# *ARTICLE VII. SOIL EROSION AND SEDIMENTATION CONTROL*

## *DIVISION 1. AUTHORITY; PURPOSE; INTERPRETATION*

### Sec. 26-431. 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, Act 451 of 1994, MCL 324.9101 et seq., as amended.

(Ord. No. 10-2007, § 1.01, 10-15-2007)

### Sec. 26-432. Purpose.

The purposes of this article shall be:

(1) To protect our lakes, streams, rivers, wetlands and watercourses from unnecessary degradation due to soil erosion and sedimentation;

(2) To preserve high-quality water essential to persons and the health of our natural environment;

(3) To protect vital land resources from soil erosion and sedimentation;

(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, placement and stockpiling of soils, soil erosion and sedimentation.

(Ord. No. 10-2007, § 1.02, 10-15-2007)

### Sec. 26-433. Intent.

The intent of Part 91 and this article is to achieve effective and reasonable control of accelerated soil erosion to protect the waters of the state and Township (including wetlands) and to protect properties adjacent to any earth change. This shall be accomplished 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 Township (including wetlands) or that may result in damage to adjacent properties to implement and maintain soil erosion and sedimentation control measures. These measures shall effectively reduce soil erosion or sedimentation from the land on which the earth change has been made and shall require compliance with applicable best management practices, in particular those relating to sedimentation control structures and managerial and vegetative establishment practices. The reduction of soil erosion or sedimentation 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 construction sites and reaching the waters of the State of Michigan and Township wetlands. This is to be accomplished by the enforcement of soil erosion and sediment control programs by the Township.

(Ord. No. 10-2007, § 1.03, 10-15-2007)

## Sec. 26-434. Incorporation by reference.

For the purposes of this article, the following statute and related regulations and/or rules are incorporated by reference by the Township as part of this article: Part 91 of Act 451 of 1994, MCL 324.9101 et seq., and the rules promulgated pursuant to Part 91 by the Michigan Department of Environment, Great Lakes, and Energy, to the extent that this article is not more restrictive.

(Ord. No. 10-2007, § 1.04, 10-15-2007; Ord. No. 8-2024, § 1, 12-16-2024)

## Sec. 26-435. Notification.

This article is more restrictive than Part 91 and the rules as it governs all earth changes regardless of size, unless otherwise exempted under this article. The Township shall notify a person receiving a permit under this article that the article is more restrictive than Part 91 and the rules.

(Ord. No. 10-2007, § 1.05, 10-15-2007)

## Sec. 26-436. Construction.

The provisions of this article shall be construed, if possible, to be consistent with and in addition to relevant State regulations and statutes.

(Ord. No. 10-2007, § 1.06, 10-15-2007)

## Secs. 26-437—26-450. Reserved.

# *DIVISION 2. DEFINITIONS*

## Sec. 26-451. Definition of terms.

The following terms, phrases, words and derivatives shall have the meanings defined below:

*Best management practices.* Those structural, vegetative or managerial practices used to treat, prevent or reduce water pollution such as temporary seeding on exposed soils, detention and retention basins for sediment control, and scheduling and implementation of all best management practices to ensure their effectiveness, and include the minimum control measures contained in the most recent version of the State of Michigan's "Guidebook of Best Management Practices for Michigan Watersheds."

*Contaminants:* A hazardous substance in a quantity which is or may become injurious to the environment or to the public health, safety, or welfare.

*Development*. Any human-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, dredging, filling, grading, paving, excavation or drilling operations.

*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 waters of the State of Michigan or onto properties adjacent to the change. This includes, but is not limited to, grading and preparation for wells, septic fields (including perimeter drains), driveways, foundations, backfill, final grade changes, and stockpiling of

material. "Earth change" shall not apply to the practice of plowing and tilling soil for the purpose of crop production and ordinary household gardens.

*EGLE.* The Michigan Department of Environment, Great Lakes, and Energy.

*Erosion.* When land is diminished or worn away due to wind, water, or glacial ice. Often the eroded debris (silt or sediment) becomes a pollutant via stormwater runoff. Erosion occurs naturally but can be intensified by land-clearing activities such as farming, development, road building, and timber harvesting.

