

**SECTION 1050
WETLANDS**

1050.01 STATEMENT OF POLICY

The City of Tonka Bay (the “City”) is a community of homes located on and among bays, inlets, harbors, wetlands, woods, and valleys lying near the center of Lake Minnetonka. Those who settled the Lake Minnetonka area in the mid-19th-century were quick to recognize the natural beauty of the area; it was one of the first communities settled and developed on Lake Minnetonka. The City has a historical heritage and it has an obligation to preserve that which nature has given to its citizens for the benefit of those who will live here in the 21st century and beyond. It is in the public interest to protect against haphazard, uncoordinated and unplanned land development which affects lowlands, marshes, wetlands, swamps, lakes and watercourses within the City. Recognizing the obligation to protect these assets and natural resource gifts from destruction and pollution of all kinds and in order to carry out a program of coordinated land and water management, the following standards, prohibitions, regulations, and requirements are hereinafter set forth to achieve the following goals.

Subd. 1 Reduce danger to health by protecting surface and ground water supplies from impairment which results from incompatible land uses by providing safe and sanitary drainage.

Subd. 2 Permit and encourage planned development land uses which will not impede the flow of flood water or cause danger to life or property.

Subd. 3 Permit and encourage land uses compatible with the preservation of the natural vegetation and marshes which are a principal factor in the maintenance of constant rates of water flow through the year and which sustain many species of wildlife and plant growth.

Subd. 4 Avoid fast runoff of surface waters from developed areas to prevent pollution materials such as animal feces, motor oils, paper, sand, salt and other debris, garbage, and foreign materials from being carried directly into the nearest natural stream, lake or other public waters.

Subd. 5 Prevent the development of structures in areas which will adversely affect the public passage, preservation, and use of creeks, marshes, lowlands, and watercourses within the City.

1050.02 WETLAND LAWS AND RULES ADOPTED BY REFERENCE

All activities within the City shall comply with the Wetland Conservation Act of 1991, as amended (Minnesota Statutes, Section 103F.612 et seq.) (the “WCA”) and the accompanying rules of the Minnesota Board of Water and Soil Resources (Minnesota Rules, Chapter 8420, as amended) (the “Wetland Conservation Rules”). The

Minnehaha Creek Watershed District (the “MCWD”) is the Local Governmental Unit primarily responsible for administering the WCA and the Wetland Conservation Rules in the City. All activities shall also comply with laws and rules promulgated by the MWCD, including but not limited to the MCWD’s Wetland Protection Rule, the Stormwater Management Rule, and the District Waterbody Crossings and Structures Rule (the “MCWD Rules”). This article incorporates by reference the WCA, the Wetland Conservation Rules, and the MCWD Rules. Terms used in this Section which are defined in the WCA, the Wetland Conservation Rules, or the MCWD Rules shall have the meanings given in those laws and rules. For purposes of this Section, the term “wetland” shall have the meaning given in Minnesota Statutes, Section 103F.612, Subdivision 1. Where the standards, regulations or requirements imposed by any provision of this Ordinance are either more or less restrictive than comparable standards, regulations or requirements imposed by the WCA, the Wetland Conservation Rules or the MCWD Rules, standards, regulation or requirement which imposes the more restrictive standard, regulation, or requirement shall prevail.

1050.03 WETLAND PERMITS REQUIRED

For any activity in the City for which a permit is required under the WCA, the Wetland Conservation Rules, or the MCWD Rules, the person conducting such activity shall obtain all necessary permits and comply with their provisions at all times.

1050.04 CITY WETLAND BUFFER SETBACK, VEGETATION, AND MAINTENANCE REQUIRED

For any activity in the City for which a wetland buffer is required under the WCA, the Wetland Conservation Rules, or the MCWD Rules, the person conducting such activity shall also comply with the wetland buffer setback requirements, development activity prohibition, and wetland buffer vegetation and maintenance requirements of this Section, as well as any other laws, statutes, ordinances, regulations, and rules, including but not limited to the WCA, the Wetland Conservation Rules, and the MCWD Rules.

1050.05 WETLAND BUFFER SETBACK

Subd. 1 The following minimum wetland buffer setbacks shall be determined by the management class of the wetland, as evaluated by the current version of the Minnesota Routine Assessment Method (MnRAM), as listed below, or another wetland functional assessment tool.

Management Class	Wetland Buffer Setback
Manage 3	20 feet
Manage 2	25 feet
Manage 1	30 feet
Preserve	35 feet

1050.06 DEVELOPMENT ACTIVITY PROHIBITED IN WETLAND BUFFER SETBACK

No person, firm, partnership, corporation, or other entity shall conduct any development activity within a wetland buffer setback. For purposes of this prohibition, development activity shall include filling, grading, dredging, excavation, or construction of any dwelling or artificial obstruction (including but not limited to any structure, building, impervious surface, deck, patio, dock, wall, embankment, projection, excavation, conduit, pole, culvert, fence, and fill).

1050.07 WETLAND BUFFER VEGETATION AND MAINTENANCE

Subd. 1 Buffer vegetation shall not be cultivated, cropped, pastured, mowed, fertilized, subject to the placement of mulch or yard waste, or otherwise disturbed, except for periodic cutting or burning that promotes the health of the buffer, actions to address disease or invasive species, mowing for purposes of public safety, temporary disturbance for placement or repair of buried utilities, or other actions to maintain or improve buffer quality. Pesticides and herbicides may only be used in accordance with state pesticide laws, including Minnesota Statutes, Chapter 18B, and Minnesota Department of Agriculture pesticide best management practices. No structure or impervious surface shall be placed within a buffer setback. No fill, debris or other material shall be excavated from or placed within a buffer setback.

Subd. 2 Buffers, or portions thereof, that are not vegetated or will be disturbed by grading or other activities shall be replanted and maintained according to the following standards:

(a) Soils must be de-compacted to a depth of 18 inches and organic matter must be incorporated into soils before revegetation. Decompaction shall be accomplished solely by incorporation of organic matter within the drip line or critical root zone of trees or within 10 feet of underground utilities.

(b) Erosion and sediment control practices, including provisions of the MCWD's District Erosion Control Rule, as appropriate, shall be used during buffer vegetation establishment.

(c) Buffers shall be planted with a native seed mix and/or native plantings approved by the City.

Subd. 3 For buffers on public land or right-of-way, the applicant may comply with these buffer vegetation and maintenance requirements by demonstrating that the buffer will be maintained in accordance with a written maintenance agreement with the City meeting the vegetation and maintenance. The agreement shall state that, if the land containing the buffer is conveyed, the City shall require the buyer to comply with this Section.

1050.08 **PENALTY**

Any person violating any of the provisions of this ordinance shall be guilty of a misdemeanor.