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ORDINANCE NO. 16-01

An ordinance to establish rules and regulations to control soil erosion and sedimentation, to establish a system of permits for the regulation of earth changes, to establish the Ottawa County Water Resources Commissioner as the officer responsible for implementation and enforcement, and to establish a system of fees, penalties, and civil infraction penalties for the violation of the ordinance, all as authorized by the Part 91 Soil Erosion and Sedimentation Control of the Natural Resources and Environmental Protection Act, Act 451 of the Public Acts of 1994 as amended. The Administrative Rules promulgated under the authority of Part 91 are hereby incorporated by reference.

I INTRODUCTION

Soil erosion can be classified as either natural or accelerated. Natural erosion is a geological process over which man has little or no control and may be very slow or rapid depending on various factors. Accelerated erosion is caused when development and urbanization of our environment occurs creating erosion and sedimentation through the alteration of drainage patterns, exposed soils, removal of organic matter and increased amounts of impervious surfaces through paving and compacting of soil, increasing the amount of storm water runoff.

Storm water runoff increases channel flow and erodes stream or river channels, which adds to the sediment load. Eventually, eroded soil is deposited in lakes, rivers, streams and wetlands in the form of sediment. Sediment damages the ability of the waterway to serve its natural functions.

Adverse effects of sedimentation include:

- Smothering aquatic life by clogging gills of fish, covering critical insect habitat and fish reproduction areas.
- Decreasing the watershed's ability to carry and retain storm water, clogging drainage systems and increasing chances of flooding.
- Affecting navigability of watercourses.
- Reducing the attractiveness of streams, rivers and lakes both recreationally and aesthetically.
- Carrying pollutants such as toxins and excess nutrients into waterways.
- Increasing water temperatures through heavy turbidity.

The consequences of uncontrolled erosion and off-site sedimentation can be significant and every reasonable effort must be made to provide effective erosion prevention and sediment control. Part 91, Soil Erosion and Sedimentation Control, of the Natural Resources and Environmental Protection Act, Act 451 of the Public Acts of 1994 as amended was enacted to address these problems. Part 91 has become the primary tool for combating uncontrolled erosion and sedimentation from earth change activities. This state law provides counties the authority to adopt ordinances to administrate and enforce Part 91. An ordinance to control soil erosion and sedimentation may be more restrictive, but not less restrictive than state law, in accordance with MCL Section 324.9105 (3).

AUTHORITY

By virtue of the powers vested in the Ottawa County Board of Commissioners under existing statutes and pursuant to Part 91, Soil Erosion and Sedimentation Control Act 451 of the Public Acts of 1994 as amended, being sections 324.9101 to 324.9123 (a) of the Michigan Compiled Laws (and the Administrative Rules promulgated by the State of Michigan under the authority of Part 91) there is hereby adopted an ordinance to provide standards to control, regulate, enforce and maintain

proper soil erosion and sedimentation control practices, for administrative procedures, and enforcement powers within the County of Ottawa.

DESIGNATION AS COUNTY ENFORCING AGENCY (CEA)

- A. The Soil Erosion and Sedimentation Control Enforcing Agency for earth changes proposed within the boundaries of Ottawa County shall be the Ottawa County Water Resources Commissioner.
- B. Earth changes permitted by Municipal Enforcing Agencies (MEA) or undertaken by Authorized Public Agencies (APA) shall be exempt from this ordinance. APA's include, but are not limited to the following:
 - Ottawa County Road Commission
 - Ottawa County Water Resources Commission
 - City of Holland Transportation Department
 - City of Holland Public Works Department
 - Grand Valley State University
 - State agencies including but are not limited to the Michigan Department of Transportation, the Michigan Department of Agriculture and Rural Development, the Michigan Department of Natural Resources, and the Michigan Department of Technology, Management and Budget.Municipal enforcing agencies may include cities, villages and townships.
- C. An APA is exempt from obtaining a permit but shall notify the County Enforcing Agency of any proposed earth change which is within the boundaries of Ottawa County.
- D. APA's are not exempt from Part 91 and the rules issued there under and are to ensure that no off-site sedimentation occurs as a result of their projects.
- E. When an earth change is under the jurisdiction of two or more municipal or county enforcing agencies, both agencies will have to issue permits in their own jurisdiction or coordinate through a formal agreement pursuant to the Urban Cooperation Act of 1967, (Ex Sess) PA 7, MCL 124.501 to 124.512 deciding which agency will have jurisdiction over the project.
- F. A person engaged in agricultural practices may enter into an Agricultural Agreement with the Ottawa County Conservation District to pursue such agricultural practices in accordance with the standards and requirements of Part 91 including the development of a project specific soil erosion and sedimentation control plan.

