

## **1. Title and Purpose**

### **1.1. Title**

This Ordinance shall be known, cited, and referred to as the Aitkin County Wetland Protection Ordinance. When referred to herein, it shall be known as “this Ordinance.”

### **1.2. Statutory Authorization**

This Ordinance is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 8420. This Ordinance incorporates by reference all portions of the Minnesota Wetlands Conservation Act (WCA) that are not subject to amendment by Sections 8420.0245 and 8420.0650. In addition, this Ordinance also incorporates the following:

- (a) Wetlands of the United States (U. S. Fish and Wildlife Service Circular No. 39, 1971 edition)
- (b) United States Army Corps of Engineers Wetland Delineation Manual (January 1987)

### **1.3. Purpose and Policy**

Wetlands perform many valuable functions including:

- (a) Improving water quality by filtering sediments, nutrients and toxic substances out of water before it reaches our rivers and lakes,
- (b) reducing flooding by slowing excess water runoff during times of heavy rainfall,
- (c) providing habitat for many fish, wildlife and plants, some of which can only survive in wetlands,
- (d) providing important outdoor science and art classrooms and laboratories,
- (e) providing opportunities for recreation such as canoeing, hunting, hiking, fishing, and birding, and
- (f) offering commercial uses like growing wild rice or cranberries and peat mining.<sup>1</sup>

A growing awareness of wetland benefits have led to laws regulating wetland draining, filling, and discharge of pollutants into wetlands. This sentiment was embraced in the Aitkin County Comprehensive Land Use Management Plan (April 2000), which states “the County shall protect and enhance the wetland resources through management policies that maximize the functions and benefits this resource provides.”

Aitkin County has approximately 550,000 acres of wetlands. Using conservative estimates derived from the National Wetland Inventories, 51% of Aitkin’s land is considered jurisdictional wetlands. It has been estimated that greater than 95% of our pre-settlement wetlands still exist in their natural state. Therefore, the Wetland Conservation Act has designated Aitkin as a “Greater than 80% County” allowing its citizens a level of flexibility when conducting legal wetland activities.

The Wetland Conservation Act allows Aitkin additional flexibility in managing its wetland resources under a County Wetland Plan and Ordinance. This County Wetland Plan and Ordinance uses a predefined assessment of wetland functions related to public values in order to establish a baseline for creating management policies for the County’s Plan and to adopt those policies into this Ordinance.

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<sup>1</sup>(Adapted from) Wetland Regulation in Minnesota (brochure), Minnesota Board of Water and Soil Resources, 2000.

This Ordinance is adopted for the purpose of:

- (a) Adopting certain alternative standards that shall apply to determinations by Aitkin County in its capacity as the local government unit for the state Wetland Conservation Act program that are flexible and meet the needs of Aitkin County, yet still achieve the overall goal of no net loss of wetlands,
- (b) Adopting the state Wetland Conservation Act program by reference as part of Aitkin County's official controls to provide an additional means for enforcement of the requirements of the state Wetland Conservation Act program,
- (c) Adopting as part of Aitkin County's official controls additional local requirements for the conservation of wetlands that are more restrictive than the requirements of the state Wetland Conservation Act program, and
- (d) Adopting administrative procedures for the performance of Aitkin County's responsibilities as the local government unit for the state Wetland Conservation Act program that shall apply in addition to the administrative procedures set forth in the Wetland Conservation Act and Wetland Conservation Act Rules.

## **2. General Provisions**

### **2.1. Enforcement**

This Ordinance is adopted by reference pursuant to the provisions of Minnesota Statutes Section 394.37. It is declared unlawful for any person to violate any of the terms or conditions of this Ordinance. Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with, or who resists the enforcement of any other provisions of this Ordinance shall be charged with a misdemeanor, punishable by \$1,000 and/or 90 days imprisonment or both. Failure to restore a violation constitutes as a separate offense and shall be the duty of the County Attorney to institute proper action.