*Major project.* Any earth change that will disturb five acres or more of property.

*Minor project.* Any earth change (other than on a single-family residential project) that will disturb less than five acres of property.

*Municipal enforcing agency.* The municipal enforcing agency shall be the Utilities Department of Ann Arbor Charter Township. One or more individuals affiliated with the Township Utilities Department shall have current certificates of training issued under Section 9123 of Part 91 to administer this article.

*NREPA.* Natural Resources and Environmental Protection Act, Act 451 of 1994, MCL 324.101 et seq., as amended.

*Part 91 and the rules.* Part 91, Soil Erosion and Sedimentation Control of NREPA (MCL 324.9101) and the rules promulgated under Part 91 by the Michigan Department of Environment, Great Lakes, and Energy.

*Person.* The word "person" means any individual, partnership, corporation, association, club, joint venture, estate, trust, governmental unit, and any other group or combination acting as a unit, and the individuals constituting such group or unit.

*Plowing or tillage*. The mechanical manipulation of the soil to prepare it for planting as part of a Farm Operation, as defined in Chapter 74 – Zoning, Sec. 74-2.

*Sediment.* Mineral or organic particulate matter that has been removed from its site of origin by the processes of soil erosion, is in suspension in water, or is being transported.

*Single-family residential project.* An earth change on a parcel containing an existing single-family residence owned and occupied for single-family residential purposes that disturbs less than one acre of property.

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

*Township.* Ann Arbor Charter Township.

*Township Board.* Ann Arbor Charter Township Board.

(Ord. No. 10-2007, § 2.01, 10-15-2007; Ord. No. 8-2024, § 2, 12-16-2024)

### Secs. 26-452—26-460. Reserved.

## *DIVISION 3. GENERAL PROVISIONS*

### Sec. 26-461. Applicability; permit; permit waivers.

(a) A person shall not maintain or undertake an earth change governed by this article except as authorized by a permit issued by the municipal enforcing agency.

(b) An owner of property in the Township who contracts for, allows, or engages in a public or private earth change shall obtain a permit from the municipal enforcing agency before commencing an earth change, except: (i) earth changes by an authorized public agency approved under Section 9110 of Part 91, and (ii) earth changes exempted under section 26-465 below. An earth change activity that does not require a permit under section 26-465 is not exempt from enforcement procedures under this article, Part 91 or the rules if the exempted activity causes or results in a violation of this article, Part 91 or the rules.

(c) An owner may request from the municipal enforcing agency a permit waiver for an earth change that will disturb less than 225 square feet and that will not contribute to sedimentation of lakes or streams, or adjacent properties.

(d) At the time that the permit application is submitted to the municipal enforcing agency:

(1) For projects consisting of an earth change activity which disturbs one or more acres of land or which is within 500 feet of a lake, stream, or protected wetland as defined by Section 26-106 of the Township Code of Ordinances, the applicant shall submit a soil erosion and sedimentation control plan as set forth in the SESC plan checklist attached to the SESC permit application which is consistent with Part 91 and the rules (including, but not limited to, Rules 323.1703 and 323.1708—323.1710), along with any other document required by the municipal enforcing agency. The soil erosion and sedimentation control measures shall also be implemented and maintained in accordance with best management practices and the approved SESC plan.

(2) For projects consisting of an earth change activity which disturbs less than one acre of land, is greater than 500 feet from a lake, stream, or protected wetland as defined by Section 26-106 of the Township Code of Ordinances, and does not otherwise require a SESC permit according to Part 91 and the rules, the applicant shall submit a Grading Plan as set forth in the Grading Plan checklist attached to the Grading Plan permit application. Soil erosion and sedimentation control measures shall be required as part of the Grading Plan, however the Grading Plan does not need to comply with the Part 91 requirements.

(e) The owner of property that is subject to a permit under this article is responsible for compliance with the terms of the permit that apply to the owner's property.

