

CODE OF ORDINANCES
Chapter 8 - BUILDINGS AND BUILDING REGULATIONS
ARTICLE XV. - SOIL EROSION AND SEDIMENTATION CONTROL

DIVISION 1. – GENERALLY

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Sec. 8-360. Authority.

This article is adopted under the authority granted by Part 91, Soil Erosion and Sedimentation Control of the Natural Resources and Environmental Protection Act, 1994, P.A. 451, as amended, MCL 324.9101, et seq., as amended, and by virtue of the power vested in the township under existing statutes including the Charter Township Act, P.A. 359 of 1947, MCL 42.1 et seq., as amended for the purpose of controlling erosion and to protect the waters of the township and state from sedimentation, along with penalties for the violation of such regulations. The provisions of this article shall be void to the extent that it makes lawful that which is unlawful under the aforementioned statutes in this section. In cases where this article is more restrictive than the aforementioned statutes in this section and the Rules promulgated pursuant to Part 91, the township shall notify a person receiving a permit under this article that the article is more restrictive. This article incorporates by reference the Rules promulgated pursuant to Part 91 to the extent that this article is not more restrictive. This section and any revisions to it are subject to approval by the appropriate agency.

(Ord. No. C-721, § 1, 3-3-08)

Sec. 8-361. Statement of purpose and objective.

- (a) The primary purpose of Part 91 of the Natural Resources and Environmental Protection Act, MCL 324.9101, et. seq., as amended, is to achieve effective and reasonable control of accelerated soil erosion by requiring persons who own or possess land on which an earth change has been made that may result in or contribute to soil erosion or sedimentation of the waters of the state and wetlands to implement and maintain soil erosion and sedimentation control measures that will effectively reduce soil erosion or sedimentation from the land on which the earth change has been made and require compliance with applicable best management practices, in particular those relating to sedimentation control structures.
- (b) This is to be accomplished by using the best practical combination of procedures, techniques and people to prevent sediment, the product of accelerated soil erosion, from leaving the construction site and reaching the waters of the state and wetlands. This is to be accomplished by the enforcement of soil erosion and sediment control programs by the MEA. The primary objectives of the MEA programs and this article are as follows:
 - (1) To protect lakes, streams, rivers, wetlands and watercourses from unnecessary degradation due to soil erosion and sedimentation;
 - (2) To preserve high quality water essential to the health of our natural environment;
 - (3) To protect vital land resources from soil erosion and sedimentation; and
 - (4) To protect the public health, safety and welfare of the people and land and to prevent flooding and damage to infrastructure and property as a result of movement of soils, soil erosion and sedimentation.

(Ord. No. C-721, § 1, 3-3-08)

Sec. 8-362. Definitions.

The terms defined in Part 91, Soil Erosion and Sedimentation Control of the Natural Resources and Protection Act, MCL 324.9101 et seq., as amended and the terms defined in the administrative rules promulgated thereunder, have the same meanings when used in this article unless the meanings ascribed to them in this section differ. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicated a different meaning:

Accelerated soil erosion means the increased loss of the land surface that occurs as a result of human activities.

Acceptable operating erosion and sediment control program means the activities of a county or local enforcing agency or authorized public agency that are conducted in accordance with these rules and Part 91 regarding staff training, developing and reviewing plans, issuing permits, conducting inspections, and initiating compliance and enforcement actions to effectively minimize erosion and offsite sedimentation.

Agricultural practices means all land farming operations except the plowing or tilling of land for the purpose of crop production or the harvesting of crops.

Authorized public agency means a state agency or an agency of a local unit of government authorized under Part 91, section 9110, to implement soil erosion and sedimentation control procedures with regard to earth changes taken by it.

Berm means any earthen structure which is created for the purpose of diverting overland water flow or runoff, is a component of a landscaping plan or provided privacy by screening, or a combination of the above.

Best management practices (BMP) means any structural, vegetative or managerial practice used to treat, prevent or reduce water pollution approved by the development services department. Such practices include temporary seeding on exposed soils, detention and retention basins, for stormwater control, and scheduling the implementation of all BMP's to ensure their effectiveness.

Conservation district means a conservation district authorized under Part 91 of the Natural Resources and Environmental Protection Act.

Consultant means either of the following:

- (1) An individual who has a current certificate of training under section 9123 of Part 91; or
- (2) A person who employs one (1) or more individuals who have current certificates of training under section 9123 of Part 91.

Critical areas means any area difficult to stabilize with vegetation once the area is graded and the existing vegetation removed. Typical critical areas would be infertile subsoils, droughty soils, areas of concentrated flow, heavy traffic areas, and long or steep slopes.

Designated agent means a person who has written authorization from the landowner to sign the application and secure a permit in the landowner's name.

Department means the department of environmental quality.

Development services department means the development services department of West Bloomfield which shall include the engineering and environmental departments of the township.

Development services director means the director of the development services department.

Earth change means a human-made change in the natural cover to topography of land, including cut and fill activities which may result in or contribute to soil erosion or sedimentation of the waters of the state. Earth change does not include the practice of plowing and tilling soil for the purpose of crop production.

Excavation means any act by which soil or rock is cut into, dug, quarried, uncovered, removed, displaced or relocated and the conditions resulting thereof.

Floodplain means the relatively flat area or lowlands adjoining the channel of a watercourse or a body of standing water which has been or may be covered by a 100-year floodwater.

Gardening means activities necessary to the growing of plants for personal use, consumption, or enjoyment.

Grading means any stripping, excavating, fill or stockpiling of soils or any combination thereof.

Grubbing means to disturb the soil by removing the vegetative cover.

Infrastructure means streets, sidewalks, sewers, stormwater retention facilities, or any other public utility or public good.

Lake means the Great Lakes and all natural and artificial inland lakes, ponds or impoundments that have definite banks, a bed, visible evidence of a continued occurrence of water, and a surface area of water that is equal to, or greater than, one (1) acre. "Lake" does not include sediment basins and basins constructed for the sole purpose of stormwater retention, cooling water, or treating polluted water.

Landowner means the person who owns the property and who provides proof of ownership, holds a recorded easement on the property and who provides proof of ownership of the easement, or who is engaged in construction in a public right-of-way in accordance with sections 13, 14, 15, and 16 of Act No. 368 of the Public Acts of 1925, as amended, being MCL 247.183 to 247.186.