In the event of a violation or a threatened violation of this Ordinance, Aitkin County, in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain, or abate such violations or threatened violations. The Department may, and is empowered to, issue cease and desist orders to halt the progress of any on-going violations. When the work has been stopped by the Department for any valid reason whatsoever, it shall not again be resumed until the reason for the work stoppage has been completely satisfied and the cease and desist order lifted.

Any taxpayer may institute mandamus proceedings in the District Court to compel specific performance by the proper official or officials of any duty required by this Ordinance.

### **2.2. Appeals**

Exemption, no-loss, replacement plan, wetland type, wetland boundary, and banking determinations made by Aitkin County in its capacity as the local government unit for the state Wetland Conservation Act program may be appealed to the Board of Water and Soil Resources pursuant to and in accordance with Minn. Stat § 103G.2242, subd. 9 and Minn. R. 8420.0250.

### **2.3. Penalties**

Any application for a permit which is made after the work has commenced and which requires a permit shall be charged five (5) times the permit fee. The Department, with concurrence

from the Technical Evaluation Panel (TEP), may require correction and/or restoration of the property to its original state before the permit is considered.

#### **2.4. Interpretation**

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by state statutes.

#### **2.5. Severability**

If a court of competent jurisdiction adjudges any section, clause, provision, or portion of this Ordinance unconstitutional or invalid, the remainder of this Ordinance shall not be affected thereby.

#### **2.6. Abrogation and Greater Restrictions.**

It is not intended by this Ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail. All other ordinances inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only, with the exception of the Aitkin County Floodplain Ordinance.

#### **2.7. Responsibility to Obtain Other Permits**

Approval of an exemption or replacement plan under the terms of this Ordinance and the Wetland Conservation Act does not express or imply approval by any other regulating jurisdiction. It is an applicant's sole responsibility to contact all other federal, state, or local agencies to make sure all necessary permits and approvals are granted concerning the applicant's project.

### **3. Definitions**

Terms used in this Ordinance which are defined in the Wetland Conservation Act or the Wetland Conservation Act Rules shall have the meanings given there. Reiteration of definitions in this Ordinance is provided for convenience of the reader. Unless specifically defined below or in the Wetland Conservation Act Rules, words or phrases used in this Ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Ordinance the most reasonable application. For the purpose of this Ordinance, the words "must" and "shall" are mandatory and not permissive.

**Attorney:** The County Attorney of Aitkin County, Minnesota or his/her authorized representative.

**Board (BWSR):** The Board of Water and Soil Resources (BWSR) under Minnesota Statutes, section 103B.101.

**Bottomland Hardwood:** A floodplain wetland dominated by deciduous trees on alluvial deposited soils associated with riverine settings.

**Commissioner:** The commissioner of the Department of Natural Resources.

**Conservation Easement:** A set of restrictions a landowner voluntarily places on his or her property in order to preserve its conservation values in perpetuity. The conservation values of the property, the restrictions created to preserve those values and the rights reserved by the landowner are detailed in a legal document filed and recorded with the Aitkin County Recorder.

**County Board:** The Board of County Commissioners of Aitkin County, Minnesota.

**Day:** Working days when used in a time period of 15 calendar days or less and calendar days when used in a time period greater than 15 days. The day of the event shall not be used in counting any period of time used for interpretation of this Ordinance.

**Department:** The Aitkin County Environmental Services Department.

**Floodplain:** Those lands including the beds proper and the area adjoining a watercourse, which have been, or hereafter may, be covered by a regional flood.

**Forest land conversion:** The clear cutting of forested lands to prepare for a new land use other than reestablishment of a subsequent forest stand.

