from riparian areas without a permit;
- The control of noxious weeds if the control does not involve drainage or fill;
- Open space uses incidental to the enjoyment and maintenance of adjacent residential, commercial and industrial property such as open space for subdivisions and building setback areas;
- Maintenance and repair of existing ditches, watercourses, farm ponds, utilities, roadways providing the activity does not involve the expansion of roadways or related improvements into previously unimpacted areas; and
- The enhancement or restoration of riparian areas less than one acre and not associated with any development proposal.

### **Section 9: Activities Requiring a Permit**

All activities in regulated riparian areas involving filling, excavation, dredging, clear-cutting, grading or excavation, construction, removal of peat, sand or gravel, alteration of the water level or water table, disturbance of surface drainage characteristics, sediment patterns, or flood retention characteristics or any other alteration or use of riparian areas not permitted by Section 8 of this ordinance shall require a permit from the (*name of regulatory Board*).

Any person proposing to carry out an activity which may disturb the natural and indigenous character of a regulated riparian area may, prior to the commencement of the activity, notify the Board on a form provided by it and provide the Board with sufficient information to enable it to determine whether the proposed activity is permitted as a right or an activity requiring a permit. Such a ruling by the Board shall be made in writing within 30 days of submission and a determination by the Board that the application is complete.

### **Section 10: Information to be Provided by a Permit Applicant**

The Board shall develop and make available riparian area permit application forms. Individuals or public or private corporations seeking a permit for a regulated activity within a riparian area shall fill out and submit this form to the Board.

- Name, address, telephone number, and e-mail address of owner and permit applicant (if different); and
- A sketch map and description of the riparian area on the project site or which may be impacted by the proposed activity;
- A description of the proposed activity including the type of proposed activity, its dimensions, distance from any road or water body;
- An explanation why this activity cannot be located at an upland location;
- A description of all measures proposed to reduce or compensate for project impacts;
- Photographs of the proposed project site showing the existing condition of the site;
- The lot size and size of any adjacent parcels owned by the project applicant;
- Any surface water bodies located on or within 100 feet of the project site;
- Zoning classification and restrictions;
- The 100-year flood elevation and floodplain and floodway boundaries at the project site if FEMA or other flood maps are available;

The Board may require a permit applicant to submit additional information if the Board deems such information is necessary to determine the compliance of a proposed activity with the standards and criteria set forth in the ordinance. The Board may require the permit applicant to submit a riparian management and/or a compensatory mitigation plan.

### **Section 11: Public Hearings**

Any person filing a permit application shall give written notice thereof, by certified mail (return receipt requested) or hand delivered, to all abutters of the riparian area at their mailing addresses shown on the most recent applicable tax list of the assessors. The notice to abutters shall include a copy of the permit application or shall state where copies may be examined and obtained by abutters.

No sooner than 30 days and not later than 60 days after receipt of a permit application and after notice the permit application has been published in one newspaper having general circulation in the area, the Board may hold a public hearing on the application unless the Board finds that the activity is so minor as not to affect riparian area functions, values, or acreage or have impact upon public properties or the public at large. All hearings shall be open to the public.

## **Section 12: Standards and Criteria for Issuance of Permits**

The Board shall consider all relevant facts in making its decision on any application for a permit including but not limited to the following:

- The goals and purposes of this ordinance;
- The functions and values of the riparian zone;
- The environmental impact of the proposed action;
- Alternatives to the proposed action;
- The relationship between short-term uses and long-term productivity;
- Threats to other properties from increases in flooding, erosion, or other hazards;
- The suitability of the activity to the area for which it is proposed, including threats from natural hazards; and
- Measures which would mitigate the impact of any aspect of the proposed regulated activity.