Landscape contractor means a person, whether a licensed landscape contractor or not, who performs any soil movement or placement, excavation, earth removal, planting, or landscape construction or maintenance work for hire.

Local ordinance means this article of the township's ordinances enacted pursuant to Part 91 providing for soil erosion and sedimentation control.

Minor earth change means any earth change that will disturb less than two hundred twenty-five (225) square feet within five hundred (500) feet of the water's edge of a lake, stream or wetland.

Municipal enforcing agency or *MEA* means an agency designated by the township under section 9106 of Part 91 to enforce a local ordinance, which shall be the development services department.

Nonerosive velocity means a speed or water movement which is not conducive to the development of accelerated erosion.

Parcel means a lot, unit or plot of land, either platted or unplatted.

Part 91 means Part 91 of Act No. 451 of the Public Acts of 1994, as amended, being MCL 324.9101 to 324.9123.

Permanent soil erosion and sedimentation control measures means those control measures which are installed or constructed to control soil erosion and which are maintained after project completion.

Person means an individual, corporation, partnership or any other business entity.

Phasing means the completion or stabilization of one (1) phase of development before conducting construction or earth disturbance of another within the same development.

Proof of ownership means any document recorded with the Oakland County register of deeds showing the ownership interest claimed and title insurance which is current and has been issued within thirty (30) days of the date of the submission of the application for a permit under this article.

Rules means the Rules promulgated pursuant to the Administrative Procedures Act of 1969, 1960 Public Act 306, MCL 24.201 to 24.328.

Runoff means that part of precipitation, snow melt, or irrigation water that is not absorbed by vegetation and does not infiltrate or evaporate and runs off the land into streams or other surface water.

Seawall maintenance means an earth change activity landward of the seawall.

Sediment means solid particulate matter, including both mineral and organic matter that is in suspension in water, is being transported, or has been removed from its site of origin by the actions of wind, water, or gravity and has been deposited elsewhere.

Sediment basin means a naturally occurring or constructed depression used for the sole purpose of capturing sediment during or after an earth change activity.

SESC permit means soil erosion and sedimentation control permit.

Soil means topsoil, subsoil, gravel, rock, stone, earth or any other minerals of a like nature.

Soil erosion means the wearing away of land by the action of wind, water, gravity or a combination of wind, water, or gravity.

Soil erosion and sediment control plan means a map and written information for a development or earth change which describes the way in which stormwater runoff, soil erosion, and on-site sediment will be controlled.

Stabilization means the establishment of vegetation or the proper placement, grading and/or covering of soil to ensure its resistance to soil erosion, sliding or other earth movement.

State agency means a principal state department.

Stormwater detention means detention basins that are designed to receive and detain stormwater runoff for a prolonged period of time, typically up to forty-eight (48) hours. Detention is achieved by use of an outlet device regulating the flow from the basin at a rate which minimizes downstream erosion, reduces flooding, and provides for enhanced pollutant removal.

Stormwater retention means retention basin that is a water impoundment over permeable soils which receives stormwater runoff and contains it until it infiltrates the soils. Retention basins remove fine sediment and the pollutants associated with them. Course sediment must be removed from the stormwater by other methods prior to entering the basin. This BMP serves drainage areas up to fifty (50) acres in size.

Stream means a river, creek, or other surface watercourse which may or may not be serving as a drain as defined in Act No. 40 of the Public Acts of 1956, as amended, being MCL 280.1 et seq., and which has definite banks, a bed, and visible evidence of the continued flow or continued occurrence of water, including the connecting waters of the Great Lakes.

Stripping means any activity which removes or significantly disturbs the vegetative surface cover including clearing and grubbing operations.

Temporary soil erosion and sedimentation control measures means interim control measures which are installed or constructed for the control of soil erosion and sedimentation which are not maintained after project completion and removed.

Township means Charter Township of West Bloomfield.

Violation of this article or violates this article means a violation of Part 91, the Rules promulgated under Part 91, or this article.

Waters of the state means the Great Lakes and their connecting water, inland lakes and streams as defined in Rules promulgated under this part, and wetlands regulated under Part 303 of the Natural Resources and Environmental Protection Act.

Wetlands means land characterized by the presence of water at a frequency and duration sufficient to support and that under normal circumstances does support wetland vegetation or aquatic life and is commonly referred to as a bog, swamp, or marsh.

Written authorization means an original signed and notarized letter from the landowner which specifies the scope of the designated agent's authority.

(Ord. No. C-721, § 1, 3-3-08)

Sec. 8-363. Jurisdiction.

Unless otherwise provided by law, the administration and enforcement of this article shall be as follows:

- (1) The development services department shall be the municipal enforcing agency and shall have jurisdiction throughout the township in the administration and enforcement of this article, Part 91 and Rules, including all amendments adopted unless otherwise specifically stated, except with regard to earth changes by an authorized public agency who is approved under section 9110 of Part 91.
- (2) Those authorized for administering this article, Part 91 and the Rules and who also have decision making authority shall have current certificates of training pursuant to MCL 324.9123.

(Ord. No. C-721, § 1, 3-3-08)

Sec. 8-364. Adoption of control rules.

The development services department may from time to time adopt such soil erosion and sedimentation control rules, policies, programs, and best management practices as approved by the department of environmental quality and as necessary to ensure compliance with Part 91 and Rules. In no case shall the Rules be less restrictive than Part 91, or the administrative Rules promulgated thereunder by the department of environmental quality.

(Ord. No. C-721, § 1, 3-3-08)

Sec. 8-365. Other laws and regulations.

The regulations of this article are minimum standards supplemental to Part 91 and the Rules promulgated thereunder. Where any provisions of any other state statutes, or other township ordinances or regulations apply, the more restrictive provisions of this article or any or all statutes, ordinances or regulations shall prevail.

If any provision of this part is declared by a court to be invalid, the invalid provision shall not affect the remaining provisions of the part that can be given effect without the invalid provision. The validity of the part as a whole or in part shall not be affected, other than the provision invalidated.

(Ord. No. C-721, § 1, 3-3-08)

Sec. 8-366. Design.

