

CHAPTER 8 ENVIRONMENTAL PROTECTION

Art. I.	In General, §§ 8-001--8-040	Pages 8-1 through 8-2
Art. II.	Flood Damage Prevention and Control, §§ 8-041--8-110	Pages 8-2 through 8-9
	Div. 1. Generally, §§ 8-041--8-070	Pages 8-2 through 8-6
	Div. 2. Administration, §§ 8-071--8-110	Pages 8-7 through 8-9
Art. III.	Lowland Filling §§ 8-111--8-170	Pages 8-9 through 8-12
	Div. 1. Generally, §§ 8-111--8-130	Pages 8-9 through 8-10
	Div. 2. Permit, §§ 8-131--8-170	Pages 8-10 through 8-12
Art. IV.	Wetlands §§ 8-171--8-230	Pages 8-12 through 8-21
	Div. 1. Generally, §§ 8-171--8-200	Pages 8-13 through 8-16
	Div. 2. Permit, §§ 8-201--8-230	Pages 8-16 through 8-21
Art. V.	Wellhead Protection §§ 8-231--8-370	Pages 8-22 through 8-33
	Div. 1. Generally, §§ 8-231--8-240	Pages 8-22 through 8-23
	Div. 2. Definitions, §§ 8-241--8-250	Pages 8-23 through 8-25
	Div. 3. Establishment and Identification of Wellhead Protection Areas, §§ 8-251--8-260	Pages 8-25 through 8-26
	Div. 4. Use Regulations in Wellhead Protection Areas, §§ 8-261--8-270	Pages 8-26 through 8-28
	Div. 5. Regulated Substances, §§ 8-271--8-290	Pages 8-28 through 8-29
	Div. 6. Facility Closures, §§ 8-291--8-310	Pages 8-29 through 8-29
	Div. 7. Spill Control Plans, §§ 8-311--8-320	Pages 8-30 through 8-30
	Div. 8. Site Plan Review Standards, §§ 8-321--8-340	Pages 8-30 through 8-32
	Div. 9. Violations, Penalties, and Administrative Remedies, §§ 8-341--8-370	Pages 8-32 through 8-33
Art. VI.	Stormwater Management §§ 8-371--8-420	Pages 8-33 through 8-38
	Div. 1. Generally, §§ 8-371--8-390	Pages 8-33 through 8-36
	Div. 2. Administration, §§ 8-391--8-420	Pages 8-36 through 8-38
Art. VII.	Woodlands Management §§ 8-421--8-470	Pages 8-38 through 8-42
	Div. 1. Generally, §§ 8-421--8-440	Pages 8-38 through 8-40
	Div. 2. Permit, §§ 8-441--8-470	Pages 8-40 through 8-42

ARTICLE I IN GENERAL

Sec. 8-001. Definitions.

In addition to those rules of construction and definitions contained in Section 1-002, the following definitions shall apply to this Chapter:

Aquatic Vegetation means plants and plant life forms which naturally occur in, at, near or predominantly near water.

Contaminated Site A site which has been identified by the U.S. Environmental Protection Agency, the S.E.A., and/or County or local land development agency as a former industrial or waste disposal site, where the presence of toxic chemicals and/or gas pose an unreasonable risk of injury to health, property, and/or the environment.

Deposit means to fill, place, grade or dump.

Erosion. The mobilization of soil as a result of loss of vegetative cover, scouring by runoff, or associated with slope instability.

(CHAPTER 8, ARTICLE I, SECTION 8-001 cont.)

High Water Mark, Ordinary. Ordinary high-water mark means the line between upland and inland lake bottom land which persists through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land is markedly distinct from the upland and is apparent in the soil itself, the configuration of the surface of the soil and the vegetation. On an inland lake which has the level established by law, it means the high established level. Where water returns to its natural level as a result of the permanent removal or abandonment of a dam, it means the natural ordinary high-water mark.

Fill Material means soil, sand, gravel, clay, or any other inorganic substance.

Mean Sea Level means the average height of the sea for all stages of the tide. Mean sea level is commonly referred to as USGS or NGVD elevation.

Natural Feature. A natural feature shall mean water resources such as inland lakes and streams, watercourses, and wetlands. This definition may include upland areas representing distinctive geological, ecological or natural landscapes that the Township Board has declared by resolution to be a natural feature.

