

**CHARTER TOWNSHIP OF PITTSFIELD  
WASHTENAW COUNTY, MICHIGAN  
ORDINANCE No. 297  
REVISIONS TO CHAPTER 8, WETLANDS PROTECTION ORDINANCE  
AND CHAPTER 39, CONSERVATION EASEMENTS**

**FIRST READING**

1 AN ORDINANCE TO AMEND THE TOWNSHIP CODE BY REVISING CHAPTER 8,  
2 WETLANDS, ARTICLE V, SECTIONS 8-200 THROUGH 8-213 AND  
3 CHAPTER 39, CONSERVATION EASEMENTS, SECTIONS 39-1 THROUGH 39-50 OF  
4 THE CODE TO ELIMINATE THE NATURAL RESOURCES COMMISSION AND  
5 REALLOCATE RESPONSIBILITIES AND AUTHORITY.  
6

7 THE CHARTER TOWNSHIP OF PITTSFIELD, WASHTENAW COUNTY, MICHIGAN,  
8 ORDAINS:

9 That Article V of Chapter 8, Sections 8-200 through 8-213 and Chapter 39, Section 39-1 through  
10 39-50 of the Pittsfield Charter Township Code are amended to read as follows:

11 ARTICLE V. - WETLANDS

12 Sec. 8-200. - Legislative Findings; Criteria to Be Considered in Administration of this Article

13 The Township Board of Pittsfield finds that:

14 (1) Wetlands conservation is a matter of Township concern because a wetland in one area  
15 of the Township may be affected by acts on a river, lake, stream, or wetlands in other  
16 areas of the Township.

17 (2) Wetlands are indispensable and fragile resources, which in their natural state provide  
18 many benefits to the Township. The loss of a wetland may deprive the people of the  
19 Township of the benefits to be derived from the wetland, including, but not limited to, the  
20 following:

21 (i) Flood and storm control by the hydrologic absorption and storage capacity of  
22 the wetland.

23 (ii) Wildlife habitat by providing breeding, nesting, and feeding grounds and cover  
24 for many forms of wildlife, fish, and waterfowl, including migratory waterfowl,  
25 and rare, threatened, or endangered animal and plant species.

26 (iii) Protection of subsurface water resources and provision of valuable watersheds  
27 and recharging ground water supplies.

28 (iv) Pollution treatment by serving as a biological and chemical oxidation basin.

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- 29                   (v)Erosion control by serving as a sedimentation area and filtering basin,  
30                   absorbing silt and organic matter.
- 31                   (vi)Sources of nutrients in water food cycles and nursery grounds and sanctuaries  
32                   for fish.
- 33                   (3)The loss of wetlands and corresponding loss of the benefits to be derived therefrom  
34                   constitutes a threat to the public health, safety and general welfare of the Township and  
35                   the environment.
- 36                   (4)Preservation of wetlands in an undisturbed and natural condition is necessary to  
37                   maintain important physical, hydrological, aesthetic, recreational, and economic assets  
38                   for existing and future residents of the Township.
- 39 | ~~(b)~~The Township shall consider the findings and criteria provided in Section 8-200 in  
40                   administering this Article, and in all actions taken or decisions made pursuant to this Article.
- 41    Sec. 8-201. - Purpose and Intent
- 42 | ~~(a)~~Based on the findings set forth in Section 8-200 of this Article, it is the purpose and intent of  
43                   this Article to regulate all wetlands within the Township (including, but not limited to, wetlands  
44                   less than 2 acres in size) to the fullest extent authorized by local, state, and federal laws and  
45                   regulations, so as to:
- 46                   (1) Prevent the people of the Township from being deprived of any of the benefits  
47                   derived from wetlands as set forth in Section 8-200
- 48                   (2) Provide the procedures and requirements to identify all wetlands within the  
49                   Township, and to maintain an accurate and up-to-date inventory of all wetlands within  
50                   the Township.
- 51                   (3) Specify the activities that are prohibited in a wetland except as otherwise provided by  
52                   this Article or by a permit obtained from the Township as required by this Article.
- 53                   (4) Prevent a further loss of wetlands as provided by this Article.
- 54                   (5) Specify the activities that are allowed in a wetland without a permit under this Article,  
55                   subject to other local, state and federal laws and regulations.

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56 (6) Require a permit for any use or development in a wetland that is not otherwise  
57 authorized without a permit as provided by this Article.

58 (7) Establish procedures and requirements to review Wetlands Use Permit applications  
59 (including, but not limited to, applications for Wetlands Use Permits involving the  
60 | proposed use of a wetland that is less than 2 acres in size)- and impose conditions on  
61 Wetlands Use Permits, including mitigation.

62 (8) Establish all other procedures, requirements, standards, and conditions; financial  
63 assurance provisions; and fine, penalty, enforcement, and appeal provisions, as necessary  
64 and appropriate to accomplish the regulatory purposes and intent of this Article.

65 | ~~(109)~~ Provide incentives for wetlands protection and recognition of the value of  
66 stewardship for the care and protection of wetlands.

67 | ~~(b)~~ Further, based on the findings set forth in Section 8-200, the Township Board declares a goal  
68 of no net loss of wetlands within the Township and a long term goal of a net gain in wetlands  
69 within the Township. These goals are be accomplished through the use of all means available to  
70 the Township as authorized by applicable local, state and federal laws and regulations, including,  
71 but not limited to, the implementation of the regulatory purposes and intent of this Article; the  
72 identification and review of degraded or destroyed wetlands in the Township; and the use of  
73 incentives, voluntary agreements, and other forms of cooperation between the Township and  
74 land owners to protect and restore wetlands to the greatest extent possible authorized under the  
75 law.

76 Sec. 8-202. - Definitions

77 As used in this Article, the following words and phrases shall mean as follows:

78 *Activity* means any human use, operation, development, or action (including, but not limited to,  
79 filling, dredging, placing, depositing, dumping, pumping, drilling, constructing, erecting, mining,  
80 grading, paving, or excavating of material, buildings, or structures) that may result in or cause  
81 any change to property or result in or cause any impact or effect on a wetland.

82 *Adverse Effect or Adverse Impact* means anything that would destroy, harm, impair, diminish or  
83 degrade the ability of a wetland to provide the benefits as set forth in Section 8-200.

84 *Contiguous* means any of the following:

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85 1. A permanent surface water connection or any other direct physical contact with an  
86 inland lake or pond, a river or stream.

87 2. A seasonal or intermittent direct surface water connection to an inland lake or pond, a  
88 river or stream.

89 3. A wetland that is partially or entirely located within five hundred (500) feet of the  
90 ordinary high water mark of an inland lake or pond, a river or stream, unless it is  
91 determined by the MDEQ, pursuant to R 281.924(4) of the Michigan Administrative  
92 Code, that there is no surface water or groundwater connection to these waters.

93 4. Two or more areas of wetland separated only by barriers, such as dikes, roads, berms,  
94 or other similar features, but with any of the wetland areas contiguous under the criteria  
95 described in sections 1, 2 or 3 of this definition.

96 *Days* means calendar days, unless otherwise specified.

97 *Deposit* means to fill, place, or dump.

98 *Fill material* means soil, rocks, sand, gravel, clay, peat, debris, refuse, waste of any kind, or any  
99 other kind of material that displaces soil or water or reduces water retention potential.

100 *Inland lake or pond, a river or stream* means any of the following:

101 1. A river or stream which has definite banks, a bed, and visible evidence of a continued  
102 flow or continued occurrence of water.

103 2. A natural or permanent artificial inland lake or impoundment that has definite banks, a  
104 bed, visible evidence of a continued occurrence of water, and a surface area of water that  
105 is more than 5 acres. This does not include lakes constructed by excavating or diking dry  
106 land and maintained for the sole purpose of cooling or storing water and does not include  
107 lagoons used for treating polluted water.

108 3. A natural or permanent artificial pond that has permanent open water with a surface  
109 area that is more than 1 acre, but less than 5 acres. This does not include ponds  
110 constructed by excavating or diking dry land and maintained for the sole purpose of  
111 cooling or storing water and does not include lagoons used for treating polluted water.

112 *MAC* means the Michigan Administrative Code.

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113 *MDEQ* means the Michigan Department of Environmental Quality.

114 *Michigan Wetlands Protection Act* (MWPA) means NREPA Part 303 ("Wetlands Protection").

115 *Minor Drainage* includes ditching and tiling for the removal of excess soil moisture incidental to  
116 the planting, cultivating, protecting, or harvesting of crops or improving the productivity of land  
117 in established use for agriculture, horticulture, silviculture, or lumbering. To be considered  
118 "minor drainage," the drainage must be inconsequential to the wetlands.

119 *NREPA* means the Michigan Natural Resources and Environmental Protection Act (Act No. 451  
120 of the Public Acts of Michigan of 1994, MCL §§ 324.~~30301~~-101 et seq., as amended)

121 *Ordinance Enforcement Officer* means a person appointed by resolution of the Township Board  
122 to administer this Article and to carry out the duties as provided by this ~~Article~~Owner Article.

123 *Owner* means any person who has dominion over, control of, title to and/or any other proprietary  
124 interest in wetlands and watercourse areas, or title to an obstruction, natural or otherwise, to  
125 wetlands and watercourse properties.

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

129 *Qualified consultant, engineer, contractor or other entity*. Where this Article requires a permit  
130 applicant or other person to use or retain a "qualified" consultant, engineer, contractor or other  
131 entity in connection with a wetlands delineation, mitigation or other wetlands matter, the  
132 determination as to whether the consultant, engineer, contractor or other entity (hereinafter  
133 collectively referred to in this definition as the "consultant") is qualified for purposes of this  
134 Article shall be made by the Township based upon the Township's consideration of factors  
135 including, but not limited to, the following: The consultant's credentials, including the strength of  
136 the consultant's background, education, training, and professional experience in hydrology, soil  
137 science, ecology, and botany, as relevant to wetlands; the consultant's experience in dealing with  
138 other local governments or state and federal wetlands agencies with regard to wetlands issues;  
139 the consultant's knowledge of applicable local, state and federal wetlands laws and regulations;  
140 the consultant's references or other sources of information regarding the consultant's wetlands  
141 qualifications; and such other factors as determined relevant and appropriate by the Township.

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142 *Restoration* means the reestablishment of wetlands characteristics and functions at a site where  
143 they have ceased to exist through the replacement of wetlands hydrology, vegetation, or soils.

144 *Township* means Pittsfield Charter Township, Washtenaw County, Michigan. As used in this  
145 Article, the term "Township" may also be used to refer generically to the Township body or  
146 designee of the Township (including the Township Board, the Township Planning Commission,  
147 the Township Ordinance Enforcement Officer, or the Stormwater Management  
148 Committee~~Natural Resources Commission~~) that reviews, decides, or takes other action with  
149 respect to particular applications for Wetlands Use Permits as specified by this Article: In the  
150 context of permit approvals required in conjunction with a site plan, plat or other proposed land  
151 use, references to decisions or actions by the "Township" means by the Planning Commission or  
152 the Township Board, as applicable. In the context of permit approvals submitted in conjunction  
153 with activities that do not require approval by the Planning Commission and/or the Township  
154 Board, references to decisions or actions by the "Township" means by the Ordinance  
155 Enforcement Officer. In the context of appeals of decisions made by the Ordinance Enforcement  
156 Officer, the Planning Commission or the Township Board regarding Wetlands Use Permits,  
157 references to decisions or actions by the "Township" means by the Stormwater Management  
158 Committee~~Natural Resources Commission~~. For purposes of issuing a notice of violation and  
159 order or municipal civil infraction citation or notice, "Township" means the Ordinance  
160 Enforcement Officer or other authorized local official as provided by this Article.

161 *Township Board* means the legislative body of Pittsfield Charter Township.

162 *Wetland* means land characterized by the presence of water at a frequency and duration sufficient  
163 to support, and that under normal circumstances does support, wetland vegetation or aquatic life,  
164 and is commonly referred to as a bog, swamp, or marsh, and which is any of the following:

- 165 1. Contiguous to a lake or pond, or a river or stream, regardless of size.
- 166 2. Not contiguous to a lake or pond, or a river or stream; and 2 acres or more in size.
- 167 3. Not contiguous to a lake or pond, or a river or stream; and less than 2 acres in size, if  
168 the Township determines that protection of the area is essential to the preservation of the  
169 natural resources of the Township from pollution, impairment, or destruction as provided  
170 by this Article.

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171 *Wetland Less Than 2 Acres In Size* means (1) a non-contiguous, single wetland that is less than 2  
172 acres in size; or (2) multiple wetlands within 100 feet of each other whose combined area totals  
173 less than 2 acres, whether these are on the same parcel or multiple parcels; provided, however,  
174 that "wetland less than 2 acres in size" does not include any single wetland that is less than 0.2  
175 acre in size; or multiple wetlands within 100 feet of each other whose combined area totals less  
176 than 0.2 acre.

177 *Wetlands Use Permit* means a permit issued by the Township for activities in a wetland as  
178 provided by this Article.

179 *Wetlands Vegetation* means plants, including, but not limited to, trees, shrubs and herbaceous  
180 plants, that exhibit adaptations to allow, under normal conditions, germination or propagation  
181 and to allow growth with at least their root systems in water or saturated soil.

182 Sec. 8-203. - Construction

183 | ~~(a)~~ The rules of construction provided by this Section shall apply in the interpretation and  
184 application of this Article by the Township, a reviewing court, or any other person. Consistent  
185 with regulatory purposes and intent of this Article and other applicable local, state and federal  
186 laws and regulations:

187       (1) The provisions of this Article shall be construed and applied as liberally as possible in  
188 favor of the protection and preservation of wetlands located within the Township and of  
189 the benefits to be derived therefrom.

190       (2) Conversely, the provisions of this Article shall be construed and applied as strictly as  
191 possible against authorizing, approving or allowing any action or activity in a wetland  
192 that could result in adverse effects on a wetland.

193       (3) In the case of a difference of meaning or implication between the text of this Article  
194 and any caption or illustration, the text of this Article shall control.

195       (4) In all cases, the Township's interpretation and application of the provisions of this  
196 Article shall control.

197 Sec. 8-204. - Applicability

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198 (a) The provisions and requirements of this Article, including, but not limited to,  
199 wetlands use prohibitions and wetlands use permit requirements shall apply to activities  
200 and operations proposed or carried out by any person.

201 (b) The Township's authority to regulate wetlands within its boundaries as provided by  
202 this Article is supplemental to the Township's existing authority as otherwise provided by  
203 applicable laws and the state constitution.

204 (c) The Township's jurisdiction and authority over the regulation of wetlands as provided  
205 by this Article is concurrent with, and for wetlands not regulated under state or federal  
206 law, in addition to, the jurisdiction and authority of the state and federal governments.

207 (d) The issuance by the Township of a Wetlands Use Permit as provided by this Article  
208 shall not relieve any person from obtaining a permit for activities in a wetland that may  
209 be required under any state or federal law or regulation; nor shall a permit or any  
210 approval for activities in a wetland issued under any state or federal law or regulation (or  
211 under any other local law or regulation) relieve any person from obtaining a Wetlands  
212 Use Permit required by this Article.

213 (e) Compliance with this Article shall not relieve any person of the obligation to comply  
214 with any other applicable local, state, or federal law or regulation.

215 **Sec. 8-205. - Prohibited Activities**

216 (a) Except as otherwise provided by this Article, or by a permit obtained from the  
217 Township as provided by this Article, a person shall not do any of the following (or cause  
218 any of the following to occur):

219 (1) Deposit or permit the placing of fill material in a wetland.

220 (2) Dredge, remove, or permit the removal of soil or minerals from a wetland.

221 (3) Construct, operate, or maintain any use or development in a wetland.

222 (4) Drain surface water from a wetland.

223 (5) Mowing, cutting, removing, or causing to be removed or damaged, native  
224 vegetation or trees from the wetland, except for the mowing of a walkable path  
225 not to exceed ten (10) feet wide, unless as an ecological restoration project or

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226 | Nuisance Vegetation Maintenance Plan approved by the ~~Article~~ Ordinance  
227 Enforcement Officer.

228 (b)The scope of activities that are prohibited in the absence of a permit as provided by  
229 this Section shall be construed and applied as broadly and liberally as possible, and any  
230 exemptions from or exceptions to the requirement of obtaining a permit shall be  
231 construed and applied as narrowly and strictly as possible, consistent with applicable  
232 local, state and federal laws and regulations.

233 Sec. 8-206. - Activities And Uses Not Requiring A Permit Under This Article

234 (a) Activities that require a permit under NREPA Part 325 ("Great Lakes Submerged  
235 Lands") or Part 301 ("Inland Lakes and Streams"), or a discharge that is authorized by a  
236 discharge permit under Sections 3112 or 3113 of NREPA Part 31 ("Water Resources  
237 Protection"), do not require a permit under this Article.

238 (b) The following uses are allowed in a wetland without a permit under this Article  
239 subject to other applicable local, state and federal laws and regulations and subject to the  
240 owner's regulation:

241 (1) Fishing, trapping, or hunting.

242 (2) Swimming or boating.

243 (3) Hiking.

244 (4) Grazing of animals.

245 (5) Farming, horticulture, silviculture, lumbering, and ranching activities,  
246 including plowing, irrigation, irrigation ditching, seeding, cultivating, minor  
247 drainage, harvesting for the production of food, fiber, and forest products, or  
248 upland soil and water conservation practices. Wetlands altered under this  
249 subsection shall not be used for a purpose other than a purpose described in this  
250 subsection without a permit from the Township.

251 (6) Maintenance or operation of serviceable structures in existence on October 1,  
252 1980 or constructed pursuant to NREPA Part 303 or former Act No. 203 of the  
253 Public Acts of 1979.