- (a) *Principles.* All earth changes shall be designed, constructed, implemented, and maintained in accordance with the requirements for earth changes as provided by Part 91, the Rules promulgated thereunder, and this article, and shall also comply with any structural, vegetative, or best management practices to effectively prevent or reduce soil erosion and sedimentation as determined and deemed necessary by the development services department. Further design principles are as follows:

- (1) The development should be planned and designed to fit the topography of the site.
 - (2) The design shall limit the exposed area of any disturbed land for the shortest possible period of time as determined by the development services department, and may incorporate any phasing requirements set forth in an approved site plan.
 - (3) Soil erosion control practices should be applied as a first line of defense against onsite damage, thereby decreasing the amount of sediment that is generated.
 - (4) Sediment control practices should be applied as a second line of defense to prevent any sediment that is generated during construction from leaving the site.
 - (5) A thorough maintenance and follow-up operation should be implemented, as a site cannot be effectively controlled without thorough, periodic checks for erosion and sediment control practices and, without limitation; includes the following requirements:
 - a. Maintenance schedule;
 - b. Dewatering plan;
 - c. Sequence of construction; and
 - d. Enforcement.
- (b) [*Adequacy and effectiveness.*] In determining the adequacy and effectiveness of the design, implementation, and maintenance of proposed soil erosion and sedimentation control measures, the development services department shall consider the following nonexclusive criteria:
- (1) Size and location specific factors and information of the type required to be included in the soil erosion and sediment control plan for the property; and
 - (2) The specifications and recommendations regarding soil erosion and sedimentation control measures and practices as provided by the "Guidebook of Best Management Practices for Michigan Watersheds", published by the Surface Water Quality Division, Michigan Department of Environmental Quality ("BMP Guidebook" or subsequent revisions), the Natural Resources Conservation Services (NRCS) Standards and Specifications, and the Michigan Department of Transportation's "Soil Erosion and Sedimentation Control Manual" and any provided instructions or recommendations by manufacturers as approved by the township.

(Ord. No. C-721, § 1, 3-3-08)

Sec. 8-367. Earth change requirements and control plan requirements generally.

- (a) The erosion and sedimentation control measures prescribed in this section and the best management practices shall be incorporated into the soil erosion and sedimentation control plans, as described in section 8-368, unless the person preparing the plans demonstrates to the development services department that proposed alternatives to these procedures will be superior in the prevention of accelerated soil erosion and its resulting sedimentation.
- (b) A person shall conduct an earth change in a manner that will effectively reduce accelerated soil erosion and resulting sedimentation.
- (c) A person engaged in an earth change that disturbs one (1) or more acres of land or is within five hundred (500) feet of any waters of the state and any wetland shall:
 - (1) Obtain the permit(s) required by this article and Part 91, and the Rules promulgated thereunder; said permit(s) shall be kept current and valid throughout all active earth change operations and until the site passes final inspection by the municipal enforcing agency.
 - (2) Plan, implement, and maintain acceptable soil erosion and sedimentation control measures in conformance with the requirements of this article and Part 91 and the Rules promulgated thereunder, which effectively reduce accelerated soil erosion and off-site sedimentation.
 - (3) Set forth soil erosion and sedimentation control measures in a plan as prescribed by this article. A person shall make the plan available for inspection at all times at the site of the earth change.
 - (4) Prepare a soil erosion and sediment control plan, signed and sealed by a registered professional engineer or professional surveyor designed to effectively reduce accelerated soil erosion and sedimentation that shall identify factors that may contribute to soil erosion or sedimentation, or both.
- (d) A soil erosion and sediment control plan shall conform to the requirements of this article, Part 91, and the Rules promulgated pursuant to Part 91.
- (e) A person shall remove sediment caused by accelerated soil erosion from runoff water before it leaves the site of the earth change.
- (f) A person shall design, construct, and complete an earth change in a manner that limits the exposed area of any disturbed land for the shortest possible period of time as determined by the development services department. The development services department shall have the power to require additional soil erosion techniques as needed in order to effectively reduce soil erosion and sedimentation.
- (g) A person shall design a temporary or permanent control measure that is designed and constructed for the conveyance of water around, through, or from the earth change area to limit the water flow to a nonerosive velocity.

- (h) A person shall install temporary soil erosion and sedimentation control measures before or upon commencement of the earth change activity and shall maintain the measures on a daily basis. A person shall remove temporary soil erosion and sedimentation control measures after permanent soil erosion measures are in place and the area is permanently stabilized. A person shall stabilize the area with permanent soil erosion control measures under approved standards and specifications as prescribed below.
- (i) A person shall complete permanent soil erosion control measures for all slopes, channels, ditches, or any disturbed land area within five (5) calendar days after final grading or the final earth change has been completed. If it is not possible to permanently stabilize a disturbed area after an earth change has been completed or if significant earth change activity ceases, then a person shall maintain temporary soil erosion and sedimentation control measures until permanent soil erosion control measures are in place and the area is stabilized.
- (j) A person shall complete all temporary and permanent erosion and sedimentation control measures according to the approved plan.
 - (1) A person shall install and maintain control measures in accordance with the standards and specifications of all of the following:
 - a. The product manufacturer.
 - b. The local conservation district.
 - c. The department.
 - d. The Michigan Department of Transportation.
 - e. The development services department, if applicable and formally adopted.
 - (2) If a conflict exists between the standards and specifications, then the development services department shall determine which specifications are appropriate for the project.
- (k) On construction sites during periods of low precipitation, low humidity, high temperature or high winds, apply dust suppressant to surfaces such as unpaved roadways, soil stockpile areas and general areas with unstabilized or fine soils.
- (l) A landowner of land on which an earth change has been made that may result in or contribute to soil erosion or sedimentation of any infrastructure or adjoining land or the waters of the state shall implement and maintain soil erosion and sedimentation control measures in conformance with the requirements of this article, Part 91 and Rules that will effectively reduce soil erosion or sedimentation from the land on which the earth change has been made.