II. OBJECTIVES

The objectives of this ordinance are:

- A. To prevent accelerated soil erosion and off-site sedimentation resulting from earth changes proposed within Ottawa County.
- B. To ensure that all earth changes are permanently stabilized in a timely manner.
- C. To prevent unnecessary stripping of vegetation and loss of soils, especially adjacent to lakes, streams, and wetlands.
- D. To ensure that soil erosion and sedimentation control measures are incorporated into site development at an early stage in the planning, design and construction processes.
- E. To ensure that all drainage, soil erosion and sedimentation control measures are properly designed, constructed and maintained. To encourage the design and construction of soil erosion and sedimentation control measures that serve multiple purposes including but not limited to water quality protection, storm water management, wildlife habitat preservation and wetland protection.
- F. To eliminate the need for costly remedial projects, maintenance and repairs to lakes, streams and drainage systems as a result of accelerated soil erosion and sedimentation.

- G. To provide for enforcement of Part 91, the administrative rules, this Ordinance, and to establish penalties for violations.

III. PERMIT APPLICABILITY

- A. Soil Erosion and Sedimentation Control Permit shall be required for all earth changes within Ottawa County that disturb one or more acres of land or that are within 500 feet of the water's edge of any lake, stream, or waters of the state, including ponds less than 1 acre in size that discharges to a receiving watercourse. (wetlands exempt)
- B. An earth change activity that does not require a permit under Part 91 or this ordinance is not exempt from enforcement procedures under this ordinance if the activity causes or results in a violation of Part 91 or this ordinance.
- C. Permit Exemptions

(1) Sec. 9115a. Notwithstanding any other provision of this part, a person is not required to obtain a permit from a county or municipal enforcing agency for earth changes associated with the following agricultural practices if the earth change activities do not result in or contribute to soil erosion or sedimentation of the waters of the state or a discharge of sediment off-site: (a) The construction, maintenance, or removal of fences and fence lines. (b) The removal of tree or shrub stumps or roots. (c) The installation of drainage tile, irrigation, or electrical lines. (d) The construction or maintenance of 1 or more ponds that meet all of the following: (i) The earth change associated with the construction or maintenance is less than 5 acres. (ii) The earth change associated with the construction or maintenance does not result in a discharge of storm water into the waters of the state. (iii) The earth change associated with the construction or maintenance is not part of a larger plan of development. As used in this subparagraph, "larger plan of development" means a contiguous area where multiple separate and distinct construction activities are occurring under a single plan as identified in documentation or physical demarcation indicating where construction activities may occur.

(2) Notwithstanding any other provision of this part, 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 under this part if the earth change activities do not result in or contribute to soil erosion or sedimentation of the waters of the state or a discharge of sediment off-site:

- (a) An earth change of a minor nature that is stabilized within 24 hours of the initial earth disturbance.
- (b) Gardening, if the natural elevation of the area is not raised.
- (c) Post holes for fencing, decks, utility posts, mailboxes, or similar applications, if no additional grading or earth change occurs for use of the post holes.
- (d) Removal of tree stumps, shrub stumps, or roots resulting in an earth change not to exceed 100 square feet.
- (e) All of the following activities, if soil erosion and sedimentation controls are implemented, the earth change is stabilized within 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:
- (i) Planting of trees, shrubs, or other similar plants.
- (ii) Seeding or reseeding of lawns of less than 1 acre if the seeded area is at least 100 feet from the waters of the state.
- (iii) Seeding or reseeding of lawns closer than 100 feet from the waters of the state if the area to be seeded or reseeded does not exceed 100 square feet.
- (iv) The temporary stockpiling of soil, sand, or gravel not greater than a total of 10 cubic yards on the property if the stockpiling occurs at least 100 feet from the waters of the state.
- (v) Seawall maintenance that does not exceed 100 square feet.

- (3) Exemptions provided in this section shall not be construed as exemptions from enforcement procedures under this part or the rules promulgated under this part if the exempted activities cause or result in a violation of this part or the rules promulgated under this part.