**Forest Management Plan:** a written document that contains (1) owner-specific forest management goals for the property; (2) a reliable field inventory of the individual forest cover types, their age, and density; (3) a description of the soil type and quality; (4) an aerial photo and/or map of the vegetation and other natural features of the property clearly indicating the boundaries of the property and of the forest land; (5) a description of the landowner's proposed future vegetative condition for the property; (6) prescriptions to meet proposed future conditions of the property; (7) a recommended timetable for implementing the prescribed activities; and (8) a legal description of the parcels encompassing the parcels included in the plan.

**Hydric Soils:** Soils that are saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part.

**Hydrophytic Vegetation:** Macrophytic plant life growing in water, soil, or a substrate that is at least periodically deficient in oxygen as a result of excessive water content.

**Local Government Unit (LGU):** The governing body responsible for overseeing and implementing this Ordinance and the Wetland Conservation Act (WCA).

**Ordinary high water level (OHW):** The boundary of public waters and wetlands. An elevation delineating the highest water level that has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.

**Plan:** The Aitkin County Wetland Functional and Value Assessment Model which will serve as the local wetland plan in accordance with Minn. Stat. § 103G.2243 and Minn. R. 8420.0650 and which is herein adopted by reference.

**Planning and Zoning Administrator:** The Planning and Zoning Administrator of Aitkin County, Minnesota, or his authorized representative.

**Project:** (*county specific*) Activities with the purpose of developing or manipulating a property; a specific plan, contiguous activity, proposal, or design necessary to accomplish a goal as defined by the local governing unit. As used in this definition, a project may not be split into components or phases for the sole purpose of gaining additional exemptions. On residential lots, all past, present, and future excavation and fill activities are considered to be one project. Fill or excavation activities completed before WCA became effective (January 1, 1992) are considered exempt.

Note: Forty-acre tracts (quarter/quarter sections) are considered individual properties for this definition

**Public waters:** Any waters as defined in Minnesota Statutes, section 103G.005.

**Sensitive resources:** Areas unsuitable for development in their natural state due to constraints such as shallow soils over groundwater or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding, or occurrence of flora or fauna in need of special management.

**Riverine:** Relating to or associated with a river, banks or floodplain.

**Sequencing:** The process used by the local government unit (LGU) to evaluate the necessity of an activity impacting a wetland. The party proposing the impact must demonstrate that the activity complies with all of the following principles in descending order or priority:

- (a) avoids direct or indirect impacts to the wetland that may destroy or diminish the wetland;
- (b) minimizes the impact to the wetland by limiting the degree or magnitude of the wetland activity and its implementation;
- (c) rectifies the impact by repairing, rehabilitating, or restoring the affected wetland;
- (d) reduces or eliminates the impact to the wetland over time by preservation and maintenance operations; and
- (e) replaces unavoidable impacts to the wetland by restoring or, if wetland restoration opportunities are not reasonably available, creating substitute wetland areas having equal or greater public value as provided for under WCA [8420.0530](#) to [8420.0760](#).

**Shore impact zone (SIZ):** The land located between the ordinary high water level of a public water and a line parallel to it at a distance of 50% of the structure setback but not less than 50 feet.

**Shoreland:** The land located within the following distances from public waters: 1,000 feet from the ordinary high water level of a lake, pond, or flowage, 500 from the Mississippi River; and 300 feet from a river or stream, or the landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater. The limits of shorelands may be reduced whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and when approved by the commissioner.

**Significant historic site:** Any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery that falls under the provisions of Minnesota Statutes, section 307.08. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota State Archaeologist or the director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historic sites.

**Special Consideration Area:** An instance in which a proposed wetland impact is not allowed due to the existence of cultural resources, special habitats, rare and endangered species, or other special circumstance found in the proposed project area.

**Structure:** Any building or appurtenance, including decks, platforms, overhangs and projections therefrom, except fences less than eight (8) feet in height, retaining walls, aerial or underground utility lines, such as sewer, electric, telephone, telegraph, gas lines, towers, poles, and other supporting facilities, television satellites, antennas, propane tanks, outdoor furnaces, currently licensed fish houses. However, recreational camping vehicles, fish houses, propane tanks, outdoor furnaces and television satellites must meet setback requirements of this Ordinance.

