

ARTICLE XIX

ENVIRONMENTAL CONSERVATION PROVISIONS

SECTION 19.01 PURPOSE

The purpose of this Article in all Zoning Districts is to promote the conservation or wise use of important unrenovable natural resources and to protect the desirable qualities of the natural environment which may involve the saving of important vegetation, wildlife cover, watersheds, areas which periodically flood, features controlling wind or water erosion, wetlands, and areas of topographical, archaeological, geological, historical or agricultural significance for present and future generations as determined by Master Plans adopted by the Planning Commission for the purpose of preserving or conserving specific features and areas of these natural resources and environments.

SECTION 19.02 NATURAL ENVIRONMENT

It is the general requirement of this Article to conserve and wisely use in the most careful and well-planned manner possible in accordance with the practice of those professionals most qualified and experienced in the preparation of Environmental Impact Statements. Such Statements shall include an inventory and analysis of the impact of proposed land uses and activities on all of the elements of the natural environment, adjacent land uses and activities and the infrastructure providing public activities, facilities and services in the Township in relation to the proposed land uses and activities.

SECTION 19.03 NATURAL RESOURCES

In order to properly conserve and provide future access to such natural resources as sand, gravel, oil, gas, coal, minerals and other economically important unrenovable resources, the Planning Commission may require the applicant desiring to develop such property to prepare a survey or map indicating the type, character, and location of agricultural soil types and elevation and use areas, and the method proposed to preserve future development and use of such soil types and use area. In the making of such plans and surveys an applicant desiring to develop agricultural soil types and use areas shall be encouraged to develop only those portions of a property which are the least adaptable for present and future agricultural purposes.

SECTION 19.04 LAKES, PONDS, RIVERS, STREAMS, WATER COURSES AND DRAINAGEWAYS

In order to conserve or wisely use the lakes, ponds, rivers, streams, water courses and drainageways in the Township, no such feature shall be altered, changed, transformed or otherwise be varied from its present existing condition except as follows:

- A. In all Zoning Districts no river, stream, water course or drainageway, whether partly filled with water or dry in certain seasons, shall be obstructed or altered in any way at any time by any person, except when done in conformance with State and Federal laws, regulations and standards.

- B. In all Zoning Districts the edge, bank, or shore of any lake, pond, river or stream shall not be altered, changed, transformed or otherwise be varied from its present condition except in conformance with the provisions of (1) Public Act 291 of 1965, “The Inland Lakes and Stream Act”, (2) Public Act 245 of 1970, “The Shorelands Protection and Management Act”, (3) Public Act 347 of 1976, “Soil Erosion and Sedimentation Control Act,” all as amended.

[editor’s note: all the public acts referenced above are now parts of P.A. 451 of 1994, see end note]

SECTION 19.05 FLOOD PLAINS

- A. Notwithstanding any other provisions of this Ordinance, land subject to periodic flooding shall be used only for agriculture and recreation uses, provided no structures, except as otherwise provided in this Ordinance, are located within the areas subject to flooding.
- B. The location and boundaries of land subject to periodic flooding shall be determined by reference to the Federal Housing Administration, U.S. Army Corps of Engineers, the U.S. Soil Conservation Service or other official U.S. or Michigan public agency responsible for defining and determining flood plain areas.
- C. No building shall be located within a designated floodway, except as approved by the Michigan Department of Environmental Quality (DEQ). The Township Planning Commission may, upon approval, by the Michigan Department of Environmental Quality permit bridges, dams, other public facilities, piers, wharves, or boat houses. Before any such structure is built within the floodway, it shall be shown that such structure will not form a significant obstruction or retard the movement of floodwaters, except as part of a plan for flood control.