(f) The Township Building Official shall not issue a building permit for any proposed construction, alteration or improvement within the Township unless the applicant provides evidence that any necessary permit for an earth change under this article has been approved and all fees and deposits paid.

(Ord. No. 10-2007, § 3.01, 10-15-2007; Ord. No. 8-2024, § 3, 12-16-2024)

## Sec. 26-462. Filling Requirements

(a) Importing and Movement of Soil, Sand, Clay, Gravel or Other Materials.

(1) Material Requirements

a. All imported fill shall be uncontaminated excavated soil as defined by Part 115 and Part 201 of the Michigan Natural Resources and Environmental Protection Act. Imported fill shall be free of trees, stumps, or other similar land-clearing debris, and construction materials including brick, masonry, asphalt pavement, asphalt millings, broken concrete, and any other material not considered to be an uncontaminated excavated soil.

b. Imported fill shall be free of contaminants as listed in the EGLE Generic Residential Cleanup Criteria and Screening Levels promulgated or issued under Part 201 of the Michigan Natural Resources and Environmental Protection Act, MCL 324.20101 et seq., as amended.

c. The Township may have any imported material inspected and tested as it deems necessary to determine that the material is uncontaminated excavated soil. All inspections and testing shall be at the expense of the property owner.

d. If the Township finds that any materials other than uncontaminated excavated soil has been imported, the Township may require that the non-compliant materials are completely removed from the property and disposed of in an approved landfill accepting such materials. In no case shall contaminated materials be moved to another property in the Township that is not an approved landfill. The Township may also require a groundwater and surface water monitoring program be implemented, based on the type and extent of contaminants, and continue annually as deemed necessary. Based on the results of the testing, semiannual monitoring may be required. The monitoring program must include the following standards:

1. Groundwater Monitor Wells. All monitor wells shall be sampled and analyzed in accordance with Part 22 of the Michigan Natural Resources and Environmental Protection Act sampling and analysis protocols. A minimum of two (2) sampling events are required (four or more are preferred), one event during a high groundwater elevation period and the other during a low groundwater elevation period. All laboratory testing shall be conducted in conformance with the most sensitive current applicable U.S. Environmental Protection Agency Test Method available, and data shall be compared to EGLE Generic Residential Cleanup Criteria and Screening Levels promulgated or issued under Part 201 of the Michigan Natural Resources and Environmental Protection Act, MCL 324.20101 et seq., as amended. Testing shall include the following indicator parameters:

   i. static water level elevation;

   ii. groundwater temperature;

   iii. specific conductance;

   iv. pH;

   v. dissolved oxygen;

   vi. redox potential;

   vii. total dissolved solids (TDS);

   viii. The concentrations of each the following: chloride, sodium, calcium, sulfate, bicarbonate, magnesium, manganese, iron, potassium, phosphorus, and nitrate nitrogen;

   ix. Resource Conservation and Recovery Act (RCRA) metals, and

   x. total petroleum hydrocarbons (TPH);

   xi. If TPH is detected, then the following testing is also required:

      (a) Polycyclic aromatic hydrocarbons (PAH)

      (b) Volatile organic compounds (VOCs) and Semi- volatile organic compounds (SVOCs)

      (c) Methyl tert-butyl ether (MTBE)

2. Surface Water. The Township's consultant shall determine the number, type and location of surface water samples necessary to identify potential surface water impacts from filling

operations. Each river, stream and other readily flowing body of water shall be sampled in locations, subject to obtaining rights of access, to be determined in consultation with the Township's consultant for the following parameters:

i. water elevation;

ii. base/bed elevation;

iii. pH;

iv. conductivity;

v. total dissolved solids (TDS); and

vi. total suspended solids (TSS).

vii. RCRA metals;

viii. total petroleum hydrocarbons (TPH);

ix. If TPH is detected, then the following testing is also required:

(a) PAHs;

(b) VOCs and SVOCs

(c) MTBE.

