

**SUPERIOR CHARTER TOWNSHIP
WASHTENAW COUNTY, MICHIGAN**

ORDINANCE NO. 178

**WETLANDS AND WATERCOURSE PROTECTION AND
RESTORATION WHICH REPEALS AND REPLACES
ORDINANCE NO. 135 - WETLANDS AND WATERCOURSE
PROTECTION AND RESTORATION**

An Ordinance for the control and preservation of wetlands and watercourses within the Charter Township of Superior and to protect the wetlands of the Township from sedimentation, destruction, and misuse; to prescribe the powers, duties and functions of the Township enforcing agency; to provide for the promulgation of rules; to establish permits and a fee schedule; to establish design standards, specifications, and bond requirements; to provide for variance and exceptions; to provide for inspections and enforcement; to provide for violations, remedies and penalties thereof; and to provide for severability and effective date of the Ordinance.

THE CHARTER TOWNSHIP OF SUPERIOR HEREBY ORDAINS:

Section 178-01. General

178-01.1 - Findings

The Township Board of the Charter Township of Superior finds that wetlands and watercourses are indispensable and fragile resources that provide many public benefits, including maintenance of water quality through nutrient cycling and sediment trapping as well as flood and storm water runoff control through temporary water storage, slow release, and groundwater recharge. In addition, wetlands provide open space; passive outdoor recreation opportunities; fish and wildlife habitat for many forms of wildlife, including migratory waterfowl; and rare, threatened or endangered wildlife and plant species; and pollution treatment by serving as biological and chemical oxidation basins.

Preservation of the remaining Township wetlands in a natural condition shall be and is necessary to maintain hydrological, economic, recreational, and aesthetic natural resource values for existing and future residents of the Charter Township of Superior, and therefore the Township Board declares a policy of no net loss of wetlands. Furthermore, the Township Board declares a long term goal of net gain of wetlands to be accomplished through review of degraded or destroyed wetlands in the Township and through cooperative work with landowners, using incentives and voluntary agreements to restore wetlands.

To achieve these goals, and with authority from Section 30307(4) of the *Natural Resources and Environmental Protection Act* (Act 451 of 1994), the Township Board finds that it is desirable to regulate wetlands in Superior Township. Pursuant to Article 4, Section 52 of the Constitution of the State of Michigan, the conservation and development of natural resources of the state is a matter of paramount public concern in the interest of the health, safety, and general welfare of the people. The Township Board therefore finds that this Ordinance is essential to the long term health, safety, and general welfare of the people of the Charter Township of Superior, and to the furtherance of the policies set forth in Section 1701 *et seq.* of the *Natural Resources and Environmental Protection Act* (Act 451 of 1994 hereinafter the *Michigan Environmental Protection Act*) and Section 30301 *et seq.* of the *Natural Resources and Environmental Protection Act* (Act 451 of 1994 hereinafter the *Wetlands Protection Act*).

178-01.2 - Purposes

The purposes of this Ordinance are to provide for:

- A. The protection, preservation, replacement, proper maintenance, restoration, and use in accordance with the character, adaptability, and stability of the Township's wetlands, in order to prevent their pollution or contamination; minimize their disturbance and disturbance to the natural habitat therein; and prevent damage from erosion, siltation, and flooding.
- B. The coordination of and support for the enforcement of applicable federal, state, and county statutes, ordinances and regulations including, but not limited to, the following:
 - 1. *Wetlands Protection Act*, enforced by the Michigan Department of Environmental Quality which is hereinafter referred to as the MDEQ;
 - 2. *Inland Lakes and Streams Act*, Section 30101 *et seq.* of the *Natural Resources and Environmental Protection Act* (Act 451 of 1994) enforced by the MDEQ;
 - 3. *Soil Erosion and Sedimentation Control Act*, Section 9101 *et seq.* of the *Natural Resources and Environmental Protection Act* (Act 451 of 1994, enforced by the County of Washtenaw and the Township of Superior (*after enactment of ordinance*));
 - 4. *Floodplain Regulatory Authority*, incorporated into the *Natural Resources and Environmental Protection Act* (Act 451 of 1994 [previously Act 245, Public Acts of 1929, as amended]), enforced by the MDEQ.
- C. Compliance with the *Michigan Environmental Protection Act* which imposes a duty on government agencies and private individuals and organizations to prevent or minimize degradation of the environment which is likely to be caused by their activities.

- D. The establishment of standards and procedures for the review and regulation of the use of wetlands and watercourses,
- E. A procedure for appealing decisions.
- F. The establishment of enforcement procedures and penalties for the violation of this Ordinance.
- G. Creation of a board to assist in the protection of wetlands, hold required hearings, and to build public support for the values of wetlands.
- H. Assurance that the right to reasonable use of private property is maintained.

178-01.3 - Construction and Application

The following rules of construction apply in the interpretation and application of this Ordinance:

- A. In the case of a difference of meaning or implication between the text of this Ordinance and any caption or illustration, the text shall control.
- B. Particulars provided by way of illustration or enumeration shall not control general language.

178-01.4 - Applicability to Private and Public Agency Activities and Operations

The provisions of this Ordinance including wetlands use permit requirements and criteria for wetlands use permit approval, shall apply to activities and operations proposed by federal, state, local and other public agencies as well as private organizations and individuals.

Section 178-02. Definitions

178-02.1 - Definition of Terms

Terms not specifically defined shall have the meaning customarily assigned to them.

CONTIGUOUS WETLANDS shall mean any of the following:

1. A permanent surface water connection or any other direct physical contact with an inland lake or pond, a river or stream.
2. A seasonal or intermittent direct surface water connection to an inland lake or pond, a river or stream.

3. A wetlands that is partially or entirely located within five hundred (500') feet of the ordinary high water mark of an inland lake or pond or a river or stream, unless it is determined by the Township or the MDEQ in accordance with Rule 281.924 of the *Wetlands Administrative Rules*, adopted in connection with the Wetlands Protection Act, that there is no surface or groundwater connection to these waters.
4. Two (2) or more areas of wetlands separated only by barriers, such as dikes, roads, berms, or other similar features, but with any of the wetlands areas contiguous under the criteria described in Subsections (1) (2) or (3) of this definition.

DECIDING BODY means the Superior Township Planning Commission or the Superior Township Board of Trustees, as appropriate.

DEPOSIT means to fill, place or dump.

LOT means a designated parcel, tract, building site or other interest in land established by plat, subdivision, conveyance, condominium master deed, or as otherwise permitted by law, to be used, developed or built upon as a unit.

MATERIAL shall mean soil, sand, gravel, clay, peat moss and other organic material.

MDEQ means the Michigan Department of Environmental Quality.