A permit is not required for any of the following:

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 under this part. 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.
- A beach nourishment project permitted under Part 325 of Act 451 of the Public Acts of 1994 as amended.
 - 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.
 - Earth changes associated with well locations, surface facilities, flowlines, or access roads relating to oil or gas exploration and development activities regulated under Part 615 of Act 451 of Public Acts of 1994, as amended, 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 Part 91. This subsection does not apply to a multisource commercial hazardous waste disposal well.
- D. The Ottawa County Enforcing Agency may grant a permit waiver for an earth change after receiving a signed affidavit from the landowner stating that the earth change will disturb less than 225 square feet and that the earth change will not contribute sediment to lakes or streams.
- E. A “No Permit Necessary” letter may be issued if required by local municipality or state agency for activities exempted pursuant to Part 91 and the Rules or for earth change activity that does not trigger a permit based on its size or proximity to surface waters as defined pursuant to this ordinance or the rules promulgated under Part 91.

IV. PERMIT APPLICATION SUBMITTAL

An application for a permit shall be submitted to the Ottawa County Enforcing Agency by the landowner or designated agent. Application for a permit shall be made prior to the start of any earth change requiring a permit and work shall not be initiated until a permit has been issued. Any unauthorized work shall be considered a violation of this ordinance and can include a monetary penalty and a cease-and-desist order. Soil test borings, vegetative cutting for land surveys, percolation tests, or cutting of trees without removal of stumps shall not be considered a “start of work” under this ordinance.

A. Content of Permit Application

A Soil Erosion & Sedimentation Control permit application shall be obtained from the Ottawa County Water Resources Commissioner’s Office and shall include, but not be limited to the following information:

1. Existing site map

A map of existing site conditions on a minimum scale of the following:

If the earth change is less than 2 acres the scale shall be no more than 1" = 25'. If earth change is 2 to 5 acres, it shall be no more than 1" = 50'. If the subject property is greater than 5 acres, it shall be no more than 1" = 100'.

- Site boundaries and adjacent lands which accurately identify the site locations.

- Lakes, streams, wetlands, channels, ditches and other watercourses on and adjacent to the site. If lakes or streams are not located on or immediately adjacent to the site, the plan shall demonstrate through site location maps the proximity of the site to the nearest lake or stream.
 - One hundred year floodplains, floodway fringes and floodways.
 - Location of predominant soil types as identified by the soil survey or on-site soil borings.
 - Vegetative cover such as grasses, shrubs and trees.
 - Location and dimensions of storm drainage systems and natural drainage patterns on and immediately adjacent to the sites as well as any locations for anticipated dewatering.
 - Locations and dimensions of structures, roads, highways, utilities and paving.
 - Site topography at a contour interval not to exceed 5 feet.
2. Plan of proposed site conditions
A plan of expected final site conditions on the same scale as the existing site map showing the site changes, using the criteria listed for the existing site map. These can be incorporated into one plan using dark and light contour lines showing the grade changes.
- 3 Soil erosion and sedimentation control plan
- A description and the location of the physical limits of each proposed earth change.
 - Timing and sequence of each proposed earth change.
 - Locations and dimensions of all soil stockpiles.
 - The location and description for installing and removing all proposed temporary soil erosion and sediment control measures, including but not limited to the following: silt fence, temporary seeding, catch basin protection, check dams, diversion ditches, sediment basins, erosion control blankets, dewatering outlet locations and protection. Include permanent measures such as vegetation, rock riprap, retaining walls and permanent swales.
 - A description and location of all proposed permanent soil erosion and sedimentation control measures.
 - Provisions for maintenance of the erosion and sediment control measures during and after construction activities.
4. Fee Schedule
- Permit fee is required before the application review will commence. Should the project be canceled and a permit has not been issued, the fee may be refunded upon written request to the Soil Erosion and Sedimentation Control Agency.
 - Fees are based on acreage disturbed and shall be rounded up to the nearest acre. Fees will be set forth in Exhibit "A" to this ordinance and may be changed from time to time by resolution of the Ottawa County Board of Commissioners.
 - If all paperwork is not received within 30 days of submittal, application will be sent back as incomplete and a refund may be given.

V. REVIEW OF EROSION CONTROL PLAN/PERMIT ISSUANCE

- A. The enforcing agent shall, within 30 calendar days of receipt of the completed application, review the application and erosion and sedimentation control plan to determine whether the requirements of this ordinance have been met. A meeting may take place between developer, engineer, contractor and enforcing agent if necessary.

Following an inspection of the subject property, the enforcing agent shall determine whether the requirements are met by the erosion and sedimentation control plan. If complete, the enforcing agent shall approve the plan, write-up permit conditions, inform the applicant and issue a Soil Erosion and Sedimentation Control Permit.

