

AN ORDINANCE ESTABLISHING REQUIREMENTS
FOR THE CREATION AND MAINTENANCE OF ARTIFICIAL PONDS,
DITCHES, AND DIKES IN THE VILLAGE OF SHEPHERD
VILLAGE OF SHEPHERD, MICHIGAN
Effective: January 1, 2003

Section 1.0 Introduction

1. *Authority.* This ordinance is adopted pursuant to authority conferred by the Michigan General Law Village Act.
2. *Findings.* The Village Council of the Village of Shepherd finds that many of the soil types throughout the Village 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 safety hazards to persons and property within the Village.
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 Village of Shepherd.

Section 2.0 Definitions

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 ponds shall not include any navigable lake, stream or impoundment under the jurisdiction of the Michigan Department of Natural Resources pursuant to Michigan 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 the Michigan Department of Natural Resources pursuant to Michigan Statutes.
3. *Artificial Dike.* A water body or water course 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 3.0 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 4.0 General Requirements

1. *Setbacks*
 - a. No part of an artificial pond or dike, including an embankment for the retention of water, shall be created or enlarged within 25 feet of a property line or habitable building or within 50 feet of a public road right-of-way or on-site sewage system.
 - 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, habitable dwelling, on-site sewage disposal system, 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, habitable structure, or on-site sewage system or within 75 feet of a public road right-of-way.
2. *Side Slopes.* No artificial pond, ditch or dike shall be created, enlarge or extended with embankment side slopes or bottom slopes greater than 3 to 1. The embankment side adjacent to the water surface shall provide a two-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 plans prepared by a State of Michigan licensed civil engineer. The plans shall address seepage, subsidence, embankment strength 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. *Landscaping.* The perimeter of any artificial pond or dike shall be landscaped and seeded within 90 days after completion of excavation. The full cross section of any artificial ditch shall be seeded within 90 days after completion of excavation.
6. *Fencing.* All ponds, existing or retention ponds, covered by this ordinance shall be completely enclosed by a six foot chain link fence or any other type of fencing approved by the Zoning Committee of the Village of Shepherd.

Section 5.0 Administrations

1. *Permits.* No artificial pond, ditch or dike may hereafter be created, enlarged or extended without a permit obtained from the Village Council of the Village of Shepherd.
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. Site topography with two-foot contour intervals and the direction and flow of surface water on the site.
 - d. 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.
 - e. Embankment materials and the methods of construction including erosion and sedimentation control.
 - f. 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 and on-site sewage disposal systems on the property with distances between the artificial pond, ditch or dike and right-of-way lines, property lines and building.
 - g. For artificial ponds or dikes over 10,000 cubic feet, a certification by a State of Michigan licensed civil engineer.
 - h. Determination of navigability for any watercourse or water body within 300 feet of the proposed pond, ditch or dike.

3. *Permit Approvals.* The Village Council may approve, conditionally approve or deny a permit. The Village Council 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 or hearing is required but Village Council action shall be taken in public session as part of a previously prepared agenda.
4. *Permit Application Review Fee.* A permit application fee of \$25.00 shall be paid to the Village Clerk at the time of permit submittal.
5. *Violations.* It shall be a violation of this ordinance to create, enlarge or extend any 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 the provisions of this ordinance may be enforced by appropriate fines and penalties or by injunctive suit by the Village.
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 Village Council, 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 30 days after adoption by the Village Council of the Village of Shepherd and after publication.

Adopted: December 2, 2002
Published: December 18, 2002
Effective: January 1, 2003

ORDINANCE OFFERED BY: Swenson

SUPPORTED BY: Goffnett

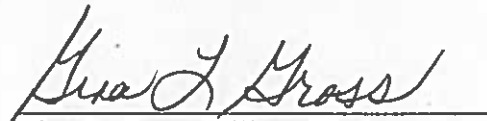
AYES: Baxter, yes; Burch, yes; Foote, yes; Goffnett, yes; Roth, yes;
Swenson, yes; Coughlin, yes

NAYS: None

ABSENT: None

CERTIFICATION

I, the undersigned, the duly qualified and Clerk of the Village of Shepherd, Michigan do hereby certify that the foregoing is a true and complete copy of a resolution adopted by the Village Council at a regular meeting held on December 2, 2002 an original of which is on file in my office, and that such meeting was conducted and public notice thereof was given pursuant to and in compliance with Act No. 267, Michigan Public Acts of 1976, as amended, and that minutes of such meeting were kept and are available as required by such Act.



Gina L. Gross, Village Clerk
Dated: December 2, 2002