MITIGATION shall mean: (1) methods for eliminating or reducing potential impact to regulated wetlands; or (2) creation of new wetlands to offset unavoidable loss of existing wetlands.

PERSON means an individual, sole proprietorship, partnership, corporation, association, municipality, this state, any instrumentality or agency of this state, the federal government, or any instrumentality or agency of the federal government, or other legal entity.

PROTECTED WETLANDS shall mean any of the following:

1. All wetlands subject to regulation by the MDEQ including:
 - (a) All wetlands defined as Contiguous Wetlands by this Ordinance.
 - (b) Wetlands which are larger than five (5) acres, whether partially or entirely contained within the project site, and which are not contiguous to any lake, stream, river, or pond.
 - (c) Wetlands, regardless of size, which are not contiguous to any lake, stream, river, or pond, if the MDEQ determines the protection of the wetlands is essential to the preservation of the natural resources of the state from pollution,

impairment or destruction.

2. All wetlands subject to regulation by the Township including:

(a) Wetlands two (2) acres or greater in size, whether partially or entirely contained within the project site, which are not contiguous to any lake stream, river or pond.

(b) Wetlands smaller than two (2) acres in size which are not contiguous to any lake, stream, river or pond and are determined to be essential to the preservation of the natural resources of the Township as provided for in Section 7.6 of this Ordinance.

RUNOFF shall mean the surface discharge of precipitation to a watercourse, drainage way, swale, or depression.

REMOVE means to dig, dredge, suck, pump, bulldoze, drag line, or blast.

RESTORATION means to return from a disturbed or totally altered condition to a previously existing natural or altered condition by some action of man.

SEASONAL shall mean any intermittent or temporary activity which occurs annually and is subject to interruption from changes in weather, water level, or time of year, and may involve annual removal and replacement of any operation, obstruction, or structure.

STRUCTURE shall mean any assembly of materials above or below the surface of the land or water, including but not limited to, buildings, bulkheads, piers, docks, landings, dams, waterway obstructions, paving and roadways, poles, towers, cables, pipelines, drainage tiles, and other underground installations.

TOWNSHIP BOARD shall mean the legislative body of Superior Charter Township, Washtenaw County, Michigan, commonly known as the Board of Trustees.

TOWNSHIP WETLANDS MAP refers to the Superior Charter Township Wetlands Map, based on the National Wetlands Inventory Map of the U.S. Fish and Wildlife Service; the Michigan Resource Information System Mapping (MIRIS) of the Michigan Department of Environmental Quality; the soils maps of the Soil Conservation Service; aerial photography; and onsite inspections.

WATERCOURSE shall mean any waterway including a river, stream, lake, pond or any body of surface water having definite banks, a bed and visible evidence of a continued flow or continued occurrence of water.

WETLANDS shall mean land characterized by the presence of water at a frequency and duration sufficient to support and that under normal circumstances does support wetlands vegetation or aquatic life and is commonly referred to as a bog, swamp or marsh, and is one

of the following:

- (i) Contiguous to an inland lake or pond or a river or stream
- (ii) Not contiguous to an inland lake or pond or a river or stream and more than two acres in size
- (iii) Not contiguous to an inland lake or pond or a river or stream and less than two acres in size if the Administrator or Department determines that protection of the natural resources of the Township from pollution, impairment, or destruction.

WETLANDS ADMINISTRATOR shall mean a person or persons knowledgeable in wetlands protection, appointed by the Superior Charter Township Board to administer this Ordinance and to carry out certain duties hereunder.

WETLANDS BOARD shall mean the body of the Charter Township of Superior which makes decisions on wetlands use permit appeals and advises the Township on wetlands resource policy, education and restoration.

WETLANDS CONSULTANT shall mean a person or persons knowledgeable and certified by the State of Michigan in wetland protection and delineation who is appointed by the Superior Charter Township on a contractual basis to make wetland determinations, to delineate wetlands, and to advise the Township on wetland resource policy, education, and restoration.

WETLANDS USE PERMIT shall mean the Township approval required for activities in wetlands and watercourses described in Section 7 of this Ordinance.

WETLANDS VEGETATION shall mean plants, including but not limited to, trees, shrubs, and herbaceous plants, that exhibit adaptations to allow, under normal conditions, germination or propagation and to allow growth with at least their root systems in water or saturated soil.

Section 178-03. Relationship to State and Federal Permit Requirements

Whenever persons requesting a wetlands use permit are also subject to state and/or federal permit requirements, the following shall apply:

- A. The Township shall have jurisdiction for the regulation of wetlands under this Ordinance concurrent with the jurisdiction of the Michigan Department of Environmental Quality.
- B. Approvals under this Ordinance shall not relieve a person of the need to obtain a permit from the MDEQ and/or the U.S. Army Corps of Engineers, if required.
- C. Issuance of a permit by the MDEQ and/or the U.S. Army Corps of Engineers shall not relieve a person of the need to obtain approval under this Ordinance, if applicable.

Section 178-04. Administration

178-04.1 - Township Wetlands Map

The Township Wetlands Map is a guide to the location of wetlands in Superior Charter Township. It includes the most up-to-date inventory of Township Wetlands. The Map shall be used in the administration of this Ordinance.

The Township Wetlands Map, together with all explanatory matter thereon and attached thereto, as may be amended through the Wetlands Verification and Delineation process, is hereby adopted by reference and declared to be a part of this Ordinance. The Township - Wetlands Map shall be on display to the public in the Township Hall, on file with the Township Clerk., and a copy shall be provided to the Washtenaw County Register of Deeds.

The Township Wetlands Map shall serve as a general guide for the location of protected wetlands. The Township Wetlands Map does not create any legally enforceable presumptions regarding whether property that is or is not included on the inventory map is or is not in fact a wetlands unless the wetland has previously been subjected to the Wetlands Verification Process, as defined in this ordinance, and the verification date is noted in association with the map.

The Wetlands Verification Process, as set forth herein, shall be used to verify wetlands on properties where wetlands is shown on the Wetlands Map or on properties where wetlands exist as defined in Section 2.1 herein. The Wetlands Delineation Process, as set forth herein, shall be used to establish the actual boundaries of wetlands in the Township. The identification of the precise boundaries of wetlands on a project site shall be the responsibility of the applicant.

A. Wetlands Verification Process

1. The Township or property owners of wetlands may initiate a verification of the areas shown on the Township Wetlands Map as wetlands or on properties where wetlands exists as defined in Section 2.1 herein. The verification shall be limited to a finding of wetlands or no wetlands by the Wetlands Administrator. The finding shall be based on, but not limited to, aerial photography, topographical maps, site plans, and field verification.
2. In the event that there is a finding of no wetlands on the property, then no further determination would be required and the finding shall be included in the Map Amendment Process (found in Section 178-04.1 (c)).
3. In the event that there is a finding of wetlands, then the establishment of the exact boundary through a wetlands delineation may be required to alter the Township Wetlands Map through the Map Amendment Process.
4. The applicant shall pay fees for the Wetlands Verification Process as established in

Section 9.1.