- B. If requirements are not met the enforcing agent shall inform the applicant and either require additional information or disapprove the plan.
- C. It is recommended that a local agency which issues building permits shall not issue a building permit for an earth change within 500 feet of a lake, stream, waters of the state, or disturbing one or more acres of land until a soil erosion and sedimentation control permit has been issued by the enforcing agent.
- D. Soil Erosion and Sedimentation Control permits and waivers issued in accordance with this ordinance do not relieve the owner of responsibility for obtaining all other necessary permits or approvals from federal, state and/or county agencies. If requirements vary, the most stringent requirements shall be followed.
- E. If the services of an engineer are necessary during plan review, project construction or project completion, the permittee shall be responsible for any associated costs incurred by the engineer.

VI. PERMITS

- A. Work to be done under authority of a Soil Erosion and Sedimentation Control Permit shall be completed in accordance with the plans and specifications submitted and approved and is subject to special conditions, limitations and instructions.
- B. The Soil Erosion and Sedimentation Control Permit does not convey property rights in either real estate or material, nor does it authorize any injury to private property or invasion of public or private rights, nor does it waive the necessity of seeking federal assent, all local permits, or complying with other applicable state statues.
- C. The Soil Erosion and Sedimentation Control Plan and Permit shall be kept at the site of the earth change and available for inspections at all times during the duration of the project or until its date of expiration.
- D. The Soil Erosion and Sedimentation Control Permit does not prejudice or limit the right of a land owner to institute legal proceedings when necessary to protect his rights.
- E. Permit Conditions - All soil erosion and sedimentation control permits shall require the permittee to:
 - Install all erosion and sedimentation control measures as identified in the approved erosion and sedimentation control plan and any additional permit conditions.
 - Maintain all storm water drainage systems, erosion and sedimentation control measures and other facilities identified in the erosion and sedimentation control plan until the project has been completed and stabilized.
 - Assume responsibility for the prompt removal of any soil, debris or other materials washed, spilled, tracked, dumped or otherwise deposited onto public streets or other public thoroughfares as an incident to the land disturbing activity or during transit to and from the project site where in the opinion of the enforcing agent, such deposition constitutes a public nuisance or hazard.
 - Assume responsibility in working with the enforcing agent through on-site meetings when necessary to keep the project site in compliance with Part 91 and this ordinance.
- G. Inspections - The enforcing agent may enter the site of an earth change to obtain information for review of the erosion and sedimentation control plan and to conduct inspections during and after the earth change. The enforcing agent may enter at all reasonable times in or upon any private or public property for the purpose of inspecting and investigating conditions or practices that may be in violation of Part 91, or this ordinance.

1. An initial inspection shall be done prior to the issuance of a permit. Verification of the soil erosion and sedimentation control plan shall be performed at that time. Soil type, size of the project, relationship to a watercourse, and the topography of the land shall be determining factors. A site that rates higher in soil erosion potential will require a more thorough review. The developer shall expect higher erosion and sedimentation control costs on these types of sites.
2. To ensure compliance with the erosion and sedimentation control plan and permit, the enforcing agency shall inspect sites at any time during construction. The enforcing agency may conduct fewer inspections if, in the opinion of the enforcing agent, the conditions of this ordinance and the soil erosion and sedimentation control permit are being met.

H. Permit Expiration - Extensions

1. Expiration - Any site work conducted after permit expiration will be considered a violation and the enforcing agent shall issue a cease-and-desist order and/or municipal civil infraction.
2. Extensions
 - If additional time is needed, applicant shall apply for an extension at least two weeks prior to permit expiration date.
 - Updated construction schedule needs to be specific.
 - Extension fee shall be based on acreage unstabilized (see Exhibit "A").
 - An extension is allowed only when the project has not changed in size nor scope. Extensions are for the sole purpose of final seeding and stabilization of the site when due to delays or weather, the project was not able to be completed by the permit expiration date.
 - Only one permit extension will be granted. If project is not completed after extension expiration, a new Soil Erosion and Sedimentation Control permit application must be submitted to complete work, unless otherwise approved by the enforcing agent.
3. Permit / Project Cancellation

If for any reason a project is canceled by the owner the following conditions apply:

- If a Soil Erosion and Sedimentation Control permit has not been issued and the application has not been processed (application and plan review plus site inspection) all application fees shall be returned in full.
- If a Soil Erosion and Sedimentation Control permit has not been issued, but the application has been processed a refund of 50% of the application fees shall be returned.
- If a Soil Erosion and Sedimentation Control permit has been issued, the permit shall be canceled with no refund of application fees.