(2) Review and Approval Procedures.

a. Surface Water Impacts – Any filling of land within a floodplain, wetland, river, lake or adjacent to a river or lake shall not commence unless and until all required approvals and permits have been issued by the Michigan Department of Environment, Great Lakes, and Energy and Ann Arbor Township.

b. A SESC or Grading permit and Certificate of Zoning Compliance shall be filed with Ann Arbor Charter Township prior to the importing of fill on any property within Ann Arbor Township. Imported fill shall be contaminant free. The application shall include names and addresses of the parties of interest in the premises, site of the proposed fill, amount of fill proposed, method of filling, list of materials to be deposited in the fill, source of the fill, proof sufficient to the Township that the imported material meets the required material specifications, copies of all other required approvals and/or permits, and period of time that the operation will cover. No material may be imported until all permits and approvals have been obtained. Any change from the information provided as part of the application requires approval of those changes prior to any fill being imported.

c. Any filling related to a development proposal subject to the Zoning Ordinance shall not occur until all written approvals per the requirements of the Zoning Ordinance have been obtained.

d. Any filling unrelated to a development proposal subject to the Zoning Ordinance shall require written approval from the Building Official and his/her designee, including written approval by the Township Engineer and the Township SESC Officer.

e. Any filling of three hundred (300) or more cubic yards of material imported over a one (1) year period requires review and approval of the Township Board, unless related to a development proposal that has been reviewed and approved via the applicable procedures outlined in the Zoning Ordinance.

1. Filling of this scope unrelated to a development proposal must provide the following information in association with the SESC or Grading permit/Certificate of Zoning Compliance application:

    a. Affidavit that the proposed filling is not in preparation of development activities on the site.

    b. Boundary lines of the property and dimensions and bearings of the property lines correlated with the legal description;

    c. Location and extent of all natural features, as outlined in Section 58-111 of the Ann Arbor Charter Township Zoning Ordinance, to be retained after extraction operations, including but not limited to wetlands, streams, and wooded areas;

    d. The slope of all restored areas;

    e. Proposed completed topography at contour intervals of not more than two (2) feet;

    f. A schedule integrating the areas of progressive restoration with the final restoration plan;

    g. Proposed ground cover and other plantings to stabilize the soil surface and to beautify the restored areas. Topsoil sufficient in type and amount to establish and support the landscaping proposed in the restoration plan shall be specified;

    h. A description of the methods and materials to be utilized in restoring the site;

    i. Sketch plan of the proposed use or uses of the site when restored;

    j. Proposed after-use that complies with the Ann Arbor Township Zoning Ordinance. A landfill or other disposal or refuse site is not a suitable or satisfactory use;

    k. Any other information determined by the Board to be pertinent to review the application.

2. Filling of this scope must meet the following standards, as determined by the Township Board, with review and input from the Township Engineer:

    a. The proposed filling conforms to all regulations of the Township Code of Ordinances, including the Zoning Ordinance for the district(s) in which it is located, soil erosion control, stormwater management, drainage, and protection of drain tiles.

    b. The proposed filling is consistent with the goals and objectives of the Master Plan.

    c. The purpose, performance of, and result of the filling will be harmonious with and not be detrimental to existing or future uses in the immediate area, persons, property or the public welfare.

    d. Natural resources will be preserved to a maximum feasible extent, and the project respects natural topography and minimizes the amount of cutting and filling required. When a Township Natural Features Setback permit is required, the applicant shall obtain the permit prior to or simultaneously with review of the proposed filling activity.

(3) *Record Keeping.*

a. For imported materials, an accurate log shall be maintained that describes the amount, type, source, and date imported. Additionally, photographs may be required by the Township.

(4) *Bonding.*

a. The Township shall require a financial guarantee in the amount of one hundred twenty-five (125) percent of the cost of removal of any and all unfit soil or materials at the fill site, as estimated by the Township Engineer.

(5) *Restoration.*

a. All sites shall be restored to provide proper drainage and seeding to allow for all future land uses. Additionally, all restoration must comply with all federal, state, and local laws and regulations, and comply with the site's restoration plan if a restoration plan was required.