C. Wetlands Delineation Process

Prior to the issuance of any permit or land development approval for a property which is shown to include a wetlands on the Township Wetlands Map, the applicant may be required to provide a wetlands delineation to the Township. The Wetlands Administrator shall determine whether a delineation is required based on the proximity and relationship of the project to the wetlands.

1. To establish actual wetlands boundaries on a property, the applicant shall provide a surveyor dimensional site plan, drawn at an appropriate scale, showing property lines, buildings and any points of reference along with the wetlands boundaries, according to one of the following:
 - (a) Wetlands delineation by the Michigan Department of Environmental Quality (MDEQ)
 - (b) Wetlands delineation by the applicant's wetlands consultant subject to review and approval by the Township's Wetlands Consultant.
2. Where a wetlands delineation is required by this Section, the Township Wetlands Consultant shall establish wetlands boundaries following receipt of the above required information and after conducting a field investigation.
3. The applicant shall pay fees for the Wetlands Delineation Process as established in Section 9.1.

D. Map Amendment

1. The Township Wetlands Map shall be updated when new data is available, when corrections are needed in order to maintain the integrity of the map, or when the presence of wetlands has been verified in accordance with the provisions of this ordinance.
2. The Township shall ensure that each record owner of property on the property tax roll shall be notified of any amendment to the Township Wetlands Inventory Map on an annual basis. The notice shall include the following information:
 - (a) the Township wetlands map has been amended;
 - (b) the location to review the map;
 - (c) the owner's property may or may not be designated as a wetlands on the map;
 - (d) the Township has an Ordinance regulating wetlands;

(e) the map does not necessarily include all of the wetlands within the Township that may be subject to the wetlands ordinance.

178-04.2 - Wetlands Board

There is hereby created a Wetlands Board:

- A. The Wetlands Board shall consist of six (6) residents of the Township appointed by the Township Board; four of whom shall have knowledge and experience in the areas of botany, soils, geology, hydrology, or natural resources. One member of the Wetlands Board shall be a member of the Township Board. The initial terms of appointment shall be as follows: 2 individuals for 3 years, 2 individuals for 2 years, and 1 individual for 1 year. Thereafter, appointments shall be for a term of three years. The term of the Township Board representative to the Wetlands Board shall be concurrent with the term of office.
- B. The Wetlands Board shall establish rules of procedure.
- C. The Wetlands Board is authorized to undertake activities to protect wetlands including the following:
 - 1. Conduct public hearings and review appeals of wetlands use permit, mitigation, and/or restoration decisions made by the Wetlands Administrator or Deciding Body.
 - 2. Serve in an advisory role in setting policy guidelines on wetlands issues in the Township.
 - 3. Identify conflicts between wetlands protection and present Township ordinances, Township operating procedures, and Township activities.
 - 4. Review the wetlands map annually, provide recommendations and assist in map administration.
 - 5. Coordinate with the Michigan Department of Environmental Quality and Washtenaw County in keeping up-to-date on issues affecting wetlands protection.
 - 6. Recommend a program to protect and acquire important wetlands through tax incentives, donation, development rights, easements, land exchange, purchase, and other means.
 - 7. Develop educational programs for the public and for Township schools. The program should promote the values of wetlands and awareness of the hazards and threats to wetlands. The program should be particularly targeted to

landowners with wetlands and emphasize how best to protect wetlands values on their property.

8. Develop an adopt-a-wetlands program for interested citizens to participate more directly in preservation of specific wetlands.
 9. Review degraded or destroyed wetlands in the Township for possibility of rehabilitation or restoration.
- D. Members of the Wetlands Board shall receive a stipend as determined from time to time by resolution of the Township Board.
- E. Members of the Wetlands Board may be removed from said Board following a hearing held by the Township Board and a written finding by the Township Board that cause for removal has been determined.

Section 178-05. Activities in a Protected Wetlands or Watercourse

178-05.1 - Activities Prohibited Without First Obtaining a Wetlands Use Permit

Except for those activities expressly permitted by Section 5.2, it shall be unlawful for any person to do any of the following in a protected wetlands or watercourse unless and until a wetlands use permit is obtained from the Township pursuant to this Ordinance (Refer to Section 14.05, B., of the Superior Charter Township Zoning Ordinance).

- A. Deposit or permit to be deposited any material or structures into any watercourse or within or upon any protected wetlands.
- B. Remove or permit to be removed any soil from any watercourse or from any protected wetlands.
- C. Dredge, fill or land balance watercourses or protected wetlands.
- D. Create, enlarge, diminish or alter a lake, creek, stream, river, drain or protected wetlands.
- E. Construct, operate or maintain any development in or upon protected wetlands or watercourses.
- F. Erect or build any structure, including but not limited to, buildings, roadways (other than farm roads constructed to minimize adverse effects on wetlands), bridges, tennis courts, paving, utilities, or private poles or towers in or upon protected wetlands or watercourses.
- G. Construct, extend or enlarge any pipe, culvert, or open or closed drainage facility which discharges silt, sediment, organic or inorganic materials, chemicals, fertilizers,

flammable liquids or any other pollutants to any lake, stream, protected wetlands, or watercourse, except through a retention area, settling basin, or treatment facility designed to control and eliminate the pollutant. This Subsection shall apply to all land uses except single family uses on lots of two (2) acres or less.

- H. Construct, enlarge, extend or connect any private or public sewage or waste treatment plant discharge to any lake, stream, river, pond, watercourse, or protected wetlands except in accordance with the requirements of Washtenaw County, State of Michigan and/or the United States, to the extent that such entities have jurisdiction.
- I. Drain or cause to be drained, any water from a protected wetlands or watercourse.
- J. Fill or enclose any ditch which would result in a significant reduction of storm water absorption and filtration into the ground or would otherwise have an adverse impact on receiving watercourses or wetlands.

178-05.2 - Permitted Activities

Notwithstanding the prohibitions of Section 5.1, the following activities are permitted within watercourses or protected wetlands without a wetlands use permit, unless otherwise prohibited by statute, ordinance or regulation.