I. Site Plan & Soil Erosion and Sedimentation Control Plan Revisions

If at any time after the Soil Erosion and Sedimentation Control Permit has been issued site plans and/or soil erosion and sedimentation control plans are revised by the permittee or the permittee's engineer all revised plans shall be submitted to the enforcing agent for review. If the permittee fails to notify the enforcing agent of plan revisions and the resulting revisions cause soil erosion, potential for erosion, or off-site sedimentation, a cease-and-desist order shall be issued.

VIII. STANDARDS AND SPECIFICATIONS FOR EROSION CONTROL MEASURES

All soil erosion and sedimentation control plans and specifications including extensions of previously approved plans shall include provisions for erosion and sedimentation control in accordance with, but not limited to, the standards contained in the "Guidebook of Best Management Practices for Michigan Watersheds" (http://www.michigan.gov/documents/deq/deq-wb-nps-Intro_250601_7.pdf) published by the Michigan Department of Environmental Quality in addition

to "The Field Office Technical Guide" (<http://efotg.sc.egov.usda.gov/>) published by United States Department of Agriculture/Natural Resources Conservation Service, the MDOT SESC manual, and other standards and specifications in existence in the area governed by this ordinance.

- General Principles - The following principles apply to all land disturbing activities within Ottawa County and should be used in the preparation of submissions required under this ordinance:
 1. To minimize the potential for soil erosion, development should fit the topography and soils of the site. Areas with steep slopes where deep cuts and fills may be required should be avoided wherever possible and natural contours should be followed as closely as possible.
 2. Natural vegetation should be retained and protected wherever possible. Tree removal should be kept to a minimum wherever possible as they provide root/soil stability. Areas immediately adjacent to streams and lakes also should be left undisturbed wherever possible.
 3. All activities on a site should be conducted in a logical sequence so that the smallest practical area of land will be exposed for the shortest practical period of time during development.
 4. Sediment basins, silt traps and filters shall be designed to remove sediment from storm water before the storm water leaves the site of the earth change activity.
 5. Provisions should be made to accommodate the increased runoff caused by changed soil and surface conditions during and after development. Basins, swale areas and mixed use of pavement/grass areas shall be used to provide storage for excess storm water that may otherwise cause channel scouring and increased flooding due to resultant velocities.
 6. Wintertime construction, defined as that occurring after October 15 and through March 31, or those sites determined to be environmentally sensitive as defined herein, will require additional controls and requirements which include:
 - Use of straw blankets over all graded ditches, channels, swales and slopes.
 - Daily inspections and maintenance and/or repair of controls immediately.
 - Immediate stabilization including heavy mulch as areas are uncovered.
 - More specific timetable for construction and maintenance activities planned for inclement weather.
 - More significant phasing design and limits on amount of clearing at one time.

IX. EROSION AND SEDIMENT CONTROL REQUIREMENTS

- Prior to construction, to minimize the potential for soil erosion, development shall compliment the topography and soils of the site. Earth changes shall be conducted in a manner consistent with the standards in Section IX of this ordinance. Silt fence shall be installed and trenched in a minimum of six inches below the soil surface prior to commencement of site work.
- a. Phasing of site work - All earth changes shall be designed, constructed and completed in a manner which will limit the exposed area of disturbed land for the shortest possible period of time as determined by the county enforcing agent. This may require large sites with high erosion potential to be constructed in phases.
- b. Sediment control - Sediment caused by accelerated soil erosion shall be removed from runoff water before it leaves the site of the earth change. All temporary and permanent erosion control measures designed and constructed for the conveyance of water around, through and from the earth change shall limit the water flow to a non-erosive velocity.
- c. Sediment basins / storm water ponds - All temporary and permanent storm water collection areas shall be one of the first items of construction. These facilities, including all temporary sediment basins and storm water retention/detention areas, must be stabilized before allowing any stormwater to be discharged into them. The collection and filtering of all storm water

runoff from the site of the earth change is dependent upon these facilities being constructed and stabilized properly.