(6) *Inspections.*

a. All sites shall be inspected on a schedule established by the Township with all costs for such inspections being borne by the applicants. An application escrow account will be set up based upon the estimated costs for inspection for the current year. All fees for inspections shall be paid by the applicants prior to the inspections.

(b) *Excavations*

(1) *Excavations or Holes.*

a. Any soil extraction done pursuant to this Ordinance that creates the existence within the limits of the Township of any unprotected, unbarricaded, open or dangerous excavations, holes, pits, or wells, or of any excavations holes, pits, or wells, which constitute or are reasonably likely to constitute a danger or menace to the public health, safety or welfare, are hereby prohibited and declared a public nuisance; provided, however, that this Ordinance shall not prevent the construction of excavations under a permit issued pursuant to the provisions of this Ordinance or the applicable building codes where such excavations are properly protected and warning signs and lights are located in such manner as may be approved by the Township Board, and provided further that this section shall not apply to drains created or existing by authority of the State, County, Township, or other governmental agency.

(2) *Abatement of Nuisance.*

a. Where the Township determines a nuisance exists as herein defined, they shall notify the owner as shown on the latest tax rolls in writing of such findings and require the owner to abate such nuisance. The abatement of such nuisance must be accomplished within a reasonable time. If the property owner fails to abate or cause to be abated such nuisance, the cost of abatement of such work shall be placed as an assessment against the property on the next assessment role.

(3) *Inspections.*

a. All sites shall be inspected on a schedule established by the Township with all costs for such inspections being borne by the applicant. An application escrow account will be set up based upon the estimated costs for inspection for the current year. All fees for inspections shall be paid by the applicants prior to the inspections.

## Sec. 26-463. Transfer.

(a) Except as provided in subsection 26-464(b) below, 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.

(2) Responsibility for any violations of the permit that exist on the date the property is transferred.

(b) 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.

(2) Responsibility for any violations of the permit with respect to that parcel that exist on the date the parcel is transferred.

(c) 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 by the EGLE. The notice shall inform the transferee of the requirements of section 26-461, subsection (d) above and, as applicable, subsections (a) and (b) of this section 26-462. 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 municipal enforcing agency before the property is transferred.

(d) The municipal enforcing agency may charge a fee for the transfer of a permit under subsections (a) or (b) of this section 26-462. The fee shall be established by resolution of the Township Board and shall not exceed the administrative costs of transferring the permit. Fees collected under this section 26-462 shall only be used for the enforcement and administration of this article by the municipal enforcing agency.

(Ord. No. 10-2007, § 3.02, 10-15-2007; Ord. No. 8-2024, § 4, 12-16-2024)

## Sec. 26-464. Fees, escrow deposits and performance guarantees.

(a) *Major project or minor project.* An applicant for a permit under this article for a major project or a minor project shall:

(1) *Administrative fee.* Pay a nonrefundable administrative fee to be established from time to time by resolution of the Township Board.

(2) *Escrow deposit.* Deposit in escrow with the Township an amount sufficient for payment of all review, inspection, consultant and attorneys' fees incurred by the Township pertaining to the permit, which amount shall be determined from time to time by resolution of the Township Board. From time to time, the Township may require the applicant to deposit an additional amount into escrow not to exceed half of the original escrow amount if the amount remaining in escrow drops to approximately 25 percent of the original escrow amount. If the applicant fails to pay any additional deposit required in a timely manner, then the municipal enforcing agency shall issue a stop work order, the escrow account shall be deemed inactive and an additional administration fee shall be required to activate such escrow account. Any funds remaining in escrow after the property is completely (permanently) stabilized and has met all requirements set forth by this article, Part 91 and the rules will be returned to the applicant.

