

City Code, Chapter 7C: WETLANDS ZONING REGULATIONS

CHAPTER 7C
WETLANDS ZONING REGULATIONS
TABLE OF CONTENTS

CHAPTER 7C WETLANDS ZONING REGULATIONS 7C-1 TO 7C-5

ARTICLE I TITLE AND PURPOSE..... 7C-1

 Section 7C-100 Title..... 7C-1

 Section 7C-101 Purpose. 7C-1

ARTICLE II GENERAL PROVISIONS..... 7C-1 TO 7C-2

 Section 7C-200 Jurisdiction..... 7C-1

 Section 7C-201 Superseding Affect 7C-2

 Section 7C-202 Definitions. 7C-2

ARTICLE III WETLANDS ZONE 7C-2 TO 7C-3

 Section 7C-300 Wetlands Zone Defined 7C-2

 Section 7C-301 Wetlands Zone Map..... 7C-2

 Section 7C-302 Wetlands Zone Boundary Determinations..... 7C-3

 Section 7C-303 Posting and Publication of the Official Wetlands Zone Map 7C-3

ARTICLE IV DEVELOPMENT OF WETLANDS RESTRICTED 7C-4

 Section 7C-400 General Restriction 7C-4

 Section 7C-401 Setbacks 7C-4

 Section 7C-402 Nonconformities. 7C-4

ARTICLE V ADMINISTRATION 7C-4 to 7C-5

 Section 7C-500 Application. 7C-4

 Section 7C-501 Application Fee..... 7C-4

 Section 7C-502 Reimbursement by Applicant of other City Costs and Fees 7C-4

 Section 7C-503 Penalty 7C-5

City Code, Chapter 7C: WETLANDS ZONING REGULATIONS

CHAPTER 7C
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ARTICLE I
TITLE AND PURPOSE

SECTION 7C-100. TITLE. This Chapter may be cited as the “Wetlands Zoning Ordinance for the City of Columbus.”

[§ 7C-100 amended by Ord. No. 07-02, effective March 1, 2007.]

SECTION 7C-101. PURPOSE. This Chapter regulates all filling, draining, burning, excavation, and development within wetlands as the same are defined herein. The purposes of this Chapter are:

A. To regulate wetlands in the City of Columbus pursuant to the Minnesota Wetlands Conservation Act of 1991, (1991 Minn. Sess. Law Serv. {West}, Chapter 354, as amended by 1993 Minn. Sess. Law Serv. {West}, Chapter 175, and as amended by 1994 Minn. Sess. Law Serv. {West}, Chapter 627, and as regulated by Board of Water and Soil Resources Wetland Conservation Act Rules, Minn. Rules, Chapter 8420, current through July 19, 1993, hereinafter collectively referred to as the “Act.”)(codified as Minn. Stat. §§ 84.085, 103A.201, 103B.155, 103B.231, 103B.311, 103E.701, 103F.161, 103F.515, 103F.516, 103G.005, 103G.141, 103G.221 through 103G.2373 inclusive, 103G.271, 272.02, 273.11, 282.018, 446A.12, and 645.44); and,

B. To preserve wetlands in a natural state, provide retention and sedimentation control areas for surface water; to regulate the use of adjacent areas to protect their natural function; to prevent or minimize soil erosion, sedimentation or eutrophication; to prevent loss of aquatic organisms, wildlife and vegetation; to protect surface and ground water supplies from the danger of drought, pollution or mismanagement; to secure safety from local flooding; to reduce the financial burdens associated with occupancy or use of areas subject to periodic flooding; to enhance and preserve water quality and natural drainageways as opposed to underground conveyance systems.

[§ 7C-101 amended by Ord. No. 94-1, effective September 9, 1994, amended by Ord. No. 07-02, effective March 1, 2007.]

ARTICLE II
GENERAL PROVISIONS

SECTION 7C-200. JURISDICTION. Pursuant to the Act:

A. The City has designated the Board of the Coon Creek Watershed District as the Local Governmental Unit (“LGU”) (as that term is defined in the Act) for all portions of the City lying within the Coon Creek Watershed;

B. The City has designated the Board of the Rice Creek Watershed District as the LGU for all portions of the City lying within the Rice Creek Watershed District; and,

C. The City has designated itself as the LGU for all other portions of the City.

Jurisdiction for administration and enforcement of the Act shall lie respectively with each of the three above-designated LGUs.