- A. Fishing, swimming, boating, canoeing, hiking, horseback riding, bird-watching, or other similar recreational activities which do not require alteration of wetlands vegetation or grading of soils.
- B. Grazing and/or watering of animals.
- C. Education, scientific research, and nature study.
- D. Installation for noncommercial use of temporary seasonal docks, rafts, diving platforms and other recreational devices customarily used for residential purposes.
- E. Maintenance or repair of lawfully located roads, sewers, ditches, structures and of facilities used in the service of the public to provide transportation, electric, gas, water, telephone, telecommunication, or other services, provided that such roads, sewers, ditches, structures, or facilities are not materially changed or enlarged and provided that the work is conducted using best management practices to ensure that flow and circulation patterns, and chemical and biological characteristics of watercourses and wetlands are not impaired and that any adverse effect on the aquatic environment will be minimized.
- F. Excavation and filling of no more than fifty (50) cubic yards of material if necessary for the repair and maintenance of bridges, walkways, and other existing structures, provided that such structures allow for the unobstructed flow of water and preserve

the natural contour of the protected wetlands, except as authorized by permit or in connection with Section G (below).

- G. Improvement or maintenance of the Huron River or Rouge River or its tributaries when such operations are organized or sponsored or approved by the Township and are specifically intended to preserve natural resources. Such permitted activities shall include, but not be limited to: (1) removal of materials which may cause diverted flows and bank erosion, including the removal of trees, brush, and debris; (2) bank stabilization projects which require minimal disturbance of existing conditions; (3) wildlife and aquatic habitat improvement projects; and (4) removal of pernicious, invasive plant species (e.g., purple loosestrife).
- H. Farming, horticulture, silviculture, lumbering, and ranching activities, including plowing, irrigation, irrigation ditching, seeding, cultivating, minor drainage, harvesting for the production of food, fiber, and forest products, or upland soil and water conservation practices. Wetlands altered under this subdivision shall not be used for a purpose other than a purpose described in this subsection without a permit from the MDEQ, and shall continue to be indicated as wetlands on the Wetlands Map.
- I. Construction or maintenance of farm or stock ponds.
- J. Maintenance, operation, or improvement which includes straightening, widening, cleaning out or deepening of the following which is necessary for the production or harvesting of agricultural products:
 - 1. An existing private agricultural drain.
 - 2. That portion of a drain legally established pursuant to Act No. 40 of the Public Acts of 1956, as amended, being sections 280.1 to 280.630 of the Michigan Compiled Laws, which has been constructed or improved for drainage purposes.
 - 3. A drain constructed pursuant to other provisions of the Wetlands Protection Act.
- K. Construction or maintenance of farm roads, forest roads, or temporary roads for moving mining or forestry equipment, if the roads are constructed and maintained in a manner to assure that any adverse effect on the wetlands will be otherwise minimized.
- L. Drainage necessary for the production and harvesting of agricultural products if the wetlands is actively farmed by a person who is engaged in commercial farming and the land is to be used for the production and harvesting of agricultural products. This subsection shall not apply to a wetlands which is contiguous to a lake or stream, or to a tributary of a lake or stream, or to a wetlands which is necessary to be preserved for the public interest, in which case a permit shall be required. Except as otherwise provided in the Wetlands Protection Act, wetlands improved under this Subsection

after October 1, 1980 shall not be used for non-farming purposes without a permit from the MDEQ.

- M. A wetlands use permit shall not be required for any use which is exempt from a permit under Section 30305 of the Wetlands Protection Act (previously Section 6 of Act 203 of the Public Acts of 1979 as amended).

178-05.3 - Existing Non-conforming Lots, Uses and Structures

Lots, uses and structures lawfully existing at the effective date of this Ordinance shall be subject to the requirements of this Ordinance, except as follows:

- A. Plats that have received tentative preliminary or later approval and site plans and condominium plans approved prior to the effective date of this Ordinance shall be entitled by right to all uses authorized by those approvals according to the zoning district in which the property is located, and provided that said lots have buildable sites outside of the wetlands. Lots which do not have a buildable site outside of the wetlands shall require a wetlands use permit prior to any construction on said lot.
- B. Any activity, structure, or use lawfully existing prior to the effective date of this Ordinance, but not in conformity with the provisions of this Ordinance, may be continued, maintained and operated.
- C. Any structure lawfully existing prior to the effective date of this Ordinance damaged by fire, explosion, act of God, or other causes beyond the control of the owner, may be restored, rebuilt, or repaired without obtaining a wetlands use permit.

Section 178-06. Application

Application for approval, appeal, and issuance of wetlands use permits shall be submitted concurrent with the application for other necessary Township permits and land development approvals. The applicant shall be notified by the Wetlands Administrator that an application for a wetlands use permit is required and processing of the other application for permits and land development review shall not proceed until the complete wetlands use permit application has been filed. The applicant for a wetlands use permit shall submit four copies of the following to the Township:

- A. An application completed in full, on a form supplied by the Michigan Department of Environmental Quality.
- B. A wetlands delineation including, but not limited to the following information: dominant tree, sapling, shrub and herb vegetation; presence or lack of accepted wetlands hydrology indicators; analysis of soil including a description of the soil profile to at least 20 inches and comparison to Washtenaw County Soil Survey and maps of the wetlands mapped. Mapped data shall be represented in a manner that

- allows comparison to the Superior Charter Township Wetlands Map.
- C. Soil drainage and stormwater management plans.
- D. A mitigation plan, if the proposed activity will result in the loss of wetlands resources.
- E. A cover letter signed by the applicant including the following information:
1. Name of project and brief description (one sentence).
 2. Date upon which the activity is proposed to commence.
 3. Explanation of why the project meets the wetlands use permit standards and criteria contained in this Ordinance.
 4. List of all federal, state, county or other local government permits or approvals required for the proposed project including permit approvals or denials already received. In the event of denials, the reasons for denials shall be given. Attach copies of all permits which have been issued.
 5. Identification of any present litigation involving the property.
- F. For a wetlands use permit approval required in conjunction with a land development review as required by the Superior Charter Township Zoning Ordinance, the applicant shall at the time of application elect to have the application processed under either Subsection (1) or (2) below:
- (1) The wetlands use permit application shall be reviewed, either prior to or concurrent with the review of the site plan, plat or other proposed land use submitted by the applicant. The land development review may not be completed at the time the decision is rendered on the wetlands use permit application. Election of this alternative may require a reopening of the wetlands use permit application if the land use approval is inconsistent with the wetlands use permit approval; or
 - (2) The wetlands use permit application shall be reviewed and acted upon concurrent with the review of the site plan, plat or other proposed land development review submitted by the applicant, provided the 90-day review period limitation specified in Section 30307(6) of the Wetlands Protection Act is complied with.
- G. Copies of wetlands permit applications filed with the MDEQ and forwarded to the Township in accordance with Section 30307(6) of Wetlands Protection Act shall become part of the application for a Superior Charter Township wetlands use permit.