(3) *Performance guarantee.* As a condition for the issuance of a permit, the applicant shall post a performance guarantee in the form of cash, certified funds or a letter of credit in an amount sufficient to assure the installation, continuation and completion of such protective or corrective measures as

may be required by the municipal enforcing agency in accordance with this article and removal of temporary measures after permanent stabilization of the project. The amount of the performance guarantee shall be established by the Township Board to assure proper installation, continuation and completion of all soil erosion and sediment control measures and appurtenant activities. The Township may deduct from the performance guarantee any reasonable and necessary Township costs and expenditures incurred in stabilizing the project and the cost of any inspection related to such stabilization. Upon permanent restabilization of all disrupted earth areas, removal of temporary measures and approval of final inspection, the performance guarantee or residual balance will be returned to the permittee along with an accounting of any funds used.

(b) *Single-family residential project.* An applicant for a permit for a single-family residential project, as described in section 26-451 above, shall pay a nonrefundable administrative fee as established by resolution of the Township Board which may include the cost of one or more inspections. Fees for inspections not included in the initial administrative fee shall be at the rate established by the Township Board and shall be paid by the applicant at the time of inspection.

(c) *Waiver fees.* An applicant for a permit waiver shall pay for a nonrefundable permit waiver fee in the amount established by resolution of the Township Board at the time of filing the permit waiver affidavit described in subsection 26-464(b).

(Ord. No. 10-2007, § 3.03, 10-15-2007)

## Sec. 26-465. Exempt activities; waivers.

(a) Notwithstanding the requirements of section 26-461, a permit shall not be required for:

(1) *Logging, mining, land plowing or tilling.*

a. Subject to this subsection 26-465(a)(2) below, a person lawfully engaged in the activities of logging, mining, or the plowing or tilling of land for the purpose of crop production or the harvesting of crops as part of a farm operation is not required to obtain a permit under this article. 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 article. The exemption from obtaining a permit does not include any of the following:

1. Access roads to and from the site where active mining or logging is taking place.

2. Ancillary activities associated with logging and mining.

3. Removal of clay, gravel, sand, peat or top soil.

b. This article 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 that is approved by the State of Michigan under Part 631 of NREPA.

c. A person is not required to obtain a permit for 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 NREPA 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 State of Michigan under Part 615. However, those earth changes shall conform to the same standards as required for a permit under this article. This subsection does not apply to a multisource commercial hazardous waste disposal well.

(2) *Earth change of a minor nature.* An earth change of a minor nature that is stabilized within 24 hours of the initial earth disturbance and that will not contribute sediment to lakes or streams, or adjacent properties.

(3) *Residential earth change activities not requiring a permit.* A residential property owner who causes the following activities to be conducted on individual residential property owned and occupied by such property owner is not required to obtain a permit under this article if the earth change activities do not result in or contribute to soil erosion or sedimentation of the waters of the State of Michigan or a discharge of sediment off site:

a. Gardening, if the natural elevation of the area is not raised.

b. 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.

c. Removal of tree stumps, shrub stumps, or roots resulting in an earth change not to exceed 100 square feet.

d. 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 of Michigan 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 acre if the seeded area is at least 100 feet from the waters of the State of Michigan.

3. Seeding or reseeding of lawns closer than 100 feet from the waters of the State of Michigan if the area to be seeded or reseeded does not exceed 100 square feet.

4. The temporary stockpiling of soil, sand, or gravel not greater than a total of ten cubic yards on the property if the stockpiling occurs at least 100 feet from the waters of the State of Michigan.

5. Seawall maintenance that does not exceed 100 square feet.

(4) *Road and driveway maintenance.* 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, or adjacent properties.

(b) The municipal 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, streams or onto adjacent properties.

(c) Exemptions provided in this division 3 and Part 91 and the rules shall not be construed as exemptions from enforcement procedures under this article, Part 91 and the rules if the exempted activities cause or result in a violation of this article, Part 91 or the rules.

(Ord. No. 10-2007, § 3.04, 10-15-2007)

**Secs. 26-466—26-480. Reserved.**

## *DIVISION 4. ENFORCEMENT; PENALTIES*

## Sec. 26-481. Notice of determination; remedies and penalties.

(a) *Notice of violation; stop work order.* If the municipal enforcing agency determines a violation of a permit issued under this article, or of any other provision of this article, or Part 91 or the rules promulgated under Part 91, has or reasonably may occur, the municipal enforcing agency shall notify the person who owns the land, by personal delivery or by mail, with return receipt requested, of the violation. The notice shall contain a description of the violation and what must be done to remedy the violation and shall specify a time to comply with the permit, this article, Part 91 or the rules. At the same time, the Zoning Official or the municipal enforcing agency may issue a stop work order until the violation is corrected.