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- 254 (7) Construction or maintenance of farm or stock ponds.
- 255 (8) Maintenance, operation, or improvement which includes straightening,  
256 widening, or deepening of the following which is necessary for the production or  
257 harvesting of agricultural products:
- 258 (i) An existing private agricultural drain.
- 259 (ii) That portion of a drain legally established pursuant to the drain code of  
260 1956, Act No. 40 of the Public Acts of 1956, being sections 280.1 to  
261 280.630 of the Michigan Compiled Laws, which has been constructed or  
262 improved for drainage purposes.
- 263 (iii) A drain constructed pursuant to other provisions of NREPA Part 303  
264 or former Act No. 203 of the Public Acts of 1979.
- 265 (9) Construction or maintenance of farm roads, forest roads, or temporary roads  
266 for moving mining or forestry equipment, if the roads are constructed and  
267 maintained in a manner to assure that any adverse effect on the wetland will be  
268 otherwise minimized.
- 269 (10) Drainage necessary for the production and harvesting of agricultural products  
270 if the wetland is owned by a person who is engaged in commercial farming and  
271 the land is to be used for the production and harvesting of agricultural products.  
272 Except as otherwise expressly provided in this Article, a wetland improved under  
273 this subsection after October 1, 1980 shall not be used for nonfarming purposes  
274 without a permit from the Township. This subsection shall not apply to a wetland  
275 which is contiguous to a lake or stream, or to a tributary of a lake or stream, or to  
276 a wetland that the Township has determined by clear and convincing evidence to  
277 be a wetland that is necessary to be preserved for the public interest, in which case  
278 a permit is required.
- 279 (11) Maintenance or improvement of public streets, highways, or roads, within the  
280 right-of-way and in such a manner as to assure that any adverse effect on the  
281 wetland will be otherwise minimized. Maintenance or improvement does not  
282 include adding extra lanes, increasing the right-of-way, or deviating from the  
283 existing location of the street, highway, or road.

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284 (12) Maintenance, repair, or operation of gas or oil pipelines and construction of  
285 gas or oil pipelines having a diameter of 6 inches or less, if the pipelines are  
286 constructed, maintained, or repaired in a manner to assure that any adverse effect  
287 on the wetland will be otherwise minimized.

288 (13) Maintenance, repair, or operation of electric transmission and distribution  
289 power lines and construction of distribution power lines, if the distribution power  
290 lines are constructed, maintained, or repaired in a manner to assure that any  
291 adverse effect on the wetland will be otherwise minimized.

292 (14) Operation or maintenance, including reconstruction of recently damaged  
293 parts, of serviceable dikes and levees in existence on October 1, 1980 or  
294 constructed pursuant to NREPA Part 303 or former Act No. 203 of the Public  
295 Acts of 1979.

296 (15) Construction of iron and copper mining tailings basins and water storage  
297 areas.

298 (c) An activity in a wetland that was effectively drained for farming before October 1,  
299 1980 and that on and after October 1, 1980 has continued to be effectively drained as part  
300 of an ongoing farming operation is not subject to regulation under this Article.

301 (d) A wetland that is incidentally created as a result of 1 or more of the following  
302 activities is not subject to regulation under this Article:

303 (1) Excavation for mineral or sand mining, if the area was not a wetland before  
304 excavation. This exemption does not include a wetland on or adjacent to a water  
305 body of 1 acre or more in size.

306 (2) Construction and operation of a water treatment pond or lagoon in compliance  
307 with the requirements of state or federal water pollution control regulations.

308 (3) A diked area associated with a landfill if the landfill complies with the terms  
309 of the landfill construction permit and if the diked area was not a wetland before  
310 diking.

311 (e) Except as otherwise expressly exempted by Section 8-206, above, no person shall  
312 engage in any of the prohibited activities in a wetland as provided by Section 8-205

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313 without first obtaining a Wetlands Use Permit from the Township as provided by this  
314 Article.

315 (f) The scope of activities and uses that are permitted in a wetland without obtaining a  
316 permit as provided by this Section shall be construed and applied as narrowly and strictly  
317 as possible, and any exemptions from or exceptions to the requirement of obtaining a  
318 permit shall be construed and applied as narrowly and strictly as possible, consistent with  
319 applicable local, state and federal laws and regulations.

320 Sec. 8-207. - Wetlands Use Permits for Activities Listed in Section 8-205

321 (a) Permit Required

322 | (1) Except as otherwise provided by this Article, it shall be unlawful for any person to  
323 undertake or engage in any of the activities listed in Section 8-205 (or to cause any of  
324 those activities to occur) without first obtaining a Wetlands Use Permit as provided by  
325 this Article.

326 | (2) An application for a Wetlands Use Permit shall be submitted to the Township and  
327 shall be reviewed and approved, approved with conditions, denied, or modified by the  
328 Township as provided by this Article.

329 | (3) Before an application for a Wetlands Use Permit is submitted, it may be possible for  
330 the Ordinance Enforcement Officer (or other authorized Township designee) to determine  
331 the necessity of obtaining a permit by reference to the Township Wetlands Inventory  
332 Map.

333 | (4) If a Wetlands Use Permit is required, the applicant may request a preliminary  
334 administrative meeting with the Township to review the proposed activity in light of the  
335 purposes, intent, standards and requirements of this Article, prior to submittal of the  
336 application to the final decision-making body.

337 (b) Submission of Complete Permit Application Required

338 | (1) Each person applying for a Wetlands Use Permit shall apply directly to the Pittsfield  
339 Township Municipal Services Department as provided by this Section and other  
340 applicable provisions of this Article. The application shall be made on an application  
341 form supplied to the Township by the Michigan Department of Environmental Quality,

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342 and shall include or be accompanied by all information, documents, items and materials  
343 required by this Article.

344 | (2) Upon receipt of an application and after determining that the application is complete  
345 the Township shall:

346 | (i) Date stamp the application and notify the applicant in writing that the  
347 application is complete.

348 | (ii) Advise the applicant of the applicant's obligation to post the subject property  
349 with a sign stating that an application for a Wetlands Use Permit for the property  
350 has been filed with the Township and the procedures and deadlines for submitting  
351 public comment. The sign shall be no less than ten (10) square feet and no more  
352 than eighteen (18) square feet in size; shall be placed at least ten (10) feet from  
353 other signs or obstructions to viewing the sign; shall include sufficient blank  
354 space to add the notice of the public hearing as required by subsection 8-207 (f)  
355 (2)(iii)(b) including the time, date, and place of the hearing; and shall be clearly  
356 visible and readable from the abutting streets.

357 | (iii) Forward a copy of the application and supporting materials to the Township's  
358 wetlands consultant, as applicable, to confirm the boundaries of the wetlands and  
359 review the proposal in light of the purposes, intent, standards and requirements of  
360 this Article. Based on the wetlands consultant's review, the wetlands consultant  
361 shall prepare and transmit a report and recommendation to the Ordinance  
362 Enforcement Officer.

363 | (iv) Forward a copy of the application to the Michigan Department of  
364 Environmental Quality, along with any State fees that may have been submitted  
365 under MWPA Section 30306.

366 | (v) Cause to be published a notice of the application and the date and time for  
367 submission of written public comments in a newspaper of general circulation in  
368 the Township.

369 | (3) A permit application shall not be deemed complete for purposes of this Section until  
370 the Township has determined that it has received all information requested on the  
371 application form, the fully paid application fee, the full amount of any required escrow

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372 fee, and any other requested documentation or information necessary for the Township to  
373 adequately review the application and reach a decision as authorized by this Article. An  
374 application fee or escrow fee paid by check or money order, or in any form other than  
375 cash, shall not be considered received until the Township has confirmed that the full  
376 amount of the fee has been deposited in the Township's bank account.

377 | (4) If the Township determines that an application is not complete, the Township shall  
378 provide written notice to the applicant specifying what the applicant must do to complete  
379 the application.

380 | (5) The ninety (90) day period for approving, denying, or modifying an application as  
381 provided by this Article shall not begin to run until the Township has determined that the  
382 application is complete as provided by this Section.

383 | (6) Where the Michigan Department of Environmental Quality forwards to the Township  
384 an application with respect to a wetland within the Township which was initially filed by  
385 the applicant with the MDEQ rather than to the Township, the Township, upon receipt of  
386 such application, shall proceed to determine whether the application has been officially  
387 received and is complete as provided by this Section. After the Township has determined  
388 that the application is complete for purposes of this Article, the Township shall then  
389 review and approve, deny, or modify the application as otherwise provided by this  
390 Article.

391 | (7) The filing of a permit application with the Township shall constitute permission from  
392 the owner for the Township to complete an on-site investigation of the property in  
393 question for purposes of this Article.

394 (c) Permit Application Deemed Withdrawn If Information Not Timely Submitted

395 (1) An application may be considered withdrawn and the file for the application may be  
396 closed by the Township if an applicant fails to respond to any written inquiry or request  
397 from the Township for information, documents, items or materials requested in  
398 connection with the application within 30 days of the request, or within any longer period  
399 of time as needed by the applicant to provide the requested information, documents,  
400 items or materials if the Township and the applicant agree in writing that an extension of  
401 time is appropriate and the amount of additional time is set forth in the agreement.

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402 (d) Permit Application Fees; Escrow Fees

403 (1) A non-refundable application fee shall be submitted to the Township with the initial  
404 submittal of the permit application form. The application fee shall be in the amount  
405 established by resolution of the Township Board.

406 (2) In addition, the applicant shall submit to the Township with the initial submittal of the  
407 permit application form an escrow fee in the amount determined by resolution of the  
408 Township Board for the estimated cost of consultants who may be retained by the  
409 Township in connection with the review of the application.

410 (i) If the cost of the services of the Township's consultants is less than the escrow  
411 fee, the Township shall refund the balance to the applicant.

412 (ii) If the cost of the services of the Township's consultants exceeds the amount of  
413 the escrow fee, the applicant shall provide to the Township an additional escrow  
414 amount equal to no less than one-half the original escrow amount. All review by  
415 the Township of the wetlands use permit application shall cease until such  
416 additional escrow amount is deposited with the Township, and the number of days  
417 during which all review of the wetlands use permit application ceases shall be  
418 deducted from the 90 day period within which the Township would otherwise be  
419 obligated to act upon the application.

420 (iii) A denial of an application for a Wetlands Use Permit shall not affect the  
421 applicant's obligation to pay the escrow fees required by this section.

422 (3) All fees shall be paid by cash, check or money order. All forms of payment other than  
423 cash shall be made payable to Pittsfield Charter Township.

424 (e) Permit Application - Required Information, Documents, and Materials

425 | ~~(4)~~ The applicant for a Wetlands Use Permit shall submit to the Township all of the following  
426 information, documents, items and materials (in as many copies as specified by the Township):

427 (i) A completed application form (including all required maps, drawings, and project  
428 specific information prepared according to the instructions on the application form or as  
429 otherwise required by the Township).

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- 430 (ii) An application fee in the full amount specified by the Township.
- 431 (iii) If requested by the Township, an escrow fee in the full amount specified by the  
432 Township.
- 433 (iv) A wetlands delineation including, but not limited to, the following information:  
434 dominant tree, sapling, shrub and herb vegetation; presence or lack of accepted wetlands  
435 hydrology indicators; analysis of soil including a description of the soil profile to at least  
436 20 inches and comparison to Washtenaw County Soil Survey and maps of the wetlands  
437 mapped. Mapped data shall be represented in a manner that allows comparison to the  
438 Township's Wetlands Inventory Map.
- 439 (v) Soil drainage and storm water management plans.
- 440 (vi) An environmental assessment of the proposed use or development which shall  
441 include the impacts upon wetland benefits and the impacts upon the water quality, flow,  
442 and levels, and the wildlife, fish, and vegetation within a contiguous lake, river, or  
443 stream; and a detailed description of the mitigation efforts that will be taken to avoid or  
444 minimize such impacts if the permit is approved.
- 445 (vii) A cover letter signed by the applicant including the following information:
- 446 (a) The name of project and brief description (one or two paragraphs).
- 447 (b) The date upon which the activity is proposed to commence and the expected  
448 completion date (including proposed commence dates and expected completion  
449 dates for phases of a project, as applicable).
- 450 (c) A detailed written explanation with supporting documentation as to how and  
451 why the applicant believes that the proposed project will meet all required  
452 determinations, criteria, standards and requirements that are prerequisite to permit  
453 approval as provided by this Article.
- 454 (d) A list of all federal, state, county or other local government permits or  
455 approvals required for the proposed project, including permit approvals, denials,  
456 or modifications already received, if any. Attach copies of all such approvals,  
457 denials or modifications, including all written findings supporting the action taken  
458 or conditions imposed, and copies of any permits which have been issued. If other

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459 required permits or approvals are still pending, indicate the status of the  
460 proceedings and an estimate as to when final action is expected for each.

461 (e) Identification of any present litigation involving the property.

462 (f) Identification of the person or persons financially responsible for the project,  
463 including names, addresses, daytime telephone numbers, and the names of any  
464 financial institution financing the project.

465 (viii) Such other documents, information, or materials as determined necessary by the  
466 Township to fully and adequately review and evaluate the application for purposes of this  
467 Article.

468 (f) Permit Application Review Procedures

469 (1) In General

470 (i)The Township shall review an application for a Wetlands Use Permit as  
471 provided by this Article and shall approve, approve with conditions, deny, or  
472 request a modification to the application within 90 days after receipt of the  
473 completed application. If the Township does not approve, approve with  
474 conditions, deny, or request a modification to the completed permit application  
475 within 90 days after receipt, the application shall be considered approved by the  
476 Township. Notwithstanding any other provision of this Article to the contrary, the  
477 90 day review period within which the Township must act as provided by this  
478 Section and MWPA Section 30307(6) may be extended for any additional period  
479 of time as mutually agreed upon in writing by the Township and the applicant, or  
480 as otherwise specifically provided by this Article.

481 (ii)The Township shall process Wetlands Use Permit applications in a manner that  
482 ensures that the same Township entity makes decisions on site plans, plats, and  
483 related matters, and wetland determinations, and that the applicant is not required  
484 to submit to a hearing on the application before more than one Township decision  
485 making body. This requirement shall not apply, however, to either of the  
486 following:

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487 (a)A preliminary review by the Township Planning Department, Planning  
488 Commission, or Township planning consultant, prior to submittal of the  
489 application to the final decision-making body.

490 (b)An appeal process that is provided for appeal to the Township Board or  
491 other body designated by the Township to hear appeals.

492 (iii) To the fullest extent possible, the application and review procedures for  
493 Wetlands Use Permits shall be concurrent with the application and review  
494 procedures for any other necessary Township approvals.

495 (iv) For a Wetlands Use Permit approval required in conjunction with a site plan,  
496 plat, or other proposed land use, the applicant shall at the time of application elect  
497 to have the application processed under either subsections 8-207(f)(1)(iv)(a) or 8-  
498 207(f)(1)(iv)(b), as follows:

499 (a)The Wetlands Use Permit application shall be reviewed, either prior to  
500 or concurrent with the review of the site plan, plat or other proposed land  
501 use submitted by the applicant, with the understanding that the land use  
502 review may not be completed at the time the decision is rendered on the  
503 Wetlands Use Permit application. Election of this alternative may require  
504 a reopening and reconsideration of the Wetlands Use Permit application,  
505 and possible revision of the permit, if the land use approval is inconsistent  
506 with the Wetlands Use Permit approval; or

507 (b)The Wetlands Use Permit application shall be reviewed and acted upon  
508 concurrent with the review of the site plan, plat or other proposed land use  
509 submitted by the applicant, and the applicant shall agree in writing that the  
510 ninety (90)-day review period as provided by subsection 8-207(f)(1)(i) and  
511 MWPA Section 30307(6) shall thereby be extended accordingly.

512 (2) Wetlands Use Permit Decisions by the Planning Commission or the Township Board

513 | ~~(a)~~The following procedures shall apply to Wetlands Use Permit decisions by the  
514 Township Planning Commission or by the Township Board:

515 | (i) Wetlands Use Permit applications submitted in conjunction with a  
516 related land development activity shall be reviewed and decided by the

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517 same Township body that reviews and decides the related land  
518 development activity. The Planning Commission shall decide any  
519 Wetlands Use Permits in conjunction with special use permit applications  
520 and shall require that the delineation and Wetlands Use Permit application  
521 requests be submitted to the Township prior to the special use permit  
522 hearing so as to allow, to the fullest extent possible, timely, coordinated  
523 consideration of both matters. The Ordinance Enforcement Officer shall  
524 transmit application materials and the report and recommendation  
525 prepared by the Township's wetlands consultant to the Planning  
526 Commission or Township Board, as applicable.

527 | (iii) After review and study of the completed application and the  
528 Township wetlands consultant's report and recommendation, the  
529 Township Planning Commission or Township Board, as applicable, shall  
530 hold a public hearing. The Wetlands Use Permit hearing shall be held in  
531 conjunction with a review of or hearing on any related land use requests.  
532 At the public hearing, the Planning Commission or Township Board, as  
533 applicable, may receive public comments regarding the application.

534 (a) Notice of the hearing shall be provided as follows:

535 (A) By posting at the Township administration building,  
536 and by publication in a newspaper of general circulation in  
537 the Township, not less than ten (10) days nor more than  
538 twenty (20) days prior to the date of the hearing.

539 (B) Notice shall also be sent by mail or personal delivery to  
540 the owners of property for which approval is being  
541 considered, and to all owners of property, as listed on the  
542 most recent tax roll, within five hundred (500) feet of the  
543 boundary of the property in question or five hundred (500)  
544 | feet of the boundary ~~down stream~~downstream. Notice does  
545 not need to be given to more than one (1) occupant of a  
546 structure, except that if a structure contains more than one  
547 (1) dwelling unit or spatial area owned or leased by  
548 different persons, one (1) occupant of each unit shall

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549 receive notice. In the case of a single structure containing  
550 more than four (4) dwelling units, notice may be given to  
551 the manager or owner of the structure who shall be  
552 requested to post the notice at the primary entrance to the  
553 structure.

554 (C) The notice shall indicate the place, time and subject of  
555 the hearing and the place and time the application for the  
556 Wetlands Use Permit may be examined.

557 (b) At least ten (10) days prior to the hearing, the applicant shall  
558 post a notice of the hearing stating that an application has been  
559 filed for a Wetlands Use Permit and the time, date, and place of the  
560 hearing. The notice shall be posted on the sign placed on the  
561 subject property pursuant to subsection ~~ection~~ 8-207(b)(2)(ii). The  
562 sign shall be removed by the applicant upon approval or denial of  
563 the permit application.

564 ~~(iviii)~~ The Planning Commission or Township Board, as applicable, shall  
565 proceed to review the permit application (along with the Township  
566 consultant's report and recommendation and any public comments  
567 received at the hearing) and approve, approve with conditions, deny, or  
568 modify the application in accordance with the standards, requirements,  
569 determinations, criteria and procedures as otherwise provided this Article;  
570 provided that approval of a permit application by the Planning  
571 Commission or Township Board, as applicable, shall not be issued or  
572 become effective until ten (10) days following the date of the approval.