Section 178-07. Review

178-07.1 - Method of Review of Wetlands Permit Application

- A. Before a wetlands use permit application is submitted, the necessity of the wetlands use permit shall be determined by the Wetlands Administrator or designee by reference to the "Township Wetlands Map".
- B. Whenever a wetlands use permit is required, the applicant may request an administrative meeting with the Wetlands Administrator to review any proposed activities in light of the purposes of this Ordinance.
- C. Upon receipt of an application, the Township shall ensure that all required information including a wetlands determination has been submitted. The receipt of the application shall constitute permission from the owner to complete an on-site investigation. Applicant will pay fees as established in Section 9.1.
- D. The Township Clerk shall transmit one, or more, as necessary, copy of the application and supporting materials to the Township Wetlands Administrator to enable him/her to confirm the boundaries of the wetlands and to review the proposal in light of the purpose and review standards of Section 7 and other applicable sections of this Ordinance. The Wetlands Administrator shall ensure that the Township Wetlands Consultant is provided with copies of documents as necessary. If an application is not complete, the applicant may be granted additional time to complete the application provided that the applicant agrees that the additional time shall not be charged against the Township's 90-day time limit for making a decision. The receipt of the application shall constitute permission from the owner to conduct an on-site investigation of wetlands.
- E. The Township Wetlands Consultant shall prepare and transmit a report and recommendation to the Wetlands Administrator documenting the review required by Section 7.1 D.
- F. Upon receipt of application, the Township Clerk shall transmit one copy of the application to the Michigan Department of Environmental Quality and one copy to the Wetlands Board members.

178-07.2 - Wetlands Use Permit Decisions

The Township shall process wetland use applications in a manner that ensures that the same entity makes decisions on site plans, plats, and related matters, and wetland determinations, and that the applicant is not required to submit to a hearing on the application before more than 1 local unit of government decision making body. This requirement does not apply to either of the following:

ORDINANCE 178 - WETLANDS ORDINANCE

PAGE 178 - 16

- (a) A preliminary review by the planning department, planning consultant, or planning commission, prior to submittal to the decision making body if required by an ordinance.
- (b) An appeal process that is provided for appeal to the legislative body or other body designated to hear appeals.

The following process shall apply to wetlands use permit decisions

- A. The Wetlands Administrator shall recommend approval, approval with conditions or denial of the application within 90 days after receipt of a complete application.
- B. Persons wishing to comment on the application must submit their comments in writing to the Wetlands Administrator prior to the date and time set in the notice. Persons wishing to receive notice of the decision must submit a written request to the Wetlands Administrator.
- C. After completing the review and reviewing the written comments, the Wetlands Administrator or Deciding Body shall either:
 - a. Approve, approve with modifications or conditions, or deny the wetlands use permit application in accordance with the standards of this Ordinance, Part 303 of the Michigan Natural Resources and Environmental Protection Act, Act 451 of 1994, governing Wetlands Protections and the Administrative Rules of the Department of Environmental Quality, being R 281.921 et seq. This option shall be used for permits which do not involve issues which are decided by either the Township Board of Trustees or the Township Planning Commission.
 - b. Recommend to the Deciding Body the approval, approval with modifications, or denial of the wetlands use permit application in accordance with the standards of this Ordinance, Part 303 of the Michigan Natural Resources and Environmental Protection Act, Act 451 of 1994, governing Wetlands Protections and the Administrative Rules of the Department of Environmental Quality, being R 281.921 et seq. This option shall be used for permits which do involve issues which are decided by either the Township Board of Trustees or the Township Planning Commission.
- D. When a wetlands use permit is approved, approved with modifications or conditions, or denied, written notice shall be sent to the applicant and to all persons who have requested notice of the Wetlands Administrator or Deciding Body's decision. A permit approved by the Wetlands Administrator or Deciding Body shall not be issued or effective until ten (10) calendar days following the date of approval.
- E. The Administrator shall review the completed application pursuant to this ordinance and shall modify, approve, or deny the application within 90 days after receipt. If the approval or denial is not completed within 90 days, the permit application shall be

considered approved, per MCL 324.30307 (6).

178-07.4. Appeals of Decisions of the Wetlands Administrator or Deciding Body

The following process shall apply to appeals of decisions made by the Wetlands Administrator or Deciding Body:

- A. Any person who is aggrieved by the approval, approval with modifications or conditions, denial, revocation or suspension of a wetlands use permit by the Wetlands Administrator or Deciding Body may appeal the decision to the Wetlands Board. A written letter containing the specific reasons for appeal shall be filed with the Township Clerk within ten (10) calendar days after the date of the decision to be appealed. Timely filing of an appeal shall have the effect of suspending the effect of the permit pending the outcome of the appeal. In the event that the person(s) filing the appeal do not own property within 300 feet of the wetlands affected, the Township Board shall determine whether the person(s) are aggrieved.
- B. The application, supporting documentation, decision and appeal of the decision shall be made available to the members of the Wetlands Board within ten (10) days of receipt of the appeal. The Wetlands Board shall conduct a hearing within sixty (60) days of the date the appeal is filed.
- C. Upon receipt of an appeal, the Township Clerk shall:
 1. Cause to be published a notice of the application and the date and time for submission of written public comments in a newspaper of general circulation in the Township.
 2. Provide notice of the appeal to the MDEQ.
 3. Advise the applicant of his/her obligation to post the subject property with a sign that shall be no less than ten (10) square feet in size. The sign shall not be erected in the road right-of-way or in a manner to obstruct vision of motorists or pedestrians. The sign shall have lettering easily readable from the abutting street(s) and shall state that "AN APPEAL OF THE TOWNSHIP DECISION ON AN APPLICATION FOR A WETLANDS USE PERMIT ON THIS PROPERTY", and information on how to contact the Township Clerk.
- D. After a hearing, the Wetlands Board shall determine that the decision of the Wetlands Administrator or Deciding Body be affirmed, affirmed with modification, returned to the deciding body for reconsideration, or reversed. The time limitation may be extended with the consent of the applicant. The Board's decision shall be based on written findings.

