

ELL 00-1

AN ORDINANCE ESTABLISHING REQUIREMENTS FOR THE CREATION AND MAINTENANCE OF ARTIFICIAL PONDS AND ARTIFICIAL DITCHES

SECTION 1. INTRODUCTION

- 1. Authority.** This ordinance is adopted pursuant to authority conferred by Chapter 60, Wis. Stats.
- 2. Findings.** The Town Board of the Town of Ellington finds that the majority of soil types throughout the Town have significant limitations for the creation of artificial ponds, ditches and dikes and that artificial ponds, ditches and dikes unregulated as to size, location and design pose hazards to persons and property within the Town.
- 3. Purpose.** The purpose of this ordinance is to promote the public health, safety, and general welfare by ensuring proper location, size and design of artificial ponds , ditches, and dikes in the Town of Ellington.

SECTION 2. DEFINITION

- 1. Artificial Pond.** An impoundment of water created by excavating a depression in the ground that accumulates diffused surface water or groundwater or an impoundment of water created by diking banks on the ground that accumulates diffused surface water or groundwater. Artificial pond shall not include any navigable lake, stream or impoundment under the jurisdiction of Wisconsin Department of Natural Resources pursuant to Chapter 30, Wisconsin Statutes.
- 2. Artificial Ditch.** A watercourse with a definite channel and banks created by excavating a ditch or diking banks. Artificial ditch shall not include any navigable lake, stream or impoundment under the jurisdiction of Wisconsin Department of Natural Resources pursuant to Chapter 30, Wisconsin Statutes.
- 3. Artificial Dike.** A water body or watercourse created by constructing an embankment by excavating, dredging or depositing fill which results in the retention or detention of water.
- 4. Enlargement.** Any increase in the surface area or depth of an artificial pond, ditch or dike or any extension or increase in the cross section of an artificial ditch or dike.

SECTION 3. APPLICABILITY OF REGULATIONS

- 1.** No artificial pond, ditch or dike shall hereafter be created except in conformity with the regulations and requirements of this Ordinance.

2. No artificial pond, ditch or dike shall hereafter be enlarged or extended except in conformity with the regulations and requirements of this Ordinance.

SECTION 4. GENERAL REQUIREMENTS

1. Setbacks.

- a. No part of an artificial pond or dike, including the embankment for the retention of water, shall be created or enlarged within 50 feet of a property line or within 75 feet of a public road right-of-way.
- b. No part of an artificial pond or dike, including the embankment for the retention of water, exceeding 10,000 cubic feet of water capacity, shall be created or enlarged within 50 feet of a property line or within 75 feet of a public road right-of-way.
- c. No part of an artificial pond or dike, including the embankment for the retention of water, with an embankment height of 36 inches or more above grade shall be created or enlarged within 50 feet of a property line or within 75 feet of a public road right-of-way.

2. **Side Slopes.** No artificial pond, ditch or dike shall be created, enlarged or extended with embankment side slopes greater than 3 to 1. All sides adjacent to the water surface shall provide a three foot shelf for every three feet of height.

3. **Artificial Ponds or Dikes over 10,000 Cubic Feet.** The creation of any artificial pond or dike exceeding 10,000 cubic feet of water capacity or the enlargement of any artificial pond or dike to more than 10,000 cubic feet of water capacity shall require design plans prepared by a State of Wisconsin licensed civil engineer. The design plans shall address seepage, subsidence, embankment strength, discharge or overflow considerations, and erosion and be certified by the engineer.

4. **Diversion of Water onto Adjacent Lands Prohibited.** No artificial pond, ditch or dike shall be created or maintained such that water is directed onto or set back upon adjacent properties through seepage or overflow.

5. **No Ponds** shall be filled with an artificial drilled well.

SECTION 5. ADMINISTRATION

1. **Permits.** No artificial pond, ditch or dike may hereafter be created, enlarged or extended without a permit obtained from the Town Board of the Town of Ellington.

2. **Permit Submittals.** Application for a permit shall be made in writing and shall include the following information.

- a. Name and address of the property owner.

- b. A statement of the purpose of the artificial pond, ditch or dike.
- c. Cross sections of the pond, ditch or dike every 100 feet showing the embankment, channel and depth along with the estimated volume and flow of water in cubic feet per second for a 25 year return rainfall for a watercourse. Record structures and elevations as part of historic grade.
- d. Embankment materials and the methods of construction including erosion and sedimentation control.
- e. A site plan of the property drawn to scale showing the exact location, size, and dimensions of the artificial pond, ditch or dike and the location of any buildings on the property with distances between the artificial pond, ditch or dike and right-of-way lines, property lines and buildings.
- f. For artificial ponds or dikes over 10,000 cubic feet, a certification by a State of Wisconsin licensed civil engineer is required.

3. Permit Approvals. The Town Board may approve, conditionally approve or deny a permit. The Town Board shall take action to approve, conditionally approve or deny the application within 60 days of submittal and shall state in writing any condition of approval or reasons for denial. No public notice and hearing is required but Town Board action shall be taken in public session as part of a previously prepared agenda.

4. Permit Application Review Fee. A permit application fee of \$100.00 shall be paid to the Town Clerk at the time of permit submittal.

5. Violations. It shall be a violation of this ordinance to create, enlarge or extend any existing or new artificial pond, ditch or dike without a permit. It shall be a violation of this ordinance to maintain an artificial pond, ditch or dike such that water is diverted onto or set upon adjacent properties through seepage or overflow.

6. Remedies. Compliance with provisions of this ordinance may be enforced by appropriate fines and penalties or by injunctive suit by the Town.

7. Penalties. Any person who violates any provision of this ordinance, or any order issued hereunder, shall upon conviction, forfeit not more than Two Hundred Dollars (\$200.00) together with the costs of prosecution. Each day that a violation exists shall constitute a separate offense.

8. Appeals. Any person aggrieved by a decision of the Town Board, may within 30 days after the decision, commence an action seeking the remedy available by certiorari.

9. Severability. It is declared to be the legislative intent that should any provision or part of this ordinance be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of this ordinance in its entirety or any part thereof, other than that so declared to be

invalid.

10. Effective Date. This ordinance shall be effective after adoption by the Town Board of Supervisors of the Town of Ellington and after publication.

Adopted this 10th day of July, 2000.

Attest:

Donna Bentle
Donna Bentle, Clerk

Orville Nelson
Orville Nelson, Chairperson

Joseph Schumacher
Joseph Schumacher

Jeffrey Tews
Jeffrey Tews

Published: 7/20/2000 & 7/23/2000

Posted: 7/25/2000