573 ~~(i)~~ Upon approval, approval with conditions, denial, or modification of a  
574 permit application by the Planning Commission or Township Board, as  
575 applicable, the Township shall post the decision at the Township  
576 Administration Building, and send written notice of the decision to:

577 (a) The applicant;

578 (b) Owners of property within five hundred (500) feet of the  
579 subject property;

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580 (c) Any other person who has submitted a written request to the  
581 Township to receive notice of the decision; and

582 (d) MDEQ.

583 ~~a~~If the permit application has been denied or modified, the notice  
584 shall include a written statement of all reasons for the denial or  
585 modification.

586 (3) Wetlands Use Permit Decisions by the Township Ordinance Enforcement Officer

587 ~~a~~ The following process shall apply to Wetlands Use Permit decisions by the Ordinance  
588 Enforcement Officer:

589 (ii) Applications for Wetlands Use Permits that are submitted in conjunction with  
590 activities that do not require approval by the Planning Commission and/or  
591 Township Board, shall be reviewed and decided by the Ordinance Enforcement  
592 Officer.

593 (iii) Notice that the Ordinance Enforcement Officer has received and will review  
594 an application for a permit shall be provided as set forth in subsections 8-  
595 207(f)(2)(iii)(a) (A) and 8-207(f)(2)(iii)(a)(A). The notice shall state the expected  
596 time frame for the Ordinance Enforcement Officer's decision, the place and time  
597 the application for proposed Wetlands Use Permit may be examined, and the  
598 procedures and deadlines for submission of public comments.

599 ~~iv~~ Any person wishing to comment on the application must submit comments  
600 in writing to the Ordinance Enforcement Officer, by filing those objections with  
601 the Municipal Services Department, prior to the date and time set forth in the  
602 notice as provided by subsection 8-107(f)(3)(iii)

603 (iv) After review and study of the completed application, the Township wetlands  
604 consultant's report and recommendation, and any public comments received, the  
605 Ordinance Enforcement Officer shall proceed to and approve, approve with  
606 conditions, deny, or modify the application in accordance with the standards,  
607 requirements, determinations, criteria and procedures as otherwise provided in  
608 this Ordinance; provided that approval of a permit application by the Ordinance  
609 Enforcement Officer shall not be issued or become effective until ten (10) days

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610 following the date of the approval. If the Ordinance Enforcement Officer receives  
611 more than five (5) public comments on the application as provided by Section 8-  
612 107(f)(3)(iv), the Ordinance Enforcement Officer shall not take final action to  
613 approve, approve with conditions, deny, or modify the application until a public  
614 hearing has first been held by the Ordinance Enforcement Officer. Except for  
615 being held by the Ordinance Enforcement Officer rather than the Planning  
616 Commission or the Township Board, the public hearing held by the Ordinance  
617 Enforcement Officer shall otherwise comply with all requirements of  
618 ~~subection~~subsection 8-207(f)(2)(iii)

619 (vi) Any person wishing to receive notice of the Ordinance Enforcement Officer's  
620 decision must submit a written request to the Township.

621 (vii) Upon approval, approval with conditions, denial, or modification of a permit  
622 application by the Ordinance Enforcement Officer, the Township shall post the  
623 decision at the Township Administration Building, and send written notice of the  
624 decision to:

625 (a)The applicant;

626 (b)Owners of property within five hundred (500) feet of the subject  
627 property;

628 (c)Any other person who has submitted a written request to the Township  
629 to receive notice of the decision; and

630 (d)MDEQ.

631 (viii) If the permit application has been denied or modified, the notice shall  
632 include a written statement of all reasons for the denial or modification.

633 (g) Permit Application Approval; Issuance of Permit

634 (1) The Township may approve an application for a Wetlands Use Permit and issue a  
635 permit only if the Township finds that all of the following apply:

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636 (i) The applicant has supplied complete information with the permit application  
637 and has otherwise submitted a complete application as provided by subsection 8-  
638 207(b).

639 (ii) The Township has made all of the determinations as specified in subsection 8-  
640 207(h)(2).

641 (iii) The applicant has borne the burden to show to the Township's satisfaction  
642 that all of the required conditions as provided by Subsection 8-207(h)(4) have  
643 been met.

644 (iv) For a wetland that is less than two (2) acres in size: the Township has  
645 determined that the wetland is not essential to the preservation of the natural  
646 resources of the Township as provided by subsection 8-207(i).

647 (v) The Township has determined that all other conditions required for approval  
648 of the application as provided by this Article or by state or federal laws and  
649 regulations have been met.

650 (2)Following approval of an application, a Wetlands Use Permit shall be issued upon  
651 determination by the Township that all other requirements of ordinance and law have  
652 been met, including site plan, plat or other land use approval, as applicable, and, if  
653 required under the MWPA, that a state permit has been issued by the MDEQ. If a  
654 wetlands permit issued by the state allows activities on a wetland not permitted by the  
655 Wetlands Use Permit approval granted under this Article, the more restrictive terms of  
656 the permit approval granted under this Article shall control, as consistent with applicable  
657 law.

658 | (h) Permit Application Review; Required Determinations; Criteria for Review

659 (1)The provisions of this Section shall apply to the review by the Township of all permit  
660 applications, except as expressly provided by Subsection 8-207(i) regarding the  
661 additional procedures and criteria which apply to applications for a permit involving a  
662 wetland that is less than two (2) acres in size.

663 (2)A permit for an activity listed in subsection 8-205 shall not be approved unless the  
664 Township determines that:

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- 665 (i)The issuance of a permit is in the public interest;
- 666 (ii)The permit is necessary to realize the benefits derived from the activity; and
- 667 (iii)The activity is otherwise lawful under all other applicable local, state and  
668 federal laws and regulations.
- 669 (3) In determining whether the activity is in the public interest, the benefit which  
670 reasonably may be expected to accrue from the proposal shall be balanced against the  
671 reasonably foreseeable detriments of the activity. The decision shall reflect the  
672 Township's concern for the protection of natural resources from pollution, impairment,  
673 and destruction. The Township shall consider the following general criteria in making its  
674 decision:
- 675 (i) The relative extent of the public and private need for the proposed activity.
- 676 (ii) The availability of feasible and prudent alternative locations and methods to  
677 accomplish the expected benefits from the activity.
- 678 (iii) The extent and permanence of the beneficial or detrimental effects that the  
679 proposed activity may have on the public and private uses to which the area is  
680 suited, including the benefits the wetland provides.
- 681 (iv) The probable impact of each proposal in relation to the cumulative effect  
682 created by other existing and anticipated activities in the watershed.
- 683 (v) The probable impact on recognized historic, cultural, scenic, ecological, or  
684 recreational values and on the public health or fish or wildlife.
- 685 (vi) The size of the wetland being considered.
- 686 (vii)The amount of remaining wetlands in the general area.
- 687 (viii) Proximity to any waterway.
- 688 (ix) Economic value, both public and private, of the proposed land change to the  
689 general area.
- 690 (x) Whether the wetland (regardless of size) is essential to the protection of the  
691 Township's natural resources.

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692 (4) A permit shall not be issued unless the applicant shows to the Township's satisfaction  
693 that:

694 (i) An unacceptable disruption will not result to the aquatic resources.

695 (ii) And also that either of the following conditions apply:

696 (a) The proposed activity is primarily dependent upon being located in the  
697 wetland.

698 (b) A feasible and prudent alternative does not exist.

699 (5) In determining whether the applicant has adequately made the showings required by  
700 Subsection 8-207(h)(4), the Township shall consider the criteria set forth in Section 8-  
701 200 and Subsections 8-207(h)(3) of this Article. In addition, the following requirements  
702 and criteria shall apply to all permit applications:

703 (i) A permit applicant shall completely define the purpose for which the permit is  
704 sought, including all associated activities. An applicant shall not so narrowly  
705 define the purpose so as to limit a complete analysis of whether an activity is  
706 primarily dependent upon being located in the wetland and of feasible and prudent  
707 alternatives. The Township shall independently evaluate and determine if the  
708 project purpose has been appropriately and adequately defined by the applicant,  
709 and shall process the application based on that determination.

710 (ii) The Township shall consider a proposed activity as primarily dependent upon  
711 being located in the wetland only if the activity is the type that requires a location  
712 within the wetland and wetland conditions to fulfill its basic purpose; that is, it is  
713 wetland-dependent. Any activity that can be undertaken in a non-wetland location  
714 is not primarily dependent upon being located in the wetland.

715 (iii) An alternative is feasible and prudent if both of the following provisions  
716 apply:

717 (a) The alternative is available and capable of being done after taking into  
718 consideration cost, existing technology, and logistics.

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719 (b)The alternative would have less adverse impact on aquatic resources. A  
720 feasible and prudent alternative may include any or all of the following:

721 (A)Use of a location other than the proposed location.

722 (B)A different configuration.

723 (C)A different size.

724 (D)A different method that will accomplish the basic project  
725 purpose.

726 | ~~i~~The applicant shall demonstrate that, given all pertinent  
727 information, there are no feasible and prudent alternatives that  
728 have less impact on aquatic resources. In making this  
729 demonstration, the applicant may provide information regarding  
730 factors such as alternative construction technologies; alternative  
731 project layout and design; local land use regulations and  
732 infrastructure; and pertinent environmental and resource issues.  
733 This list of factors is not exhaustive and no particular factor will  
734 necessarily be dispositive in any given case.

735 (iv) If an activity is not primarily dependent upon being located in the wetland, it  
736 shall be presumed that a feasible and prudent alternative exists unless an applicant  
737 clearly demonstrates that a feasible and prudent alternative does not exist.

738 (v) Unless an applicant clearly demonstrates otherwise, it shall be presumed that a  
739 feasible and prudent alternative involving a non-wetland location will have less  
740 adverse impact on aquatic resources than an alternative involving a wetland  
741 location.

742 (vi) An area not presently owned by the permit applicant that could reasonably be  
743 obtained, used, expanded, or managed in order to fulfill the basic purpose of the  
744 proposed activity is a feasible and prudent alternative location.

745 (vii) An alternative may be considered feasible and prudent even if it does not  
746 accommodate components of a proposed activity that are incidental to or  
747 severable from the basic purpose of the proposed activity.

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- 748 (viii) An alternative may be considered feasible and prudent even if it entails  
749 higher costs or reduced profit. However, the Township shall consider the  
750 reasonableness of the higher costs or reduced profit in making its determination.
- 751 (6) The permit applicant shall provide adequate information, including documentation as  
752 required by the Township, to support the determinations, demonstrations and showings  
753 required by this subsection (8-207(h)). The Township shall independently evaluate the  
754 information provided by the applicant to determine if the applicant has met its burden to  
755 support the required determinations and make the required demonstrations and showings.
- 756 (7) In considering a permit application, the Township shall give serious consideration to  
757 findings of necessity for the proposed activity which have been made by other local, state  
758 and federal governmental agencies; and shall also consider any relevant public input.
- 759 (i) Permit Application Review; Additional Standards, Procedures and Criteria For Wetlands Less  
760 Than two (2) Acres In Size
- 761 (1) Any wetland less than two (2) acres in size for which a permit application has been  
762 submitted shall be analyzed for the purpose of determining whether the site is essential to  
763 the preservation of the natural resources of the Township as provided by this Section.
- 764 (2) Upon application for a Wetlands Use Permit in connection with a wetland that is less  
765 than two (2) acres in size, the Township shall approve the application as provided by this  
766 Article, subject to all other applicable laws and regulations, unless the Township  
767 determines that the wetland is essential to the preservation of the natural resources of the  
768 Township and provides the findings as provided by subsection 8-207(i)(3), in writing, to  
769 the permit applicant stating the reasons for the Township's determination. A  
770 determination by the Township that a wetland which is less than two (2) acres in size is  
771 essential to the preservation of the natural resources of the Township shall, by itself,  
772 provide a sufficient basis for the Township to deny the application (or modify the  
773 application).
- 774 (3) In making a determination that a wetland is essential to the preservation of the natural  
775 resources of the Township must find that one or more of the following exist at the  
776 particular site:

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- 777 (i) The site supports state or federal endangered or threatened plants, fish, or  
778 wildlife appearing on a list specified in Section 36505 of the Michigan Wetlands  
779 Protection Act.
- 780 (ii) The site represents what is identified as a locally rare or unique ecosystem.
- 781 (iii) The site supports plants or animals of an identified local importance.
- 782 (iv) The site provides groundwater recharge documented by a public agency.
- 783 (v) The site provides flood and storm control by the hydrologic absorption and  
784 storage capacity of the wetland.
- 785 (vi) The site provides wildlife habitat by providing breeding, nesting, or feeding  
786 grounds or cover for forms of wildlife, waterfowl, including migratory waterfowl,  
787 and rare, threatened, or endangered wildlife species.
- 788 (vii) The site provides protection of subsurface water resources and provision of  
789 valuable watersheds and recharging groundwater supplies.
- 790 (viii) The site provides pollution treatment by serving as a biological and  
791 chemical oxidation basin.
- 792 (ix) The site provides erosion control by serving as a sedimentation area and  
793 filtering basin, absorbing silt and organic matter.
- 794 (x) The site provides sources of nutrients in water food cycles and nursery  
795 grounds and sanctuaries for fish.
- 796 (4) In connection with the determination whether a wetland that is less than two (2) acres  
797 in size is essential to the preservation of the natural resources of the Township, the  
798 applicant shall choose and specify in writing to the Township whether the analysis and  
799 determination will proceed under Subsection 8-207(i)(4)(i) or 8-207(i)(4)(ii), relative to  
800 the site.
- 801 (i) Instead of having the Township (or the Township's consultant) proceed with  
802 the analysis and determination, the property owner may acknowledge in writing  
803 | that one or more of the criteria in Section ~~8-9-3~~8-207 (i) (3) exist at the site in  
804 question, and shall specify all of the criteria which do exist; or

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805 (ii) The property owner may elect to have the Township or its consultant proceed  
806 with the analysis of whether any of the criteria in Section ~~8-207(i)(3)~~ exist  
807 or do not exist at the site in question.

808 (iii) The property owner's specification as to whether the analysis and  
809 determination will proceed under Subsection 8-207(i)(4)(i) or 8-207(i)(4)(ii) as  
810 provided by this Section shall be binding upon the applicant, unless determined  
811 otherwise by the Township. The property owner's failure or refusal to specify  
812 whether the analysis and determination will proceed under Subsection 8-  
813 207(i)(4)(i) or 8-207(i)(4)(ii) as provided by this Section shall not, under any  
814 circumstances, prevent the Township from proceeding independently of the  
815 applicant to determine whether the wetland is essential to the preservation of the  
816 Township's natural resources as provided by subsection 8-207(I)(3).

817 (5) Following the Township's determination whether or not a wetland is essential to the  
818 preservation Township's natural resources (or after a property owner's acknowledgement  
819 of the same ):

820 (i) The Township shall provide the property owner (or the applicant if in response  
821 to a permit application) with the Township's written findings under  
822 ~~subection~~ subsection 8-207(~~i~~)(~~3~~) stating the reasons for the Township's  
823 determination.

824 (ii) The Township Wetlands Inventory Map shall be revised at the time the map is  
825 next amended to indicate the Township's determination.

826 (6) If a Wetlands Use Permit has been (or is subsequently) applied for and the Township  
827 has determined that the wetland in question is essential to the preservation of the  
828 Township's natural resources, the permit application shall be subject to all of the  
829 procedures and requirements generally applicable to permit applications as provided by  
830 this Section (8-207), including, but not limited to, the required determinations and criteria  
831 provided by subsection 8-207(h).

832 (7) The Township may proceed with a determination as to whether a wetland is essential  
833 to the preservation of the Township's natural resources as provided by this Section even  
834 though no permit application has been submitted, such as where the wetland appears on

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835 the Township's Wetlands Inventory Map, or is otherwise identified during a field  
836 inspection by the Township.

837 (j) Approval of Permit Subject to Conditions

838 (1) The Township's approval of a permit shall be subject to any conditions determined  
839 necessary by the Township to implement the regulatory purposes and intent of this  
840 Article.

841 (2) In general, such permit conditions include, but are not limited to, conditions designed:

842 (i) To prevent or remove an impairment to the benefits to be derived from a  
843 wetland.

844 (ii) To mitigate the impact on a wetland of a discharge of fill material or other  
845 prohibited activity.

846 (iii) To otherwise improve the water quality.

847 (iv) To ensure compliance with this Article, or with any permit issued pursuant to  
848 this Article.

849 (3) Other specific permit conditions which may be required by the Township include, but  
850 are not limited to, the following:

851 (i) The Township may establish a reasonable time when the construction,  
852 development, or use is to be completed or terminated.

853 (ii) A permit may be subject to a stated maximum duration and may require the  
854 permittee to reapply at specified intervals or apply for an extension of the permit  
855 term.

856 (iii) The Township may require an applicant to file with the Township a cash or  
857 corporate surety bond or irrevocable bank letter of credit in an amount determined  
858 necessary by the Township to ensure compliance with the permit or any permit  
859 conditions. If the Township determines that there is a potential for adverse  
860 impacts effects to a wetland or wetlands benefit, the Township shall require the  
861 applicant to file a cash bond or irrevocable bank letter of credit in an amount,

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862                   estimated by the Township (or the Township's wetlands consultant) to be required  
863                   for restoration.

864                   (4) All approvals by the Township of a permit application shall be subject to the  
865                   following conditions:

866                   (i) The Township's final approval of a Wetlands Use Permit application shall be  
867                   contingent upon receipt of evidence by the Township that all required state and  
868                   federal permits have been obtained by the applicant.

869                   (ii) No Wetlands Use Permit shall be issued by the Township that would allow a  
870                   more extensive alteration of a wetland than allowed by state and federal laws and  
871                   regulations.

872                   (iii) A Wetlands Use Permit shall remain effective for a time period coincidental  
873                   with other land use permits reviewed and approved concurrent with the Wetlands  
874                   Use Permit. If applied for prior to the expiration date and concurrent with the  
875                   expiring land use permit, the applicant may be granted an extension that  
876                   corresponds to additional time granted for the underlying land use permit. The  
877                   maximum number of extensions shall coincide with the maximum number  
878                   allowed for the underlying land use permit. If there is no other activity or permit  
879                   involved, the Wetlands Use Permit shall remain effective for one (1) year. A  
880                   maximum of a one (1) year extension may be approved.