- d. Dewatering - Water discharged from a pump, sediment basin, or diversion channel shall not be discharged in a manner that causes erosion off-site or in the receiving channel or allows sediment to be discharged off-site or into the receiving channel.
- e. Soil Stockpiling - Soil stockpiled on-site shall be placed a significant distance from all bodies of water and shall be protected with silt fence and grass seeding to prevent erosion of stockpiles. Any soil stockpiles left on-site more than 2 months shall be seeded with a grass seeding. On sandy sites, a sprinkling system shall be set up to water stockpiles to prevent wind erosion.
- f. Tracking - Soil being tracked from a site onto public or private roadways shall be minimized. Installation of an access drive with rock or crushed concrete shall be used to limit tracking. If sedimentation occurs due to tracking from the site, the sediment shall be collected and removed in a manner consistent with the intent of this ordinance. Daily street sweeping shall be performed as part of soil erosion and sedimentation control maintenance.
- g. Drain inlet protection - All storm drain inlets shall be protected against sedimentation through the use of silt sacks or other methods meeting the standards and specifications in Section IX of this ordinance. Filter fabric under the grate is no longer recommended.
- h. Site erosion control - Runoff passing through a site from adjacent areas shall be diverted from or around disturbed areas. Where it is part of an approved plan, one or more sediment basins shall be constructed. Field modifications of the existing erosion and sedimentation control plan may be made only following written permission from the county enforcing agent.
- i. Permanent soil erosion control measures for all slopes, channels, ditches, or any disturbed land area shall be completed within five calendar days after final grading or the final earth change has been completed.
- j. Dust Control- Dust control measures for construction activities include minimization of soil disturbance, applying mulch and establishing vegetation, water spraying, surface roughening, applying polymers, spray-on tackifiers, chlorides, and barriers.
- k. Erosion Control Blanket- Erosion Control Blanket or equivalent BMP shall be installed on all disturbed slopes 1:3 or greater, and in all areas of concentrated flow after final grading.

X. MAINTENANCE OF SOIL EROSION AND SEDIMENTATION CONTROL MEASURES

- A. During the period between initial ground breaking or site preparation and the permanent stabilization of the soil surface. All sediment basins and other soil erosion and sedimentation control measures shall be maintained by the contractor or landowner.
- B. Maintenance responsibilities shall become a part of any sales or exchange agreement for the land on which temporary and permanent soil erosion and sedimentation control measures are located. A transfer request must be received by the enforcing agent when there is a change in ownership.
- C. Catch basins for all new development sites need to be cleaned out prior to certificate of completion if there is 6" or more of sediment accumulation. The enforcing agent will need proof of invoice from an environmental cleaning service or a signed statement from the contractor stating that the catch basins have been sufficiently cleaned. This requirement may also apply to new single family home construction based on site conditions.

XI. ENFORCEMENT

- A. All earth changes in Ottawa County, including earth changes exempt from permit requirements are subject to the enforcement provisions and penalties of this ordinance.
- B. The county enforcing agent shall have the authority to issue a cease-and-desist order and shall revoke a permit upon its finding that there is a violation of Part 91, of this ordinance, or where there is a violation of any permit conditions, and may also be issued a municipal civil infraction. (Refer to Exhibit "B", municipal Civil Infraction Fine Schedule).

1. The county enforcing agent shall issue a cease-and-desist order if:
 - Any earth change regulated under this ordinance is being conducted without a Soil Erosion and Sedimentation Control Permit, and a municipal civil infraction shall be issued to the landowner or contractor of the activity.
 - The erosion and sedimentation control plan is not being implemented in good faith.
 - Conditions of the permit are not being met.
2. A cease-and-desist order may be rescinded if, in the opinion of the enforcing agent, the deficiencies have been corrected in a sufficient and timely manner.
3. Three days after posting the cease-and-desist order, the enforcing agent may issue a notice of violation outlining the violations to the violator and stating that, five days after issuing the notice of violation, if deficiencies have not been corrected, the enforcing agent will use the surety bond or bank letter of credit to perform work necessary to provide compliance with this ordinance not to exceed \$10,000.00 or issue a municipal civil infraction. (The notice of violation shall contain a description of specific control measures that would bring the site into compliance.)
4. Any violation of the provisions of this ordinance shall be subject to a municipal civil infraction according to the fine schedule in Exhibit "B". Each act of violation and each day a violation exists shall constitute a separate offense.
5. In addition to any other remedy provided in this ordinance or under the laws of the State of Michigan, a person who owns land and is not in compliance with the terms of this ordinance and who, after notice, refuses to implement and maintain soil erosion and sedimentation control measures in conformance with this part is responsible for a municipal civil infraction and may be ordered to pay a civil fine. Any Ottawa County Sheriff's Deputy, the Ottawa County Water Resources Commissioner, and any authorized employee agent or designee of the Ottawa County Water Resources Commissioner, are authorized to issue and serve a municipal civil infraction citation under this ordinance if he or she has reason to believe that a person has committed a municipal civil infraction violation of this ordinance.
6. The enforcing agent may notify the Michigan Department of Environmental Quality of any violations of this ordinance, including violations attributable to a land use by an authorized public agency.

DEFINITIONS

The following terms and phrases shall have the meaning given herein, unless the context otherwise requires:

Accelerated Soil Erosion - The increased loss of the land surface that occurs as a result of human activities.