- E. The decision, without further proceedings, shall become the final decision of the Township in the absence of an appeal for judicial review.
 - a. An appeal for judicial review may be filed in accordance with The Michigan Administrative Procedures Act of 1969

178-07.5 - Wetlands Use Permit Conditions

- A. The Wetlands Administrator or deciding body shall attach any reasonable conditions considered necessary to ensure that the intent of this Section will be fulfilled, to minimize or mitigate damage or impairment to, encroachment in or interference with natural resources and processes within the protected wetlands or watercourses, or to otherwise improve or maintain the water quality. Any conditions related to wetlands mitigation shall follow the provisions of Section 8 of this Ordinance.
- B. The Wetlands Administrator or Deciding Body shall fix or recommend a reasonable time to complete the proposed activities.
- C. The Wetlands Administrator or deciding body, may require the applicant file with the Township a cash or corporate surety bond or irrevocable bank letter of credit in an amount, if any, determined necessary to ensure compliance with the wetlands use permit approval conditions and this Section.
- D. The Wetlands Administrator or deciding body shall require that final approval of a wetlands use permit application shall be contingent upon receipt of evidence by the Township that required state and federal permits, if any, have been obtained by the applicant.
- E. At no time shall the Wetlands Administrator or deciding body issue a wetlands use permit that allows a more extensive alteration of the wetlands than permitted by state or federal law.
- F. Wetlands use permits for seasonal operations need not be renewed annually unless otherwise stated in the permit.
- G. Any change that increases the size or scope of the operation and that affects the criteria considered in approving the permit may require the filing of a new wetlands use permit application.
- H. Any temporary, seasonal, or permanent operation that is discontinued for two (2) years or two (2) seasons shall be presumed to have been abandoned and the wetlands use permit automatically voided.
- I. Any permit granted under this Ordinance may be revoked or suspended by the Wetlands Administrator or deciding body, after notice and an opportunity for a hearing, for any of the following causes:

1. A violation of a condition of the permit.
 2. Misrepresentation or failure to fully disclose relevant facts in the application.
 3. A change in a condition that requires a temporary or permanent change in the activity.
- J. An applicant who has received a wetlands use permit under this Ordinance shall comply with the following in connection with any construction or other activity on the property for which the wetlands use permit has been issued:
1. Maintain soil erosion control structures and measures, including but not limited to, silt fences, straw bale berms, and sediment traps. The permittee shall provide for periodic inspections throughout the duration of the project.
 2. Maintain clear delineation of the protected wetlands and wetlands setbacks so marked by the Wetlands Administrator or Township Wetlands Consultant during the on-site inspection) so that such locations are visible to all construction workers.
 3. Post on the site, prior to commencement of work on the site and continuing throughout the duration of the project, a copy of the approved wetlands use permit containing the conditions of issuance, in a conspicuous manner such that the wording of said permit is available for public inspection.
- K. The wetlands use permit shall remain effective for a time period coincidental with any other land use permit reviewed and approved in a time frame concurrent with the wetlands use permit. If applied for prior to the expiration date and concurrent with the expiring land use permit, the applicant may be granted an extension that corresponds to additional time granted for the underlying land use permit. Extensions shall be approved by Wetlands Administrator or deciding body. The maximum number of extensions shall coincide with the maximum number allowed for the underlying land use permit.
- L. When there is no other activity or permit involved, the wetlands use permit shall remain effective for one (1) year. A maximum of a one (1) year extension may be approved.

178-07.6 - Review Standards and Criteria for Non-Contiguous Wetlands Less Than Two (2) Acres in Area

- A. A wetlands use permit shall be approved with respect to a non-contiguous wetland less than two (2) acres in area unless Wetlands Administrator or deciding body determines that the wetland is essential to the preservation of the natural resources of the Township. It shall not be the burden of the property owner to prove that the wetland is not essential to the preservation of the natural resources of the Township.

- B. All non-contiguous wetland areas of less than two (2) acres which appear on the wetlands map or which are otherwise identified during a field inspection by the Township shall be analyzed for the purpose of determining whether such areas are essential to the preservation of the natural resources of the Township. If there is to be a denial of a wetlands use permit in a non-contiguous wetlands area of less than two (2) acres, then, on the basis of data gathered by or on behalf of the Township, findings shall be made in writing and given to the applicant stating the basis for the determination that such wetlands is essential to preservation of the natural resources of the Township. In order to make such a determination, there shall be a finding that one (1) or more of the following exists within such wetlands:
1. The site supports state or federal endangered or threatened plants, fish, or wildlife appearing on a list specified in Section 36505 of the Natural Resources and Environmental Protection Act (Act 451 of 1994).
 2. The site represents what is identified as a locally rare or unique ecosystem.
 3. The site supports plants or animals of an identified local importance.
 4. The site provides groundwater recharge documented by a public agency.
 5. The site provides flood and storm control by the hydrologic absorption and storage capacity of the wetlands.
 6. The site provides wildlife habitat by providing breeding, nesting, feeding grounds or cover for forms of wildlife, waterfowl, including migratory waterfowl, and rare, threatened, or endangered wildlife species.
 7. The site provides protection of subsurface water resources and provision of valuable watersheds and recharging groundwater supplies.
 8. The site provides pollution treatment or control by serving as a biological and chemical oxidation basin.
 9. The site provides erosion control by serving as a sedimentation area and filtering basin, absorbing silt and organic matter.
 10. The site provides sources of nutrients in water food cycles and nursery grounds and sanctuaries for fish.
- C. In connection with the determination whether the wetlands is essential to the preservation of the natural resources of the Township, the property owner shall make an election and response under Subsection 1 or 2 below, relative to each non-contiguous wetlands area less than two (2) acres.

1. In lieu of having the Township or its consultant proceed with the analysis and determination, the property owner may acknowledge that one (1) or more of the criteria in Subsections (B-1) through (B-10) above, exists on the wetlands in question, including a specification of the one or more criteria which do exist; or
 2. An election to have the Township or its consultant proceed with the analysis of whether each of the criteria in Subsections (B-1) through (B-10) exist or do not exist in the wetlands in question, including specific reasons for the conclusion in respect to each criterion.
- D. If the Township determines that the wetlands is not essential to the preservation of the natural resources of the Township, the Township's decision shall be so noted on the Township Wetlands Map, at the time it is amended. The requested activity shall be approved subject to all other applicable laws and regulations.

When a wetlands under two (2) acres in size has been determined to be essential to the natural resources of the Township and the Township has found that one or more of the criteria set forth exists at the site, the Township shall notify the applicant in writing stating the reasons for determining the wetlands to be essential to the preservation of the natural resources.

After determining that a wetlands less than two (2) acres in size is essential to the preservation of the natural resources of the Township, the wetlands use permit application shall be reviewed according to the standards in Section 7.7.

178-07.7 - Review Standards for Wetlands Use Permits

The criteria to evaluate wetlands use permits under this Ordinance and to determine whether a permit is granted are as follows:

- A. A permit for any activity listed in Section 5.1 shall not be approved unless the proposed activity is in the public interest and is otherwise lawful in all respects. Public input shall be evaluated in approving, approving with conditions, or denying the application. The reasonable use of the property involved in accordance with applicable local ordinances and state law shall also be considered.