(1) After a notice of violation has been issued under subsection 26-481(a) above, a landowner or any person who causes, contributes, maintains, or commits such a violation shall comply with the permit, Part 91, the rules and this article and shall implement and maintain soil erosion and sedimentation control measures in conformance with the permit, this article, Part 91 and the rules.

(2) Not sooner than five days after personal delivery or mailing of a notice of violation described in subsection 26-481(a) above, if the condition of the land, in the opinion of the municipal enforcing agency may result in or contribute to accelerated soil erosion or sedimentation to adjacent properties, or to the waters of the state, or Township wetlands, and if soil erosion and sedimentation control measures to correct the violation in conformance with Part 91, the rules, the permit and this article are not in place, the municipal enforcing agency, after consultation with the Township Supervisor, may enter upon the land and construct, implement, and maintain soil erosion and sedimentation control measures to correct such violation. However, the municipal enforcing agency shall not expend more than the amount held in escrow and the performance guarantee for the cost of the work, materials, labor, and administration to correct such violation without notice as provided in subsection 26-481(a) above to the person who owns the land that the expenditure in excess of the escrow deposit and performance guarantee may be made and such amount may be collected in accordance with this article.

(3) All expenses including all administrative, attorney or other professional fees incurred by the municipal enforcing agency to construct, implement, and maintain soil erosion and sedimentation control measures to bring land into conformance with a permit, Part 91, the rules or this article shall be reimbursed to the Township by the person who owns the land.

(4) The Township shall have a lien against the land upon which a permit is issued or upon which the violation occurred for all expenses incurred by the municipal enforcing agency to correct a violation and bring the land into conformance with a permit, Part 91, the rules and this article. In addition, the Township may draw on any escrow deposit or performance guarantee for all such expenses. 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 PA 206, MCL 211.1 to 211.157.

(b) *Remedies; penalties; enforcement.*

(1) A person who violates a permit, this article, Part 91 or the rules is responsible for a municipal civil infraction and may be ordered to pay a civil fine of not more than $2,500.00.

(2) A person who knowingly violates a permit, this article, Part 91 or the rules or knowingly makes a false statement in an application for a permit or in a soil erosion and sedimentation control plan is responsible for the payment of a civil fine of not more than $10,000.00 for each date of violation.

(3) A person who knowingly violates a permit, this article, Part 91 or the rules after receiving a notice of violation under this article and/or Part 91 is responsible for the payment of a civil fine of not less than $2,500.00 or more than $25,000.00 for each day of violation.

(4) Civil fines collected under subsections (2) and (3) above shall be deposited as follows:

a. If the municipal enforcing agency filed the action under this subsection 26-481(b), with the Township.

b. If an action was filed jointly by the State of Michigan and the municipal enforcing agency, the civil fines collected under this subsection 26-481(b) shall be divided in proportion to each agency's involvement as mutually agreed upon by the agencies.

(5) A default in the payment of a civil fine or costs ordered under this subsection 26-481(b) or an installment of the fine or costs may be remedied by any means authorized under the Revised Judicature Act of 1961, 1961 PA 236, MCL 600.101 to 600.9948.

(6) In addition to a fine assessed under this section 26-481, a person who violates this article, Part 91 or the rules is liable to the State of Michigan for damages for injury to, destruction of, or loss of natural resources resulting from the violation. The court may order a person who violates this article, Part 91 or the rules to restore the area or areas affected by the violation to their condition as existing immediately prior to the violation.

(7) Persons authorized by the Township Board to enforce municipal civil infractions and the municipal enforcing agency are authorized to enforce the provisions of this article.

(Ord. No. 10-2007, § 4.01, 10-15-2007)

## Secs. 26-482—26-500. Reserved.