



CONSTRUCTION NEAR A WETLAND

www.ci.orono.mn.us

952-249-4620

Wetlands perform important environmental, aesthetic and hydrologic functions. In 2005 the City adopted regulations to ensure that wetlands continue to perform these functions and to improve their functioning (City Code Sections 78-1601 through 1614). These regulations require the creation and protection of buffers around wetlands when certain construction or land alteration activities occur. These activities are:

Construction of a new house or a major remodeling that involves removal of more than 50 percent of the structure and the portion removed is more than 50 percent of the market value of the structure.

OR

Construction or land alterations when all of these conditions exist:

- a. The portion of the property disturbed by construction or land alteration activity drains to the wetland
- b. The amount of grading exceeds 50 cubic yards or involves the disturbance of more than 5,000 square feet.
- c. There is a net increase in impervious surfaces that drain to the wetland, new impervious surface is added closer to the wetland than existing impervious surfaces, or there is a change in drainage patterns that the City Engineer determines will increase the velocity or rate of runoff to the wetland.

The width of the buffer varies from 50 feet to 16.5 feet. A 20 foot setback from the buffer is required for buildings and above grade structures such as pergolas.

If the wetland is on adjacent property but part of the buffer is on the property where construction activity is occurring, then the buffer must be provided.

Even if the wetland buffer is not required, the buffer and buffer setbacks must be observed.

ATTACHMENTS

- A. Steps for Obtaining a Permit
- B. Request for Wetland Buffer Evaluation
- C. Sample Flowage and Conservation Easement and Restrictive Covenant

FOR MORE INFORMATION

Contact the Planning and Zoning Department at 952-249-4620 or planning@ci.orono.mn.us.

Reference: City Code Sections 78-1601 through 1614
January, 2008

This is an information sheet. Every effort has been made to insure the accuracy of the information contained herein; however, if any information is not consistent with provisions of the City Code, the Code provisions will prevail.

STEPS FOR OBTAINING A BUILDING OR ZONING PERMIT ON PROPERTY WITH A WETLAND OR NEAR A WETLAND

BEFORE APPLYING FOR THE PERMIT:

1. If you are uncertain if a wetland exists on or near the property, you may contact Planning staff at 952-249-4620 or planning@ci.orono.mn.us or you may view map online at www.ci.orono.mn.us (click maps on left hand menu on home page) or at City offices (call 952-249-4600 for office hours). You can also find out the width of the buffer.
2. If there is a wetland, determine if your project meets the threshold for requiring a buffer. If your project doesn't meet the threshold but will possibly place buildings and structures within the buffer or buffer setback, contact Planning staff to determine if wetland delineation is required. If your project meets the threshold, you must obtain a wetland delineation. A wetland delineation must be done by certified wetland delineator. The City does not do delineations, nor does it recommend delineators. The Board of Water and Soil Resources (BWSR) maintains a list at their web site (<http://www.bwsr.state.mn.us>). Many Surveyors/Civil Engineering firms employ wetland delineators or have wetland delineators they work with.
3. Submit the wetland delineation to the Minnehaha Creek Watershed District (MCWD) for approval. The delineator can provide information on this process.
4. Have the approved delineation mapped onto a survey of the property along with the proposed construction. The surveyor should also provide metes and bounds legal descriptions of the wetland and the buffer as well as a digital CAD or GIS file in Hennepin County Coordinates.
5. Submit two copies each of the delineation report, the letter of acceptance from the MCWD, and the survey (with the legal descriptions and digital file) to Planning staff along with a "Request for Wetland Buffer Evaluation" form. Planning staff will have the City's wetland consultant review the delineation and make a site visit to evaluate the current condition of the buffer. You will be provided with a copy of the consultant's report and the Flowage and Conservation Easement and Restrictive Covenant. If improvements are required the report will indicate the amount of the escrow required to guarantee the improvements and their initial survival and the escrow agreement will be enclosed.
6. If buffer improvements are required, prepare a plan for the improvements. See City Code Sections 78-1601 through 1614 for more information.