In determining whether the activity is in the public interest, the benefit which reasonably may be expected to accrue from the proposal shall be balanced against the reasonably foreseeable detriments of the activity. The decision shall reflect the national, state, and local concern for the protection of natural resources from pollution, impairment, and destruction. The following general criteria shall be considered:

1. The relative extent of the public and private need for the proposed activity.

2. The availability of feasible and prudent alternative locations and methods to accomplish the expected benefits from the activity.
 3. The extent and permanence of the beneficial or detrimental effects which the proposed activity may have on the public and private uses to which the area is suited, including the benefits the wetlands provide.
 4. The probable impact of each proposal-in relation to the cumulative effect created by other existing and anticipated activities in the watershed.
 5. The probable impact on recognized historic, cultural, scenic, ecological, or recreational values and on the public health or fish or wildlife.
 6. The size and quality of the protected wetlands being considered.
 7. The amount and quality of remaining wetlands in the area.
 8. Proximity to any waterway.
 9. Extent to which upland soil erosion adjacent to protected wetlands or drainage ways is controlled.
 10. Economic value, both public and private, of the proposed land change to the general area.
 11. Findings of necessity for the proposed project which have been made by federal, state or local agencies.
- B. A wetlands use permit shall not be granted unless it is shown that:
1. An unreasonable disruption of aquatic resources will be avoided; and
 2. The proposed activity is primarily dependent upon being located in the protected wetlands; and
 3. A feasible and prudent alternative does not exist; and
 4. The manner in which the activity is proposed to be undertaken will result in the minimum negative impact upon protected wetlands, watercourses, and attendant natural resources under all of the circumstances.
- C. Following approval of the application, a wetlands use permit shall be issued upon determination that all other requirements of ordinance and law have been met, including site plan, plat or land use approval as applicable and including issuance of a permit by the MDEQ, if required under the Wetlands Protection Act. In cases where a MDEQ permit allows activities not permitted by the wetlands use permit approval

granted under this Section, the restrictions of the approval granted under this Section shall govern.

Section 178-08. Wetlands Mitigation and Restoration

178-08.1 - Findings That Wetlands And Watercourse Loss Is Unavoidable

Mitigation shall not be considered a substitute for making all prudent attempts to avoid wetlands impacts.

- A. Prior to considering a proposal for wetlands mitigation, the Wetlands Administrator, or the deciding body, as applicable, shall make all of the following findings:
 - 1. That all feasible and prudent efforts have been made to avoid the loss of protected wetlands.
 - 2. That all practical means have been considered to minimize protected wetlands impacts.
 - 3. That it is practical to replace the protected wetlands which will be unavoidably eliminated.
 - 4. That all alternatives for preserving protected wetlands and water courses have been evaluated and found to be impractical, inappropriate, or ineffective.
- B. To ensure no net loss of wetlands in the Township, mitigation shall be required in instances where there are losses of wetlands resources and where the Wetlands Administrator or the deciding body, as applicable have made the findings required in Section 8.1.A.

178-08.2 - Criteria for Approving Proposals for Wetlands Mitigation

If the Wetlands Administrator, or deciding body, as applicable determines that it is practical to replace the protected wetlands which will be impacted, mitigation plans shall be approved only if all of the following criteria are met:

- 1. That the mitigation plan provides for the substantial replacement of the predominant functional values of the protected wetlands to be lost.
- 2. That the mitigation plan provides for no net loss of protected wetlands resources and watercourses unless the Wetlands Administrator, or the deciding body, as applicable determines that the net loss will result in a minimum negative impact upon protected wetlands, watercourses, and attendant natural resources under all of the circumstances.
- 3. Mitigation shall be provided on-site where practical and beneficial to the

wetlands resources. If mitigation on-site is not practical and beneficial, then mitigation in the immediate vicinity, within the same watershed, of the permitted activity may be considered. Only if all of these options are impractical shall mitigation be considered elsewhere.

4. The mitigation plan will comply with all applicable federal, state, and local laws.
5. A plan to monitor preserved and replacement wetlands over a minimum of five years has been specified.

178-08.3 - Other Mitigation Requirements

- A. Wetlands mitigation and monitoring plans shall become conditions to the wetlands use permit and shall be the responsibility of the applicant.
- B. Financial assurances that mitigation is accomplished as specified by the permit conditions may be required by the Wetlands Administrator or Deciding Body, as applicable.
- C. Any mitigation activity shall be completed before initiation of other permitted activities, unless a phased concurrent schedule can be agreed upon between the Wetlands Administrator or Deciding Body, as applicable, and the applicant.
- D. Wetlands mitigation plans that create less than two (2) acre wetlands shall meet one of the conditions listed in Section 7.6 B.1-10.
- E. An applicant shall protect the mitigation area by a permanent conservation easement or similar instrument that provides for the permanent protection of the natural resource functions and values of the mitigation site, unless the Administrator determines that such controls are impractical to impose.
- F. An applicant, with approval of the Administrator and the Department of Environmental Quality, may provide all or a portion of the mitigation through the acquisition of approved credits from a wetland mitigation bank established under Michigan R 281.951 et seq. and R 281. 921 et seq.

Section 178-09. Fees, Penalties, and Enforcement

178-09.1 - Fees

Applications for a wetlands use permit under this Section shall be accompanied by a non-refundable administrative application fee in an amount specified from time to time by resolution of the Township Board. In addition an applicant shall pay an escrow fee in an amount determined by resolution of the Township Board for the estimated cost of outside

consultant(s) who may be retained by the Township in connection with the review of the application. In the event the cost of the services of the consultant(s) is less than the escrow fee, the applicant shall be refunded the balance. In the event the cost of the services of the consultant(s) exceeds the amount of the escrow fee, the applicant shall provide to the Township an additional escrow amount equivalent to no less than one-half (1/2) the original escrow amount. All review of the wetlands use permit application shall cease until such additional escrow amount is deposited with the Township, and the number of days during which all review of the wetlands use permit application is ceased shall be deducted from the time limits within which the Township would otherwise act upon the application. In the event the cost of the service of the consultant(s) is less than the subsequent escrow fee(s), the applicant shall be refunded the balance. A denial of an application for a wetlands use permit shall not affect the applicant's obligation to pay the fees provided for in this Section.

178-09.2 - Penalties And Enforcement

A. Restoration Requirements for Illegal Wetlands Alteration

In the event of a violation involving illegal alteration of a watercourse or protected wetlands under this Section, the Township shall have the power to order complete restoration of the watercourse or protected wetlands area by the person or agent responsible for the violation. If such responsible person or agent does not complete such restoration within a reasonable time following the order, the Township shall have the authority to restore the affected watercourse or protected wetlands to their prior condition wherever possible, and the person or agent responsible for the original violation shall be held liable to the Township for the cost of restoration. Requirements and watercourse or protected wetlands restorations ordered by the Township shall be coordinated with state and/or federal agency requirements and specifications for watercourse or wetlands restoration.