- (m) During all active earth change operations on land subject to the permit(s) required by this article, Part 91 and Rules, the permittee shall be responsible for:
- (1) The prevention of soil erosion and sedimentation, or damage to any infrastructure, public utilities or services within the limits of movement or placement of soil and along any routes of travel of equipment.
 - (2) The prevention of sedimentation, erosion or damage to adjacent property. No person shall cause an earth change activity or the movement or placement of soil so close to the property line as to endanger any adjoining public street, sidewalk, or any public or private property without protecting such property from soil erosion or sedimentation or other damage which might result.
 - (3) The prompt removal of all sediment, soil, miscellaneous debris or other materials spilled, applied, dumped or otherwise deposited on public streets, highways, sidewalks or other public thoroughfares or infrastructure resulting from any development related activity or operation.
 - (4) Maintenance and clean out of all sediment basins, ditches traps or other soil erosion measures as needed to ensure their proper function.
 - (5) Clearing, grubbing and any earth changes shall be limited to the phase of development under construction. If there is an earth change request or modification, an updated soil erosion and sedimentation control plan must be resubmitted for review and approval by the MEA.

(Ord. No. C-721, § 1, 3-3-08)

Sec. 8-368. Plan requirements.

- (a) *Intent.* It is the intent of this section to provide sufficient information upon which to judge the adequacy of the design relative to the goals of Part 91 and Rules, as described in section 8-361. The plan shall be designed to effectively reduce accelerated soil erosion and control sedimentation generated and shall identify factors which may contribute to soil erosion or sedimentation or both. Plan sheets shall be not less than eight and one-half (8½) inches by eleven (11) inches or greater than twenty-four (24) inches by thirty-six (36) inches.
- (b) *Additional information.* Should the information specifically required by this section be inadequate to meet the intent because of unusual site or project conditions, the applicant will be required to submit additional information, as circumstances require or as determined by the development services department.
- (c) *Preparation.* All plans and information shall be prepared by a person with a working knowledge of soil erosion and sedimentation control methods and techniques. In most instances, this person will be a professional engineer or professional surveyor registered in Michigan, as required under the provisions of Act No. 240 of the Public Acts of Michigan of 1937 (MCL 338.551 et seq., as amended).

However, on small projects not covered by the Registration Act, well prepared plans not prepared by a registered engineer or surveyor may be allowed as determined by the development services department.

- (d) *Earth change.* The magnitude and scope of the earth disrupting project and its potential for causing a soil erosion and/or sedimentation problem will have a direct bearing upon the scope and requirements of the plans required by this article, Part 91 and the Rules. The required plans must meet the minimum requirements of this article, Part 91 and the Rules shall include, but not be limited to the following:

(1) *Location map:*

- a. It shall be drawn to a scale not smaller than two hundred (200) feet to the inch.
- b. It shall be extended six hundred (600) feet outside of the side boundaries in all directions.
- c. It shall locate the following:
 1. The site;
 2. Adjacent properties;
 3. Public and private roads in the area;
 4. Lowing streams or ditches;
 5. Intermittent watercourses;
 6. Lakes;
 7. Wetland areas;
 8. One hundred-year floodplain and/or floodways;
 9. North direction;
 10. Predominant land features;
 11. Contour intervals or slope description.

(2) *Topographic plan:*

- a. It shall be drawn to a scale not smaller than thirty (30) feet to the inch.
- b. It shall show all existing ground elevations on U.S.G.S. datum with a contour interval not greater than two (2) feet.
- c. It shall be extended one hundred (100) feet outside of the site boundaries in all directions.
- d. It shall locate the following:

1. All existing building and structures;
 2. All natural features required to be shown on a site plan or a wetlands or woodlands removal plan;
 3. All existing drainage systems, both natural and man-made.
- e. It shall include a legal description of the site, with a statement as to the amount of acreage within the site and a north indicator.
 - f. It shall provide information as to the type of soils on the site, as typically obtained from a soil boring or a soil analysis.
 - g. All existing and proposed utilities.
- (3) *Site development plan:*
- a. It shall be drawn to a scale not smaller than thirty (30) feet to the inch.
 - b. It shall show a plan metric presentation of all proposed construction on the site, including buildings, roads, parking lots, walks, drives, retaining walls, retention basins, sediment basins, retention areas, grassed areas, storm drainage facilities and all other construction of any nature including utilities.
 - c. It shall show a complete dimensioning of size and location of all features of the plan.
 - d. It shall show all existing buildings, construction and natural features surrounding the site on all sides to a distance of one hundred (100) feet.
 - e. The timing and sequence of each proposed earth change.
 - f. All existing and proposed utilities.
- (4) *Final grading and drainage plan:*
- a. It shall be drawn to a scale not smaller than thirty (30) feet to the inch.
 - b. It shall show the final grade elevations at high and low points, breaks in grade, swales and ridge lines, buildings and other structures, and in sufficient detail to indicate the surface flow, on U.S.G.S. datum.
 - c. It shall show the complete stormwater drainage system including enclosures, open drainage courses and swales, retention and sediment basins, and the point of discharge of stormwater. The following should be included:
 1. Storm drain, retention basin and sediment basin design calculations;
 2. The amount of acreage contributing to each specific inlet;

3. Storm drain and road profiles.
 4. All critical or sensitive areas.
 - d. It shall show existing ground elevations surrounding the site on all sides to a distance of one hundred (100) feet.
 - e. All existing and proposed utilities.
- (5) *Soil erosion and sediment control plan:* A soil erosion and sediment control plan must include the minimum requirements of this article, Part 91 and the Rules, not be limited to all of the following:
- a. A map or maps at a scale of not more than thirty (30) feet to the inch or as otherwise determined by the development services department. A map shall include a legal description and site location plan that includes the proximity of any proposed earth change to lakes, streams or wetlands; predominant land features; and contour intervals or slope description.
 - b. A soils survey or a written description of the soil types of the exposed land area contemplated for the earth change.
 - c. Details for proposed earth changes, including all of the following:
 1. A description and the location of the physical limits of each proposed earth change.
 2. A description and the location of all existing and proposed on-site drainage and dewatering facilities including, but not limited to; structure details and rim elevations.
 3. The timing and sequence of each proposed earth change.
 4. The location and description for installing and removing all proposed temporary soil erosion and sediment control measures.
 5. A description and the location of all proposed permanent soil erosion and sediment control measures.
 6. A program proposal for the continued maintenance of all permanent soil erosion and sediment control measures that remain after project completion including the designation of the person responsible for the requirements of section 8-378.
 7. A site specific topographic map, prepared by a professional surveyor as may be required by the development services department, depending on the size, scale or complexity of the project.