**AT THIS POINT YOU MAY APPLY FOR A BUILDING PERMIT OR ZONING PERMIT.
PERMIT APPLICATIONS WILL NOT BE ACCEPTED BEFORE THIS POINT.**

APPLYING FOR A PERMIT:

If improvements to the buffer are required submit (in addition to the normal requirements for the permit):

- a. Three copies of the buffer improvement plan
- b. An additional copy of the survey
- c. The Flowage And Conservation Easement And Restrictive Covenant, signed by the property owners and mortgage company (if any). This will be recorded by the City after the permit is issued. The owners will be provided with a copy of the recorded document.
- d. The escrow agreement, signed by the property owners and the contractor, if the contractor is posting the escrow. The escrow is due when the building permit is issued.

If no improvements are required to the buffer, (in addition to the normal requirements for the permit) submit the Flowage and Conservation Easement and Restrictive Covenant signed by the property owners and mortgage company (if any). This will be recorded by the City after the permit is issued. The owners will be provided with a copy of the recorded document.

DURING CONSTRUCTION:

Silt fence should be installed no closer to the wetland than the edge of the buffer. The buffer should not be disturbed unless it is part of the approved buffer improvement plan. **A stop work order may be issued if there is unauthorized disturbance of the buffer.**

Buffer improvements must be inspected by the City's wetland consultant before the final Certificate of Occupancy is issued. This inspection must be scheduled through the Planning Assistant at 952-249-4620. Allow at least five working days.



REQUEST FOR WETLAND BUFFER EVALUATION

www.ci.orono.mn.us

952-249-4620

Property Address _____

Person Making Request: _____

This person is the:

Property Owner Owner's Contractor/Consultant Other _____

Company Name _____

Address _____

City _____ Zip _____

Daytime Phone _____

Email _____

What work is planned?

Signature of person making request

Date:

Staff use only

Date received

- Two copies of delineation
- Two copies of survey
- Two copies of MCWD acceptance

Date sent to Bonestroo

Date report received

Date report forwarded to applicant

**Sample Flowage and Conservation Easement and Restrictive Covenant.
The actual document will be sent with the Wetland Consultants Report.**

(reserved for recording information)

**GRANT OF PERMANENT
FLOWAGE AND CONSERVATION EASEMENT AND
RESTRICTIVE COVENANT
FOR WETLAND AND WETLAND BUFFER**

INSTRUMENT made this _____ day of _____, 2006, by and between _____
and _____ husband and wife, the Grantors, and the **CITY OF ORONO**, a Minnesota
municipal corporation ("City").

WITNESSETH:

The Grantors, in consideration of good and valuable consideration paid by the City, the receipt and sufficiency of which is hereby acknowledged, hereby create and grant unto the City a permanent flowage and conservation easement for the purposes set forth in this instrument, over, under, and across the *(wetland) (wetland buffer) (wetland and wetland buffer)* as described in the legal description and site plan attached hereto as Exhibit A (the "easement premises").

The Grantors on behalf of themselves, their heirs, successors and assigns, hereby covenant and agree as follows: *(include those that are applicable: 1 or 2, or 1 and 2, 3a or 3b, 4, 5, 6, 7 and 8)*

1. That the following are prohibited in perpetuity within the wetland:
 - A. Constructing, installing, or maintaining anything made by man, including but not limited to buildings, structures, walkways, fences, retaining walls, fireplaces, clothes line poles, playground equipment, roads, hardcover of any kind, underground utility lines and distribution equipment, light poles, traffic signals, traffic regulatory signs, mailboxes; except: 1) feeders, bird houses, and other devices intended to foster wildlife; and 2) docks or boardwalks when allowed by City ordinance and under a valid City permit.
 - B. Cutting, mowing or removing shrubs or other vegetation, and cutting, destroying or removing trees greater than four inches in diameter, except for tree disease control by or as directed by a governmental agency. Grantors may remove brush, diseased or dead trees of any size, and noxious weeds.
 - C. Excavation or filling or material alteration of grade, including changes to the size, depth or contour of the wetland; dredging, mining or removal of earth, loam, peat, gravel, soil or any other natural material.
 - D. The deposit of waste, yard waste, or debris.
 - E. Activity detrimental to the screening of the neighboring properties.