Operation means the making of additions or deposits, performing any construction or excavation activity, removing, improving and/or developing land in any manner, or any combination thereof and includes engaging in any use, construction or activity to improved or unimproved real estate including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, grubbing or drilling operations.

Owner means any person who has dominion over, control of, title to and/or any other proprietary interest in designated wetland and/or watercourse areas, or title to a natural feature or man-made structure impacting a wetland, watercourse, or inland lake or stream property.

Remove means and includes to dig, dredge, suck, pump, bulldoze, dragline, blast, or any other activity which causes soil disruption.

Riparian Owner means a person who has riparian rights.

Riparian Rights means those rights which are associated with the ownership of the bank or shore of an inland lake or stream.

Runoff. Water from rain or snow melt that flows over the ground surface and returns to the nearest water resource via the path of least resistance.

Shoreline. A zoning lot line or portion of a zoning lot which abuts the ordinary high water mark of an inland lake.

Upland means the land area adjoining a wetland, lake, stream or watercourse, above the ordinary high-water mark.

Secs. 8-002--8-040. Reserved.

ARTICLE II FLOOD DAMAGE PREVENTION AND CONTROL

**Editor's note: The 2014 ordinance recodification amended the Code transferring the sections of the Waterford Township Floodplain Management Ordinance from Article I of this Chapter, formerly §§ 8-001 – 8-040, to Division 1 of this Article and the sections of this ordinance from Article II of this Chapter, formerly §§ 8-041 – 8-065, to Division 2 of this Article.*

Division 1. Generally

Sec. 8-041. Short title.

This Article shall be known and cited as the "Waterford Township Floodplain Management Ordinance."

(Comp. Ords. 1986, § 26.405)

(CHAPTER 8, ARTICLE II, DIVISION I cont.)

Sec. 8-042. Statutory authorization.

This Article is adopted to secure the public health, welfare, and safety under the combined authority of Public Act 359 of 1947 (MCL 42.1 et seq), (Charter Township Act), as amended, Public Act 451 of 1994 (Natural Resources and Environmental Protection Act),(MCL 324.33705), the National Flood Insurance Act of 1968, as amended, and the Flood Disaster Protection Act of 1973, as amended.
(Comp. Ords. 1986, § 26.410)

Sec. 8-043. Legislative determinations.

- (a) The special flood hazard areas of the Township are subject to periodic inundation which could result in potential loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which would adversely affect the public health, safety and general welfare.
- (b) These potential flood losses are caused by the cumulative effect of obstructions in floodways causing increases in flood heights and velocities, and by the occupancy in special flood hazard areas by uses vulnerable to flood or hazardous to other lands which are inadequately elevated, flood-proofed, or otherwise protected from flood damages.
- (c) The preservation and maintenance of the flood hazard areas of the Township in an undisturbed and natural condition provides for the protection of the Township watercourses, inland lakes and streams, and wetlands by minimizing the threat of existing and future pollution.
(Comp. Ords. 1986, § 26.411)

Sec. 8-044. Statement of purpose and objectives.

- (a) It is the purpose of this Article to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific flood hazard areas by provisions designed to:
 - (1) Restrict or prohibit uses which threaten the health, safety and property due to water, erosion or pollution or by flood heights or velocities.
 - (2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
 - (3) Control the alteration of natural floodplains, stream channels and natural protective barriers which are involved in the accommodation of floodwaters.
 - (4) Control filling, grading, dredging and other land development which may increase pollution, erosion or flood damage.
 - (5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.
- (b) The objectives of this Article are:
 - (1) To protect human life and health.
 - (2) To minimize expenditure of public money for costly flood control projects.
 - (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
 - (4) To minimize prolonged business interruptions.
 - (5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains.
 - (6) To help maintain a stable tax base by providing for the sound use and land development of flood-prone areas in such a manner as to minimize future flood blight areas.
 - (7) To provide a means whereby potential home buyers are notified that property is in a flood area.
 - (8) To minimize disturbance to the floodplains which would result in damage from erosion, turbidity or siltation, a loss of fish or other beneficial aquatic organisms, a loss of wildlife and vegetation from the destruction of their habitat.
(Comp. Ords. 1986, § 26.412)

(CHAPTER 8, ARTICLE II, DIVISION 1 cont.)

Sec. 8-045. Definitions.