881                   (iv) Wetlands Use Permits for seasonal operations must be renewed annually  
882                   unless otherwise stated in the permit.

883                   (v) Any temporary, seasonal, or permanent operation that is discontinued for two  
884                   (2) consecutive years or two (2) consecutive seasons shall be deemed abandoned  
885                   and, upon such a determination of abandonment by the Township, the Wetlands  
886                   Use Permit for the operation shall automatically become void and of no further  
887                   effect.

888                   (vi) Any change that increases the size or scope of the operation and that affects  
889                   the criteria considered in approving the permit as determined by the Township  
890                   may require the filing of a new Wetlands Use Permit application.

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891 (vii) A permittee shall comply with all the following in connection with any  
892 construction or other activity on the property for which the Wetlands Use Permit  
893 has been issued:

894 (a) Maintain soil erosion control measures in accordance with the Article  
895 IV of Chapter 8 of this Code, Soil Erosion and Sediment Control as well  
896 as any best management practices required by the Wetlands Use Permit.

897 (b) Maintain clear delineation of the wetland (as marked by the Ordinance  
898 Enforcement Officer or Township wetlands consultant) so that its location  
899 and boundaries are visible to all construction workers.

900 (c) Post on the site, prior to commencement of work on the site and  
901 continuing throughout the duration of the project, a copy of the approved  
902 Wetlands Use Permit containing the conditions of issuance, in a  
903 conspicuous manner such that the wording of the permit is available for  
904 public inspection.

905 (viii) A permit approved under this Article may be revoked or suspended by the  
906 Township, after notice and an opportunity for a hearing, for any of the following  
907 causes:

908 (a) A violation of any condition of the permit.

909 (b) Misrepresentation or failure to fully disclose all relevant facts in the  
910 permit application.

911 (c) A change in a condition that requires a temporary or permanent change  
912 in the activity. This includes, but is not limited to, withdrawal of the site  
913 plan or cancellation of the project by the permittee.

914 (k) Mitigation

915 (1) The Township may consider mitigation as a permit condition only after all of the  
916 following conditions are met:

917 (i) The wetland impacts are otherwise permissible under subsections 8-200(a), 8-  
918 207(h) and 8-207(i) of this Article;

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- 919 (ii) There is no feasible and prudent alternative to avoid wetland impacts or the  
920 loss of wetlands; and
- 921 (iii) The applicant has used all practical means to minimize impacts to wetlands,  
922 including, but not limited to, the permanent protection of wetlands on the site not  
923 directly impacted by the proposed activity.
- 924 (2) Notwithstanding anything to the contrary in subsection 8-207(k), the Township may  
925 consider mitigation as a permit condition if the wetland is the subject of a court-ordered  
926 mitigation as a part of restitution for conviction of a violation of this Article or applicable  
927 state and federal laws or regulations.
- 928 (3) If the conditions of subsection 8-207(k), are met, the Township shall in all cases  
929 require mitigation as a condition of a Wetlands Use Permit issued under this Article;  
930 except that the Township may waive the mitigation condition if either of the following  
931 provisions applies:
- 932 (i) No reasonable opportunity for mitigation exists; or
- 933 (ii) The basic purpose of the permitted activity is to create or restore wetlands or  
934 to increase wetlands habitat.
- 935 (4) The Township shall require mitigation to compensate for unavoidable wetlands  
936 impacts permitted under this Article using one or more of the following methods:
- 937 (i) The restoration of previously existing wetlands shall be the required method of  
938 mitigation if feasible and prudent as determined by the Township. If the  
939 Township determines that restoration of previously existing wetlands is not  
940 feasible and prudent, then either of the following methods may be used (listed in  
941 descending order of preference):
- 942 (a) The creation of new wetlands.
- 943 (b) The acquisition of approved credits from a wetlands mitigation bank  
944 established under MAC R 281.951 et seq.
- 945 (c) The preservation of existing wetlands, subject to the provisions of  
946 subsection 8-107(k)(5)

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947 (ii) For purposes of this Section, wetlands restoration means the reestablishment  
948 of wetland characteristics and functions at a site where they have ceased to exist  
949 through the replacement of wetlands hydrology, vegetation, or soils.

950 (iii) The enhancement of existing wetlands shall not be considered mitigation.

951 (5) The preservation of existing wetlands may be considered as mitigation only if the  
952 Township determines that all of the following conditions are met:

953 (i) The wetlands to be preserved perform exceptional physical or biological  
954 functions that are essential to the preservation of the natural resources of the  
955 Township or the preserved wetlands are an ecological type that is rare or  
956 endangered.

957 (ii) The wetlands to be preserved are under a demonstrable threat of loss or  
958 substantial degradation due to human activities that are not under the control of  
959 the applicant and that are not otherwise restricted by applicable laws and  
960 regulations.

961 (iii) The preservation of the wetlands as mitigation will ensure the permanent  
962 protection of the wetlands that would otherwise be lost or substantially degraded.

963 (6) An applicant shall submit a mitigation plan when requested by the Township. The  
964 plan shall be prepared in accordance with good engineering practice as determined  
965 sufficient by the Township and shall state whether construction is necessary, as well as  
966 identify measures that can be completed without construction. The Township may  
967 incorporate all or part of the proposed mitigation plan as permit conditions. At a  
968 minimum, the mitigation plan shall include all of the following elements:

969 (i) A detailed statement of mitigation goals and objectives, including the wetland  
970 types to be restored, created, or preserved. The mitigation plan shall specify the  
971 wetland's functional values to be lost, if any (for example, ordinary, forested,  
972 adjacent, or rare), and, if determined feasible and prudent by the Township,  
973 provide for the substantial replacement of those functional values.

974 (ii) Information regarding the mitigation site location and ownership (including  
975 general and legal descriptions of the site; acreage of site; acreage of wetlands on

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- 976 the site; means or route of access to the site; name, mailing address and telephone  
977 number of property owner).
- 978 (iii) A site development plan.
- 979 (iv) A list of the specific tasks to be completed and itemized costs.
- 980 (v) A list of the contractors that will perform the mitigation work (including  
981 qualifications, names, addresses and telephone numbers). The proposed  
982 contractors must be approved by the Township or come from a list of qualified  
983 contractors pre-approved by the Township.
- 984 (vi) A description of baseline conditions at the proposed mitigation site, including  
985 a vicinity map showing all existing rivers, lakes, and streams, and a delineation of  
986 existing surface waters and wetlands within the proposed mitigation area.
- 987 (vii) Performance standards to evaluate the mitigation.
- 988 (viii) A monitoring plan. All mitigation projects shall be monitored for a period of  
989 five (5) years. Unless the Township determines that monitoring reports must be  
990 submitted more frequently, in the first two (2) years, the permittee shall submit  
991 monitoring reports to the Township every six (6) months; thereafter monitoring  
992 reports shall be submitted by the permittee once per year.
- 993 (ix) A schedule for commencing and completing the mitigation, including  
994 reference to specific mitigation tasks, and cross-reference to the time-table for the  
995 original project for which the Wetlands Use Permit was required. The schedule  
996 must be approved by the Township and shall be binding unless a change is  
997 approved in advance by the Township. The schedule shall include enforceable  
998 timetables for a sequence of actions or operations leading to full implementation  
999 of the plan. The following steps or phases shall be included in the schedule of  
1000 compliance as determined necessary by the Township:
- 1001 (a) Retain a qualified engineer and/or consultant.
- 1002 (b) Obtain any engineering or scientific investigation or surveys deemed  
1003 necessary.

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- 1004 (c) Prepare and submit a preliminary plan to achieve mitigation.
- 1005 (d) Prepare plans and specifications, working drawings, or other  
1006 engineering or architectural documents that may be necessary to achieve  
1007 mitigation.
- 1008 (e) Establish a time to let any contract necessary for any construction.
- 1009 (f) Establish completion times for any construction necessary.
- 1010 (g) Establish a time limit to achieve mitigation pursuant to the plan.
- 1011 (h) If a phase or unit of construction or implementation may be effected  
1012 independently of another phase or unit, establish separate timetables for  
1013 the phases or unit.
- 1014 (x) Provisions for the management and long-term protection of the site.
- 1015 (xi) Financial assurance provisions as determined necessary and appropriate by  
1016 the Township to ensure the mitigation is timely and properly completed, that the  
1017 mitigation is thereafter managed, monitored, and protected, as provided by the  
1018 mitigation plan, and to guarantee compliance with the plan. At a minimum, the  
1019 financial assurance provisions shall require a signed and sealed cost estimate for  
1020 the mitigation project, and security in an amount sufficient to cover the estimated  
1021 costs of the project. The security shall be in the form of a surety bond, letter of  
1022 credit, or such other type of surety determined appropriate and approved by the  
1023 Township.
- 1024 (xii) Any other documents, plans, or information determined necessary and  
1025 appropriate by the Township.
- 1026
- 1027 A mitigation plan which is approved by the Township and incorporated as a  
1028 condition to a permit shall not be revised or amended without the Township's  
1029 prior review and written approval. If a proposed revision or amendment would  
1030 result in a change in a mitigation project that involves less than ten percent (10%)  
1031 of the overall cost of the project and less than ten percent (10%) of the area of the

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1032 total project, then the amendment may be reviewed and approved by the  
1033 Ordinance Enforcement Officer (with the assistance and/or recommendation of  
1034 the Township's wetlands consultant, as determined necessary by the Ordinance  
1035 Enforcement Officer). Otherwise, a proposed revision or amendment to an  
1036 approved plan shall be reviewed and approved by the original decision-maker.

1037 | (7) An applicant shall provide mitigation to assure, at a minimum, that, upon completion,  
1038 there will be no net loss of wetlands. The mitigation shall meet the following criteria as  
1039 determined by the Township:

1040 (i) Mitigation shall be provided on the site of the project where it is practical to  
1041 mitigate on-site and where beneficial to the wetland resources.

1042 (ii) If subsection 8-207(k)(7)(i) does not apply, then an applicant shall provide  
1043 mitigation at a site according to the following, if practical and beneficial to the  
1044 wetland resources, listed in descending order of preference:

1045 | (a) On public lands located within the Township.

1046 (b) On other private property located within the Township.

1047 (c) On MDEQ approved land bank areas.

1048 (d) If all of the above are not practical and beneficial to the wetland  
1049 resources, then on other lands located within the same watershed as the  
1050 location of the proposed project. For purposes of this Section, a watershed  
1051 refers to a drainage area in which the permitted activity occurs where it  
1052 may be possible to restore certain wetland functions, including hydrologic,  
1053 water quality, and aquatic habitat functions. Watershed boundaries shall  
1054 be as shown in Figure 1 of MAC R 281.951.

1055 | (iii) The Township shall require that mitigation be of a similar ecological type as  
1056 the impacted wetland where feasible and practical.

1057 (iv) If the replacement wetland is of a similar ecological type as the impacted  
1058 wetland, then the Township shall require that the ratio of acres of wetland  
1059 mitigation provided for each acre of permitted wetland loss shall be as follows:

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- 1060 (a) Restoration or creation of five (5.0) acres of mitigation for one (1.0)  
1061 acre of permitted impact on wetland types that are rare or imperiled on a  
1062 statewide basis.
- 1063 (b) Restoration or creation of two (2.0) acres of mitigation for one (1.0)  
1064 acre of permitted impact on forested wetland types, and wetlands that  
1065 border upon inland lakes.
- 1066 (c) Restoration or creation of one and a half (1.5) acres of mitigation for  
1067 one (1.0) acre of permitted impact on all other wetland types.
- 1068 (d) Ten (10) acres of mitigation for one (1.0) acre of impact in situations  
1069 where the mitigation is in the form of preservation of existing wetlands as  
1070 defined in subsection 8-207(k)(5)
- 1071 (v) The Township may adjust the ratios prescribed by this rule as follows:
- 1072 (a) The ratio may be increased if the replacement wetland is of a different  
1073 ecological type than the impacted wetland.
- 1074 (b) If the Township determines that an adjustment would be beneficial to  
1075 the wetland resources due to factors specific to the mitigation site or the  
1076 site of the proposed activity, then the Township may increase or decrease  
1077 the number of acres of mitigation to be provided by no more than twenty  
1078 percent (20%). This shall not limit the amount which a ratio may be  
1079 increased under subsection 8-207(k)(7)(v)(a).
- 1080 (vi) The mitigation shall give consideration to replacement of the predominant  
1081 wetland benefits lost within the impacted wetland.
- 1082 (vii) The Township shall double the required ratios if a permit is issued for an  
1083 application accepted where work has been done in violation of a permit  
1084 requirement and restoration is not ordered by the Township.
- 1085 (viii) The Township shall determine mitigation ratios for wetland dependent  
1086 activities on a site-specific basis.

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- 1087 (8) An applicant shall complete mitigation activities before initiating other permitted  
1088 activities, unless a concurrent schedule is agreed upon between the Township and the  
1089 applicant, and an adequate financial assurance mechanism as determined by the  
1090 Township is provided by the applicant.
- 1091 (9)The Township may require the applicant to provide financial assurances as provided  
1092 by 8-207(k)(6)(xi) to ensure that mitigation is accomplished as required by the Township.
- 1093 (10) An applicant shall protect the mitigation area by a permanent conservation easement  
1094 or similar instrument that provides for the permanent protection of the natural resource  
1095 functions and values of the mitigation site, unless the Township determines that such  
1096 controls are impractical to impose.
- 1097 (11) An applicant, with the approval of the Township, may provide all or a portion of the  
1098 mitigation through the acquisition of approved credits from a wetlands mitigation bank  
1099 established under MAC R 281.951 et seq. One credit shall be utilized for each acre of  
1100 mitigation required under subrule (7) of this rule.
- 1101 (l) Denial of Permit Application
- 1102 (1) The Township shall deny an application for a Wetlands Use Permit if any one of the  
1103 following conditions apply:
- 1104 (i) The Township determines any of the following (as provided by subsection 8-  
1105 207(h)(2))
- 1106 (a) That the issuance of the permit is not in the public interest.
- 1107 (b) That the permit is not necessary to realize the benefits derived from the  
1108 activity.
- 1109 (c) That the activity is not otherwise lawful under all other applicable  
1110 local, state and federal laws and regulations.
- 1111 (ii) The applicant fails to show to the Township's satisfaction any of the following  
1112 (as provided by subsection 2-207(h)(4)):
- 1113 (a) That an unacceptable disruption will not result to the aquatic resources.

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- 1114 (b) That the proposed activity is primarily dependent upon being located  
1115 in the wetland.
- 1116 (c) That a feasible and prudent alternative does not exist.
- 1117 (iii) For a wetland that is less than two (2) acres in size: the Township determines  
1118 that the wetland is essential to the preservation of the natural resources of the  
1119 Township (as provided by subsection 8-207(i)).
- 1120 (iv) The applicant has failed to supply complete information with a permit  
1121 application, or otherwise has failed to submit a completed application, as provided  
1122 by subsection 8-207(b)
- 1123 (v) The Township determines that any other condition exists which supports a  
1124 denial of the application as authorized by this Article or as otherwise authorized  
1125 by state or federal laws and regulations.
- 1126 (2) The denial by the Township of a permit application shall be accompanied by a written  
1127 statement of all reasons for the denial.
- 1128 (3) If a Wetlands Use Permit is denied by the Township, a landowner may appear at the  
1129 annual Board of Review for the purpose of seeking a re-valuation of the affected property  
1130 for assessment purposes to determine its fair market value under the use restriction. A  
1131 landowner who is aggrieved by a determination, action, or inaction under this subsection  
1132 (8-207(1)(3)) may protest and appeal that determination, action, or inaction pursuant to  
1133 the general property tax act (Act No. 206 of the Michigan Public Acts of ~~1983~~1893, as  
1134 amended).
- 1135 (m) Permit For Modification of Proposed Activity
- 1136 (1) The Township may offer to an applicant a permit for a modification of an activity  
1137 proposed in the application if the activity as originally proposed in the application cannot  
1138 be permitted under the applicable standards and criteria listed in subsection 8-207(h) and  
1139 8-207(i) of this Article, and if the activity as modified makes the activity consistent with  
1140 those standards and criteria and approvable under subsection 8-207(g)(1).
- 1141 (2) The modification of a permit application shall be accompanied by a written statement  
1142 of all reasons for the modification.

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1143 (3) The applicant may accept the permit for the modification of the proposed activity by  
1144 signing it and returning it to the Township within thirty (30) days of the date of the offer.  
1145 The permit shall be considered issued upon countersignature by the Township.

1146 (4) The permit application shall be considered denied if the applicant does not sign and  
1147 return the permit for the modification of the proposed activity to the Township within  
1148 thirty (30) days of the date of the offer. The permit applicant may then appeal the denial  
1149 as provided by this Article.

1150 (5) The date on which the modification is offered shall be considered the date of the  
1151 Township's approval or disapproval of the application for purposes of subsection 8-  
1152 207(f)(1) of this Article.

1153 Sec. 8-208. - Administrative Appeals

1154 (a) The procedures provided by this Section shall govern administrative appeals of final  
1155 decisions made by the Ordinance Enforcement Officer, the Planning Commission, or the  
1156 Township Board, as applicable, in approving, approving with conditions, denying, or  
1157 modifying a permit application pursuant to this Article.

1158 (b) Any person who is aggrieved by a decision to approve, approve with conditions, deny  
1159 or modify a Wetlands Use Permit application by the Ordinance Enforcement Officer, the  
1160 Planning Commission, or the Township Board, may appeal the final decision to the  
1161 ~~Stormwater Management Committee~~Natural Resources Commission.

1162 (c) The appeal shall be filed in writing with the Township Clerk within ten (10) days of  
1163 the date of the decision appealed, or the right to appeal shall be deemed waived. The  
1164 written appeal shall state in detail the grounds for the appeal and provide specific reasons  
1165 why the person is aggrieved by the decision. If a particular permit provision is objected  
1166 to, the appeal must specify the reasons for the objection, and the alternative provision, if  
1167 any, sought to be placed in the permit.

1168 (d) If an appeal is timely filed, the permit in question shall not be issued or become  
1169 effective pending the outcome of the appeal.

