

## SECTION 4.5 - OS-W, WETLANDS OVERLAY DISTRICT

**Section 4.5.1 -- STATEMENT OF PURPOSE:** The OS-W Wetlands Overlay District is established as an overlay district intended to protect wetland areas as defined by the Michigan Department of Environmental Quality (MDEQ). As such, uses on protected wetland areas, under the jurisdiction of the MDEQ shall comply with appropriate state statutes governing such areas. Further, the intent of the Wetlands District is to assist in the coordination of local activities regarding wetland areas with MDEQ and, if necessary permits are secured, to allow more intensive land uses. The effect of the OS-W District is to supersede the zoning on the underlying zoning map unless and until necessary permits can be secured from the MDEQ.

**Section 4.5.2 -- PRINCIPAL PERMITTED USES:** The following provisions apply in the Wetlands District. Any use not expressly permitted is prohibited (uses as permitted in the Goemaere-Anderson Wetlands Protection Act, P.A. 203 of 1979).

1. Fishing or trapping;
2. Swimming or boating;
3. Hiking;
4. Maintenance or operation of serviceable structures in existence on the effective date of Public Act 203 of 1979 (October 1, 1980) or constructed pursuant to same;
5. Construction or maintenance of farm or stock ponds;
6. Maintenance, operation, or improvement which includes straightening, widening, or deepening of the following which is necessary for the production or harvesting of agricultural products:
  - A. An existing private agricultural drain;
  - B. That portion of a drain legally established pursuant Act Number 40 of the Public Acts of 1956, as amended, being Sections 280.1 to 280.630 of the Michigan Compiled Laws, which has been constructed or improved for drainage purposes;
  - C. A drain constructed pursuant to other provisions of Act 203 of 1979.
7. Construction or maintenance of farm roads, forest roads, or temporary roads for moving mining or forestry equipment, if the roads are constructed and maintained in a manner to assure that any adverse effect on the wetland will be otherwise minimized;
8. Drainage necessary for the production and harvesting of agricultural products if the wetland is owned by a person who is engaged in commercial farming and the land is to be used in the production and harvesting of agricultural products. Except as otherwise provided in Act 203 of 1979, land improved under this subdivision after the effective date of Act 203 shall not be used for non-farming purposes without a permit from the Michigan Department of Environmental Quality (MDEQ). This subdivision shall not apply to a wetland which is contiguous to a lake or stream, or to a wetland which the Department of Environmental Quality has determined by clear and convincing evidence to be a wetland which is necessary to be preserved for the public interest, in which case the permit shall be required;

9. Maintenance or improvement of public streets, highways, or roads, within the right-of-way and in such a manner as to assure that any adverse effect on the wetland will be otherwise minimized. Maintenance or improvement does not include adding extra lanes; increasing the right-of-way; or deviating from the existing location of the street, highway, or road;
10. Maintenance, repair, or operation of gas or oil pipelines and construction of gas or oil pipelines have a diameter of six (6) inches or less, if the pipelines are constructed, maintained, or repaired in a manner to assure that any adverse effect on the wetland will be otherwise minimized;
11. Maintenance, repair, or operation of electric transmission and distribution power lines and construction of distribution power lines if the distribution power lines are constructed, maintained, or repaired in a manner to assure that any adverse effect on the wetland will be otherwise minimized;
12. Operation or maintenance, including reconstruction of recently damaged parts, of serviceable dikes and levees in existence on October 1, 1980 or constructed pursuant to Act 209 of 1979;
13. Construction of iron and copper mining tailings basins and water storage areas.

**Section 4.5.3 -- CONDITIONAL USES:** The following uses shall be permitted subject to the conditions hereinafter imposed and subject further to the review and approval of the Planning Commission and the Michigan Department of Environmental Quality (MDEQ), if necessary. All conditional use approvals shall be in accordance with Section 5.3.

1. Permitted or conditional uses in the underlying zoning district.

**Section 4.5.4 -- PROCEDURE:** The following procedure shall be followed in administering applications in the OS-W District:

1. It is determined by the Village of Grass Lake Zoning Administrator that a proposed development falls within the OS-W zoning district. The area to be developed is therefore determined to be a wetland under the jurisdiction of the Michigan Department of Environmental Quality (MDEQ) under the requirements of P.A. 203 of 1979 (Goemaere-Anderson Wetland Protection Act) governing wetlands.
2. If the applicant for a building permit so chooses, the procedure continues when the applicant applies for all necessary permits with the Michigan Department of Environmental Quality.
3. If the necessary permits are secured from the MDEQ, the application then falls under the provisions of this Ordinance governed by the provisions of the underlying zone.
4. All uses shall be conditional uses whether permitted or conditional in the underlying zone. All regulations found in the underlying zones for such uses shall apply as well as the condition that all necessary permits must be secured from the MDEQ. As with all conditional uses, a public hearing shall be held by the Planning Commission.
5. The conditional use permit and rezoning process shall ensue according to P.A. 201 of 1921, and amendments thereto.

**Section 4.5.5 -- AREA, YARD, HEIGHT, AND BULK REQUIREMENTS:** If approval is secured from the Michigan Department of Environmental Quality and the Village of Grass Lake, the area, yard, height, and bulk requirements of the underlying district shall be met. (Amended, effective May 20, 2009.)

**SECTION 4.6 - RESERVED**