8. A description of all existing vegetation and predominant land surface features.
 9. Show clearly all sensitive and critical areas.
 10. As necessary, provide a separate dewatering plan incorporating discharge points anticipated flow, velocities and proper BMP placement and maintenance.
- (6) *Combination of plans:* The MEA may permit the consideration and combination of the plans in this section, provided clarity, completeness and compliance with the Rules can be retained.
- (7) *Waiver of requirements:* On very small projects, the specific plan requirements described in this section may be modified and permits required by this division issued on less rigorous requirements but in no case shall the requirements be less restrictive than Part 91 or the Rules, or this article. However, such plan must meet the minimum requirements of this article, Part 91 to ensure that accelerated soil erosion and sedimentation will be controlled.
- (e) *Utility construction.* Plans for utility construction that is not part of a developing site shall include, but not be limited to the following:
- (1) All features of the soil erosion and sediment control plan as described in subsection (c)(5);
 - (2) Soil erosion and sediment control plan must include all earth changes occurring on the site.
 - (3) Drawn to a scale as required by the project;
 - (4) Information as to how excavated materials will be handled and stored to prevent erosion;
 - (5) Information on trench backfill stabilization and surface restoration including schedule of placement;
 - (6) Information upon the existing drainage system along and crossing the system, including maintenance provisions.
- (f) *Cost estimates.* The plans shall include a separately stated estimate of the cost of all temporary and permanent soil erosion and sedimentation control measures, which shall be broken down into unit prices.

(Ord. No. C-721, § 1, 3-3-08)

Sec. 8-369. Review of plans.

- (a) The soil erosion and sedimentation control plan as previously described in section 8-368, shall be reviewed and approved by the development services department, or its designated representative who also has Part 91 certification, is current in training and has passed the examination. All plans identified in section 8-368 shall be required unless the development services department or development services director or his/her designee determines the scope of the proposed project requires only specified plans to be prepared. This review will not commence until such time that, all required fees have been paid as stated in section 8-373.
- (b) The development services department or its designated representative shall approve, disapprove or require a revision to the plans within thirty (30) calendar days following the receipt of the plans and a complete application for an erosion control permit:
 - (1) Notification of approval shall be in the form of the actual permit issuance.
 - (2) If disapproved, the applicant shall be notified in writing by certified mail. Reasons for disapproval and the conditions necessary to obtain approval shall be stated.
- (c) Any revisions or changes to the soil erosion and sediment control plan, must be submitted as required for review and approval by the MEA. However, to the extent such changes void or otherwise require duplication of engineering time expended in review of the original plan, a supplemental fee shall apply which shall be due and payable prior to issuance of the resultant permit.
- (d) The soil erosion and sedimentation control permit, or a copy, along with a complete set of the approved soil erosion and sediment control plan, shall be available at the site of the earth change for inspection at all times.

(Ord. No. C-721, § 1, 3-3-08)

Sec. 8-370. Inspections.

- (a) *Right-of-way entry and inspection.* The development services department or its designated representative shall inspect all soil erosion control measures. At any reasonable time, the development services department or its designated representative may enter upon public or private for the purpose of inspecting and investigating conditions or practices that may be in violation of this article, Part 91 or the Rules. However, an investigation or inspection under this subsection shall comply with the United States Constitution and the Michigan Constitution of 1963. No person shall interfere with an employee or its designated representative, of the development services department, nor shall any person molest or resist him or her in the discharge of this duty.

- (b) *Schedule.* On-site inspections before, during and after any change activity for which a permit required by this article has been issued shall be performed as required by the extent and erosion potential of the activity.
- (c) *Notification of development services department.* The permit holder shall notify the development services department at least twenty-four (24) hours before starting any earth change activity for which a permit has been issued.
- (d) *Invalidation of permit.* If upon inspection existing site conditions are found not to be as stated in the application on the approved plan and in accordance with soil erosion and sedimentation control specification rules, the permit will be invalidated. No earth disrupting work shall be undertaken, or continued by any person until revised plans have been submitted and a valid permit issued.
- (e) *Field changes.* Minor field changes and/or additional measures may be required or maintenance work shall be performed to assure erosion and sedimentation control. When it is determined by the development services department or its designee that the revision(s) to the site is significant, revised plans must be submitted to (and approved by) the development services department.

(Ord. No. C-721, § 1, 3-3-08)

Sec. 8-371. Performance guarantee.

- (a) As a condition for the issuance of a permit, except earth changes on a residential lot, the development services department shall require the applicant to post a performance guarantee in an amount sufficient to assure the installation, completion and continuation of such protective or corrective measures as may be required by the development services department. The amount of the guarantee shall not exceed one and one-half (1½) times the total cost of all estimated soil erosion and sediment control measures and appurtenant activities provided, the township may claim any reasonable and necessary costs and expenditures that exceed the guarantee.
- (b) In the event of failure of the permit holder to comply with this article, Part 91 and Rules, or the conditions set forth in the soil erosion and sediment control plan, the township shall implement the requirements, remedies and procedures available at law.
- (c) Upon permanent restabilization of all disrupted earth areas, performance guarantee or residual balance will be returned to the permittee along with an accounting of any funds used.

(Ord. No. C-721, § 1, 3-3-08)

Sec. 8-372. Preconstruction meetings.

Upon issuance of a soil erosion and sedimentation control permit, the landowner of record is required to attend a preconstruction meeting with the MEA and its authorized environmental consultants to review and discuss any and all procedures and requirements of this article, Part 91 and Rules, and approved soil erosion and sediment control plan. Included with the preconstruction practices methods and procedures are requirements for clearing, grubbing and initial BMP installations.

(Ord. No. C-721, § 1, 3-3-08)

Sec. 8-373. Fees.

It is the intent of the township that administration of this article be self-sustaining from fees imposed and to distribute such charges as equitably and fairly as possible. Therefore, the township board shall from time to time adopt such resolutions setting forth a schedule of application, permit, plan review, and inspection fees to be paid as shall be necessary to administer this article. Plan review fees shall cover the initial plan review and review of up to two (2) revisions. The township board may periodically revise the fee schedule as needed.

(Ord. No. C-721, § 1, 3-3-08)

Sec. 8-374. Construction as to nuisances.

Nothing stated in this article shall be construed to limit the power of the development services department to order the immediate and complete abatement of a public nuisance or menace to the waters of the state, wetlands, public infrastructure or any adjacent properties of the township. Any violation of the article, Part 91 and Rules, or of the approved plans and/or soil erosion and sedimentation control permit shall be deemed a nuisance per se subject to abatement by a court of competent jurisdiction.