1170 (e) Prior to a hearing before the ~~Stormwater Management Committee~~Natural Resources  
1171 Commission regarding an appeal, the original decision-maker (the Ordinance  
1172 Enforcement Officer, the Township Planning Commission, or the Township Board, as

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1173 | applicable) shall transmit to the ~~Committee Commission~~ a written summary of all  
1174 | previous action taken in connection with the decision being appealed. The ~~Committee~~  
1175 | ~~Commission~~ may, at the ~~Committee Commission~~'s discretion, request the original  
1176 | decision-maker to provide further information regarding the decision that is the subject of  
1177 | the appeal.

1178 | (f) The ~~Stormwater Management Committee Natural Resources Commission~~ shall fix a  
1179 | reasonable time for the hearing of the appeal. Notice of the hearing shall be provided to  
1180 | require the attendance and testimony of witnesses and the production of evidence relevant  
1181 | to any matter involved in the hearing. Any testimony taken at the hearing shall be under  
1182 | oath and recorded. A copy of the transcript of the hearing shall be made available at cost  
1183 | to any person upon payment of applicable charges for the transcript. The ~~Committee~~  
1184 | ~~Commission~~ shall decide the appeal within a reasonable time.

1185 | (g) After a hearing and consideration of the provisions and requirements of this Article,  
1186 | and the record on appeal, including any information provided by the person appealing  
1187 | and by the original decision-maker:

1188 | (1) The ~~Stormwater Management Committee Natural Resources Commission~~ may  
1189 | affirm, affirm with modification or reverse the decision appealed. For that  
1190 | purpose, the ~~Committee Commission~~ shall have all the powers of the original  
1191 | decision-maker from whose decision the appeal is taken. The ~~Stormwater~~  
1192 | ~~Management Committee Natural Resource Commission~~'s decision to affirm,  
1193 | affirm with modification or reverse shall be in the form of a ruling based on  
1194 | written findings, and shall be considered final action for purposes of judicial  
1195 | review.

1196 | (2) Alternatively, if the ~~Stormwater Management Committee Natural Resources~~  
1197 | ~~Commission~~ determines that a permit or any provision of a permit should be  
1198 | reconsidered by the original decision-maker, the ~~Committee Commission~~ may  
1199 | remand the matter to the original decision-maker for further action as determined  
1200 | appropriate by the ~~Committee Commission~~. Specific provisions of a permit that  
1201 | are remanded by the Commission for reconsideration by the original decision-  
1202 | maker shall be stayed pending further final action taken by the original decision-  
1203 | maker as required by the decision of the ~~Committee Commission~~. A decision of

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1204 | the ~~Committee Commission~~ not to remand any matter shall be considered final  
1205 | administrative action for purposes of judicial review.

1206 | (h) All action taken by the ~~Stormwater Management Natural Resources Commission~~  
1207 | ~~shall~~ Committee shall be by a majority vote of the members of the ~~Committee Commission~~.

1208 | Sec. 8-209. - Enforcement

1209 | (a) Township Inspection Authority; Right of Entry

1210 | (1) For the purposes of implementing and administering this Article, and upon reasonable  
1211 | cause or obtaining a search warrant, the Ordinance Enforcement Officer and/or other  
1212 | authorized Township representatives are authorized to enter on, upon, or through and  
1213 | inspect: any property for which a Wetlands Use Permit or a mitigation plan has been  
1214 | approved under this Article; or any property on which an activity listed in subsection 8-  
1215 | 205(a) is located; or any property on which information required to be maintained under  
1216 | subsection 8-209(a)(1) is located. This right of entry shall include all power and authority  
1217 | as necessary to determine, independent of information supplied by the permittee, property  
1218 | owner, or other persons, compliance or noncompliance with the permit or mitigation  
1219 | plan, this Article, and other applicable laws and regulations, as relevant to the  
1220 | preservation, management, protection, and use of wetlands resources and benefits,  
1221 | including, but not limited to, the right of the Township to take or cause to be made such  
1222 | examinations, surveys or samplings as deemed necessary by the Township.

1223 | (2) The holder of a permit shall be required to provide any information the Township  
1224 | reasonably requires to obtain compliance with this Article.

1225 | (b) Notices of Violation and Orders

1226 | (1) If, on the basis of information available to the Township, the Township finds that a  
1227 | person is in violation of this Article or a term or condition of any permit or mitigation  
1228 | plan approved under this Article, the Township may issue a notice of violation and order  
1229 | ("NOV/Order") requiring the person to comply with the requirements of this Article, the  
1230 | permit, or the plan.

1231 | (2) An order issued under subsection 8-209(b)(1) shall state with reasonable specificity  
1232 | the nature of the violation and shall specify a time for compliance, not to exceed thirty  
1233 | (30) days, which the Township determines is reasonable, taking into account the

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- 1234 seriousness of the violation and good faith efforts to comply with applicable  
1235 requirements.
- 1236 (3) The person served with the NOV/Order shall, within the period of time stated in  
1237 NOV/Order, permanently cease all violations.
- 1238 (4) Unless otherwise specified by the NOV/Order, the following provisions shall apply:
- 1239 (i) Within fifteen (15) days of the date of the NOV/Order, the person served with  
1240 the NOV/Order shall submit to the Township an explanation of the violation and a  
1241 plan for the satisfactory correction and prevention thereof, to include specific  
1242 required actions.
- 1243 (ii) Submission of the required plan shall not in any way relieve the person of  
1244 liability for any violations occurring before or after receipt of the Notice of  
1245 Violation.
- 1246 (iii) The Township shall review and approve or reject the proposed plan after  
1247 receipt thereof.
- 1248 (5) Failure to comply with any requirement of a NOV/Order shall constitute a separate  
1249 violation of this Article.
- 1250 (6) Nothing in this Section shall limit the authority of the Township to take any action,  
1251 including emergency actions or any other enforcement action, without first issuing an  
1252 NOV/Order.
- 1253 (7) The Township may issue an order to any person to perform any affirmative action or  
1254 to refrain from acting as determined by the Township to be appropriate under the  
1255 circumstances, as provided by this Section and as determined necessary by the Township  
1256 to comply with the intent and purposes of this Article or other applicable laws and  
1257 regulations.
- 1258 (8) The Township may implement whatever action is necessary to halt the illegal activity  
1259 that is the subject of an NOV/Order. The person responsible for the illegal activity shall  
1260 be assessed for any penalties, fines, charges, expenses, or losses incurred by the  
1261 Township due to the illegal activity as provided by this Article.

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1262 (9) In the event of a violation involving illegal alteration of a wetland under this Section,  
1263 the Township shall have, among the other powers and remedies available to the  
1264 Township as provided by this Article, the power to order the person or agent responsible  
1265 for the violation to restore as nearly as possible the wetland that was affected by the  
1266 violation to its original condition. The restoration may include, but shall not be limited to,  
1267 the removal of fill material deposited in the wetland or the replacement of soil, sand, or  
1268 minerals. If such responsible person or agent does not complete such restoration within a  
1269 reasonable time following the order, the Township shall have the authority to restore the  
1270 affected wetland to its prior condition, if possible, and the person or agent responsible for  
1271 the original violation shall be liable for and shall fully reimburse the Township for the  
1272 cost of restoration.

1273 (10) An NOV/Order shall be served upon a person as provided by this Section.

1274 (i) Service shall be by personal delivery or certified mail (return receipt  
1275 requested), addressed to the person's last known address as shown by Township  
1276 records. The person served shall sign and date the NOV/Order and shall return the  
1277 signed original copy to the Township; provided, that the failure to do so shall not  
1278 affect the person's obligation to comply with the NOV/Order. Further, an  
1279 NOV/Order served by mail may not actually be received, but this shall not nullify  
1280 any enforcement action subsequently taken by the Township under authority of  
1281 this Article.

1282 (ii) Notwithstanding anything in subsection 8-209(b)(10)(i) to the contrary, an  
1283 order to immediately cease and desist prohibited action or other emergency order  
1284 where delay might endanger the public health, safety and welfare or the  
1285 environment may be oral and may be served by telephone (to be followed within  
1286 five (5) days by written confirmation of the order by the Township). Such an  
1287 order shall have immediate effect if the actual or threatened activity presents, or  
1288 may present, imminent or substantial endangerment to the public health, safety  
1289 and welfare or the environment.

1290 (11) A person served with an NOV/Order may request additional information from the  
1291 Township regarding the contents or requirements of the NOV/Order. However, a request  
1292 for additional information shall not extend the time for compliance with an NOV/Order.

1293 (c) Stop Work Order

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1294 | ~~(4)~~The Township may also issue a stop work order or withhold issuance of a Certificate  
1295 | of Occupancy, permits or inspection until the provisions of this Article, including any  
1296 | conditions attached to a Wetlands Use Permit, have been fully met. Failure to obey a  
1297 | stop-work order shall constitute a separate violation of this Article.

1298 (d) Consent Orders

1299 | ~~(4)~~The Township may enter into a consent order with a person to resolve disputed claims  
1300 | and address identified and potential deficiencies in the person's compliance status. The  
1301 | order shall be in the form of a written agreement between the Township and person and  
1302 | may contain appropriate provisions, including, but not limited to, compliance schedules  
1303 | and stipulated fines and remedial actions.

1304 (e) Financial Assurances

1305 | ~~(4)~~In addition to the authority of the Township to require financial assurances as  
1306 | provided elsewhere in this Article, the Township may require a noncompliant permittee  
1307 | to post a performance bond (or other form of surety acceptable to the Township)  
1308 | sufficient to cover expenses that might reasonably be incurred as a result of future  
1309 | violations.

1310 (f) Municipal Civil Infractions

1311 (1) Violation; Municipal Civil Infraction. Except as provided by subsection 8-209(g), and  
1312 | notwithstanding any other provision of the Township's laws, ordinances and regulations  
1313 | to the contrary, a person who violates any provision of this Article (including, but not  
1314 | limited to, any permit, permit condition, mitigation plan, or NOV/Order issued or  
1315 | approved by the Township under this Article) is responsible for a municipal civil  
1316 | infraction, subject to payment of a civil fine of not less than one thousand dollars  
1317 | (\$1,000.00) per day for each infraction and not more than ten thousand dollars  
1318 | (\$10,000.00) per day for each infraction, plus costs and other sanctions.

1319 (2) Repeat Offenses; Increased Fines. Increased fines may be imposed for repeat  
1320 | offenses. As used in this Section, "repeat offense" means a second (or any subsequent)  
1321 | municipal civil infraction violation of the same requirement or provision of this Article  
1322 | (i) committed by a person within any three hundred sixty-five (365) day period and (ii)

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1323 for which the person admits responsibility or is determined to be responsible. The  
1324 increased fine for a repeat offense under this Article shall be as follows:

1325 (i) The fine for any offense that is a first repeat offense shall be not less than two  
1326 thousand five hundred dollars (\$2,500.00) plus costs.

1327 (ii) The fine for any offense that is a second repeat offense or any subsequent  
1328 repeat offense shall be not less than five thousand dollars (\$5,000.00) plus costs.

1329 (3) Amount of Fines. Subject to the minimum fine amounts specified in subsections 8-  
1330 209(f)(2)(i) and 8-209(f)(2)(ii), the following factors shall be considered by a court in  
1331 determining the amount of a municipal civil infraction fine following the issuance of a  
1332 municipal civil infraction citation for a violation of this Article: the type, nature, severity,  
1333 frequency, duration, preventability, potential and actual effect, and economic benefit to  
1334 the violator (such as delayed or avoided costs or competitive advantage) of a violation;  
1335 the violator's recalcitrance or efforts to comply; the economic impacts of the fine on the  
1336 violator; and such other matters as justice may require. A violator shall bear the burden of  
1337 demonstrating the presence and degree of any mitigating factors to be considered in  
1338 determining the amount of a fine. However, mitigating factors shall not be considered  
1339 unless it is determined that the violator has made all good faith efforts to correct and  
1340 terminate all violations.

1341 (4) Authorized Township Official. Notwithstanding any other provision of the  
1342 Township's laws, ordinances and regulations to the contrary, the following persons are  
1343 designated as the authorized Township officials to issue municipal civil infraction  
1344 citations (or municipal civil infraction notices, as applicable) for violations of this  
1345 Article:

1346 (i) The Ordinance Enforcement Officer;

1347 (ii) Any other Township representative designated by the Ordinance Enforcement  
1348 Officer or the Township Board; or

1349 (iii) Any police officer.

1350 (5) Other Requirements and Procedures. Except as otherwise provided by this Section,  
1351 the requirements and procedures for commencing municipal civil infraction actions;  
1352 issuance and service of municipal civil infraction citations or notices; determination and

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1353 collection of court-ordered fines, costs and expenses; appearances and payment of fines  
1354 and costs; failure to answer, appear or pay fines; disposition of fines, costs and expenses  
1355 paid; and other matters regarding municipal civil infractions shall be as set forth in other  
1356 applicable township ordinances and Act No. 236 of the Public Acts of 1961, as amended.

1357 (g) Criminal Penalties; Imprisonment

1358 | ~~(1)~~ Any person who (1) willfully or recklessly violates a condition or limitation in a  
1359 permit issued by the Township under this Article or a corporate officer who has  
1360 knowledge of or is responsible for a violation; or (2) intentionally makes a false  
1361 statement, representation, or certification in an application for, or form pertaining to a  
1362 permit, or in a notice, report, or record required by this Article, or in any other  
1363 correspondence or communication, written or oral, with the Township regarding matters  
1364 regulated by this Article; or (3) intentionally falsifies, tampers with, or renders inaccurate  
1365 any sampling or monitoring device or record required to be maintained by this Article; or  
1366 (4) commits any other act under this Article that is punishable under state law by  
1367 imprisonment for more than ninety (90) days; shall, upon conviction, be guilty of a  
1368 misdemeanor punishable by a fine of five hundred dollars (\$500.00) per violation, per  
1369 day, or imprisonment for up to ninety (90) days, or both in the discretion of the court.

1370 (h) Continuing Violation

1371 | ~~(1)~~ Each act of violation, and each day or portion of a day that a violation of this Article,  
1372 or of any permit, permit condition, mitigation plan, or NOV/Order issued or approved  
1373 under this Article is permitted to exist or occur, constitutes a separate violation and shall  
1374 be subject to fines, penalties and other sanctions as provided by this Article.

1375 (i) Nuisance Per Se

1376 | ~~(1)~~ A violation of this Article, or of any permit, order, notice or agreement issued or  
1377 entered into under this Article, is deemed to be a nuisance per se. The Township may  
1378 commence a civil suit in any court of competent jurisdiction for an order abating or  
1379 enjoining the violation, and/or requiring restoration of the wetland as nearly as possible to  
1380 its condition before the violation.

1381 (j) Reimbursement to the Township

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1382 (1) Any person who violates any provision of this Article, or who causes or contributes to  
1383 a violation of this Article, including, but not limited to, any permit, permit condition,  
1384 mitigation plan, or NOV/Order issued or approved by the Township under this Article,  
1385 shall be liable to and shall fully reimburse the Township for all expenses, costs, losses or  
1386 damages (direct or indirect) payable or incurred by the Township as a result the violation.  
1387 The costs that must be reimbursed to the Township shall include, but shall not be limited  
1388 to, all of the following:

1389 (i) All costs incurred by the Township in responding to the violation, including,  
1390 expenses for any labor or equipment as a result of the violation.

1391 (ii) All costs incurred by the Township for monitoring, surveillance, and  
1392 enforcement in connection with investigating, verifying, and prosecuting any  
1393 violation.

1394 (iii) The full amount of any fines, assessments, penalties, and claims, including  
1395 natural resource damages, levied against the Township by any governmental  
1396 agency or third party as a result of the violation.

1397 (iv) The full value of any Township staff time (including any required overtime),  
1398 consultant and engineering fees, and actual attorney fees and defense costs  
1399 (including the Township attorney and any special legal counsel), associated with  
1400 responding to, investigating, verifying, and prosecuting any violation or otherwise  
1401 enforcing the requirements of this Article.

1402 (2) Further, the Township is authorized to correct any violation of this Article or damage  
1403 or impairment to the environment caused by a violation of this Article and to bill the  
1404 person causing the violation or discharge for the amounts to be reimbursed to the  
1405 Township. The bill shall specify the date by which payment must received by the  
1406 Township. The costs reimbursable under this Section shall be in addition to fees, amounts  
1407 or other costs and expenses required to be paid by users under other Sections of this  
1408 Article.

1409 (3) Any costs to be reimbursed to the Township as provided by this Section may be billed  
1410 to the person as provided by subsection 8-209(j)(2), or otherwise in conjunction with an  
1411 enforcement action, or in such other manner as determined appropriate by the Township.

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1412 | (4) The failure by any person to pay any amounts required to ~~reimbursed~~reimburse to the  
1413 Township within any specified payment period as provided by this Section shall  
1414 constitute an additional separate violation of this Article.

1415 (k) Judicial Relief

1416 (1) The Township may institute legal proceedings in a court of competent jurisdiction to  
1417 seek all appropriate relief for violations of this Article or of any permit, permit condition,  
1418 mitigation plan, or NOV/Order issued or approved by the Township under this Article.  
1419 The action may seek temporary or permanent injunctive relief, damages, penalties, costs,  
1420 and any other relief, at law or equity, that a court may order. The Township may also  
1421 seek collection of fees, fines, penalties and any other amounts due to the Township that a  
1422 person has not paid.

1423 (2) Further, the Township may bring a civil proceeding to recover costs and damages  
1424 incurred by the Township as a result of a person's violation of this Article. The action  
1425 may include a claim for reimbursement and/or indemnification if the person's activities  
1426 result or may result in the imposition of fines, costs, penalties or damages (including the  
1427 cost of remediation) by any regulatory agency, citizen, citizen group, or other party  
1428 against the Township. In addition, the Township may seek equitable relief, such as the  
1429 issuance of an injunction necessary to remedy a violation or to prevent future violations,  
1430 and may seek reimbursement for the actual cost of obtaining such relief.

1431 (3) In the event of a violation involving illegal alteration of a wetland under this Section,  
1432 the Court may, among the other relief at law or equity that a court may impose, order the  
1433 person or agent responsible for the violation to restore as nearly as possible the wetland  
1434 that was affected by the violation to its original condition. The restoration may include,  
1435 but shall not be limited to, the removal of fill material deposited in the wetland or the  
1436 replacement of soil, sand, or minerals.