In addition to those definitions contained in Sections 1-002 and 8-001, the following definitions shall apply to this Article:

Appeal means a request for a review of or variance from the Township Engineer's or Building Official's interpretation of any provision of this Article.

Applicant means the owner, agent or legal representative of a zoning lot for which and by whom an application for land development in a special flood hazard area is made.

Base Flood means the flood having a one (1) percent chance of being equaled or exceeded in any given year.

FEMA The Federal Emergency Management Agency.

Flood or Flooding means:

- (a) A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - (1) The overflow of inland or tidal waters,
 - (2) The unusual and rapid accumulation of runoff of surface waters from any source.
 - (3) mudflows, and
- (b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding, as defined in paragraph (a)(1) of this definition.

Flood Insurance Rate Map (FIRM) The official map of a community on which FEMA has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

Flood Insurance Study (FIS) A FIS is a compilation and presentation of flood risk data for specific watercourses, lakes, and coastal flood hazard areas within a community. When a flood study is completed for the NFIP, the information and maps are assembled into an FIS. The FIS report contains detailed flood elevation data in flood profiles and data tables.

Floodplain. means any land area susceptible to being inundated by water from any source (see definition of flooding).

Floodplain Management means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

Floodplain Management Regulations means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance), and other applications of police power that provide standards for the purpose of flood damage prevention and reduction.

Floodproofing means those construction standards identified in the "Flood-Proofing Regulations," publication #EP-1165-2-314, U.S. Army Corp of Engineers publication.

Floodway means the floodplain that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

New Construction means buildings and/or structures for which land development commenced on or after February 17, 1983.

National Flood Insurance Program (NFIP) The program of flood insurance coverage and floodplain management administered under the Act and applicable Federal regulations promulgated in Title 44 of the Code of Federal Regulations, Subchapter B.

Special Flood Hazard Area (SFHA) An area having special flood, mudflow, or flood-related erosion hazards, and shown on a Flood Hazard Boundary Map or a Flood Insurance Rate Map as Zone A, AO, A1-A30, AE, A99, AH, AR, AR/A, AR/AE, AR/AH, AR/AO, AR/A1-

(CHAPTER 8, ARTICLE II, DIVISION 1, SECTION 8-045 cont.)

30, V1-V30, VE, or V. For the purpose of determining Community Rating System premium discounts, all AR and A99 zones are treated as non-SFHAs.

Substantially Improved means, for a structure built prior to February 17, 1983, any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either, (1) before the improvement or repair is started, or (2) if the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

(Comp. Ords. 1986, § 26.415; Ord. of 9-11-06)

Sec. 8-046. Prohibition on alteration of buildings, structures, or land without compliance with Article.

It is prohibited and a violation of this Article for any building, structure, or land located within areas designated herein as special flood hazard areas to be extended, converted or structurally altered without full compliance with the terms of this Article and other applicable laws or ordinances.

(Comp. Ords. 1986, § 26.420)

Sec. 8-047. Designation of special flood hazard areas.

The special flood hazard areas identified by the Federal Insurance Administration through a scientific and engineering report entitled "Flood Insurance Study Oakland County, Michigan and All Jurisdictions," dated September 29, 2006, with accompanying flood insurance rate map panels

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26125C0334F	26125C0353F	26125C0481F
26125C0337F	26125C0354F	26125C0482F
26125C0339F	26125C0361F	26125C0501F
26125C0341F	26125C0362F	26125C0502F
26125C0342F	26125C0363F	

and flood boundary and floodway maps and any revision thereto are hereby adopted by reference and declared to be a part of this Article. Copies of such map shall be maintained on file with the Building Official.

(Comp. Ords. 1986, § 26.421; Ord. of 9-11-06)

Sec. 8-048. Designation of additional floodplains.

Floodplains additional to those areas described in the FIS may exist in the Township. The location of these areas shall be designated by the Township Engineer by utilizing the technical data contained in the FIS.

Sec. 8-049. Warning and disclaimer of liability.

The degree of flood protection required by this Article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will probably occur on rare occasions. Flood heights may be increased by manmade or natural causes. This Article does not imply that land outside the special flood hazard areas or uses permitted within such areas will be free from flooding or flood damages. This Article shall not create liability on the part of the Township or by any officer or employee thereof for any flood damages that result from reliance on this Article or any administrative decision lawfully made thereunder.

(CHAPTER 8, ARTICLE II, DIVISION 1 cont.)