(Ord. No. C-721, § 1, 3-3-08)

**DIVISION 2. - SOIL EROSION AND SEDIMENTATION CONTROL PERMIT,
VIOLATIONS, MAINTENANCE REQUIREMENTS.**

Sec. 8-375. - Application.

Sec. 8-376. - Soil erosion and sedimentation control permit required.

Sec. 8-377. - Soil erosion sedimentation control permit exemptions.

Sec. 8-378. - Permit restrictions and obligations of permittee.

Sec. 8-379. - Issuance.

Sec. 8-380. - Prerequisite to issuance of building permit.

Sec. 8-381. - Maintenance requirements.

Sec. 8-382. - Violations.

Sec. 8-383. - Enforcement, expenses and liens for expenses.

Secs. 8-384—8-390. - Reserved.

Sec. 8-375. Application.

- (a) *Submission.* A landowner or designated agent shall submit an application for a SESC permit. Proof of ownership and written statement from the landowner, authorizing him/her to secure a permit in the landowner's name (if the application is being submitted by a designated agent) are required at the time of submission of the application.
- (b) *Forms.* All applications submitted for approval will be on the SESC permit application form. Such forms shall be available from the development services department upon request at no charge.
- (c) *Time of application.* Application for a permit under these procedures shall be made prior to the start of any earth change including, but not limited to; construction of access roads, driveways, tree and shrub removal or grading. Any such unauthorized work will be considered a violation of this article regardless of any later actions taken toward compliance. Soil test borings, vegetative cutting for land surveys and percolation test efforts will not be considered a start of work under these procedures provided the activities do not constitute an earth change requiring a permit.
- (d) *Sequential applications.* On those projects so large or so complex that a plan encompassing all phases of the project cannot reasonably be prepared prior to initial groundbreaking, as required by the township, application for SESC permit on successive major incremental earth change activities must be submitted. All SESC permits issued on this basis will be clearly defined as to nature and extent of work covered for that phase. Any earth change beyond or subsequent to that described on the SESC permit must be covered by a separate approved plan before it may be undertaken.
- (e) *Plan.* The application shall be accompanied by three (3) complete sets of the proposed soil erosion and sedimentation control plan.

(Ord. No. C-721, § 1, 3-3-08)

Sec. 8-376. Soil erosion and sedimentation control permit required.

- (a) It shall be unlawful to permit, authorize or conduct an earth change without first obtaining a SESC permit with approved SESC plans from the development services department unless a permit and/or plans are not required under the provisions of this article, Part 91, or the Rules.
- (b) SESC permit requirements. Unless otherwise exempt by this article, Part 91, or the Rules, a landowner or designated agent who contracts for, allows, or engages in, an earth change in this township shall obtain a SESC permit from the development services department which shall be kept current throughout all active earth change operations, before commencing an earth change which:
 - (1) Disturbs one (1) or more acres of land; or
 - (2) Is within five hundred (500) feet of any waters of the state and wetlands.

(Ord. No. C-721, § 1, 3-3-08)

Sec. 8-377. Soil erosion sedimentation control permit exemptions.

- (a) A permit is not required for any of the following:
 - (1) A beach nourishment project permitted under Part 325 of Act No. 451 of the Public Acts of 1994, as amended, being MCL 324.32501 et seq.
 - (2) Normal road and driveway maintenance, such as grading or leveling, that does not increase the width or length of the road or driveway and that will not contribute sediment to lakes or streams.
 - (3) An earth change of a minor nature that is stabilized within twenty-four (24) hours of the initial earth disturbance and that will not contribute sediment to lakes or streams.
 - (4) Installation of oil, gas, and mineral wells under permit from the supervisor of wells if the owner-operator is found by the supervisor of wells to be in compliance with the conditions of Part 91.
 - (5) Subject to subsection (6), a person engaged in the logging industry, the mining industry, or the plowing or tilling of land for the purpose of crop production or the harvesting of crops is not required to obtain a permit. However, all earth changes associated with the activities listed in this section shall conform to the same standards as if they required a permit under this part. The exemption from obtaining a permit under this subsection does not include either of the following:
 - a. Access roads to and from the site where active mining or logging is taking place.
 - b. Ancillary activities associated with logging and mining.

- (6) The exemption in subsection (5) does not apply to a metallic mineral mining activity that is regulated under a mining and reclamation plan that contains soil erosion and sedimentation control provisions and is approved by the department under Part 631 of the Natural Resources and Environmental Protection Act.
- (7) Earth changes associated with well locations, surface facilities, flow lines, or access roads relating to oil or gas exploration and development activities regulated under Part 615 of the Natural Resources and Environmental Protection Act, if the application for a permit to drill and operate under Part 615 contains a soil erosion and sedimentation control plan that is approved by the department under Part 615. However, those earth changes shall conform to the same standards as required for a permit under this part. This subsection does not apply to a multi-source commercial hazardous waste disposal well as defined in section 625.06a of the Natural Resources and Environmental Protection Act.
- (8) As used in subsections e, f and g, "mining" does not include the removal of clay, gravel, sand, peat, or topsoil.
- (9) An authorized public agency is exempt from obtaining a permit from the development services department; however, such agency is still required to notify the development services department of each proposed earth change to be undertaken.
- (10) A residential property owner who causes the following activities to be conducted on individual residential property owned and occupied by him or her is not required to obtain a permit if the earth change activities do not result in or contribute to soil erosion or sedimentation of the waters of the state or discharge of sediment off-site:
 - a. Gardening, if the natural elevation of the area is not raised.
 - b. Post holes for decks, fencing, utility posts, mailboxes, or similar applications, if no additional grading or earth change occurs.
 - c. Removal of tree stumps, shrub stumps, or roots resulting in an earth change not to exceed one hundred (100) square feet.
 - d. All of the following activities, if soil erosion and sedimentation controls are implemented, the earth change is stabilized within twenty-four (24) hours of the initial earth disturbance, and soil erosion or sedimentation to adjacent properties or the waters of the state has not or will not reasonably occur:
 1. Planting of trees, shrubs, or other similar plants.
 2. Seeding or reseeding of lawns of less than one (1) acre if the seeded area is at least one hundred (100) feet from the waters of the state.