The Board shall not issue or conditionally issue a permit unless it finds that the proposed activity will not, taking into account individual and cumulative effects, threaten health or safety, result in fraud, cause nuisances, impair public rights in public waters, violate pollution control standards, or violate other regulations. In addition, the Board shall not issue a permit unless it finds that

- The proposed activity will not cause a net loss of riparian area functions, values, or acreage taking into account the cumulative adverse effects of past activities on the riparian buffer area and reasonably anticipated future activities;
- The permit applicant has, to the extent practical, avoided riparian areas;
- The permit applicant has, to the extent practical, reduced impacts to riparian areas;
- The proposed activity will be set back a minimum of 25 feet from the top of the bank of any river, stream, creek, wetland, or arroyo. The Board may require a larger setback based upon flooding, erosion, pollution, endangered species, riparian or wetland functions and values, or other relevant factors;
- The proposed activity will not increase flood, erosion, subsidence or other hazard on other lands, and the proposed activity will not, in itself, be subject to flood and erosion hazards;
- The proposed activity will not result in adverse modification of habitat for or jeopardize plant, animal, or other wildlife species listed as threatened or endangered by the U.S. Fish and Wildlife Service or the state of ..... (*specify*) Department of Fish and Wildlife or Heritage program; and
- The proposed activity will not violate other applicable federal, state, and local water quality, flood loss reduction, fill and grading, stream protection, water supply protection, comprehensive zoning, sanitary code, or other statutes, regulations and ordinances.

The Board shall make written findings on any permit applications stating the reason why the proposed permit is issued, conditionally issued or denied. The Board may consider all relevant information including but not limited to the following in making its decision:

- The application and supporting documentation;
- Public comments, evidence, and testimony;
- Reports or comments from other local, state, tribal, or federal agencies and commissions; and
- Comments on the application from regional planning agencies, soil and water conservation districts, or other regional organizations.

### **Section 13: Conditions Which May Be Attached to Permits**

The Board may approve, conditionally approve or disapprove permits. Such conditions may include but are not limited to:

- Design measures to reduce project impacts;
- Flood and erosion loss reduction measures to prevent hazard losses;
- Compensatory mitigation measures to offset losses to riparian area acreage, functions, and values;
- A requirement that structures be elevated on piles, flood-proofed or otherwise protected from hazards including flood heights, velocities, and erosion potential;
- Modification of waste disposal and water supply facilities to reflect flooding, high ground water, and erosion hazards;
- Inclusion in the deed for the property a warning that the property contains a riparian area and that any activities in the riparian areas are subject to the riparian, wetland, floodplain and other regulatory requirements;
- Set backs from the river, stream, or other water body of a size appropriate for the proposed activity and the particular riparian area;
- Deed restrictions, covenants, or execution of conservation easements regarding the future use of lands including but not limited to preservation of undeveloped areas and restrictions on vegetation removal;
- Erosion control and storm water management measures;
- The clustering of structures or development;
- Erection of riparian area markers and signs including survey stakes delineating the boundary between riparian areas and adjacent lands;
- Long-term monitoring and management requirements including control of exotic plant and animal species; and
- Other conditions necessary to protect riparian area functions, offset losses, and prevent increased natural hazard losses in the community.

### **Section 14: Riparian Management/Compensatory Mitigation Plans**

The Board may require that the permit applicant submit a riparian management/compensatory mitigation plan developed by qualified personnel to achieve no net loss of riparian area functions, values, and acreage if the Board believes such a plan is needed to meet the goals and standards of this ordinance including conditions attached to the issuance of a riparian permit.

The riparian management/riparian compensatory mitigation plan shall be consistent with the following requirements:

- A description of how long-term replacement of riparian functions, values, and acreage will take place that recreates as nearly as possible the original riparian area in terms of type, geographic location and setting;
- Plans for any selected clearing and maintenance;
- The restoration of vegetation indigenous to the site or plant community.
- Periodic monitoring of mitigation features;
- Maintenance and replacement of damaged plants; and
- A proposal for posting a performance bond or other financial assurances.

In general, compensatory mitigation shall be on-site and in-kind. However, the Board may allow use of offsite and out of kind mitigation including the use of mitigation banks if such use will have net ecological benefits, will not cause nuisances, will not violate other laws, and will not result in fragmentation of the riparian ecological system. Use of mitigation banks will be allowed to compensate for impacts only where onsite measures are in addition applied to insure that flooding, water pollution, erosion, and other problems do not occur at the original site.

