

Local Wetland Ordinances



Framework as set forth in Part 303

Section 30308 of Act 451 of 1994

HOW TO SET UP A WETLAND ORDINANCE?

- Must use state definition of wetland
- Must have a basic wetland inventory map, that can be inexpensive and easy to create. Starter resources:
 - Michigan Department of Environmental Quality Wetland Inventory Maps
 - National Wetlands Inventory Maps (NWI)

Local Wetland Inventory Map

- Not a jurisdictional map—only for planning and notification purposes
- Inventory does not substitute for on-site review (needs to include a caveat)
- Landowners must be notified of map's availability



Mapping First Makes Sense

- Builds awareness of wetland resources in community
- Builds support for protection among stakeholders
- Map is valuable not just for wetland protection...but for preparing master plan and making planning and zoning decisions
- Required by Part 303

Threshold Question:

What wetlands should be regulated by the local gov't?

- Only those regulated by DEQ?
- Only those NOT regulated by DEQ?
- All wetlands to a certain size?
- All wetlands regardless of size?

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WHAT TO REGULATE?

- CANNOT regulate activities that are exempt under Part 303
- CAN regulate isolated wetlands smaller than 5 acres:
 - 2 acres or more in size AND those less than 2 acres in size if it is determined essential on a local level

Protecting Isolated Wetlands Under 2 acres in Size

- Isolated wetlands provide valuable functions
- Isolated wetlands become more important for habitat and flood storage as area develops
- Local governments well suited to protect isolated wetlands
- Make a determination that these wetlands are essential to the community...

“Essentiality” Determination for Isolated Wetlands Under 2 acres

*Must find that the site provides **one** of the following:*

- Threatened or endangered plant, fish, or animal species
- Locally rare ecosystem
- Plants or animals of identified local importance
- Documented groundwater recharge
- Flood and storm water control

“Essentiality” Determination for Isolated Wetlands Under 2 acres

*Must find that the site provides **one** of the following:*

- Breeding, feeding, and nesting grounds for wildlife
- Protects sub-surface water supplies
- Pollution treatment by serving as biological and chemical oxidation basin
- Erosion control by absorbing silt and organic matter
- Sources of nutrients in water food cycles

“Essentiality” Determination is not an Difficult Hurdle because:

- Wetlands, by definition, will serve at least the following functions:
 - Hydrologic absorption and storage capacity
 - Pollution treatment by serving as oxidation basin
 - Absorbs silt and sediment
 - Wildlife habitat

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HOW TO ADMINISTER?

- Use application form provided by the state
- Coordinate permit applications for state jurisdictional wetlands with state, and make decision in same timeframe as state
- Process applications in manner that ensures the same entity makes decisions on site plans, plats, and wetlands
- Applicant can not be required to submit to a hearing on the application before more than one local government decision making body

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COORDINATE WITH DEQ?

- Must notify the DEQ when ordinance is adopted
- Local government shall forward a copy of each application to the DEQ, along with state application fees for projects on state-jurisdictional wetlands

A Model Ordinance

- Produced by Huron River Watershed Council in cooperation with Michigan DEQ and the Michigan Attorney General
- Electronic copy available from www.michigan.gov

What are the Costs?

- Mapping
- Education and Outreach
- Ordinance writing / revisions
 - Staff time
 - Professional consultants
- Public hearings / meetings
- Administration
- Enforcement
- Political Capital



How To Cover Costs

- Manage program efficiently
 - Partner with other local gov't agencies that may have expertise
 - Utilize DEQ Wetland Identification Program
 - Process in conjunction with zoning permit
- Budget as part of general fund
- Cover administration through permit application fees or escrow accounts
- Recover enforcement costs through fines

What Are the Costs of Not Protecting Wetlands?