**Technical Evaluation Panel (TEP):** A panel represented by technical professionals from the Board, Soil and Water Conservation District (SWCD), the local government unit, and other invited resource professionals. For projects affecting public waters or public waters wetlands or affecting wetlands adjacent to the public waters or public waters wetlands, the TEP shall also include a technical professional employee of the Department of Natural Resources.

This panel shall make technical findings and recommendations regarding wetland functions and the resulting public values, location, size, and type for replacement plans, and wetland

banking plans and exemption, no-loss, wetland boundary or type, and sequencing requests, and for comprehensive wetland protection and management plans and wetland ordinances, if requested to do so by the local government unit, the landowner, or a member of the technical evaluation panel.

**Wetland:** Land transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this subpart, wetlands must include all of the following:

- (a) have a predominance of hydric soils;
- (b) be inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and
- (c) under normal circumstances, support a prevalence of hydrophytic vegetation

**Wetland Advisory Committee (WAC):** An expanded panel of agency personnel that participate in the Technical Evaluation Panel and includes DNR Conservation Officers, DNR Waters, County Land Department, Corps of Engineers, Pollution Control Agency, et al.)

**Wetland Conservation Act (WCA):** The 1991 Minn. Laws ch. 354, as amended by 1993 Minn. Laws ch. 175, 1994 Minn. Laws ch. 627, 1996 Minn. Laws ch. 4632, and any subsequent amendments.

**Wetland Conservation Act Rules:** The rules adopted by the Board of Water and Soil Resources to implement the Wetland Conservation Act, Minn. R. ch. 8420 (1995), as amended by 20 Minn. Reg. 2629 (June 10, 1996), and any subsequent amendments.

#### **4. State Wetland Conservation Act Program**

As the local government unit for the state Wetland Conservation Act program, Aitkin County Environmental Services is responsible to make decisions regarding wetland type, wetland boundaries, exemption certificates, no-loss determinations, replacement plan applications, and banking determinations in accordance with the Wetland Conservation Act regulations, except as expressly provided in Section 4.3 of this Ordinance pertaining to alternative standards.

##### **4.1. Alternative Standards**

Pursuant to Minn. Stat. § 103G.2243, subd. 2 and Minn. R. 8420.0650, subp. 2, a local government unit (LGU) which has adopted an approved comprehensive wetland protection and management plan may vary certain standards that would otherwise apply to local government unit determinations under the Wetland Conservation Act and the Wetland Conservation Act Rules. In accordance with the model, the following alternative standards shall apply to determinations made by Aitkin County in its capacity as local government unit for the state Wetland Conservation Act program:

Classification of Wetlands

##### **4.1.1. Authority for alternative standards**

Minn. Stat. § 103G.2243, subd. 2 (1) and Minn. R. 8420.0650, subp. 2(A) provide that a local government unit, which has adopted an approved comprehensive wetland protection and management plan may provide for classification of wetlands in the plan area based upon an inventory of wetlands, an assessment of the wetland functions, and the resulting public value of wetlands.

##### **4.1.1.1. Findings in support of alternative standard**

The Aitkin County Wetland Functional Assessment Model assigns specific values to all wetlands in the County (Appendix A: Wetland Type Map) through a computer analysis using Geographic Information System (GIS) software. Wetlands are rated for shoreline protection,

surface and groundwater quality protection, floodwater attenuation, fisheries and wildlife habitat, and proximity to known rare and endangered species.

Function and value analysis results (Appendix B) indicate that altering standards in accordance with Minn. R. 8420.0650 was found reasonable and prudent.

4.1.1.2. Alternative standard

Wetlands shall be classified for purposes of the application of the alternative standards in Sections 4.1.2.2 and Appendix C (Field Evaluation Sheet) of this Ordinance according to the Aitkin County Wetland Functional Assessment Model.