[§ 7C-200 amended by Ord. No. 07-02, effective March 1, 2007.]

City Code, Chapter 7C: WETLANDS ZONING REGULATIONS

SECTION 7C-201. SUPERSEDING AFFECT. Where this Chapter is in conflict with any other provision of this City Code, this Chapter shall supersede. Where the Act is in conflict with other state laws, the Act shall be deemed to supersede. These provisions are intended to allow the respective LGUs sufficient time to investigate, identify, evaluate, and delineate wetlands in any proposed development. Given that snow cover or other natural conditions may impede the investigation, identification, evaluation, and delineation of wetlands, these provisions shall be interpreted to grant a reasonable extension of time to developers, to the LGUs, and to the City from statutory or ordinance time limits for development approvals, including, but not limited to, extending the time periods for approval of subdivisions or other development applications. In no case shall these provisions be deemed to extend any statutory or ordinance time limits more than 60 days beyond the disappearance of snow cover or beyond the removal of other natural conditions which may impede the investigation, identification, evaluation, and delineation of Wetlands.

[§ 7C-201 amended by Ord. No. 07-02, effective March 1, 2007.]

SECTION 7C-202. DEFINITIONS. All definitions shall be determined by reference to the Act, to state regulations adopted pursuant to the Act, or to this City Code, and, otherwise, words and phrases shall have the meaning customarily assigned to them as a matter of general usage. All “Wetlands” shall be defined, investigated, identified, evaluated, and delineated in accordance with the provisions of the Act and any state regulations promulgated thereunder.

[§ 7C-202 amended by Ord. No. 07-02, effective March 1, 2007.]

ARTICLE III **WETLANDS ZONE**

SECTION 7C-300. WETLANDS ZONE DEFINED. All Wetlands in the City of Columbus described and identified as Types 1, 2, 3, 4, 5, 6, 7 and 8 in “Wetlands of the United States,” U.S. Dept. of the Interior Fish and Wildlife Circular No. 39, 1971 Edition, or described and identified pursuant to “Classification of Wetlands and Deepwater Habitats of the United States,” (FWS/OBS - 79/31, December, 1979, by Cowardin, et. al.) as shown on the U.S. Fish and Wildlife Services National Wetlands Inventory Map of 1991, are hereby designated as the Wetlands Zone. Because the Act defines Wetlands in a manner which focuses on predominant hydric soils and prevalent hydrophytic vegetation, the Act may go beyond the federal definitions shown above, and therefore the Wetlands Zone definitions of this Section are the minimum definitions of Wetlands for the City of Columbus and are not intended to be the exclusive definitions or delineations of the Wetlands Zone. The Wetlands Zone shall be increased and augmented with data specifically derived from the investigation, identification, evaluation, and delineation of Wetlands on any land for which development is proposed.

[§ 7C-300 amended by Ord. No. 07-02, effective March 1, 2007.]

SECTION 7C-301. WETLANDS ZONE MAP. The U.S. Fish and Wildlife Services National Wetlands Inventory Map of 1991 is hereby designated as the Official Wetlands Zone Map for the City of Columbus. The Wetlands Zone shall overlay all established zoning districts so that any parcel of land lying in a Wetlands Zone shall also lie in one or more of the established zoning districts. Lands lying within a Wetlands Zone shall be subject to the requirements established by other applicable ordinances and regulations of the City. Within each Wetlands Zone, all uses shall be permitted in accordance with the regulations for the underlying zoning district, provided that such uses must also satisfy the additional requirements of this ordinance.

City Code, Chapter 7C: WETLANDS ZONING REGULATIONS

[§ 7C-301 amended by Ord. No. 07-02, effective March 1, 2007.]

SECTION 7C-302. WETLANDS ZONE BOUNDARY DETERMINATIONS. If not established by a current survey, the boundaries of a Wetlands Zone shall be determined by reference to the Act, using the interpretive rules of Chapter 7A, § 7A-640.