(Comp. Ords. 1986, § 26.425)

Sec. 8-050. Actions requiring permit.

Without first having obtained a permit approval from Township Engineer, Building Official, or Township Board, it shall be unlawful for any person, owner or occupant to:

- (a) Locate any operation, obstruction, building, or structure within the floodway.
- (b) Allow any operation, obstruction, building, or structure to remain within the floodway.
- (c) Locate any operation, obstruction, building, or structure on lands in a floodplain
- (d) Make alterations of any obstruction, building, or structure within these floodways or floodplains whether such obstruction, building, or structure is located in the floodway or floodplain before or after February 17, 1983. Maintenance of an obstruction, building, or structure shall not be construed to be an alteration.
- (e) To locate any public or private institution or place of assembly on lands in a floodplain.
- (f) Dredge, fill or land balance bottomlands, floodplains or floodways.
- (g) Enlarge, diminish or alter an inland lake or stream or a naturally occurring watercourse.
- (h) Construct, extend, enlarge, or connect any conduit, pipe, culvert or open or closed drainage facility erected for the purpose of carrying storm water runoff from any residential site of two (2) or more single-family or multiple residences, commercial sites, parking areas, paved or unpaved private or public streets, or any other land use permitting discharge of silt, sediment, organic or inorganic substances, chemicals, fertilizers, flammable liquids or any substance producing turbidity, except through an interceptor, retention or settling basin, filter, or treatment facility designed to control and eliminate the pollutant before discharge to any lake, pond, stream or watercourse.

(Comp. Ords. 1986, § 26.430)

Sec. 8-051. Ordinance 2020-001; Repealed January 27, 2020

Sec. 8-052. Abrogation and greater restrictions.

This Article is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. Where this Article and another provision of this Code conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Comp. Ords. 1986, § 26.475)

Secs. 8-053--8-070. Reserved.

Division 2. Administration*

Sec. 8-071. Administration and review procedures; Township Engineer.

The Township Engineer, working in conjunction with the Building Official, is hereby appointed to administer and implement the provisions of this Article and approve permits for proposed actions that do not require any other Township permit or approval. Accordingly he shall review all operations affecting the special flood hazard areas of the Township as well as any application for an operation in the special flood hazard areas received by the Township Engineer under any of the other provisions of this Article, and any such application received by:

- (a) The Zoning Official for a new subdivision of property under the provisions of the Waterford Code of Ordinances, Subdivision and Land Management Regulations.
- (b) The Building Official under the provisions of the state construction code comprised of the Michigan Residential Code and the Michigan Building Code and its Appendices, specifically Appendix G, adopted pursuant to the Stille-Derossett-Hale Single State Construction Code Act, 1972 PA 230, as amended, MCL 125.1501, et. seq. (construction code act).
- (c) The Zoning Official under the provisions of the Waterford Township Zoning Ordinance.
- (d) The Township Clerk under the provisions of Public Act 451 of 1994. (Natural Resources and Environmental Protection Act) (MCL 324.33705).

(Comp. Ords. 1986, § 26.450; Ord. of 9-11-06)

(CHAPTER 8, ARTICLE II, DIVISION 2 cont.)

Sec. 8-072. Data supplied by applicant.

As requested by either the Township Engineer or the Building Official, an applicant or permit holder shall furnish the following information and data:

- (a) Duplicate sets of engineering plans drawn to suitable scale, showing the nature, location, dimensions and the existing and proposed elevations based on mean sea level of the area in question, as well as all existing or proposed buildings, structures, drainage facilities, and the locations of the foregoing.
- (b) Any other additional information which may be reasonably necessary to determine compliance with the provisions of this Article.
- (c) Elevation in relation to mean sea level of the lowest floor (including basement) of all buildings and structures.
- (d) Elevation in relation to mean sea level, to which any nonresidential building or structure has been flood-proofed.
- (e) Certificate from a registered professional engineer or architect that the nonresidential flood-proofed building or structure has been flood-proofed.
- (f) Flood impact analysis/evaluation.

(Comp. Ords. 1986, § 26.455)

Sec. 8-073. Duties and responsibilities of Township Engineer.