- F. Application of fertilizers, whether natural or chemical.
 - G. Application of chemicals for the destruction or retardation of vegetation.
 - H. The application of herbicides, pesticides, and insecticides, except for noxious weed control by or as directed by a governmental agency.
 - I. Outside storage of any kind.
 - J. Activity detrimental to the preservation of the scenic beauty, vegetation, and wildlife.
2. That the following are prohibited in perpetuity within the wetland buffer:
- A. Constructing, installing, or maintaining anything made by man, including but not limited to buildings, structures, walkways, fences, fireplaces, clothes line poles, playground equipment, roads or hardcover of any nature whatsoever, except: 1) feeders, bird houses, and other devices intended to foster wildlife; 2) docks or boardwalks when allowed by City ordinance and under a valid City permit; 3) retaining walls when allowed by City ordinance and under a valid City permit.
 - B. Cutting, mowing or removing shrubs or other vegetation, and cutting or removing trees greater than four inches in diameter, except for tree disease control by or as directed by a governmental agency. Grantors may remove brush, diseased or dead trees of any size, and noxious weeds.
 - C. Excavation or filling or material alteration of grade, including changes to the size, depth or contour of the wetland; dredging, mining or removal of earth, loam, peat, gravel, soil or any other natural material.
 - D. The deposit of waste, yard waste, or debris.
 - E. Activity detrimental to the screening of the neighboring properties.
 - F. Application of fertilizers, whether natural or chemical.
 - G. Application of chemicals for the destruction or retardation of vegetation.
 - H. The application of herbicides, pesticides, and insecticides, except for noxious weed control by or as directed by a governmental agency.
 - I. Outside storage of any kind.
 - J. Activity detrimental to the preservation of the scenic beauty, vegetation, and wildlife.
- 3a. Establishment and Maintenance of Wetland Buffer. The wetland buffer, measuring ____ feet in width at all points surrounding the wetland and as shown in Exhibit A, shall be established and improved to become an “acceptable buffer area” as described within City Ordinances, and shall thereafter be maintained by Grantors in perpetuity free from mowing or other vegetative disturbance, fertilizer application, yard or other waste disposal, the placement of structures or any other alteration that impedes the function of the buffer in protecting the quality of water in the wetland or buffering flows into the wetland.
- 3b. Maintenance of Wetland Buffer. The wetland buffer, measuring ____ feet in width at all points surrounding the wetland and as shown in Exhibit A, shall be maintained by Grantors in perpetuity as an “acceptable buffer area” as described within City Ordinances, free from mowing or other vegetative disturbance, fertilizer application, yard or other waste disposal, the placement of structures or any other alteration that impedes the function of the buffer in protecting the quality of water in the wetland or buffering flows into the wetland.

MORTGAGE HOLDER

CONSENT TO EASEMENT

_____, which holds mortgages on all or part of the property more particularly described in the foregoing Grant of Conservation Easement, which mortgages are dated _____, and recorded _____ as Document No. _____ of the County Recorder for Hennepin County, Minnesota, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does hereby join in, consents, and is subject to the foregoing Grant of Conservation Easement.

BY: *This is a sample document. Do not sign.*
Its _____

AND _____
Its _____

STATE OF MINNESOTA)
)ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2006, by _____ and by _____ the _____ and _____ of _____, on its behalf.

NOTARY PUBLIC

DRAFTED BY:
Campbell Knutson
Professional Association
317 Eagandale Office Center
1380 Corporate Center Curve
Eagan, Minnesota 55121
Telephone: (651) 452-5000
MKB

EXHIBIT A

DESCRIPTION OF WETLAND AND WETLAND BUFFER

WETLAND:

This is a sample document.

WETLAND BUFFER:

(Attach Survey)