**4.1.2. Replacement**

4.1.2.1. Authority for alternative standard

Minn. Stat. § 103G.2243, subd. 2(3) and Minn. R. 8420.0650, subp. 2(C) provide a local government unit which has adopted an approved comprehensive wetland protection and management plan may vary the replacement standards of Minn. Stat. § 103G.222, subd. 1(f-g), based on the classification of wetlands and criteria set forth in the plan.

4.1.2.2. Findings in support of alternative standard

Pursuant to the model, Aitkin County makes the following findings in support of its alternative standard for replacement:

The analysis provided by the model has determined that variations in the replacement ratio are warranted which allow the alteration of the replacement wetland ratios. The score for the impacted wetland is calculated during an onsite inspection using the model (Appendix C: Field Evaluation Sheet). The final score is to be approved by the Technical Evaluation Panel and replaced according to Table 1, provided that the replacement wetland has equal or greater public value.

**Table 1: Wetland Replacement Ratios within Watershed in Aitkin County**

Score	Ratio	Description with Guidance to the TEP
14-18	1/5 <sup>th</sup> :1	<b>Very Low:</b> impact to functions and values ( <i>Special considerations should be present before denying a request if sequencing has been adhered to</i> )
19-21	1/3 <sup>rd</sup> :1	<b>Low</b> impact to function and values
22-27	1:1	<b>Medium</b> impact to function and values
28-32	3:1	<b>High</b> impact to function and values
33-38	5:1	<b>Very High</b> impact to function and value ( <i>Very sensitive environment, probable rejection without extenuating circumstances or in-kind replacement</i> )

4.1.2.3. Alternative standard

The replacement standards in Minn. Stat. § 103G.222, subd. 1(f-g) shall be varied as presented in Table 1.

**5. Additional Local Requirements**

Additional local requirements that are more restrictive than required by the Wetland Conservation Act are imposed in the interest of better serving the citizens of Aitkin County and for the protection of their wetlands resources. These additional local requirements are adopted as part of the official controls of the governing body for projects under its jurisdiction. The intent of this ordinance is not to provide additional restrictions for projects covered by other

WCA programs or when Aitkin County is not the LGU (e.g., mining projects where DNR is the LGU, road projects that are mitigated through a separate BWSR program, etc).

### **5.1. Shoreland Alterations**

Wetland drainage, fill, or excavation activities within the shoreland district of a public water may be regulated under the Aitkin County Shoreland Management Ordinance.

#### **5.1.1. Shore Impact Zone Fill**

In the Shoreland, no filling of wetlands is permitted in the shore impact zone and in wetlands that have a contiguous surface connection to public waters, this shall not include activities in Section 5.42 of the Shoreland Management Ordinance.

### **5.2. Wetland Exemptions**

Standards in Minn. 8420.0115 apply when considering if a drain, excavating, or fill activity qualifies for an exemption listed in Minn. 8420. Fill or excavation activities completed before WCA became effective (January 1, 1992) are considered exempt.

#### **5.2.1. Landowner Responsibility**

The landowner is responsible for ensuring that all applicable permits are obtained and/or that appropriate wetland exemptions apply. It is recommended that landowners have a site review conducted by the Soil and Water Conservation District (SWCD) or the LGU for all projects involving wetland impacts. A written record will be available to the landowner stating his/her exemption status, the function-value assessment of the wetland, and possibly additional guidelines for protection of public waters and the environment.

A landowner must adhere to the provisions and restrictions of the permit and/or site review. Should a violation occur, the landowner shall have the ultimate responsibility for remedying any violation.

#### **5.2.2. Contractor Responsibility**

Contractors shall abide by all provisions of this Ordinance and shall be subject to its penalties. A contractor performing work for a landowner may be responsible for those activities performed by the contractor that are in violation of this Ordinance.