1437 (4) Nothing in this Section shall be construed to limit in any way the ability or authority  
1438 of the Township to seek judicial relief at law or equity in connection with the  
1439 administration and enforcement of this Article.

1440 (5) If an applicant for a Wetlands Use Permit is aggrieved by a determination, action, or  
1441 inaction by the Township regarding the issuance of a permit, the applicant may seek  
1442 judicial review in the same manner as provided in the administrative procedures act of

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1443 | 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328, as  
1444 | amended of the Michigan Compiled Laws.

1445 | (6) If a court determines that an action of the Township pursuant to this Article  
1446 | constitutes a taking of property without just compensation, then the court shall order the  
1447 | Township, at the Township's option to do one or more of the following:

1448 |           (i) Compensate the property owner for the full amount of the lost value.

1449 |           (ii) Purchase the property in the public interest as determined before its value was  
1450 | affected by this Article or the action or inaction of the Township pursuant to this  
1451 | Article.

1452 |           (iii) Modify its action or inaction with respect to the property so as to minimize  
1453 | the detrimental affect to the property's value.

1454 | |           ~~(A)~~ For the purposes of this Section, the value of the property may not exceed that  
1455 | share of the state equalized valuation of the total parcel that the area in dispute  
1456 | occupies of the total parcel of land, multiplied by two (2) as determined by an  
1457 | inspection of the most recent Township assessment roll.

1458 | (l) Cumulative Remedies

1459 | |           ~~(4)~~ The imposition of a single fine, penalty, notice of violation, order, or cost  
1460 | reimbursement or damage claim, upon any person for a violation of this Article (or of any  
1461 | permit, permit condition, mitigation plan, or NOV/Order issued or approved by the  
1462 | Township under this Article), shall not preclude the imposition by the Township or a  
1463 | court of competent jurisdiction of a combination of any or all of those sanctions and  
1464 | remedies or additional sanctions and remedies with respect to the same violation,  
1465 | consistent with applicable limitations on penalty amounts under state or federal laws or  
1466 | regulations. A criminal citation and prosecution of a criminal action against a person shall  
1467 | not be dependent upon and need not be held in abeyance during any civil, judicial, or  
1468 | Township administrative proceeding, conference, or hearing regarding the person.

1469 | (m) Reporting and Record Keeping

1470 | |           ~~(4)~~ Any person may report a violation of this Article, or any permit, mitigation plan, or  
1471 | NOV/Order issued or approved under this Article. Each report shall be made in writing or

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1472 reduced to writing by the Ordinance Enforcement Officer and be placed on file in the  
1473 Municipal Services Department for public inspection. Any reported violations found to  
1474 be invalid by the Ordinance Enforcement Officer examining the reported violations shall  
1475 held for one (1) year after final action and then destroyed. All ~~reported violations~~  
1476 ~~confirmed by the Ordinance Enforcement Officer shall be held by the Township for at~~  
1477 ~~least five (5) years~~ records shall be maintained in accordance with the Township's Record  
1478 Retention Schedule.

1479 (n) Township Ordinance Enforcement Officer Duties

1480 (1) The Township Ordinance Enforcement Officer shall inspect the site of a suspected  
1481 noncompliance as soon as is reasonably practical, but in no case later than the close of  
1482 five (5) business days after receiving the report.

1483 (2) The Township Ordinance Enforcement Officer shall complete an entry for the report  
1484 into the Compliance Docket.

1485 (3) The Township Ordinance Enforcement Officer may enlist the expertise of a wetlands  
1486 consultant if necessary to determine whether a violation of this Article has occurred. If  
1487 the Ordinance Enforcement Officer sustains the suspected noncompliance the costs of the  
1488 consultant will be charged to the violator.

1489 (4) The Township Ordinance Enforcement Officer shall take any actions within his or her  
1490 authority necessary to ensure this Article is enforced.

1491 (o) Compliance Docket

1492 (1) The Township Municipal Services Department shall maintain a Compliance Docket at  
1493 the Township Office. The Docket shall be used to identify all properties or uses of  
1494 properties which have been evaluated for compliance with this Article. The Docket shall  
1495 be available to the public upon demand during normal Township business hours.

1496 (2) The Compliance Docket shall contain the following information:

1497 (i) Date: the date the Docket entry was initiated.

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- 1498 (ii) Address/Location of Property: the street address, if available, or descriptive  
1499 text or vicinity map sufficient to enable citizens to identify the property in  
1500 question.
- 1501 (iii) Permit or Docket Number: If it has been determined that the use being made  
1502 of the property does not require a Wetlands Permit from the Township, a Docket  
1503 number shall be assigned. Otherwise, the Permit number shall be maintained.
- 1504 (iv) Compliance Status: A record shall be made of whether the use being made of  
1505 the property is in compliance with the provisions of this Article, the date the  
1506 determination was made, and the name(s) of the Township official and/or  
1507 consultant who made the determination.
- 1508 (v) County tax identification numbers shall be used to identify the property.
- 1509 (p) Violation Docket
- 1510 (1) The Township Municipal Services Department shall maintain a Violation Docket at  
1511 the Township Office. The Violation Docket shall be used to track the status of violations  
1512 of this Article. The Violation Docket shall contain the following information, as it  
1513 becomes available:
- 1514 (i) The permit or Docket number: This number shall be the same number as is  
1515 used to identify the property In the Compliance Docket.
- 1516 (ii) Address and Location of property: The street address, if available, or  
1517 descriptive text or vicinity map sufficient to enable citizens to identify the  
1518 property in question.
- 1519 (iii) Nature of violation
- 1520 (iv) Date violation confirmed.
- 1521 (v) Name of person confirming the violation.
- 1522 (vi) Enforcement action taken.
- 1523 (vii) Date of enforcement action taken.

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1524 (viii) Outcome of enforcement action: If a required corrective action or other  
1525 enforcement order is appealed by the property owner or any other party, each  
1526 appeal shall be noted, and its outcome shall also be noted under this heading.

1527 Sec. 8-210. - Township Wetlands Inventory Map

1528 (a) The Township has completed and made available to the public an inventory of all  
1529 wetlands within the Township as provided by NREPA Section 30308(1). This inventory  
1530 shall be known as, and is referred to in the Article as, the Pittsfield Township Wetlands  
1531 Inventory Map.

1532 (b) Upon completion of the Wetlands Inventory Map, the Township notified each record  
1533 owner of property on the Township property tax roll:

1534 (1) That the map exists;

1535 (2) Where the map may be reviewed;

1536 (3) That the owner's property may be designated as a wetland on the inventory  
1537 map:

1538 (4) That the Township has adopted this Article regulating wetlands; and

1539 (5) That the map does not necessarily include all of the wetlands within the  
1540 Township that may be subject to this Article.

1541 (c) The Wetlands Inventory Map shall be amended by the Township at least once per  
1542 year, unless the Township determines, based upon the Ordinance Enforcement Officer's  
1543 recommendation and the number of applications, that more frequent or less frequent  
1544 amendments are necessary to keep the map as accurate and as up-to-date as reasonably  
1545 possible. Upon any amendment of the Wetlands Inventory Map, the Township shall  
1546 provide notice to each record owner of property on the Township property tax roll that  
1547 the Map has been amended. The notice shall also provide the property owner with all of  
1548 the information as set forth in subsections 8-210(b)(2) through 8-210(b)(5).

1549 (d) The Wetlands Inventory Map shall serve as a general guide to the location of  
1550 wetlands within the Township and shall be used in the administration of this Article.  
1551 However, the Map may not necessarily include all of the wetlands within the Township

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1552 that are subject to this Article. Further, the Map shall not, nor shall it be construed to,  
1553 create any legally enforceable presumptions regarding whether property that is or is not  
1554 included on the Map is or is not a wetland.

1555 Sec. 8-211. - Wetlands Verification and Delineation

1556 (a) The Wetlands Verification Process as provided by this Section, shall be used to verify  
1557 wetlands on properties where wetlands are shown on the Wetlands Inventory Map or on  
1558 properties where wetlands may otherwise exist as defined by this Article. The Wetlands  
1559 Delineation Process, as also provided by this Section, shall be used to establish the actual  
1560 boundaries of wetlands in the Township. The identification of the actual boundaries of  
1561 wetlands on a project site (delineation) shall be the responsibility of the applicant. All  
1562 wetlands delineations prepared for purposes of complying with this Article shall be  
1563 subject to review and approval by the Township Article Enforcement Officer or the  
1564 Township's wetlands consultant.

1565 (b) Wetlands Verification Process

1566 (1) The Township, the owners of wetlands, or owners of property within three  
1567 thousand (3,000) feet of a wetland, may initiate verification of the areas shown on  
1568 the Township Wetlands Inventory Map as wetlands, or on properties where  
1569 wetlands may exist. The verification shall be limited to a finding of wetlands or  
1570 no wetlands by the Township Enforcement Officer, the Township's wetlands  
1571 consultant or other Township designee. The finding may be based on sources of  
1572 information as determined appropriate by the Township, including, but not limited  
1573 to, aerial photography, topographical maps, USDA annual reports, historical  
1574 maps, site plans, and field verification.

1575 (2) If it is found that there are no wetlands on the property, then no further  
1576 determination shall be required and the finding shall be included on the Township  
1577 Wetlands Inventory Map.

1578 (3) If a wetland is found on the property, then the exact boundaries of the wetland  
1579 shall be established through a wetlands delineation and the Township Wetlands  
1580 Inventory Map shall be amended accordingly.

1581 (c) Wetlands Delineation Process

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1582 (1) To establish the actual boundaries of a wetland on a property, the applicant  
1583 shall provide a survey or dimensional site plan, drawn at an appropriate scale,  
1584 showing property lines, buildings and any points of reference along with the  
1585 wetland's boundaries, according to one of the following:

1586 (i) A wetlands delineation prepared by the MDEQ.

1587 (ii) A wetlands delineation prepared by a qualified wetlands consultant.  
1588 The qualifications of the consultant shall be subject to prior approval by  
1589 the Township Ordinance Enforcement Officer.

1590 (2) If delineation of a wetland is required by and for purposes of this Article, the  
1591 Township Ordinance Enforcement Officer shall establish the boundaries of the  
1592 wetland following receipt of the above-required information and after conducting  
1593 a field investigation.

1594 (i) The applicant shall pay to the Township the applicable fees for the  
1595 establishing the wetland boundary as provided by this Section. The fee  
1596 shall be paid in the amount as established from time to time by resolution  
1597 of the Township Board.

1598 (ii) The boundaries of the wetland shall be marked by untreated wooden  
1599 stakes driven into the ground at least twenty four (24) inches and  
1600 extending above the ground at least forty (40) inches, with at least one  
1601 stake placed every sixty (60) feet around the boundaries. Untreated cotton  
1602 flags, bright orange or red in color, shall be permanently attached to the  
1603 top of the stakes. The stakes may not be removed without the prior written  
1604 permission of the Ordinance Enforcement Officer.

1605 Sec. 8-212. — ~~Storm Water Management Committee~~~~Natural Resources Commission~~

1606 (a) ~~The Pittsfield Township Natural Resources Commission is hereby created. It shall~~  
1607 ~~consist of seven (7) adult residents of the Township appointed by the Township Board.~~  
1608 ~~At least two (2) members of the Natural Resources Commission shall have knowledge~~  
1609 ~~and experience in the areas of botany, soils, geology, hydrology, or other natural~~  
1610 ~~resources. One member of the Natural Resources Commission shall be a member of the~~  
1611 ~~Township Board of Trustees. One member of the Natural Resources Commission shall be~~

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1612 ~~a member of the Park Commission. One member of the Natural Resources Commission~~  
1613 ~~shall be a member of the Planning Commission. One member of the Natural Resources~~  
1614 ~~Commission shall be a member of the agricultural community. One member of the~~  
1615 ~~Natural Resources Commission shall be a member at large, who is a resident of Pittsfield~~  
1616 ~~Charter Township. The member of Natural Resources Commission who is also a member~~  
1617 ~~of the Township Board may not serve in that position, except when in office as a~~  
1618 ~~Township Board member.~~

1619 ~~(b) Members of the Natural Resources Commission shall be appointed for 3-year terms~~  
1620 ~~such that, as nearly as possible, the terms of 1/3 of all the Natural Resources Commission~~  
1621 ~~members will expire each year. If a vacancy occurs on the Natural Resources~~  
1622 ~~Commission the vacancy shall be filled for the unexpired term in the same manner as~~  
1623 ~~provided for an original appointment. A member shall hold office until his or her~~  
1624 ~~successor is appointed. Members of the Natural Resources Commission who also serve~~  
1625 ~~on either the Township Board, Park Commission, or Planning Commission, may serve on~~  
1626 ~~the Natural Resources Commission for their terms of office.~~

1627 ~~(c) The Natural Resources Commission shall establish its own rules of procedure,~~  
1628 ~~provided that such rules may not conflict with the provisions of this Article.~~

1629 ~~(d) The Natural Resources Commission~~Stormwater Management Committee ~~is~~  
1630 authorized to undertake the following activities:

1631 (1) Hear appeals of decisions made by the Ordinance Enforcement Officer, the  
1632 Planning Commission or the Township Board regarding Wetlands Use Permits.

1633 (2) Provide recommendations to the Township Ordinance Enforcement Officer,  
1634 the Planning Commission and the Township Board, planning and assisting in  
1635 wetlands policy administration.

1636 (3) Serve in an advisory role in setting policy guidelines on wetlands issues in the  
1637 Township.

1638 (4) Identify conflicts between wetlands protection and Township policies,  
1639 ordinances, operating procedures, and activities.

1640 (5) Coordinate with MDEQ in keeping up-to-date on issues affecting wetlands  
1641 protection.

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- 1642 (6) Recommend plans and programs to protect and acquire important wetlands  
1643 through incentives, donation, development rights, easements, land exchange,  
1644 purchase, and other means.
- 1645 (7) Develop educational programs for the public and for area schools to promote  
1646 the values of wetlands and awareness of the hazards and threats to wetlands. Such  
1647 programs should be particularly targeted to landowners or building promoters or  
1648 construction contractors with wetlands and emphasize how best to protect  
1649 wetlands values on their property
- 1650 (8) Oversee the development and administration of the voluntary Wetlands  
1651 Registry and Stewardship Program to be established as provided by this Article,  
1652 and create incentives for participation. Develop procedures for interested citizens  
1653 to participate directly in stewardship and preservation of specific wetlands.
- 1654 (9) Review degraded or destroyed wetlands in the Township for possible  
1655 rehabilitation or restoration; prioritize sites, and seek grants and donations to fund  
1656 restoration.

1657 ~~-(e) Members of the Natural Resources Commission shall receive a stipend as~~  
1658 ~~determined from time to time by resolution of the Township Board.~~

1659 ~~(f)~~ Members of the ~~Natural Resources~~ Stormwater Management Committee  
1660 ~~Commission~~ serve at the discretion of the Township Board.

1661 (Ord. No. 277, eff. 11-20-2008)

1662 Sec. 8-213. - Wetlands Registry and Stewardship Program

1663 (a) A Pittsfield Township Wetlands Registry and Stewardship Program shall be  
1664 established by resolution of the Township Board. Voluntary registration by residents and  
1665 landowners of wetlands located within the Township will establish a public-private  
1666 partnership to promote the use of best management practices for protection of wetlands.

1667 (b) Pursuant to their participation in the registry and program, residents and landowners  
1668 will have the opportunity, among other things, to:

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- 1669 (1) Provide identifying data to allow the entry of parcels into the Township's GIS  
1670 database and digital mapping system.
- 1671 (2) Agree to have parcel information validated against the Township wetlands  
1672 map.
- 1673 (3) Pledge to protect their wetlands using best management practices.
- 1674 (4) Receive regular communications from the Township, including, but not  
1675 limited to, invitations to participate in ongoing scientific assessment programs  
1676 through grants and academic projects.
- 1677 (5) Receive donations of labor or funds from registered volunteer stewards.
- 1678 (6) Receive periodic benefits, as established by the Pittsfield Township Natural  
1679 Resources Commission, that may include assistance with recording conservation  
1680 easements, native trees and plants, root or seed stock from historic species, bird  
1681 houses; registry plaques or signs, restoration assistance, and recognition for public  
1682 service.

1683 (Ord. No. 255, eff. 3-5-2003)

**CHAPTER 39 - CONSERVATION EASEMENTS**

- 1685 Sec. 39-1: - Findings and Declaration of Purpose
- 1686 Sec. 39-2: - Definitions
- 1687 Sec. 39-3: - Authorization
- 1688 Sec. 39-4: - Retained Residential Development Rights
- 1689 Sec. 39-5: - Eligible Lands and Priority of Acquisition
- 1690 ~~Sec. 39-6: - Pittsfield Natural Resources Commission~~
- 1691 Sec. 39-76: - Selection
- 1692 Sec. 39-87: - Duration of Acquired Interests
- 1693 Sec. 39-98: - Related Costs

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1694 | Sec. 39-~~109~~: - Supplemental Funds

1695 | Sec. 39-~~110~~: - Purpose

1696 | Sec. 39-~~1211~~: - Development Rights Acquisition Fund

1697 | Sec. 39-1: - Findings and Declaration of Purpose

1698 | The Board of Trustees finds that:

1699 |           (1) Pittsfield Charter Township is a desirable place to live, work and visit in large part  
1700 |           because of the availability of farmland and open space and the relief that wetlands, woods  
1701 |           and agricultural fields bring. Scenic views, agriculture, open spaces and wildlife habitat  
1702 |           are all considered invaluable natural and aesthetic resources and should be protected.

1703 |           (2) The climate, variety of soils and terrain make the Township well suited to the  
1704 |           production of a great number of row crops, specialty crops and livestock, including many  
1705 |           foods available for direct human consumption. These resources include a significant  
1706 |           amount of land currently in agricultural production, and other woodland, wetland and  
1707 |           open lands adjacent to these farmlands.

1708 |           Such lands provide unique, aesthetic and economic benefits to the citizens of the  
1709 |           Township and are an important part of the Township's natural and agricultural heritage.  
1710 |           Pittsfield Charter Township is experiencing substantial residential development, however,  
1711 |           because of its location to the highly urbanized areas of southeast Michigan, its attractive  
1712 |           landscapes and its excellent public schools. The same characteristics which have made  
1713 |           this area so desirable for agricultural production and recreation also make it attractive for  
1714 |           development.

