

## CHAPTER 21

ORDINANCE NO. 2011-1**AN ORDINANCE TO CREATE WETLANDS COMPLIANCE  
MECHANISMS FOR TOWN CONSTRUCTION PROJECTS**

WHEREAS, on or about October 1, 2010, the Town of Troy was notified by the United States Department of the Army, St. Paul District, Corps of Engineers, that the Town of Troy had discharged dredged or fill material into wetlands associated with the Mukwonago River when conducting a Bluff Road project in 2008; and

WHEREAS, following investigation, the Town of Troy filed an after-the-fact permit application with the Army Corps of Engineers on or about January 5, 2011; and

WHEREAS, after-the-fact investigation and permitting processes, and the potential penalties for violations, can give rise to substantial costs, including engineering fees and legal fees; and

WHEREAS, the Town of Troy intends to comply with State and federal requirements regarding protection of wetlands; and

WHEREAS, the enforcement officers for the Army Corps of Engineers and the Department of Natural Resources have advised that allegations of violations can be easily avoided if they are contacted at an appropriate time prior to commencement of work; and

WHEREAS, the Town of Troy hereby intends to establish procedures to be followed regarding work conducted by the Town of Troy in an area that may contain wetlands to minimize the risk of violating applicable State and federal laws, and to ensure appropriate wetland protection.

NOW, THEREFORE, the Town Board of the Town of Troy, Walworth County, Wisconsin DOES HEREBY ORDAIN AS FOLLOWS:

**SECTION 1: NOTIFICATION.** Notice should be delivered to the State of Wisconsin Department of Natural Resources and the United States Department of the Army, Corps of Engineers, when any Town work is conducted in, adjacent to, or in close proximity to a lake, river, stream, or wetland. A written record should be maintained which shows either that the notice was provided in writing, or that the notice was provided orally and the DNR and Army Corps of Engineers determined in writing that no permits are required.

**SECTION 2: TIME OF NOTICE.** The notice described in Section 1 should be provided prior to advertisement for bids on projects that will be publicly bid. The notice provided by Section 1 should be provided prior to entering a contract for the work, on projects that are not publicly bid that are performed by Town contractors. The notice required by Section 1 should be provided prior to commencement of the work on projects that are performed by the Town directly.

**SECTION 3: TOWN STAFF TO PROVIDE THE NOTICE.** The notice required by Section 1 should be provided by the Town staff person in charge of the construction project.

**SECTION 4: DISCLAIMER.** This ordinance is adopted in order to establish a notice procedure, and to create an institutional memory of this best practice. Nothing herein shall be interpreted to establish additional duties or obligations for the Town of Troy beyond those already existing under applicable State and federal laws. Failure to follow this ordinance, in whole or in part, shall not be actionable against the Town of Troy.

**SECTION 5: SEVERABILITY.** The several sections of this Ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of any other provisions, sections or portions thereof of the Ordinance. The remainder of the Ordinance shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

**SECTION 6: EFFECTIVE DATE.** This Ordinance shall take effect immediately upon passage and posting or publication as provided by law.

Dated this 11 day of May, 2011.

TOWN OF TROY

John Kendall  
John Kendall, Town Chairman

ATTEST:

Ruth Polinski  
Ruth Polinski, Town Clerk

Published and/or posted this 13 day of May, 2011.

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