A contractor must adhere to the provisions and restrictions of the permit and/or site review. The contractor is required to obtain a signed statement from the property owner stating that the required permits have been obtained, that a Wetland Replacement Plan required for the work has been finalized, or that the project is exempt. A copy of the signed form shall be submitted to the LGU office before commencement of work (WCA 8420.0290). Violation of this part is a misdemeanor under M.S. 103G.2212.

#### **5.2.3. Forest Exemption**

To qualify for a forestry exemption in Minn. R. 8420.0122 subp. 7, a landowner must provide a forest management plan, forest stewardship plan, cutting scheme, timeline or other silvicultural plan to the LGU prior to the wetland activity. Appropriate sequencing is required before filling or excavating in a wetland.

If the land use changes within a period of ten years from the time the wetland fill activity occurs, wetland impacts originally covered under the forestry exemption will be considered void and must go through the Wetland Replacement Plan process. Forest access road construction must follow established Best Management Practices.



#### **5.2.4. De Minimis**

Once a landowner or developer uses a de minimis exemption on a property as defined in Minn. R. 8420.0122 Subpart 9, any lots created after the date of this ordinance may not be considered new projects. These newly created lots are not eligible for additional de minimis exemptions.

#### **5.3. Review of Wetland Replacement Plans by the (TEP)**

All wetland replacement plans are to be reviewed first by the Technical Evaluation Panel (TEP) and the Wetland Advisory Committee (WAC) before the LGU makes a final decision. To ensure consideration at the next TEP meeting, an application must be deemed complete by the LGU in accordance to section 8420.0230 and 8420.0240 at least two weeks prior to the meeting.

#### **5.4. Special Consideration Areas**

Certain areas may be designated as special consideration areas by the Local Governing Unit or the Technical Evaluation Panel. Wetland impacts to these areas may be restricted or not allowed and include but are not limited to:

- (a) Known cultural resource sites,
- (b) Significant Historical sites,
- (c) Rare and Endangered species sites, and
- (d) Known Critical Habitats

#### **5.5. Mitigation of Wetland Impacts**

##### **5.5.1. Allowable Wetland Impact**

When a wetland replacement plan is to be considered for a wetland owned by more than one owner, a landowner may only request to impact up to 5% of the Wetland area occurring on his/her property or 400 sq ft whichever is less. The project may still be eligible for other exemptions as defined by WCA

##### **5.5.2. Onsite and Within Watershed Mitigation**

When feasible, wetland functions and values are to be replaced onsite or within the same watershed at the appropriate ratio (Table 1). As part of the normal review of the replacement application, the TEP will evaluate the appropriateness and feasibility of requiring some or all of the mitigation onsite or within watershed mitigation. Criteria for reviewing mitigation siting are outlined in Chapter 8420.0540.

##### **5.5.3. Out of Watershed Mitigation**

All wetland replacement conducted outside of the major watershed would be subject to a penalty of two times (2X) the established mitigation ratio (Table 1) based on the loss of functions in that watershed.

##### **5.5.4. Mitigation with Approved Wetland Banks**

In some cases, onsite or within watershed mitigation is not available or feasible. Individuals may then mitigate wetland losses through a BWSR certified wetland bank(s). Credits within Aitkin County are to be first exhausted before mitigating losses out of the county. Wetlands must be replaced with the same type or an allowable type of wetland as recommended by the TEP and approved by the LGU (See Table 2).

**Table 2: Allowable replacement for wetland impacts in Aitkin County.**

Wetland Impact Type	Type Description	Replacement Types Allowed
1	Seasonally Flooded Meadows	1, 2, 3, 4, 5, 6, 7, 8
2	Wet Meadows	2, 3, 4, 5, 6, 7, 8
3	Shallow Marshes	3, 4, 5
4	Deep Marshes	4, 5
5	Open Water with Aquatic Vegetation	4, 5
6	Shrub Swamps	3, 4, 5, 6, 7, 8
7/1L	Wooded Swamps/Floodplain Forests	3, 4, 5, 7, 8
8	Bogs/ Tamarack and Cedar	3, 4, 5, 7, 8

Aitkin County wetland banks are to be evaluated and recommended by the Technical Evaluation Panel (TEP) annually to ensure that wetland banks are maintaining targeted functions and values. Wetland banks that do not meet the targeted functions and values will not be allowed to replace wetland impacts until the wetland banks rectify the situation and are brought into compliance. A grace period may be allowed by the TEP not to exceed three years.