3. Seeding or reseeded of lawns closer than one hundred (100) feet from the waters of the state if the area to be seeded or reseeded does not exceed one hundred (100) square feet.
 4. The temporary stockpiling of soil, sand or gravel not greater than a total of ten (10) cubic yards on the property if the stockpiling occurs at least one hundred (100) feet from the waters of the state or wetlands.
 5. Seawall maintenance that does not exceed one hundred (100) square feet.
- (b) However, an earth change activity that does not require a permit under this section, or where a permit waiver has been granted, is not exempt from enforcement procedures under this article, Part 91 or the Rules promulgated there under if the exempted activity causes or results in a violation of this article, Part 91 or the Rules adopted thereunder.
- (c) The development services department may grant a permit waiver for an earth change after receiving signed affidavit from the landowner stating that the earth change will disturb less than two hundred twenty-five (225) square feet and that the earth change will not contribute sediment to lakes or streams.

(Ord. No. C-721, § 1, 3-3-08)

Sec. 8-378. Permit restrictions and obligations of permittee.

- (a) An SESC permit shall not be issued where:
- (1) The proposed work would cause uncontrolled soil erosion or sedimentation;
 - (2) The proposed work would cause hazards to the public safety and welfare;
 - (3) The work as proposed by the applicant, will damage any public or private property or interfere with any existing drainage course in such a manner as to cause damage to any adjacent property or result in the deposition of debris or sediment on any public way, infrastructure, or into any waters of the state or wetlands or create an unreasonable hazard to persons or property; or
 - (4) The land area for which work is subject to geological hazard to the extent that no reasonable amount of corrective work can eliminate or sufficiently reduce settlement, slope and stability or any other such hazard to persons or property; or the land area for which the work is proposed lies within the 100-year floodplain of any stream or watercourse (not specifically designated and delineated by the county as an area subject to flood hazard), unless a permit from the Michigan Department of Environmental Quality accompanies the application and a hydraulic report prepared by a licensed and professional engineer is submitted to certify that the proposed work will have, in the development services department opinion, no detrimental influence on the public welfare or upon the total development of the water shed.

- (b) No SESC permit shall be issued until the applicant has paid all required fees, posted all required guarantees, and otherwise complied with all requirements under this article, Part 91 and Rules as a precondition to the issuance of a permit.
- (c) The permit shall designate a one-year expiration date from the date of issuance; at which time additional reviews and/or fees may be required or assessed as determined under the fee schedule as adopted by the township board and amended from time to time. If the earth change for which a permit has been issued has not been commenced within one (1) year from the date of issuance of the permit, the permit shall lapse, provided that the development services department may extend the time for commencement of the earth change if the permittee requests an extension prior to the expiration of the initial period and no material change of circumstances has occurred.
- (d) An SESC permit issued under this article shall not relieve the permittee from complying with any other federal, state or local permits and regulations.
- (e) A permittee shall prepare and submit a program proposal that provides for continuation, maintenance, and fulfillment of all responsibilities imposed upon the permittee under this article, Part 91 and Rules in the event of any transfer of any interest in any property subject to the permit. The program proposal shall include permission for right of entry onto the site for periodic township inspections. The township shall maintain a file of such programs and shall from time to time, as it deems necessary, inspect the facilities. Continuation and fulfillment responsibilities and right of entry shall become a part of any sales or exchange agreement for the property subject to the permit.
- (f) The failure to comply with any term or condition of an approved permit or to timely complete all work as set forth in an approved plan, constitutes a violation of this article, Part 91 and Rules.
- (g) No final soil erosion and sedimentation control approval will be granted without permanent stabilization of the disturbed areas and a final grading and drainage approval, if applicable. When seasonal weather conditions do not permit permanent stabilization of the disturbed areas then a conditional soil erosion and sedimentation control approval may be granted by the development services director for up to six (6) months. A deposit of cash or a letter of credit in the amount of the remaining work needed to permanently stabilize the site must be submitted. Conditional soil erosion and sedimentation approval must be preceded by a final or conditional grading and drainage approval, if applicable. A final soil erosion and sedimentation control approval will always require a final grading and drainage inspection even if a final grading and drainage approval was previously granted.

(Ord. No. C-721, § 1, 3-3-08)

Sec. 8-379. Issuance.

When the soil erosion and sediment control plans are approved by the development services department and it is determined that the requirements of this article are met, a soil erosion and sedimentation control permit, plus two (2) additional copies, will be issued to the landowner. The development services department shall impose such conditions on the manner and extent of the proposed activity or use to ensure that the intent of this article is carried out and that the activity or use will be conducted in such a manner as will prevent as best possible soil erosion and sedimentation. The soil erosion and sedimentation control permit shall provide a specified or agreed upon time limit for completion of all permanent soil erosion and sedimentation control measures. The permit holder may be granted a permit extension provided a site inspection is conducted by the development services department to insure compliance with all required temporary soil erosion and sedimentation control measures. The permit holder shall pay an inspection fee in an amount to be approved by the township board.

(Ord. No. C-721, § 1, 3-3-08)

Sec. 8-380.- Prerequisite to issuance of building permit.

The development services department shall not issue a building permit to a person engaged in an earth change which requires a soil erosion and sedimentation control permit under this article until after landowner has first obtained the required soil erosion and sedimentation control permit with approved soil erosion and sedimentation control plans.

(Ord. No. C-721, § 1, 3-3-08)

Sec. 8-381. Maintenance requirements.