1715 |           (3) The agricultural industry in Pittsfield Charter Township provides the opportunity to  
1716 |           harvest locally grown foods to sell at roadside stands, farmers' markets, local retail food  
1717 |           stores and other local outlets in the area. Land suitable for farming is an irreplaceable  
1718 |           natural resource with soil and topographic characteristics that have been enhanced by  
1719 |           generations of agricultural use. When such land is converted to residential or other more  
1720 |           developed uses which do not require those special characteristics, a critical community  
1721 |           resource is permanently lost to the citizens of Pittsfield Charter Township.

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1722 (4) It is the policy of the State of Michigan and Pittsfield Charter Township to protect,  
1723 preserve and enhance agricultural and open space lands as evidenced by the Township  
1724 Comprehensive Land Use Plan, the ~~Township Michigan~~ Zoning Enabling Act, MCLA  
1725 125.~~271-3101~~ et seq., and other state and local statutes and policies. Ordinances  
1726 regulating land use by zoning and subdivision control enacted by the Township also serve  
1727 these purposes. These measures by themselves, however, have not been effective in  
1728 providing long-term protection of farmland, natural areas and open space under the  
1729 pressure of increasing development.

1730 (5) Agriculture in Pittsfield Charter Township produces a notable array of products, from  
1731 corn and soybeans to vegetables, fruit and livestock. The Township's agricultural acreage  
1732 contributes to the local economy in direct sales of agricultural products at the farm gate.

1733 (6) Generally, farmland and open space lands which are close to urban centers have a  
1734 greater market value for future development than their market value for farming or open  
1735 space. Prime agricultural land often has the same features that are considered valuable  
1736 components of developable areas. This fact encourages the speculative purchase of these  
1737 lands at high prices for future residential development, regardless of the current zoning of  
1738 such lands. Farmland which has a market value greater than its agricultural value does  
1739 not attract sustained agricultural investment and eventually this land is sold by farmers  
1740 and removed from agricultural uses.

1741 (7) The permanent acquisition by the Township, State, or other qualified organization, of  
1742 voluntarily offered interests in farmland and open space lands within the Township, as  
1743 provided in this chapter and as authorized by the Constitution and statutes of the State of  
1744 Michigan, will permit these lands to remain in farmland and open space near developing  
1745 urban areas and provide long-term protection for the public interests which are served by  
1746 farmland and open space lands in the Township.

1747 (8) Properties on which the development rights have been purchased must remain  
1748 substantially undeveloped in order to protect their agricultural use or open space  
1749 character.

1750 (9) Michigan Public Act 262 of 2000 created an agricultural preservation fund within the  
1751 State Treasury. Money in this fund may be used to provide grants to local units of  
1752 government to assist in the acquisition of agricultural conservation easements provided  
1753 that the local unit has adopted an ordinance for the purchase of development rights and

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1754 that the local unit has a comprehensive land use plan that includes a plan for agricultural  
1755 preservation. Acceptable plans for agricultural preservation can include provisions for  
1756 primary agricultural districts, rural uses that allow agriculture, and open space  
1757 designations that allow agriculture.

1758 (10) The acquisition of interests in farmland and open space lands as provided in this  
1759 chapter is a public purpose of Pittsfield Charter Township.

1760 (11) This chapter is authorized by Sections ~~31 to 33~~ 507 to 509 of the ~~Township~~  
1761 Michigan Zoning Enabling Act, MCL ~~125.3507 to 125.3509~~ 125.301 B-125.303.

1762 Sec. 39-2: - Definitions

1763 (1) *Supervisor* means the Pittsfield Charter Township Supervisor.

1764 (2) *Agricultural Rights* means an interest in and the right to use and possess land for  
1765 purposes and activities related to open space, natural habitat, horticultural and other  
1766 agricultural uses.

1767 (3) *Agricultural Use* means substantially undeveloped land devoted to the production of  
1768 plants and animals useful to humans, including but not limited to fruits, nuts, vegetables,  
1769 greenhouse plants, Christmas trees and lumber, forages and sod crops, herbs, grains and  
1770 feed crops, dairy and dairy products, traditional and specialty livestock (including  
1771 breeding and grazing), poultry and other similar uses and activities.

1772 (4) *Official large-scale maps* describing such areas in detail are available through the  
1773 Washtenaw County Metropolitan Planning Commission, the Washtenaw County  
1774 Conservation District, and other government agencies, and are incorporated herein by  
1775 reference.

1776 (5) *Board of Trustees* means the Pittsfield Charter Township Board of Trustees.

1777 (6) *Development* means an activity which materially alters or affects the existing  
1778 conditions or use of any land.

1779 (7) *Development Rights* means an interest in and the right to use and subdivide land for  
1780 any and all residential, commercial and industrial purposes and activities which are not  
1781 incidental to agriculture and open space.

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1782 (8) *Development Rights Easement* means a grant by an instrument whereby the owner  
1783 relinquishes to the public in perpetuity the right to develop the land as may be expressly  
1784 reserved in the instrument, and which contains a covenant running with the land not to  
1785 develop, except as this right is expressly reserved in the instrument.

1786 (9) *Eligible Land* means farmland and open space land for which the purchase of  
1787 "development rights easements" with tax funds and other monetary sources are  
1788 authorized pursuant to this chapter.

1789 (10) *Farmland and Open Space Land* means those lands shown in the Township  
1790 Comprehensive Land Use Plan, or the official Zoning Map, as being planned or zoned for  
1791 agricultural or open space uses, as adopted and amended from time to time by the  
1792 Township Planning Commission and Board.

1793 ~~(11) The *Pittsfield Township Natural Resources Commission* means the board formed~~  
1794 ~~pursuant to Section 6 of this chapter to advise the Board of Trustees in the selection of~~  
1795 ~~*Eligible Lands for easement purchases.*~~

1796 ~~(121)~~ Full Ownership means fee simple ownership.

1797 ~~(1312)~~ *Governmental Agency* means the United States or any agency thereof, the State of  
1798 Michigan or any agency thereof or any Township, City or municipal corporation.

1799 ~~(1413)~~ *Open Space Character* means substantially undeveloped land devoted to the  
1800 maintenance or enhancement of natural processes (e.g., water quality, plant and wildlife  
1801 habitat, groundwater recharge) and/or the scenic enjoyment of the public.

1802 ~~(1514)~~ *Owner* means the party or parties having the fee simple interest in land.

1803 ~~(1615)~~ *Parcel* means all property under a single ownership that is included in the  
1804 application.

1805 ~~(1716)~~ *Permitted Use* means any use contained within a development rights easement  
1806 essential to the farming operation or which does not alter the open space character of the  
1807 land.

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1808 | (~~1817~~) *Residential Development Rights* means the right to sell portions of a property, or  
1809 | to construct houses on a property, for residential uses not related to the agricultural use or  
1810 | open space character of the property.

1811 | (~~1918~~) *Substantially Undeveloped Land* means land on which there is no more than one  
1812 | residential dwelling unit (exclusive of housing units directly associated with the farming  
1813 | operation) for each 40 acres of land.

1814 | (~~2019~~) *Value of Development Rights* means the difference between the fair market value  
1815 | of full ownership of the land (excluding the buildings thereon) and the fair market value  
1816 | of the agricultural rights plus any residential development rights to be retained by the  
1817 | owner.

1818 | Sec. 39-3: - Authorization

1819 | (1) The Board of Trustees is hereby authorized to expend revenues to acquire property  
1820 | interests in the farmland and open space lands described and prioritized in Section 5 of  
1821 | this chapter. The property interest acquired may either be the development rights, or any  
1822 | lesser interest, easement, covenant or other contractual right. Such acquisition may be  
1823 | accomplished by purchase, gift, grant, bequest, devise, covenant or contract, but only at a  
1824 | price which is equal to or less than the appraised value determined as provided in this  
1825 | chapter. The revenues shall be used to acquire such property interests only upon  
1826 | application of the Owner and in a strictly voluntary manner.

1827 | (2) The Township is authorized to enter into cash purchase and/or installment purchase  
1828 | contracts, and agreements for the receipt of tax deductible donations of easements,  
1829 | consistent with applicable law. When installment purchases are made, the Township is  
1830 | authorized to pay interest on the declining unpaid principal balance at a legal rate of  
1831 | interest consistent with prevailing market conditions at the time of execution of the  
1832 | installment contract for the tax-exempt status of such interest.

1833 | (3) The Board of Trustees is further authorized to contract with recognized and legally  
1834 | established nonprofit land trusts or other experienced and qualified nonprofit groups or  
1835 | government agencies to participate jointly in the acquisition of interests in eligible lands.

1836 | (4) The Township may contract with recognized and legally established nonprofit land  
1837 | trusts or other experienced and qualified nonprofit groups or government agencies that

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1838 would share in the process of negotiating easements and establishing both the baseline  
1839 studies and the procedures for monitoring of any conservation easements acquired under  
1840 this chapter and would be done in accordance with The Standards and Practices  
1841 Guidebook issued in 1989 by the Land Trust Alliance.

1842 Sec. 39-4: - Retained Residential Development Rights

1843 (1) To promote "agricultural use" of properties on which the Township has purchased the  
1844 Development Rights, it has been determined that such properties should remain  
1845 substantially undeveloped.

1846 (2) It may be in the best interest of property owners and of the program to purchase  
1847 development rights, that property owners retain some residential development rights so  
1848 long as the land remains substantially undeveloped. When property owners retain some  
1849 development rights their land value remains higher than it would be if they sold all their  
1850 development rights and the value of the development rights to be purchased is  
1851 correspondingly reduced.

1852 (3) Applications for the sale of development rights may include a provision to retain the  
1853 right to build residential dwellings (residential development rights), provided that no  
1854 retained residential development rights would result in more than one dwelling unit per  
1855 forty (40) acres of land (exclusive of housing units directly associated with the farming  
1856 operation). This is not to preclude the sale of all the remaining dwelling units in excess of  
1857 one dwelling unit per forty acres of land.

1858 (4) The building locations for retained residential development rights may be restricted in  
1859 the negotiated "conservation easement" in order to protect other important features of the  
1860 property. Building locations and lot sizes must also conform to existing zoning in the  
1861 Township where the property is located.

1862 Sec. 39-5: - Eligible Lands and Priority of Acquisition

1863 Revenues shall be used to purchase property interests in the following lands in the  
1864 following order of their priority subject to the provisions of Section 7.

1865 Primary Criteria that all properties must meet: Voluntary application by the property  
1866 owner and those lands shown in the Township Comprehensive Land Use Plan, or the  
1867 official Zoning Map, as planned or zoned for agricultural, open space or rural uses.

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1868 Criteria for Selection:

1869 The following criteria shall be used in determining the order in which applications will be  
 1870 prioritized in any Selection Round to purchase development rights on all eligible lands  
 1871 for which complete applications have been received by the Township:

1872 This numerical ranking system has been developed to prioritize farm and open space sites  
 1873 for the purchase of conservation easements. It is the intention of the users of this system  
 1874 to direct efforts toward high quality farmland and open space.

1875 Appropriateness is determined by favorable natural conditions and location factors which  
 1876 make farming a viable undertaking both currently and in the future, or which can support  
 1877 viable natural habitat or scenic views. Areas targeted for preservation are those lands  
 1878 shown in the Township Comprehensive Land Use Plan or official Zoning Map as planned  
 1879 or zoned for agricultural, open space, or rural uses.

1880 DESCRIPTION OF THE SYSTEM. The farmland ranking system consists of four  
 1881 sections as follows. The maximum point value is 100, with additional points possible in  
 1882 the event of a tie.

PART	POINTS
I Characteristics of the Farmland	32
II Stewardship of the Land	24
III Pressure for Conversion to Nonfarm Use	12
IV Long-range Planning Considerations	32
Total	100

1883

1884 PRIORITIES. The point value arrived at through the use of this system will be used to  
 1885 prioritize farm sites for purchase of conservation easements. Higher point values indicate  
 1886 higher priority for purchase. In the case of a tie using the 100 point scale, the tiebreaking  
 1887 categories may be used. All property in a single ownership may be included in one  
 1888 application. Contiguous properties under the same ownership will be treated as a single  
 1889 entity.

1890 Note: An explanation of terms and parameters used in the system appears in the  
 1891 Appendix.

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**FIRST READING**

1892

PART I

1893

CHARACTERISTICS OF THE FARMLAND

1894

MAXIMUM POINTS = 32

A. Type of Agricultural Land (See Appendix for explanation of terms)	
Category	Score
Essential	14
Secondary	7
Reserve	3
B. Size of Parcel Offered for Development Rights Purchase (See Appendix)	
Acreage	Score
80 acres or more	8
40 to 79.9 acres	5
20 to 39.9 acres	2
C. Proximity to Existing Protected Land (See Appendix)	
Distance to Protected Land	Score
Adjacent or within 1 mile	4
Between 1.1 and 2 miles	2
D. Farm Buildings	
Buildings	Score
Usable, functional farm buildings on site	4
Usable, functional farm buildings within two miles	2

1895

1896

PART II

1897

STEWARDSHIP OF THE LAND

1898

MAXIMUM POINTS = 24

1899

A. Conservation Plans (See Appendix)	
--------------------------------------	--

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Extent of Conservation Plan	Score
Conservation plan fully implemented or conservation practices used to the fullest extent necessary	8
Conservation plan partially implemented or some practices used	4
<b>B. Farming Activity</b>	
Owner Involvement	Score
Owner and employees generate all gross farming revenue from the site	4
Owner and employees generate at least 50% of gross farming revenue from the site	2
Less than 50% of gross farming revenue from the site is by owner and employees	1
<b>C. Commitment to Farming (See Appendix)</b>	
Indicator	Score
Farm is enrolled in P.A. 116 and land has been in the same ownership for 50 years	10
Enrolled in P.A. 116 or in the same ownership for 50 years	6
<b>D. Ownership Succession Plans (See Appendix)</b>	
Plans	Score
Projected change within 5 years	2
Projected change within 5-10 years	1

1900

1901

1902

1903

PART III

PRESSURE FOR CONVERSION TO NONFARM USE

MAXIMUM POINTS = 12

<b>A. Amount of Road Frontage</b>	
Length	Score
1,000 feet or more	4

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501 to 999 feet	2
<b>B. Percentage of Site Containing Steep Slopes (See Appendix)</b>	
Percentage	Score
0 to 9.9%	4
10 to 19.9%	2
<b>C. Proportion of Wetlands and/or Floodplain</b>	
Wetlands/Floodplain	Score
0 to 9.9%	4
10 to 39.9%	2

1904

PART IV

1905

LONG-RANGE PLANNING CONSIDERATIONS

1906

MAXIMUM POINTS = 32

1907

<b>A. Current Adjacent Zoning Classification</b>	
Percent of Perimeter in Agricultural Zoning	Score
90% or more	5
75-89%	3
50-74%	2
25-49%	1
<b>B. Current Adjacent Land Use</b>	
Percent of Perimeter in Agricultural Use	Score
90% or more	5
75-89%	3
50-74%	2
25-49%	1
<b>C. Current Adjacent Enrollment in P.A. 116 (See Appendix)</b>	
Percent of Perimeter in P.A. 116	Score
90% or more	5
75-89%	3
50-74%	2
25-49%	1

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<b>D. Proximity to Sewer and Water Lines</b>	
Distance	Score
One-half mile or closer	5
Over 2 mile to one mile	2
<b>E. Scenic, Historical or Architectural Features (See Appendix)</b>	
Features	Score
Farm site provides a vista and has unique historical or architectural structures	4
Farm site has a vista or unique historical or architectural structures	2
<b>F. Natural Features</b>	
Features	Score
Stream corridors, woodlots or rare species present	4
<b>G. Groundwater Recharge Area</b>	
Percent of Property Serving as Groundwater Recharge	Score
50 to 100%	4
10 to 49%	2

1908

1909

1910

1911

1912

PART V

TIEBREAKERS

MAXIMUM POINTS = 10

<b>A. Ability to Attract Matching Funds (See Appendix)</b>	
Funds Availability	Score
Matching funds are available	5
<b>B. Owner Willingness to Accept Less Than Market Value (See Appendix)</b>	
Owner Willingness	Score

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**FIRST READING**

Owner willing to accept below-market offer	5
--	---

1913

1914 | Sec. 39-6: - ~~Pittsfield Natural Resources Commission~~

1915 |           (1) ~~A seven member Natural Resources Commission, as provided for in Chapter 8,~~  
 1916 |           ~~Article V, WETLANDS, shall be appointed by the Board of Trustees. The Commission~~  
 1917 |           ~~shall determine the selection of eligible lands on which development rights are offered~~  
 1918 |           ~~for acquisition by their owners. Selection of eligible lands shall be made by a majority of~~  
 1919 |           ~~Commission members.~~

1920 |           (2) ~~Membership and terms of office of the Natural Resources Commission are defined in~~  
 1921 |           ~~Chapter 8, Article V, WETLANDS.~~

1922 |           (3) ~~The Commission may consult experts as it may desire and the Board of Trustees may~~  
 1923 |           ~~appropriate funds for that purpose.~~

1924 |           (4) ~~No member shall vote on the selection of individual parcels in which he or she has a~~  
 1925 |           ~~financial interest or on individual parcels adjacent to property in which he or she has a~~  
 1926 |           ~~financial interest.~~

1927 | (~~Ord. No. 277, eff. 11-20-2008~~)

1928 | ~~Sec. 39-67:~~— Selection

1929 |           The Board of Trustees shall determine the selection of eligible lands on which  
 1930 |           development rights are offered for acquisition by their owners. Selection of eligible lands  
 1931 |           shall be made by a 2/3 majority of the Board of ~~The~~ Trustees. The Board of Trustees  
 1932 |           ~~Natural Resources Commission~~ shall conduct a voluntary property selection process  
 1933 |           (herein called the "selection round") generally as follows:

1934 |           (1) In each selection round the development rights on all eligible applicant properties  
 1935 |           shall be evaluated for purchase. In all selection rounds, properties of higher priority shall  
 1936 |           be purchased with available funds before properties of lower priority are purchased,  
 1937 |           provided:

1938 |           a. The ~~Board of Trustees Commission~~ may negotiate for a lower price and/or seek  
 1939 |           outside funding for the purchase of development rights on any parcel offered.