Agricultural Practices - All land farming operations except the plowing or tilling of land for the purpose of crop production or the harvesting of crops.

Applicant - A person applying for a permit pursuant to the provisions of this Ordinance.

Authorized Public Agency (APA) - A state agency or an agency of a local unit of government authorized under section 9110 of Part 91 to implement soil erosion and sedimentation control procedures with regard to earth changes undertaken by it.

Cease-and-Desist Order - A notice issued by the Soil Erosion Control Agency to a landowner to require the landowner to cease earth change activities and remedy improper practices.

Certificate of Completion - A written statement by the authorized enforcement agent that specific construction has been inspected and found to comply with all permit conditions and requirements specified in this ordinance.

Channel - The portion of a natural stream which conveys normal flows of water or a ditch or channel excavated for the flow of water or which forms a connecting link between two or more bodies of water.

County Enforcing Agency (CEA) - A county agency or a conservation district designated by a county board of commissioners under section 9105.

Detention Basin - A structure or facility, natural or artificial, which stores storm water on a short-term basis and releases it at a controlled rate. A detention basin may drain completely after a storm event or it may be a body of water with a fixed minimum and maximum water elevation between runoff events. A detention basin may also function as a sediment basin during construction activities.

Discharge - The rate of flow of water passing a given point and time, measured in cubic feet per second (cfs).

Diversions - An erosion control measure consisting of a dike, ditch or a combination of both that is used to intercept and redirect surface runoff.

Earth Change - A human-made change in the natural cover or topography of land including cut and fill activities, which may result in or contribute to soil erosion or sedimentation of the water's of the state. Earth change does not include the practice of plowing and till soil for the purpose of crop production.

Enforcing Agent - A person designated by the County Enforcing Agency to carry out Part 91 and the provisions of this ordinance.

Environmentally Sensitive Sites - A site with one or more of the following characteristics:

- Sites with heavy clay or clay/silt soils.
- Sites where an earth change will take place on slopes greater than 20% (5 ft. horizontal to 1 ft. vertical).
- Sites which may cause sedimentation onto adjacent lands if changes occur.
- Sites located within 100 ft. of protected wetland or a watercourse.
- Other sites identified by local units of government as having a high potential for environmental degradation and flooding as a result of soil erosion or storm water runoff, on-site or off-site.

Erosion - The process by which the ground surface is worn and carried away by the action of wind, water, gravity or a combination thereof.

Existing Grade - The vertical location of the existing ground surface prior to excavation or filling.

Lake - The Great Lakes, and all natural and artificial inland lakes 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 acre. "Lake" does not include sediment basins and basins constructed for the sole purpose of storm water retention, cooling water, or treating polluted water.

Local Ordinance - An ordinance created by a local unit of government under Part 91 providing for soil erosion and sedimentation control.

Minor Earth Change - Earth changes of a minor nature that will not result in sedimentation of a lake, stream, drainage system or adjacent property, where the disturbed earth surface is stabilized within one day of the initial earth disturbance. If an earth change activity is considered minor, a permit is not required.

Non-erosive Velocity - A speed of water movement that is not conducive to the development of accelerated soil erosion.

Part 91 - Part 91, Soil Erosion and Sedimentation Control of the Natural Resource and Environmental Protection Act, Act 451 of the Public Acts of 1994, as amended.

Permanent Erosion and Sediment Control Measures - Control measures which are installed or constructed to control soil erosion or off-site sedimentation which are left permanently in place and maintained after project completion.

Permittee - The landowner whose property the earth change is being conducted on.

Phasing - Constructing an earth change in a manner that limits the exposed area of disturbed land for the shortest possible period of time.

Protected Wetland - A wetland which meets one or more of the following criteria:

- A wetland which is within 500 feet of a lake or stream.
- A wetland which is five or more acres in size.
- A wetland subject to regulation by a township, village, city, county, state or federal government.
- A wetland which is within 1000 feet of the Great Lakes.

Retention Basin - A storm water holding area, either natural or human made, which does not have an outlet other than an emergency overflow spillway. A retention basin may also function as a sediment basin.

Sediment - 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.

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

Stream - 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 Section 280.1 et seq. of the Michigan Compiled Laws, 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.

Vegetative Cover - Grasses, shrubs, trees and other vegetation that provide a sufficient subsurface root mat system and coverage of soil surfaces to hold and stabilize soils.

Waters of the State- The Great Lakes and their connecting waters, inland lakes and streams as defined in rules promulgated under this part, and wetlands regulated under part 303.