- (a) Persons, permittees, and landowners carrying out soil erosion and sedimentation control measures under this article, and all subsequent owners of property on which such measure has been installed, shall adequately maintain all permanent soil erosion and sedimentation control measures, devices and plantings in effective working condition. A program proposal shall be submitted by the permittee for continued maintenance of all such permanent control facilities which remain after project completion, including the identification of the person or entity responsible for maintenance. The proposal shall include permission for right of entry onto the site for periodic township inspections pursuant to the provisions of section 8-370. The township shall maintain a file of such programs and shall from time to time, as it deems necessary, inspect the facilities.
- (b) The owner of property that is subject to a permit under this article is responsible for compliance with the terms of the permit that applies to that property.
- (c) Except as provided in subsection (d), if property subject to a permit under this article is transferred, both of the following are transferred with the property:

- (1) The permit, including the permit obligations and conditions; and
 - (2) Responsibility for any violations of the permit that exist on the date the property is transferred.
- (d) If property is subject to a permit under this article and a parcel of the property, but not the entire property, is transferred, both of the following are transferred with the parcel:
- (1) The permit obligations and conditions with respect to that parcel, but not the permit itself; and
 - (2) Responsibility for any violations of the permit with respect to that parcel that exists on the date the parcel is transferred.
- (e) If property subject to a permit under this article is proposed to be transferred, the transferor shall notify the transferee of the permit in writing on a form developed and provided by the development services department. The notice shall inform the transferee of the requirements of subsection (b) and, as applicable, subsections (c) or (d). The notice shall include a copy of the permit. The transferor and transferee shall sign the notice, and the transferor shall submit the signed notice to the development services department before the property is transferred or a certificate of occupancy is issued.
- (f) The township may charge a fee for the transfer of a permit under subsections (c) or (d). The fee shall not exceed the administrative costs of transferring the permit. Fees collected under this subsection shall only be used for the enforcement and administration of this article by the township.

(Ord. No. C-721, § 1, 3-3-08)

Sec. 8-382. Violations.

- (a) A person shall not maintain or undertake an earth change governed by Part 91 or the Rules promulgated under Part 91, or this article, except in accordance with Part 91, the Rules promulgated under Part 91 or this article, and pursuant to any required soil erosion and sediment control plan or SESC permit approved by the development services department.
- (b) Except in accordance with or otherwise allowed by the provisions of this article, Part 91, or the Rules promulgated under Part 91 and pursuant to any required plan or permit(s), a person shall not, by act or omission, maintain any condition, or cause, contribute or engage in any activity that results in accelerated soil erosion or sedimentation of adjacent properties, infrastructure, or the waters of the state and wetlands.

- (c) Unless otherwise required or provided by this article, Part 91, the Rules promulgated thereunder, or pursuant to any approved plan or permit, a person shall not remove, destroy, alter, molest, damage, or tamper with any soil erosion or sediment control measure or devise nor shall any person knowingly impede, prevent, obstruct, or harass any person lawfully engaged in implementing any soil erosion or sediment control measures.
- (d) A notice of erosion control deficiency will be sent for violations of Part 91, Rules or this article. Upon reinspection if it is found that noncompliance still exists, a "recommendation to show cause" will be issued and determination for the development services department may issue a cease and desist order, stop work order and/or revoke a permit upon its finding that there is a violation of Part 91, the Rules or this article, or a finding that there is a violation of a soil erosion and sedimentation control permit or an approved soil erosion and sedimentation control plan.
- (e) If the development services department determines that soil erosion or sedimentation of adjacent properties, infrastructure, or to the waters of the state or wetlands has or will reasonably occur from land in violation of Part 91, the Rules or this article, the development services department may seek to enforce a violation by notifying any person who violates this article, Part 91 or the Rules, or the person who owns or possesses the land, by mail, with return receipt requested, of its determination. The notices shall contain a description of the violation and what must be done to remedy the violation with a compliance time of five (5) days.
- (f) After a notice of violation has been issued under subsection (e), a landowner or any person who causes, contributes, maintains, or commits a violation of Part 91, the Rules or this article shall implement and maintain soil erosion and sedimentation control measures in conformance with Part 91, the Rules or this article.
- (g) Except as otherwise provided in this subsection, not sooner than five (5) days after notice of violation of Part 91, the Rules, or this article has been mailed, if the condition of the land, in the opinion of the development services department may result in or contribute to accelerated soil erosion or sedimentation contributing to adjacent properties, infrastructures or to the waters of the state or wetlands, and if soil erosion and sedimentation control measures in conformance with Part 91, the Rules or this article are not in place, the development services department or its designated representative may enter upon the land and construct, implement, and maintain soil erosion and sedimentation control measures in conformance with Part 91, the Rules or this article. However, the development services department shall not expend more than ten thousand dollars (\$10,000.00) for the cost of the work, materials, labor, and administration without prior written notice in the notice provided in subsection (e) for the person who owns the land or commits any violation under this article that the expenditure of more than ten thousand dollars (\$10,000.00) may be made. If more than ten thousand dollars (\$10,000.00) is to be expended under this section, then the work shall not begin until at least ten (10) days after the notice of violation has been mailed.

(Ord. No. C-721, § 1, 3-3-08)

Sec. 8-383. Enforcement, expenses and liens for expenses.

- (a) All expenses including all administrative, attorney or other professional fees incurred by the MEA to construct, implement, and maintain soil erosion and sedimentation control measures to bring land into conformance with Part 91, the Rules or this article shall be reimbursed to the township by the person who owns the land.
- (b) The township shall have a lien against nonconforming property for the expenses incurred for bringing the land into conformance with Part 91, the Rules or this article. Or, the township may draw on any guarantee to obtain reimbursement for any and all expenses. However, with respect to single-family or multifamily residential property, the lien for such expenses shall have priority over all liens and encumbrances filed or recorded after the date of such expenditure. With respect to all other property, the lien for such expenses shall be collected and treated in the same manner as provided for property tax liens under the General Property Tax Act, 1893 Public Act 206, MCL 211.1 to 211.157.
- (c) A person who knowingly violates Part 91, the Rules or this article is subject to penalties described in section 1-10 of this Code in addition to any further remedies authorized by law including injunctive, equitable and declaratory relief including abatement of the conditions or activities giving rise to any violation.
- (d) Any civil fines collected under this section shall be deposited with the township in the township's general fund. If necessary, the township reserves the right to review fines periodically and adopt a fine schedule by resolution.
- (e) In addition to the penalty which may be assessed under this article, a person who violates Part 91 or the Rules is liable to the state for damages for injury to, destruction of, or loss of natural resources resulting from the violation. The court may order a person who violates Part 91, the Rules or this article to restore the area or areas affected by the violation to their condition as existing immediately prior to the violation or otherwise order abatement of the conditions and activities giving rise to any violation.
- (f) In addition to any sanctions or remedies expressly authorized under this article, any penalties, sanctions or remedies authorized by The Revised Judicature Act, as amended, Chapter 87, MCL 600.8701 et seq., may be imposed as well including injunctive, equitable and declaratory relief.

(Ord. No. C-721, § 1, 3-3-08)

Secs. 8-384—8-390. Reserved.