SECTION 19.06 WETLANDS

All areas designated as wetlands by the Michigan Department of Environmental Quality are hereby declared to be “Wetlands” in the Township and are subject to the provisions of this Ordinance as follows:

All wetlands in the Township are hereby subject to the provisions of Public Act 203 of 1979, “The Wetlands Protection Act” in order to encourage the proper conservation, use and development of the wetlands. *[editor’s note: P.A. 203 is now part of P.A. 451 of 1994, see end note]*

SECTION 19.07 ENVIRONMENTALLY SENSITIVE AREAS

A. Areas may be designated by the Township Board upon favorable recommendation of the Planning Commission, as Areas of Environmental Sensitivity including, but not limited to:

1. Rare or valuable ecosystems.
2. Significant undeveloped agricultural, grazing or watershed areas.
3. Forests and related land which require long stability for continuing renewal.
4. Scenic or historical roads/areas, including burial grounds.
5. Sand dunes as defined and regulated by the Public Act 222 of 1976, being MCL 281.651-281-664, and determined by the Sand Dune mapped locations of Sand Dunes by the Michigan Department of Natural Resources.
[P.A. 222 is now part of P.A. 451 of 1994, see end note]
6. Such additional areas as may be determined by the Federal Government, the State of Michigan, Van Buren County or South Haven Township.

B. GENERAL REQUIREMENTS FOR ENVIRONMENTALLY SENSITIVE AREAS

All zoning permit applications in Environmentally Sensitive Areas, regardless of size, and in addition to (or as part of) any other applicable portions of this Section shall demonstrate that the proposed development will not adversely affect the environment quality of the property and the surrounding area by means of the following:

1. The applicant shall provide written evidence that the proposed development of the property will conform to the provisions of such Soil Erosion and Sedimentation Control Ordinance as may be in effect in the County.
2. The applicant shall provide written evidence that a sewage treatment or disposal system has been approved by the Van Buren County Health Officer or Wastewater Division of the Michigan Department of Natural Resources and is in conformance with any additional provisions set forth in this Ordinance pertaining to setbacks from water bodies, height above water level, etc.
3. The applicant shall provide evidence that the cutting and removing of trees and other native vegetation will be performed according to the following standards:
 - a. Clearcutting of woodlands and the removal of shrubbery and undergrowth shall be restricted to removal of dead, diseased or dying trees.
 - b. Selective cutting which removes not more than forty (40) percent of the trees and which leaves a well distributed stand of tree foliage shall be permitted.

- c. More than forty (40) percent of the tree coverage may be removed only as such action is recommended by a state forester, or a private forester registered by the state and approved by the Planning Commission.
 - d. Cutting shall be done in such a manner as to avoid erosion, to preserve rare species of trees or greenery, to preserve scenic qualities, and to preserve desirable screening.
- C. Have as a portion of the application a site plan for review by the Planning Commission, that provides such data concerning the physical development and extent of disruption to the site as may be required by the Planning Commission. The Planning Commission or Zoning Administrator may require any of the following as part of the information of the site plan: maps, description of earth changes, soil borings, soil surveys, well logs, description of vegetation changes, percolation tests, description of development, topographic surveys, and other environmental impact information. The review of the site plan shall be made in such a manner as to:
 - 1. Determine whether the regulations of this Ordinance shall have been observed regarding cutting of trees and other vegetation, sewage disposal, erosion and sedimentation control, etc.
 - 2. Determine whether the true intent of State and Township regulations, including this Ordinance, shall be served by this development in safeguarding against adverse effects on air and water quality, the natural resources of the area, and the natural vegetation of the area. The Planning Commission shall recommend alterations as are required by existing Ordinance or Statute, or such reasonable requirements as it deems necessary to minimize such adverse effects.
- C. In special cases where in the judgment of the Township Planning Commission a development proposal, because of its extensiveness, complexity, exceptional cost of development or significant impact on both the existing development pattern and the natural environment, cannot be properly processed under the limited provisions of this Article, may be required to conform to the provisions of both this Article and those of Article XXII, "Site Plan Review Procedures."

[Editor's End-Note: in 1994 all of the various Michigan public acts concerned with environmental protection were re-adopted into the Michigan Environmental Protection Act. P.A. 451 of 1994 as parts of that act. The old and new designations are:

Old Act

P.A. 451 part

<i>PA 291 of 1965 "Inland Lakes & Streams"</i>	<i>Part 301</i>
<i>PA 245 of 1970 "Shorelands Protection & Management"</i>	<i>Part 323</i>
<i>PA 347 of 1976 "Soil Erosion & Sedimentation Control"</i>	<i>Part 91</i>
<i>PA 203 of 1979 "Wetlands Protection"</i>	<i>Part 303</i>
<i>PA 222 of 1976 "Sand Dunes Protection"</i>	<i>Part 353]</i>