SECTION 7C-303. POSTING AND PUBLICATION OF THE OFFICIAL WETLANDS ZONE MAP.

A good copy of the U.S. Fish and Wildlife Services National Wetlands Inventory Map of 1991 (all sheets showing lands in the City of Columbus), properly marked and certified as the Official Wetlands Zone Map, shall be posted in the City Hall Meeting Room adjacent to the Official Zoning Map. The Official Wetlands Zone Map shall be identified by certification and bear the seal of the City under the following words, "This is to certify that this is the Official Wetlands Zone Map referred to in Article III of Chapter 7C of the City Code (Wetlands Zoning Regulations) of the City of Columbus, State of Minnesota", together with the date of adoption of this Chapter. Certification should be by the signature of the Chairman of the City Council and Council members and attested by the City Clerk. Two duplicate originals of the Official Wetlands Zone Map shall be maintained, each bearing an original certification and original signatures. The first original shall be marked "ORIGINAL" and shall be posted at all times in the main meeting room of the City Hall. The second original shall be marked "DUPLICATE ORIGINAL" and shall be kept safe by the City Clerk with the originals of City Ordinances. The Duplicate Original may be removed from the records by the Clerk for the purpose of making certified copies or other official purpose. The City Clerk shall mark the Wetlands Zone Map with an additional legend reading, "The Wetlands Zone is an overlay zone. Any parcel of land lying in a Wetlands Zone also has an underlying zoning classification which shall be determined by reference to the Official Zoning Map and by reference to Chapter 7A of the Columbus City Code."

Since the Official Wetlands Zone Map, all panels taken together, measures approximately three (3.0) feet by six (6.0) feet and each square inch of the map is filled with minute details, the map is therefore too large for reprinting in its original size and too detailed to be meaningfully reduced for reprinting in official newspaper publications of this Chapter, the City Clerk is hereby authorized to publish and distribute original sized copies of the Wetlands Zone Map and distribute them to the public. The Clerk is authorized to collect a reasonable charge for the cost of each map reproduction to reimburse the City for the printing costs. The Clerk shall post copies of the map and the ordinance at such other public places that are customarily used for public postings.

The provisions of SECTION 7A-620., MAINTENANCE OF THE OFFICIAL ZONING MAP, the provision of SECTION 7A-630., LOCATION OF OFFICIAL ZONING MAP, and the provisions of SECTION 7A-631., PRODUCTION OF REVISIONS TO OFFICIAL ZONING MAP AND PRESERVATION OF OUTDATED MAPS, shall all be deemed to include reference to and shall be fully applicable to the Official Wetlands Zone Map.

[§ 7C-303 amended by Ord. No. 07-02, effective March 1, 2007.]

ARTICLE IV
DEVELOPMENT OF WETLANDS RESTRICTED

SECTION 7C-400. GENERAL RESTRICTION. No burning, filling, draining, excavation or development shall take place in a Wetlands Zone unless permitted by the Act and this Chapter. A permit

City Code, Chapter 7C: WETLANDS ZONING REGULATIONS

issued pursuant to the Act and this Chapter shall not relieve the permittee of the responsibility of complying with all other laws and ordinances.

SECTION 7C-401. SETBACKS. All structures, land disturbing activities, and improvements shall be set back from the Wetlands Zone not less than one rod (16.5 feet). In accordance with § 7D-709 of this City Code, a protective buffer strip of undisturbed soil and natural vegetation at least one rod (16.5 feet) in width shall surround all wetlands.

[Section 7C-401 amended by Ord. No. 94-5, effective January 12, 1996, amended by Ord. No. 07-02, effective March 1, 2007, amended by Ord. No. 14-02, effective May 1, 2014.]

SECTION 7C-402. NONCONFORMITIES. Nonconforming lots, uses, structures or combinations thereof shall be adjudicated according to the provisions of Chapter 7A, Article IV.

ARTICLE V **ADMINISTRATION**

SECTION 7C-500. APPLICATION. A proposal to engage in any activity in a Wetlands Zone which is regulated by the Act or by this Chapter or by Chapter 7D shall be included in the application for a Zoning Permit pursuant to City Code § 7A-301. If the proposed activities in the Wetland Zone are approved, the approval shall be delineated as an attachment to the Zoning Permit. If the proposed activities are determined to have no impact on existing Wetlands, the Exemption Certificate shall be attached to the Zoning Permit.

