

Sec. 38-191. Required.

No person shall construct or make improvements to any pond located within the town without first obtaining a permit from the town board. Except as set forth in this article, the provisions of this article apply to all ponds including, but not limited to, those ponds utilized for drainage, recreation, aesthetics, sediment control, and fish management.

(Ord. No. 2006-05, § 1, 8-14-2006)

Sec. 38-192. Exceptions.

The following ponds are excluded from the provisions of this article: Ponds used primarily for ornamental, decorative or waterfowl purposes (e.g., fountains, reflection pools, koi ponds, wildlife scrapes, etc.) with a depth of less than 24 inches, a diameter less than 25 feet or an area less than 500 square feet, stormwater drainage ponds created by or for a town drainage utility district, and ponds which have been previously reviewed and approved as part of an erosion control plan. Existing ponds are also excluded from the provisions of this article, but any enlargement, dredging or modification to such ponds makes them subject to this article.

(Ord. No. 2006-05, § 1, 8-14-2006)

Sec. 38-193. Site plan required.

Before a permit may be issued, the applicant shall provide the town with a detailed site plan of the proposed pond excavation showing cross-section, depth, area and location of the pond as well as addressing disposition and storage of spoils from the excavation. The plan shall be drawn at a scale of not less than one inch equals 100 feet using the National Geodetic Vertical datum (NGVD) of 1929 for elevations and a bearings base of grid north of the Wisconsin coordinate system, South Zone. Racine County topographic maps may be used for undeveloped or minimally disturbed areas. Areas that have been developed or where substantial disturbance to the original grade has been made will require a survey. The plan shall contain measures to protect against overflow and shall address drainage into and surrounding the pond area. The plan shall detail the flow of drainage in the event of overflow and demonstrate that adjacent properties will be adequately protected in the event of overflow or from new or altered runoff patterns created by relocated excavation materials. A restoration plan for the excavation is also required. Additional information shall be supplied to the town, as requested by the town engineer.

(Ord. No. 2006-05, § 1, 8-14-2006)

Sec. 38-194. Engineering report.

At the discretion of the town board, an engineering report may be required. The engineering report shall be submitted to the town at the applicant's expense.

(Ord. No. 2006-05, § 1, 8-14-2006)

Sec. 38-195. Conditions to permit.

The town board may attach conditions to the issuance of a pond permit to address such things (without limitation) as maintenance, weed control, depth of pond, landscaping and aesthetics, and measures to secure the pond to avoid personal injury to trespassers. Temporary seeding and/or silt fencing may be required by the town engineer for partially completed projects. Other conditions appropriate to the area under consideration may be added to the permit by the town board, after consultation with the town

engineer.

(Ord. No. 2006-05, § 1, 8-14-2006)

Sec. 38-196. Additional permits.

Before proceeding with excavation, the applicant, in addition to obtaining a permit from the town, must secure all necessary permits from pertinent county, state and federal government agencies. It is the applicant's responsibility to verify that any potential environmental features such as wetlands, flood plain, navigable waterways, environmental corridors, etc, are identified and all necessary permits relating thereto are obtained.

(Ord. No. 2006-05, § 1, 8-14-2006)

Sec. 38-197. Permit fee.

At the time the application is filed, the applicant shall pay fees as set forth in the schedule of fees on file in the town clerk's office and may be revised by town board resolution. In addition, the applicant shall reimburse the town for engineering, planning legal and administrative expenses incurred in processing, reviewing, revising, and approving the permit and site plan, where those expenses exceed the amount of the permit fee.

(Ord. No. 2006-05, § 1, 8-14-2006; Ord. No. 2008-01, § 21, 12-22-2008)

Sec. 38-198. Variance/waiver.

The town board may waive or grant a partial variance from any requirement or prohibition created by this article if the Board specifically determines that the permittee's special circumstances make such a waiver or variance appropriate.