Watershed - the area of land that includes a particular river or lake and all the rivers, streams, etc., that flow into it.

Wetland - 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. A wetland will contain a predominance, not just an occurrence, of wetland vegetation, aquatic life, or hydric soil.

Wetland Vegetation - Plants, including but not limited to trees, shrubs and herbaceous plants that exhibit adaptations to allow under normal conditions germination or propagation or growth with at least their root systems in water or saturated hydric soil.

REPEAL OF PRIOR ORDINANCES

The County of Ottawa Soil Erosion and Sedimentation Control Ordinance (dated November 2005) is hereby repealed, effective as of the effective date of this ordinance. Any other ordinances or substantive provisions of any other ordinance which conflict with this ordinance are hereby repealed, as of the effective date.

EFFECTIVE DATE

This ordinance was adopted by the Ottawa County Board of Commissioners on May 10, 2016. This ordinance shall become effective on June 1, 2016, which shall be the “effective date” of this ordinance.

I hereby certify the foregoing to be a true copy of the ordinance adopted at a board meeting of the Ottawa County Board of Commissioners on the 10th day of May, 2016.

EXHIBIT "A"
FEE SCHEDULE

Subdivisions or lot developments, Condos, Apartment Complexes, Mobile Home Parks, Commercial, Industrial Developments, Service Facilities, Schools, Parking Lots Churches, including additions or demolitions: (permit max of 2 yrs.)

Up to 1 acre.....\$200.00
Each additional acre.....\$ 30.00

Cut & Fill Operations: (permit max of 2 yrs.)

1st acre\$120.00
Each additional acre.....\$ 30.00

New Single Family Homes/Duplexes: (permit max of 1 yr.)

Up to 1 acre.....\$100.00
Each additional acre.....\$ 10.00

Minor projects:

septic systems, single family home demolition, single family home activities up to 750sf; anything over 750 sf falls under the new single family home category: (permit max of 1 yr.)
.....\$ 50.00

Transportation Facilities, Sidewalk, Trails, Utilities, Oil & Mineral Wells: (permit max of 1 yr.)

Up to ½ mile\$120.00
Each additional mile or fraction there of\$ 45.00

Water Impoundments, Construction or Improvements: (permit max of 1 yr.)

Ponds and wetlands up to an acre\$120.00
Each additional acre.....\$ 10.00
Waterway construction or improvement up to ½ mile.....\$120.00
Each additional mile of fraction there of\$ 45.00

Sand & Gravel Mining Operations: (permit max of 5 yrs.)

1st acre\$240.00
Each additional acre\$ 10.00
*Extension (per acre).....\$ 10.00

Extension of Permit Fee. *(other than sand and gravel mining operations):

Ext. max 1 yr. Standard \$30.00 per acre for acreage still unstabilized (acreage shall be rounded up)

Permit Waiver Fee, No Permit Necessary Letter..... \$10.00

Assurance of Compliance Bond..... \$1,000.00 per acre

A bond will be required prior to the approval of a permit on sites 10 acres or greater in size, in the form of surety bond, certified check or irrevocable bank letter of credit, whichever the applicant selects. \$1,000.00 per acre disturbed. A bond may also be required for any site at the discretion of the enforcing agent.

EXHIBIT "B"
CIVIL INFRACTION FINE SCHEDULE

Single Family Homes/Duplexes:

(Sec V.A.)	a. No permit	\$250.00
	i) Repeat offense	\$500.00
	b. Other violations	\$250.00
	c. Repeat offense	\$750.00

Subdivision or Lot Developments, Condos, Apartment Complexes, Mobile Home Parks, Commercial Developments, Industrial Developments, Services Facilities, Schools, Churches, Cut & Fill Operations, Transportation Facilities, Utilities, Oil & Mineral Wells, Water Impoundment Construction or Improvements, Sand & Gravel Mining Operations and all other development:

(Sec V.A)	a. No Permit	\$750.00
(Sec X.E)	b. Failure to file dewatering plan or failure to follow approved dewatering plan	\$750.00
(Sec XI.A)	c. Failure to maintain sedimentation and erosion controls	\$750.00
(Sec VIII.F.3)	d. Tracking sediment onto roadway	\$750.00
(Sec VIII.F.2)	e. Failure to stabilize critical areas	\$750.00
(Sec VIII.F.2)	f. Failure to repair de-stabilized areas	\$750.00
(Sec VIII.A)	g. Failure to comply with permit restrictions	\$750.00
	h. Other violations	\$750.00
	i. First repeat offense	\$1,500.00
	j. Second and subsequent repeat offense	\$2,500.00