[Section 7C-500 amended by Ord. No. 94-5, effective January 12, 1996, amended by Ord. No. 07-02, effective March 1, 2007.]

SECTION 7C-501. APPLICATION FEE. In addition to any other fees or cost charged to an applicant at the time that application for a Zoning Permit and Building Permit is made, the Zoning Administrator is authorized to collect a wetlands evaluation fee of \$75.00 or such other amount as the City Council may authorize.

[§ 7C-501 amended by Ord. No. 07-02, effective March 1, 2007.]

SECTION 7C-502. REIMBURSEMENT BY APPLICANT OF OTHER CITY COSTS AND FEES. If the development proposed in the application does not seek to avoid impact on existing Wetlands, but instead contemplates filling, draining, excavation, or modification of existing Wetlands, the City's costs for administration and adjudication of the application will be increased to an amount many times the \$75.00 fee charged as an application fee. Prior to issuance of a Zoning Permit and Building Permit, the applicant shall reimburse the City for all wetlands evaluation fees, wetlands engineering fees, civil engineering consulting fees, environmental engineering consulting fees, planning consulting fees, inspection fees, hearing and publication costs, fees for legal services, and administrative or professional costs reasonably and necessarily incurred by the City in processing an application for a Zoning Permit and Building Permit and/or an application for subdivision approval under the terms of these regulations and other provisions of the City Code. The Zoning Administrator is authorized to bill an applicant for actual costs incurred during the pendency of proceedings under this Chapter. Failure of the applicant to pay such billings within 10 days of the billing date shall be grounds for the City Council to suspend further proceedings regarding the application or to deny the application.

[§ 7C-502 amended by Ord. No. 07-02, effective March 1, 2007.]

City Code, Chapter 7C: WETLANDS ZONING REGULATIONS

SECTION 7C-503. PENALTY. Violation of the provisions of this Chapter or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of Building Permits, Zoning Permits, Variances or Conditional Use Permits shall constitute a misdemeanor. Any person who violates this Chapter or fails to comply with any of its requirements shall, upon conviction thereof shall be punished by a fine or imprisonment in accordance with the provisions of Chapter 1, Section 1-109 of this City Code. Each day such violation continues after receipt of a notice of violation, shall be considered a separate offense. The owner or tenant of any Lot, Building, Structures, Premises, or part thereof, and any architect, builder, contractor, agent or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

[§ 7C-503 amended by Ord. No. 07—02, effective March 1, 2007.]



[Ordinance No. 92-1, adding this Chapter 7C to the Town Code, contained the following statement of purpose and findings:

“SECTION 1. Purpose. This Ordinance is written to regulate development in wetlands pursuant to the Minnesota Wetlands Conservation Act of 1991 (1991 Minn. Sess. Law Serv. [West], Chapter 354, hereinafter the “Act.”)

SECTION 2. Findings.

A. The Town Board finds that it is the responsibility of the Township, as a municipality lying within the seven-county metropolitan area, to act to preserve wetlands pursuant to the Act.

B. The Town Board finds that wetlands within the Township, as part of the natural ecosystem, are critical to the present and future health, safety and general welfare of the land, wildlife and people within the Township; that these wetlands conserve surface waters, provide floodwater retention and improve water quality for our lakes and streams. Further, these wetlands improve subsoil moisture and serve to recharge the large aquifers critical to the community.

C. The Town Board recognizes that wetlands and their natural functions, if properly maintained, provide important ecological, educational and recreational assets as well as enhancing property values and conserving the natural beauty of the landscape.”]

Chapter 7C was added to the Town Code by Ordinance No. 92-1, effective January 31, 1992. History of ordinances affecting the text of Chapter 7C (since Chapter 7C was added to the Town Code):

Amended by Ord. No. 92-5, effective July 3, 1992.

Amended by Ord. No. 94-1, effective September 9, 1994.

Amended by Ord. No. 94-5, effective January 12, 1996.

Amended by Ord. No. 07-02, effective March 1, 2007.

Amended by Ord. No. 14-02, effective May 1, 2014.

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