B. Penalties

In addition to the rights and remedies herein provided to the Township, any person violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not exceeding Five Hundred Dollars (\$500.00), or be imprisoned in the county jail for a period not exceeding ninety (90) days, or be both so fined and imprisoned. Each day such violation is continued or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

C. Injunction

Any activity conducted in violation of this Section is declared to be a nuisance per se, and the Township may commence a civil suit in any court of competent jurisdiction for an order abating or enjoining the violation, and/or requiring restoration of the protected wetlands or watercourse as nearly as possible to its condition before the violation.

D. Stop-Work Order

The Township may also issue a stop-work order or withhold issuance of a Certificate of Occupancy, permits or inspection until the provisions of this Ordinance, including any conditions attached to a wetlands use permit, have been fully met. Failure to obey a stop-work order shall constitute a violation of this Ordinance.

E. Appearance Tickets

In all arrests and prosecutions for violation of this Ordinance, appearance tickets and the appropriate procedures set forth in Act 147, Michigan Public Acts of 1968, as amended, may be used.

F. Enforcement

The Wetlands Administrator or Deciding Body or his/her agent, officer or employee shall have authority under this Ordinance to enter upon privately-owned land for the purpose of performing the Township's duties under this Ordinance and may take or cause to be made such examinations, surveys or samplings as are deemed necessary.

178-09.3 - Reporting and Record Keeping

A. Any citizen observing what he or she believes or suspects may be an instance of noncompliance with the provisions of this Ordinance may report the observation to any official or employee of the Township.

B. Any report received pursuant to Subsection A. of this Section shall be forwarded immediately to the Township Ordinance Officer and the Township Clerk.

C. Township Ordinance Officer Duties

1. The Township Ordinance Officer shall inspect the site of the suspected noncompliance as soon as is reasonably practical, but in no case later than the close of business five (5) business days after receiving the report.

2. The Township Ordinance Officer shall complete an entry for the report into the Wetlands Log.

3. The Township Ordinance Officer may enlist the expertise of the Wetland Administrator if necessary to determine whether a violation of this Ordinance has occurred.

4. The Township Ordinance Officer shall take any actions within his or her authority necessary to ensure this Ordinance is enforced.

D. Wetlands Log

The Township Ordinance Officer shall maintain a Wetlands Log at the Township Office. The Log shall be used to identify all actions and communications regarding properties or uses of properties which have been evaluated for compliance with this Ordinance. The Log shall be available to the public upon demand during normal business hours. The Log shall contain the following information:

1. Date: the date the entry was initiated.
2. Address/Location of Property: the street address, if available, or descriptive text or vicinity map sufficient to enable citizens to identify the property in question.
3. Nature of the inquiry, if any.
4. Permit or Log Number: If it has been determined that the use being made of the property does not require a Wetlands Permit from Superior Township, a Log number shall be assigned. Otherwise, the Permit number shall be maintained.
5. Compliance Status: A record shall be made of whether the use being made of the property is in compliance with the Provisions of this Ordinance, the date the determination was made, and the name(s) of the Township official and/or consultant who made the determination.
6. Sidwell property number.
7. Nature of violation.
8. Date violation confirmed.
9. Name of person confirming the violation.
10. Enforcement action taken.
11. Date of enforcement action taken.
12. Outcome of enforcement action: If outcomes are appealed by the property owner or any other party, each appeal shall be noted, and its outcome shall also be noted under this heading.
13. Other information which may be useful in describing the issue, the parties, the actions taken, etc.

Section 178-10. State Notification

178-10.1 - Notice to the Michigan Department of Environmental Quality

The Township shall notify the MDEQ of the adoption or modification of this Ordinance. The Township shall cooperate with the MDEQ in the enforcement of the Wetlands Protection Act as to wetlands under the MDEQ's jurisdiction as defined under this Ordinance.

Section 178-11. Ordinance Conflict

178-11.1 - Abrogation and Conflict of Authority

Nothing in this Ordinance shall be interpreted to conflict with present or future state statutes in the same subject matter; conflicting provisions of this Ordinance shall be abrogated to, but only to, the extent of the conflict. Moreover, the provisions of this Ordinance shall be construed, if possible, to be consistent with relevant state regulations and statutes. If any part of this Ordinance is found to be invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision. Such holding shall not affect the validity of the remaining portions thereof, and the remainder of the Ordinance shall remain in force. Rights and duties which have matured, penalties which have been incurred, proceedings which have begun (except as set forth in Section 5.3 and Section 6 herein) and prosecutions for violations of law occurring before the effective date of this Ordinance are not affected or abated by this Ordinance.

Section 178-12. Property Tax Assessment

- A. If a wetlands use permit is denied by the Township, a landowner may appear at the annual Board of Review for the purpose of seeking a re-valuation of the affected property for assessment purposes to determine its fair market value under the use restriction.
- B. A landowner who is aggrieved by a determination, action, or inaction under this subsection may protest and appeal that determination, action, inaction pursuant to the general property tax act, Act No. 205 of the Public Acts of 1893, being sections 211.1 to 211.157 of the Michigan Compiled Laws.

Section 178.13. Repeal- All ordinances or parts of an ordinance in conflict with this ordinance are hereby repealed. The existing Ordinance No. 135, being an ordinance for the control and preservation of wetlands and watercourses effective December 16, 1996 and amended effective January 25, 1998, is hereby repealed. The repeal provided herein shall not abrogate or affect any offense or act committed or done, or any penalty or forfeiture incurred, or any pending fee, assessments, litigation or prosecution of any right established, occurring prior to the effective date hereof.

Section 178.14. Publication and Effective Date – This Ordinance shall be published pursuant to Section 8 of the Charter Township Act, being MCL 42.8 by posting in the Office of the Clerk, 3040 N. Prospect, Ypsilanti, 48198, and on the Township website – www.superior-twp.org – with notice of such in *The Ypsilanti Courier*, a newspaper of general circulation in the Township, qualified under state law to publish legal notices, and the same shall be recorded in the Ordinance Book of the Township, and such recording authenticated by the signatures of the Supervisor and Clerk. Per MCL 42.22, said Ordinance shall be effective immediately upon publication thereof.

CERTIFICATION

I, David Phillips, hereby certify that the foregoing constitutes a true and complete copy of Ordinance No. 178, duly adopted at second reading by the Township Board of Trustees of the Charter Township of Superior at a regular meeting held December 21, 2009, and said Ordinance was published in the Ypsilanti Courier on December 31, 2009.

David Phillips, Superior Charter Township Clerk

William McFarlane, Superior Charter Township Supervisor