

TOWNSHIP OF BEAVER

AN ORDINANCE TO AMEND THE BEAVER TOWNSHIP ZONING ORDINANCE

PLEASE TAKE NOTICE that the following ordinance has been adopted by the Township Board of Beaver Township, Bay County, at its meeting of April 17, 2023.

The Township of Beaver, Bay County, MI ordains, pursuant to the authority vested in it by Act 184 of 1943 of the Public Acts of the State of Michigan as amended, an amendment to its Zoning Ordinance.

Section 1

Article III, Section 3.21, is hereby amended, which shall read as follows:

SECTION 3.21 PONDS

(a) Ponds greater than 500 square feet in area may be constructed in any zoning district following approval by the Planning Commission as a special use. Ponds 500 square feet or less do not require a special use permit; however, in lieu of a special use permit, an awareness permit shall be obtained and the pond shall have a pre-construction and post-construction inspection. In considering such approval, the Planning Commission shall consider the standards set forth in subparts a-g in Part 1, below. Except for stormwater detention or retention ponds referred to in Part 3, below, all ponds constructed in Beaver Township shall be subject to the regulations set forth in subparts a-m. of Part 2, below. In the event that a person desiring to construct a pond intends to remove topsoil, sand, gravel or other materials from the land upon which the pond is to be constructed, they shall also comply with the requirements set forth in subsection (7) of Section 15.04(b), Mineral Extraction. Land on which pond construction has been completed may be divided in such manner that the property lines of the resulting parcels do not comply with the pond setback requirements set forth in subpart (b) of Part 2, below, of this subsection as long as the resulting parcels comply with all other applicable requirements of this ordinance and those of 1967 P.A. 288, as amended, the State of Michigan Land Division Act and any Beaver Township Land Division Ordinance.

All applicants must provide a copy of a detailed site plan that includes exact dimensions of the completed pond, distance to all property lines, distance to any adjacent septic systems, ditches, county drains, streams, rivers, or lakes. A description and drawing of the placement of material removed from the pond shall also be included along with any indication of material being moved off site, if applicable.

(1) In considering authorization for a pond, the Planning Commission shall consider the following standards:

- a) The size of the property;
- b) The amount of topsoil, sand, gravel, or other such materials which is to be moved or removed;
- c) The proposed location of the pond;
- d) The effect of the pond on adjoining property;
- e) The effect of soil removal in causing a safety hazard, creating erosion problems, or altering the groundwater table;
- f) The effect of the pond construction project on neighboring properties; and,
- g) Detrimental impacts on adjacent public roadways.

(2) The following regulations shall apply to the construction of a pond:

- (a) No pond may be constructed on parcels less than two (2) acres in size.
- (b) No pond may be constructed within two hundred (200) feet of any public thoroughfare or within one hundred (100) feet of any adjoining property line.
- (c) Above-water pond side slopes shall have a maximum slope of four (4) feet horizontal to one (1) foot vertical. Below-water slopes shall be flattened to seven (7) feet horizontal to one (1) foot vertical for the first fourteen (14) horizontal feet from the edge toward the center of the pond. After the first fourteen (14) horizontal feet of below-water area, the remainder of underwater pond slopes toward the center of the pond shall not exceed a slope of three (3) feet horizontal to one (1) foot vertical. No pond shall be deeper than 25 feet.
- (d) On properties two (2) to five (5) acres, a fence and gates suitable to afford adequate protection to persons and property is required. The Planning Commission may permit life rings as an alternative to fencing when it is demonstrated the life rings can reach any point on the water surface.
- (e) The premises adjacent to the impoundment shall be graded, seeded and mulched to conform with adjacent undisturbed areas. Optional berms constructed around the pond shall be no more than four (4) feet in height from the adjacent grade and shall be no closer than fifty (50) feet from an adjacent property line.
- (f) The Planning Commission may require posting one (1) or more signs stating the greatest depth of the pond and any hazards that may be occasioned by the pond.

(g) In granting approval for a pond, the Planning Commission may impose any other reasonable requirements deemed necessary to assure safety, regardless of the size of the pond.

(h) Security Performance: The owner(s) of the pond shall post a security bond in the form of a cash bond or cash deposit in a trust account equal to two hundred (200) percent of the total estimated costs to reclaim the disturbed area and shall be posted and maintained with a bonding company or lending institution licensed in the State of Michigan or a Federal- or State-chartered lending institution acceptable to the Township. The amount of each pond security guarantee shall be determined by way of a certified estimate by the Applicant's design professional, which shall be reviewed by a certified engineer hired by the Township for its adequacy and the final amount determined by the Planning Commission. Any bonding company or lending institution shall provide the Township with ninety (90) days' notice of the expiration of the security bond; lapse of a valid security bond is grounds for the Township to take any action permitted by law, revoke the special land use, order a cessation of operations, and order the reclamation of the site. In the event of sale or transfer of ownership and/or operation of the pond, the security bond shall be maintained throughout the entirety of the process. The purchaser or transferee shall notify the Township of the sale or transfer prior to the date of sale or transfer and shall provide an updated bond document to the Township within thirty (30) days of the sale or transfer.

(i) An applicant shall be required to comply with all other Beaver Township, Bay County, State of Michigan and Federal Standards and Requirements. (Private deed restrictions may limit the use of the land for private pond purposes.) An applicant shall assume sole responsibility, and in no circumstance shall it be the responsibility of Beaver Township to determine the applicability of or compliance with all other Beaver Township, Bay County, State of Michigan and Federal Standards and Requirements (e.g. wetlands, environmental quality or soil erosion matters).

(j) Prior to final inspection by the Township, all excess material must be removed off-site. No more than 75 percent of the material excavated from the site may be removed from the property.

(k) Periodic inspections by the Township are permitted during construction at the discretion of the Township. A final inspection of the pond will occur at either the request of the owner or when the special land use permit expires per Section 15.06 (a).i., whichever is first.

(l) The maximum pond size may be no more than 10 percent (10%) of the total lot area.

(m) No excavated material shall be stored within the property line setbacks during construction of the pond.

(3) Stormwater detention or retention ponds which are to be constructed in platted subdivisions or shown on approved site plans to assure adequate site drainage shall be subject to the regulations set forth in subparts c.-g. of Part 2, above. The Planning Commission may require that the area surrounding a stormwater detention or retention pond be landscaped and planted with suitable plantings to assure that the pond blends into the surrounding residential neighborhood. Notwithstanding anything stated in this subsection to the contrary, the Planning Commission may approve such a stormwater detention or retention pond with above- and/or below-water slopes that do not exceed three (3) feet horizontal to one (1) foot vertical as long as the pond is fenced by a chain link fence at least four (4) feet high with a locked gate.

Article XV, Section 15.06, is hereby amended by the addition of a new Section 15.06(a) (i), which shall read as follows:

(i) For ponds, if construction has not been completed within six (6) months of final approval of the special land use permit, the approval becomes null and void and a new application for a special land use permit shall be required. The Planning Commission may grant an extension up to six (6) months, without a new application, if the special land use permit holder requests an extension no less than 30 days prior to the expiration of the original pond special land use permit.

Section 2. Repealer.

All other ordinances and parts of ordinances in conflict with this ordinance, to the extent of such conflict and no further, are hereby repealed.

Section 3. Effective Date.

This ordinance shall become effective seven (7) days after the publication in a newspaper circulating within the Township of Beaver, Bay County, Michigan.