**5.5.5. Wetland Preservation Area Credits**

Established quality wetlands (ranked High or Very High; Table 1 Sec 4.92) that are placed under a conservation easement may be used for partial replacement credit for wetland impacts. The Technical Evaluation Panel must first review the proposal and may grant up to a 20% credit for the protection of these areas in perpetuity. Preservation of these areas is to be ensured through appropriate deed restrictions of the conservation easements as outlined in 8420.0400 of the Wetland Conservation Act. *(Note: A wetland so enrolled may be exempt from property tax.)*

**5.5.6. Mitigation of Wetlands with Greater than 1:1 Replacement Ratios**

When the LGU approves a Wetland Replacement Plan in areas that are evaluated with a greater than 1:1 replacement ratio (See Section 4.1.2.2; Table 1), and wetland banking will be used to mitigate the loss, replacement will follow the following scenario:

- (a) 1 ½:1 purchase of suitable wetland credits at a wetland bank
- (b) The remainder of the mitigation ratio will be in the form of a cash payment to a County Wetland Value Replacement Fund designed to offset impacts in the watershed. (See Section 5.6).

**5.6. Wetland Value Replacement Fund**

The Wetland Value Replacement Fund is designed to initiate projects that directly benefit the watershed and sub-watershed where the wetland impacts occur. A priority of this fund is to:

- (a) ensure quality wetland replacement will be done in watersheds that are most affected by wetland loss, and
- (b) create wetland credits that can be used to balance the no net loss requirements.

This fund will be available to departments within the county, other local government units (e.g., cities and townships), lake associations, etc. for projects that restore and/or replace wetland functions and values lost due to impacts to wetlands. Types of projects envisioned include but are not limited to:

- (a) Wetland Restoration
- (b) Wetland Preservation

- (c) Conservation Easements
- (d) Erosion Control
- (e) Control of Exotic Species
- (f) Sediment Entrapment
- (g) Other Wetland Benefiting Projects

The TEP will seek the guidance of the Wetland Advisory Committee (WAC), appropriate Lake Associations, and the Water Planning Task Force before allocating funds to a project. The TEP will review potential projects during its scheduled meetings. Application for funds must be submitted at least two weeks before the regularly scheduled TEP meeting to ensure consideration.

The TEP will establish an annual rate per square foot (\$/sq ft) for the County Wetland Value Replacement Fund during their regularly scheduled January meeting based on an average of wetland banking prices in Aitkin County.

This fund is not available to offset costs of mitigating wetland impacts from a replacement plan or wetland exemption.

#### **5.7. Review of Wetland Model and Ordinance**

The Technical Evaluation Panel and the LGU shall conduct a review of this Ordinance after the first two (2) years and at least every three (3) years thereafter to ensure that the no net loss requirements of the Wetland Conservation Act and this Ordinance are met. If the review reveals that the no net loss goal is not being met, revision of relevant parts of the model and this Ordinance shall be made to bring the program into compliance with the Wetlands Conservation Act.

An annual report shall be made to BWSR including: 1) the number and type of permits and exemptions issued, 2) documentation of the area of wetlands impacted and replaced, 3) complaints received, 4) plan and ordinance violations, the number of cease and desist orders, 5) projects constructed, 6) variances granted, and 7) local appeal proceedings.

#### **Appendices**

- A) [Wetland Type Map](#)
- B) [Function Value Analysis](#)
- C) [Field Evaluation Sheet](#)