The Township Engineer, upon receipt of an application for any of the operations referenced in Section 8-071 shall:

- (a) Review the information and present his findings to the Zoning Official prior to approval of any preliminary plat.
- (b) Review the information presented to him by the Building Official prior to the issuance of any building permit, and report to the Building Official his findings.
- (c) Review the information contained in the application for a lowland filling permit and report this finding to the applicant and the Township Board in connection with an appeal.
- (d) Review the information contained in the rezoning, zoning board of appeals, special approval, or site plan application and report to the Zoning Official.
- (e) Review the information contained in any state-mandated floodplain control application and report to the S.E.A.
- (f) Advise applicant that additional federal or state permits may be required, and if specific federal or state permits are known, require that copies of such permits, or a letter of no authority, be provided and maintained on file with the applicant's file.
- (g) Notify adjacent communities and the S.E.A. prior to any alteration or relocation of a watercourse, and submit evidence of such notification to FEMA. Require that maintenance is provided within the altered or relocated portions of such watercourse so that the flood carrying capacity is not diminished.
- (h) If no other permit or approval is required, approve, with or without conditions, a permit for the proposed action or deny the permit giving the reasons for denial to the applicant in writing.

(Comp. Ords. 1986, § 26.460)

Sec. 8-074. Duties and responsibilities of Building Official.

When the Building Official is notified by the Township Engineer that an applicant has applied for any operation in areas identified in Sections 8-048 and 8-049 that requires a construction code building permit he shall evaluate documents submitted as required by Section 8-072 for the following purposes and actions:

- (a) Verify through acceptance of applicant's engineering certificate, the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved buildings and structures and retain as an official record of the Building Official.
- (b) Verify through acceptance of applicant's engineering certificate, the actual elevation (in relation to mean sea level) to which the new or substantially improved buildings and structures have been flood-proofed and retain as a Building Official record.
- (c) When flood-proofing is utilized for a particular nonresidential building or structure, obtain certification from a registered professional engineer or architect.
- (d) Where applicant seeks to substitute construction standards required and referenced by this Article, the applicant may file with the construction board of appeals for relief.

(CHAPTER 8, ARTICLE II, DIVISION 2 cont.)

- (e) All records pertaining to the construction, alteration or flood-proofing of buildings or structures in the special flood hazard area shall be maintained in the office of the Building Official and shall be open for public inspection.
- (f) Check building plan for compliance with this Article.
- (g) If applicant meets all the requirements, issue a permit. If not, he shall inform applicant that the permit must be denied until the problem is corrected.
- (h) Make a final inspection when the project is completed. If project has been completed according to approved plans, he shall issue a certificate of occupancy.
(Comp. Ords. 1986, § 26.461)

Sec. 8-075. Performance bond.

The Township Engineer, Building Official or the Township Board may require, as a condition to the granting of any approval under this Article, that the applicant provide a bond in the form of cash, letter of credit, or other security acceptable to the Township in an amount that does not exceed the reasonable cost of guaranteeing that the applicant will faithfully perform all of the conditions and requirements under which the permit is issued.

(Comp. Ords. 1986, § 26.465)

Sec. 8-076. Variance and appeal power of Township Board.

- (a) The Township Board shall have full power and authority to vary the application of the provisions of this Article. The Township Board shall hear appeals from any requirement, decision or determination made by an authorized Township official acting in the enforcement or administration of this Article. In passing upon such matters, the Township Board shall consider:
 - (1) All technical elevations, relevant factors, and standards specified in other sections of this Article.
 - (2) Danger to life, health or property by water which may be backed up or diverted by such obstruction.
 - (3) Danger that the obstruction will be swept downstream to the injury of others.
 - (4) Danger of water pollution resulting from floods.
 - (5) Availability of alternate locations.
 - (6) Construction or alternation of the obstruction in such a manner as to lessen the danger.
 - (7) Permanence of the obstruction.
 - (8) Anticipated land development in the foreseeable future of the area which may be affected by the obstruction including maintaining the stability of the tax base by preventing improper land development of floodprone areas.
 - (9) Other factors as are in harmony with the purpose of this Article.
- (b) Variances may be granted for the reconstruction, rehabilitation or restoration of buildings and structures listed on the National Register of Historic Places or the state register of historic places without regard to the criteria set forth in this Section.

(Comp. Ords. 1986, § 26.470)

Sec. 8-077. Violations; Civil Infraction.

Violation of this Article is a civil infraction, punishable as provided in Section 1-010(b).

Secs. 8-078--8-110. Reserved.