(Ord. No. 2006-05, § 1, 8-14-2006)

Sec. 38-221. Technical requirements.

Side slopes of ponds shall not exceed a 4:1 ratio. The boundaries of the pond, as shown on the approved site plan, shall be set back a minimum of 50 feet from all property lines. The town engineer may require safety ledges, where appropriate, in accordance with the specifications set forth below. All ponds shall have a minimum depth of five feet. In addition, ponds shall be constructed in conformance with the standards of the Soil Conservation Service Technical Guide and, where applicable, the Wet Detention Basin of the Wisconsin Department of Natural Resources Conservation Practice Standard, copies of which are available through the town engineer, as well as other applicable provisions of Wis. Admin. Code NR 151 (Runoff Management) and NR 333 (Dam Design and Construction). The town engineer may require the applicant to submit an engineering analysis certifying the structural adequacy of the proposed pond.

(Ord. No. 2006-05, § 1, 8-14-2006)

Sec. 38-222. Excavated material.

All excavated material shall remain on-site and shall be integrated into the restoration of the pond area.

(Ord. No. 2006-05, § 1, 8-14-2006)

Sec. 38-223. Rezoning.

If the excavated material from the project site is sold, given away, or is otherwise removed from the site in a manner in which the principal use appears to be soil removal, and pond construction appears to be a secondary result, the parcel shall be rezoned to M-4 quarrying district and a mineral extraction conditional use permit shall be obtained prior to any excavation or grading on the parcel.

(Ord. No. 2006-05, § 1, 8-14-2006)

Sec. 38-224. Penalty.

- (1) *Forfeiture.* Any person who violates any provision of this chapter or who shall construct or make improvements to any pond located within the Town of Yorkville without first obtaining a permit as required herein shall, upon conviction thereof, forfeit not less than \$50.00 nor more than \$500.00 together with the cost of prosecution. Further, each such day of continued violation of the provisions of this chapter shall be considered a separate offense.
- (2) *Injunction.* In case any premises are used in violation of this chapter, an action in the name of the town may be instituted to enjoin such violation or intended violation, and this remedy shall be in addition to other remedies set forth in this section.
- (3) *Abatement.*
 - (a) *Notice to owner.* In the event that any person shall construct or make improvements to any pond located within the Town of Yorkville without first obtaining a permit as required herein or who shall construct or make improvements to any pond located within the Town of Yorkville contrary to this chapter, the town may serve notice on the person causing, permitting or maintaining such a violation and upon the owner or the occupant of the premises on which such a violation is caused, permitted or maintained and to post a copy of said notice on the premises. Such notice shall direct that the person causing, permitting or maintaining such a violation or the owner or the occupant of the premises to abate or remove each such violation or to obtain the necessary permits required hereby within seven days from the date of posting and shall state that unless such action is taken, that the town will cause the same to be

abated, removed or otherwise brought into compliance and will charge the costs thereof to the owner, occupant or person causing, permitting or maintaining the violation, as the case may be. The notice shall also inform the owner, occupant, or person causing, permitting, or maintaining the violation of the right to have the determination of the town reviewed in accordance with [chapter 2](#), article VII of the town's Code of Ordinances.

- (b) *Abatement or restoration by the town.* If the action required by the notice issued pursuant to this section is not taken within the time provided or if the owner, occupant or person causing, permitting or maintaining the violation cannot be found, the town shall cause the abatement or removal of such violation, and if necessary to bring the premises into compliance, the town shall take action to restore the property to a state consistent with the condition of the property prior to the construction of the pond or the improvements made to the pond which were made in violation of the chapter.
- (c) *Cost of abatement or restoration.* In addition to any other penalty imposed for this section, the cost of abating a violation of the chapter by the town shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the violation, and if notice to abate and/or remedy the violation has been given to the owner, such costs shall be assessed against the real estate as a special charge.

(Ord. No. 2006-05, § 1, 8-14-2006)