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1940 | b. In the interest of protecting a significant amount of agricultural land, the Board  
1941 | of Trustees Commission may determine not to buy all ~~of or~~ any of the  
1942 | development rights on a particular parcel if the Board of Trustees Commission  
1943 | makes a finding that it is in the best interest of the program to protect a larger  
1944 | number of acres rather than a smaller number of acres of higher valued  
1945 | development rights.

1946 | c. The Board of Trustees Commission may receive and act on appeals of any  
1947 | factual nature by affected property owners.

1948 | (2) The Board of Trustees Commission shall begin each selection round by giving notice  
1949 | in one newspaper of general circulation in Pittsfield Charter Township or by any manner  
1950 | of publication of notices authorized by statute. The notice shall describe the properties  
1951 | eligible for purchase in the selection round; the general procedure to be followed in the  
1952 | selection process (including an estimated time schedule for the steps in the process); and  
1953 | shall invite the owners of such properties to make application for purchase of  
1954 | development rights by the Township and to describe the property interest which the  
1955 | owner is willing to sell, including any residential development rights to be retained by the  
1956 | owner. Applications shall be submitted to a location to be specified by the Board of  
1957 | Trustees Commission and stamped with the date of receipt.

1958 | (3) Upon closing of the application period, the Board of Trustees Commission shall  
1959 | review each application which has been received to determine the eligibility and priority  
1960 | classification of each property interest and to verify ownership by tax records.

1961 | (4) For those properties which meet the requirements of Section 5, the Board of Trustees  
1962 | Commission shall cause an appraisal of the applicant's property interest to be made. A  
1963 | "before and after" appraisal shall be made to determine the value of development rights.  
1964 | One appraisal shall determine the fair market value of full ownership of the land  
1965 | (excluding buildings thereon) and one shall determine the fair market value of the  
1966 | agricultural rights plus any specifically retained residential development rights.

1967 | (5) Appraisals shall be made by State certified appraisers selected by the Board of  
1968 | Trustees Commission. The selected appraiser shall not have a property interest, personal  
1969 | interest or financial interest in eligible lands. The same appraiser shall conduct the before  
1970 | and after appraisals.

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- 1971 (6) Appraisals shall be in writing and shall be furnished to the respective owners for  
1972 review. Errors of fact in any appraisal may be called to the attention of the appraiser by  
1973 the ~~Board of Commission or Trustees or~~ by owners of the property appraised, but  
1974 corrections of the appraisal may be made only by the appraiser. If an owner of property  
1975 believes it has not been adequately appraised, such owner may, within the time allowed  
1976 on the selection schedule, have a review appraisal be made at the owner's expense by a  
1977 State certified appraiser. The appraisal shall then be filed with the Board of  
1978 Trustees Commission. The ~~Board of Trustees Commission~~ shall use both appraisals to  
1979 reach an agreement as to the appropriate value of the development rights.
- 1980 (7) Terms and conditions of sale and information on the effect of the sale may be  
1981 discussed by the Board of Trustees Natural Resources Commission with owners prior to  
1982 the submission of written applications.
- 1983 (8) Written applications by owners who desire to have their development rights  
1984 purchased by the Township shall be submitted on forms provided by the  
1985 Township Commission. These written offers shall include any development options  
1986 desired to be retained by the owners.
- 1987 (9) ~~Upon receiving~~After reviewing the ~~applications recommendations of the Natural~~  
1988 ~~Resources Commission~~, the Board of Trustees shall take final action on such  
1989 ~~applications recommendations~~.
- 1990 (10) Once selection of a property for the purchase of development rights has been  
1991 completed by the Board of Trustees, the ~~Township Natural Resources Commission~~ shall  
1992 draft a baseline documentation report describing, through photos, graphics, and narrative,  
1993 the condition of the property at the time of the purchase and recording of the  
1994 development rights easement. The baseline report shall contain a signature page for the  
1995 Owner and the Supervisor to sign attesting that the report is an accurate description of the  
1996 property. The actual easement shall feature a similar page for the notarized signatures of  
1997 the Owner and Supervisor, and shall be recorded with the County Register of Deeds.
- 1998 (11) Upon the completion of a purchase of development rights transaction, the Township  
1999 Assessor will be notified of the development rights purchase.
- 2000 | Sec. 39-~~87~~: - Duration of Acquired Interests

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2001 | (1) ~~(4)~~ Development rights acquired pursuant to this chapter shall be held in trust by the  
2002 | Township for the benefit of its citizens in perpetuity, provided that: If the ~~Pittsfield~~  
2003 | ~~Natural Resources Commission, or in its absence the~~ Board of Trustees, shall find  
2004 | that, after 25 years having passed since the acquisition of Development Rights on a  
2005 | property, farmland and open space land described in this chapter can no longer  
2006 | reasonably be used for "agricultural use" or has lost its "open space character" as to  
2007 | any interest in land acquired, by virtue of a stringent procedure that shall be  
2008 | developed by the ~~Township Natural Resources Commission~~, those development rights  
2009 | may be returned to the owner, subject to conditions set forth in Subsection (2). The  
2010 | owner shall pay the fair market value of those rights at the time of their return, as  
2011 | determined by a State certified appraiser. Proceeds of such disposition shall only be  
2012 | used for the acquisition of interests in "eligible lands" as provided in this chapter. A  
2013 | "before and after" appraisal shall be made to determine the value of development  
2014 | rights, and ~~the Natural Resources Commission, or the Board of Trustees in its~~  
2015 | ~~absence,~~ shall not sell the development rights for an amount less than the appraised  
2016 | value of the development rights as follows:;  
2017 |     a. One appraisal shall determine the fair market value of full ownership of the  
2018 |     land (excluding buildings thereon) and one shall determine the fair market  
2019 |     value of the agricultural rights plus any retained development rights.  
2020 |     b. Appraisals of the fair market value of full ownership or of a property interest  
2021 |     other than development rights shall be made by State certified appraisers  
2022 |     selected by the ~~Township Commission, or the Board of Trustees in its absence,~~  
2023 |     ~~on a bid basis.~~  
2024 |     c. The selected appraiser shall not have a property interest, personal interest or  
2025 |     financial interest in eligible lands.  
2026 |     ~~a.d. In the event that the low bidder has a conflict of interest associated with a~~  
2027 |     ~~potential easement, the second low bidder will conduct that appraisal. In any~~  
2028 |     ~~event, the same appraiser shall conduct the before and after appraisals. Upon~~  
2029 |     ~~receiving the recommendations of the Natural Resources Commission, †~~The  
2030 |     Board of Trustees shall take final action on such ~~appraisals~~ recommendations.  
  
2031 | (2) If the ~~Board of Trustees Natural Resources Commission~~ approves a request that  
2032 | farmland and open space land described in this chapter can no longer reasonably be used  
2033 | for "agricultural use" or has lost its "open space character," the Township shall have a  
2034 | right of first refusal to purchase the remaining rights at the fair market value of the

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2035 agricultural rights plus any retained development rights, as determined by a State  
2036 certified appraiser, for the purposes of a Township park or other publicly-accessible  
2037 property. ~~Upon receiving the recommendations of the Natural Resources Commission,~~  
2038 ~~the Board of Trustees shall take final action on such recommendations.~~ Acquisition of  
2039 lands for public purposes shall be made with funds designated for such purchases and not  
2040 with funds authorized for development rights acquisition pursuant to this chapter.

2041 (3) The Township may convey development rights acquired pursuant to this chapter to a  
2042 conservation, open space preservation, historic preservation or similar organization under  
2043 terms ensuring that the public benefits for which the Township purchased the  
2044 development rights will be maintained.

2045 | Sec. 39-~~98~~: - Related Costs

2046 The costs of appraisal, engineering, surveying, planning, and financial, legal and other  
2047 services lawfully incurred incident to the acquisition of interests in eligible lands by the  
2048 Township shall be paid by the Township. The Township shall not be responsible for  
2049 expenses incurred by the owner incident to this transaction.

2050 | Sec. 39-~~109~~: - Supplemental Funds

2051 Supplemental or matching funds from other governmental agencies or private sources  
2052 may become available to pay a portion of the cost of acquiring development rights, or  
2053 some lesser interest in eligible lands or to supplement or enlarge such acquisition. The  
2054 ~~Board of Trustees Natural Resources Commission~~ is hereby authorized to utilize such  
2055 funds to purchase interests in eligible lands or to otherwise supplement Township funds  
2056 in the manner provided by this chapter and in accordance with the applicable laws or  
2057 terms governing such grant.

2058 | Sec. 39-~~110~~: - Purpose

2059 The Board of Trustees finds and declares that the use of Township funds for the purpose  
2060 of paying in whole or in part the cost of acquisition of interests in eligible lands as set  
2061 forth herein, including any costs necessarily incident to such acquisition, and the  
2062 monitoring and enforcement of development rights easements, or to participation with  
2063 any party for such purposes will promote the public health, safety and general welfare of  
2064 the people of Pittsfield Charter Township.

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2065 | Sec. 39-~~12~~11: - Development Rights Acquisition Fund

2066           The revenues for purchasing development rights on farmland and open space land shall  
2067           be placed in a designated Development Rights Acquisition Fund to be hereafter created in  
2068           the office of the Treasurer of Pittsfield Charter Township (here and after "Acquisition  
2069           Fund"). Money in such acquisition fund may be temporarily deposited in such institutions  
2070           or invested in such obligations as may be lawful for the investment of Township money.

2071           The revenues and any interest received from the deposit or investment of such revenues  
2072           shall be applied and used solely for the purposes set forth in this chapter.

**APPENDIX**

**PART I CHARACTERISTICS OF THE FARMLAND**

2075           **Type of Agricultural Land.** In 1981, the Washtenaw County Metropolitan Planning  
2076           Commission developed a system of ranking agricultural land. The delineation utilized both  
2077           physical and cultural factors to avoid having good soil characteristics become the sole criterion  
2078           for determining the distribution of prime agricultural lands. In the study of Washtenaw County  
2079           agriculture, land within the townships but outside the year 2000 sanitary sewer service area was  
2080           divided into quarter sections (160 acres). This was deemed most appropriate for a study at a  
2081           county-wide scale. Public lands and other major areas committed to present use (e.g., the  
2082           Chrysler Proving Grounds) were deleted from consideration of potential agricultural land.

2083           Three categories of agricultural lands were utilized: essential, secondary and reserve. Six  
2084           factors were used to select these agricultural lands. Three physical factors are related to soil  
2085           characteristics and were derived from the Natural Resources Conservation Service (NRCS) Soil  
2086           Survey of Washtenaw County. The remaining three factors have a cultural origin, which can  
2087           change rapidly.

2088           The three physical criteria included soils capable of producing 100 bushels of corn or  
2089           more per acre where farmers practice good management techniques, soils with a Class II  
2090           agricultural capability as determined by the NRCS and prime agricultural areas depicted on the  
2091           1980 NRCS map of Washtenaw County.

2092           The three cultural criteria included existing farms that are well operated and viable as  
2093           determined by personnel of the Michigan State University Extension Service and later  
2094           supplemented by input from the county Agricultural Lands Committee, parcels of land that

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2095 exceed 80 acres in size and farmlands whose owners have applied to enroll in the Michigan  
2096 Farmland and Open Space Preservation Act program (P.A. 116).

2097 *Essential Agricultural Lands* include all those with one of three physical criteria and  
2098 which contain an existing farm that is well operated and viable.

2099 *Secondary Agricultural Lands* also must contain one of the three physical criteria or  
2100 contain a well-operated farm plus have parcels of 80 acres or more or be enrolled in P.A. 116.

2101 *Reserve Agricultural Lands* must also contain one of the three physical criteria or contain  
2102 a well-operated farm.

2103 Where more than 50 percent of a quarter section could be designated under one of these  
2104 three agricultural land divisions, the entire 160 acres was given a particular classification.

2105 Before the final map was completed, quarter sections that were designated in one of the  
2106 three categories, but in which more than 50 percent of the land was in parcels smaller than 10  
2107 acres, were deleted. This comprised only a few cases, but the decision was based on the premise  
2108 that viability of farms is limited where land ownership is highly fragmented

2109 While certainly much has changed in the 20 years since this process was completed, it  
2110 still serves as a basis for making determinations on targets for agricultural land preservation  
2111 today.

2112 Qualification for a particular type of agricultural land will be determined by having a  
2113 majority of the parcel offered for development rights purchase in that designation.

2114 **Size of Parcel.** According to the 1997 U.S. Census of Agriculture, the average size of all  
2115 farms in Washtenaw County was 175 acres.

2116 **Protected Land.** Protected land is defined as that which is permanently protected  
2117 through private or public means. Types of protected land include nature preserves, public park  
2118 and recreation lands, lands restricted by conservation easement recorded by land trusts and  
2119 conservancies, and other lands with development rights secured through purchase or donation.

2120 **PART II STEWARDSHIP OF THE LAND**

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2121 | **Conservation Plans.** In the absence of NRCS plans, the ~~TownshipPittsfield Natural Resources~~  
2122 | ~~Commission~~ will determine the extent of conservation practices by consulting with experts in the  
2123 | field and other appropriate means.

2124 | **Enrollment in P.A. 116.** Michigan's Farmland and Open Space Preservation Act (P.A. 116 of  
2125 | 1974) enables a landowner to enter into a development rights agreement (for farmland) or a  
2126 | development rights easement (for open space) with the state. These agreements and easements  
2127 | are designed to ensure that the land remains in a particular use or uses for an agreed upon period.  
2128 | In return for maintaining the land in a particular use, the landowner is entitled to certain income  
2129 | or property tax benefits.

2130 | **Succession Plans.** Refers to whether the primary ownership of the property is scheduled to  
2131 | change hands.

2132 | **PART III CONVERSION TO NONFARM USE**

2133 | **Percentage of Farm Containing Steep Slopes.** Steep slopes are defined as those of greater than  
2134 | 12 percent.

2135 | **PART IV LONG RANGE PLANNING CONSIDERATIONS**

2136 | **Scenic, Historical or Architectural Features.**

2137 |       a) Vista: a broadly sweeping view including a variety of vegetation types (woodland,  
2138 |       farm fields) combined with topographical variations. This view is visible from a major  
2139 |       highway and/or rural road.

2140 |       **fb)** Historical or Architectural: pre-Civil War houses and round barns are examples of  
2141 |       this category.

2142 | **PART V TIEBREAKERS**

2143 |       **Matching Funds.** Matching funds are defined as other financial contributions from  
2144 |       private or public sources that could be applied to a property's application and result in a lower  
2145 |       local cost for development rights purchase.

2146 |       **Market Value.** Refers to an owner's willingness to accept an offer for development  
2147 |       rights at a dollar amount lower than the full market value.

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2148 (Ord. No. 252, eff. 5-29-2002)

2149 **Sec. 39.12 Severability.**

2150 The provisions of this Ordinance are hereby declared to be severable and if any clause, sentence,  
2151 word, section, or provision is declared void or unenforceable for any reason by a court with  
2152 competent jurisdiction, it shall not affect any other portion of the Ordinance, except that part or  
2153 portion affected by the court's decision.

2154 **Sec. 39.13 Repealer.**

2155 All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of  
2156 such conflict.

2157 The repeal provided herein shall not abrogate or affect any offense or act committed or done, or  
2158 any penalty or forfeiture incurred, or any pending fee, assessments, litigation or prosecution of  
2159 any right established, occurring prior to the effective date hereof.

2160 **Section 39.14:Publication and Effective Date**

2161 This Ordinance shall be published in the manner as required by law. This ordinance shall take  
2162 effect ~~the day~~30 (thirty days) after the first publication of the ordinance (MCL 41.184).

2163 **Secs. 39.15 – 39.50. - Reserved**

This Ordinance was duly adopted by the Charter Township of Pittsfield Board at its regular meeting held on the \_\_\_\_\_ day of \_\_\_\_\_ 2011, and was ordered given publication in the manner required by law.

\_\_\_\_\_  
Alan Israel  
Charter Township of Pittsfield Clerk

Dated: \_\_\_\_\_, 2011

\_\_\_\_\_  
Mandy Grewal  
Charter Township of Pittsfield Supervisor

Dated: \_\_\_\_\_, 2011

First Reading: \_\_\_\_\_

Posting of Notice: \_\_\_\_\_

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Publication of Notice: \_\_\_\_\_

Adoption: \_\_\_\_\_

Ordinance Publication: \_\_\_\_\_

Effective Date: \_\_\_\_\_

**CHARTER TOWNSHIP OF PITTSFIELD  
WASHTENAW COUNTY, MICHIGAN  
ORDINANCE No. 297  
REVISIONS TO CHAPTER 8, WETLANDS PROTECTION ORDINANCE  
AND CHAPTER 39, CONSERVATION EASEMENTS**

**FIRST READING**

**CLERK'S CERTIFICATE**

I, Alan Israel, Clerk of the Charter Township of Pittsfield, Washtenaw County, Michigan, hereby certifies that the foregoing constitutes a true and complete copy of Pittsfield Charter Township Ordinance No. 297, which was duly adopted by the Township Board of Pittsfield Charter Township at a Regular Meeting of said Board, held on \_\_\_\_\_, 2011, after said Ordinance had previously been introduced at a Regular Meeting of the Board held \_\_\_\_\_, 2011, and published in the form it was introduced in accordance with P.A. 359 of 1947, as amended.

I further certify that Member \_\_\_\_\_ moved for adoption of said Ordinance, and that Member \_\_\_\_\_ supported said motion.

I further certify that the following Members voted for adoption of said Ordinance \_\_\_\_\_, and that the following Members voted against

adoption of said Ordinance \_\_\_\_\_, and that the following Members were absent or abstained from voting on the adoption of said Ordinance \_\_\_\_\_.

I further certify that after its passage the Ordinance was published on \_\_\_\_\_, 2011, in accordance with P.A. 359 of 1947, as amended, by \_\_\_\_\_.

I further certify that said Ordinance has been recorded in the Ordinance Book of the Township and that such recording has been authenticated by the signatures of the Supervisor and the Clerk.

\_\_\_\_\_

Alan Israel  
Charter Township of Pittsfield Clerk

Dated: \_\_\_\_\_, 2011

\_\_\_\_\_

Mandy Grewal  
Charter Township of Pittsfield Supervisor

Dated: \_\_\_\_\_, 2011

Effective Date: \_\_\_\_\_, 2011

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**FIRST READING**