Where feasible, mitigation projects shall be completed prior to activities that will disturb riparian areas. In other cases, mitigation shall be completed immediately following disturbance and prior to use or occupancy of the activity.

There shall be no introduction of any plant or wildlife into a mitigation project for any riparian area or riparian buffer that is not native to the area unless authorized by a state or federal permit.

In general, the following ratios for mitigation shall be provided for restoration, creation, and enhancement: 2:1 for restoration, 4:1 for creation, and 6:1 for enhancement. The Board may increase the ratios if uncertainties exist with regard to the success of the proposed mitigation, a significant period of time will elapse between impact and replication of riparian area functions, the mitigation will result in reduced riparian area functions, or the impact was an unauthorized impact. The Board may decrease ratios if the proposed mitigation has a high likelihood of success, the proposed mitigation will provide functions and values significantly greater than the riparian area being impacted, or the proposed mitigation is conducted in advance of the impact and has been shown to be successful.

In evaluating the adequacy of proposed compensatory mitigation, the Board shall evaluate its effectiveness in avoiding impacts, minimizing impacts, rectifying the impacts, reducing or eliminating the impacts over time, and compensating for the impacts. It shall consider:

- The risk of failure of the proposed mitigation project based upon the difficulty with which this type of riparian area is restored, created, or enhanced, the experience and expertise of the individual or individuals proposing to carry out the mitigation, the proposed buffer and other protection measures, and the proposed management, monitoring and maintenance;

- The societal importance (value) of riparian functions provided by the mitigation plan in contrast with the societal importance of the functions of the original riparian area;
- Whether the proposed mitigation will require long-term maintenance and, if so, the adequacy of any proposed maintenance;
- The need for long term monitoring and whether such monitoring will be provided; and
- Whether there will be offsite impacts of the proposed mitigation such as flooding of adjacent property and how these impacts will be addressed.

### **Section 15. Prior Nonconforming Uses**

Nonconforming uses, including but not limited to buildings, shall not be enlarged or expanded to further encroach onto the riparian area or watercourse. No nonconforming activity which has been discontinued for more than two years shall be resumed. No nonconforming structure which has been destroyed or damaged for more than 50% of its value by flooding, wind, fire, or other natural or man-made force may be rebuilt without issuance of a permit in conformity with the provisions of this ordinance.

### **Section 16. Inspections, Display of Permit, Revocations of Permits**

Every permit issued pursuant to this ordinance shall allow the Board or its designated representative the right to inspect a project to determine compliance with conditions and the provisions of this ordinance. A permit applicant shall notify the Board at least five days before construction of an authorized project construction is to begin. The permit shall be prominently displayed at the project site during the undertaking of the activities authorized by the permit. All permits shall be valid for a period of one year from the date of issuance unless the Board indicates otherwise. The Board may issue a Stop Work Order if it finds that the permittee is violating provisions of the permit or of other applicable laws, ordinances, and/or regulations. The Board may, on written notice to the permittee, suspend or revoke a permit issued pursuant to this ordinance if the permittee has not complied with any term or condition of the permit or has failed to undertake the project in the manner set forth in the application.

### **Section 17. Bonds and Insurance**

Upon approval of the application and prior to issuance of a permit, the Board may require the permit applicant to file a bond with a surety in such amount and in a form approved by the Board.

Release of the bond or surety shall be conditioned on compliance with all provisions of these regulations and the terms, conditions and limitations established in the permit.

The Board may require the applicant to certify that it has public liability insurance against liability which might result from the proposed activity covering any and all damage which might occur within (*specify*) ...years of completion of such operations, in an amount commensurate with the regulated activity.

## **Section 18. Enforcement and Penalties**

Any person who commits, takes part in, or assists in any violation of any provision of this ordinance is guilty of a misdemeanor and may be fined not more than (*specify*) .....dollars for each offense and subject to imprisonment not exceeding (*specify*) .....days in jail or both. Each violation of this ordinance shall be a separate offense, and in the case of a continuing violation, each day's continuance thereof shall be deemed to be a separate and distinct offense.

The (*community name*) ..... shall have jurisdiction to enjoin a violation of this ordinance. All costs, fees, and expenses in connection with such action shall be assessed as damages against the violator.

In the event of a violation the (*community name*)..... shall have the power to order restoration of the riparian area. If the responsible person or agent does not complete such restoration within a reasonable time following the order, the authorized local government shall have the authority to restore the affected wetlands to the prior condition and the person or agent responsible for the violation shall be held liable to the (*community name*) ..... for the cost of restoration.

## **Section 19: Appeals**

Appeal on actions of the Board shall be made in accordance with provisions of the General Statutes (*specify section*).....

## **Section 20. Conflict and Severance**

This ordinance shall be construed as not to conflict with any provision of local, state, or federal law. However, the provisions of this ordinance shall control if more restrictive than other local, state, or federal laws.

If any portion of this ordinance is held invalid or unconstitutional by a court of competent jurisdiction, all remaining provisions of the ordinance shall continue to be of full force and effect.

## **Section 21. Application Fees**

At the time of a permit application, the applicant shall apply a filing fee of (*specify*) .....if the project will involve less than 5,000 square feet of disturbance to a riparian area and a filing fee of (*specify*) .....if more.

The Board may also require an applicant to pay a fee for reasonable costs and expenses born by the Board including but not limited to verifying wetland boundaries, analyzing resource functions and values including wildlife evaluations, and hydrogeologic and drainage analyses.

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U.S. Environmental Protection Agency, Region 2. 1993. Wetlands Regulation Guidebook for New York State. Marine and Wetlands Protection Branch, New York, New York

Washington State Department of Ecology. 1986. Wetlands Acquisition & Preservation: A Guide for Landowners and Government Agencies. Shorelands & Coastal Zone Management Program, Wetlands Section

## **SUGGESTED WEB SITES**

ASWM, Wetlands Breaking News  
<http://www.aswm.org/news/wetland-breaking-news>

Cass County Environmental Services. Cass County Wetland Ordinance. Wetland ordinance utilizing wetland functional assessments.  
[http://www.co.cass.mn.us/document\\_center/ordinances/199703\\_wetland.pdf](http://www.co.cass.mn.us/document_center/ordinances/199703_wetland.pdf)

Center for Watershed Protection. Many excellent publications listed here.  
<http://www.cwp.org/>

Clinton River Watershed Council. Wetland Stewardship for Local Governments. Contains a model ordinance.  
<http://www.crwcc.org/programs/watershedmgmt/scwetlands/scwofficials.html>

Environmental Law Institute  
<http://www2.eli.org/index.cfm>

Eugene Parks and Open Space. West Eugene Wetlands Plan. Excellent. Lots of detailed information on the plan, wetland links.  
<http://www.eugene-or.gov/1766/West-Eugene-Wetlands-Plan>

Federal Emergency Management Agency (FEMA) flood maps  
<https://msc.fema.gov/portal>

Land Trust Alliance. Many links. Excellent collection of publications for sale.  
<http://www.lta.org/>

National Oceanic Atmospheric Administration (NOAA)  
[www.noaa.gov](http://www.noaa.gov)

NOAA Coastal Services Center. Many helpful links and information.  
<https://coast.noaa.gov/?redirect=301ocm>

NOAA - National Marine Fisheries Service  
<http://www.nmfs.noaa.gov/>

Smart Growth Online resources  
<http://smartgrowth.org/information-resources>

Society of Wetland Scientists  
<http://www.sws.org/>

U.S. Army Corps of Engineers  
<http://www.usace.army.mil/>

U.S. Environmental Protection Agency  
<http://www.epa.gov/>

U.S. Environmental Protection Agency, Surf Your Watershed  
<http://www.epa.gov/surf/>

U.S. Environmental Protection Agency. Collection of model ordinances to protect local resources.  
[www.epa.gov/owow/nps/ordinance/](http://www.epa.gov/owow/nps/ordinance/)

U.S. Fish and Wildlife Service  
<http://www.fws.gov/>

U. S. Fish and Wildlife Service. National Wetlands Inventory  
<http://wetlands.fws.gov/>

U.S. Fish and Wildlife Service, Partners for Fish and Wildlife Program  
<http://www.fws.gov/partners/>