

# EXHIBIT N

**GRAND TRAVERSE COUNTY  
SOIL EROSION, SEDIMENTATION AND STORMWATER RUNOFF CONTROL  
ORDINANCE**

**Amended June 20, 2012**

adopted by resolution of the Board of County Commissioners in accordance with provisions of Section 9105(3) of Part 91 (Soil Erosion and Sedimentation Control) of the Natural Resources and Environmental Protection Act (Act 451 of 1994 as amended), the Michigan Drain Code (Act 40 of 1956 as amended) and Article IV, Section 52 of the Constitution of the State of Michigan

**I. PURPOSE**

The Grand Traverse County Board of Commissioners hereby adopts this Ordinance which sets forth the procedures, standards and enforcement remedies which shall be used by the Grand Traverse County Enforcing agency in (1) meeting the requirements of Part 91 of the Natural Resources and Environmental Protection Act (Act 451 Of 1994, as amended) and the Michigan Drain Code (Act 40 of 1956, as amended) and (2) promoting the safety, public health, and general welfare of the community through effectively sustaining the goal of stormwater management and clean water in Grand Traverse County, and the State of Michigan.

**II. OBJECTIVES**

Specific objectives of this Ordinance include:

1. To prevent accelerated soil erosion and sedimentation and to control stormwater runoff resulting from earth changes proposed within Grand Traverse County, both during and after construction by requiring proper provisions for drainage and the protection of soil surfaces during and after construction.
2. To prevent the unnecessary stripping of vegetation and loss of soils, especially adjacent to lakes, streams, watercourses, and wetlands.
3. To control construction activity that may cause slumping or erosion of land surfaces.
4. To ensure that soil erosion and sedimentation control practices and stormwater runoff control systems are incorporated into site development in the planning and design process.
5. To ensure that all soil erosion and sedimentation control facilities are properly designed, constructed and maintained so as to provide water quality protection and prevent the conveyance of sediment via wind and stormwater runoff.
6. To ensure that landowners control the volume and rate of stormwater runoff originating from their property and maintain available flood storage areas so that surface water and ground water quality is protected, soil erosion minimized, and flooding potential reduced.
7. To preserve and use the natural drainage system for receiving and conveying stormwater

runoff and to minimize the need to construct enclosed, below-grade storm drainage systems.

8. To preserve natural infiltration and the recharge of groundwater and to maintain subsurface flows which replenish lakes, streams and wetlands.
9. To reduce the detrimental impacts of stormwater flows on downstream communities.
10. To encourage the design and construction of stormwater control systems which enhance flood prevention, water quality protection, wildlife habitat preservation, education, recreation and wetland protection.
11. To reduce maintenance costs and eliminate the need for costly remediation projects as a result of accelerated soil erosion and sedimentation and uncontrolled stormwater runoff.
12. To provide for enforcement of this Ordinance and establish penalties for violations.
13. To assure that all stormwater control facilities will be properly designed, constructed, and maintained.

### III. AUTHORITY

This Ordinance is adopted under the authority granted by Part 91 of the Natural Resources and Environmental Protection Act (Act 451 of 1994), being Sections 324.9101 through 324.9123a, as amended, of the Michigan Compiled Laws Annotated (hereafter "Part 91"); the Michigan Drain Code (Act 40 of 1956), being Sections 280.1 through 280.630, as amended, of the Michigan Compiled Laws Annotated (hereafter the "Drain Code"); and the County's authority to provide for the public health, safety and welfare.

### IV. RULES

Part 91 of the Natural Resources and Environmental Protection Act as amended, and the rules adopted there under are hereby adopted and incorporated by reference.

### V. DEFINITIONS

The following terms and phrases shall have the meaning given in this Ordinance and the Guidelines promulgated hereunder, unless the context otherwise requires:

- A. **Accelerated Soil Erosion:** The increased loss of the land surface that occurs as a result of human activities.
- B. **Appeals Board:** The Grand Traverse County Appeals Board for Building Code, Soil Erosion, Health and BOCA Fire.
- C. **Authorized Public Agency:** 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.

- D. Best Management Practice (BMP):** Structural, vegetative or managerial measures, activities, facilities or devices which help to achieve soil erosion, sediment and stormwater management runoff control objectives.
- E. Board of Commissioners:** Grand Traverse County Board of Commissioners.
- F. Cease and Desist Order:** An order issued under this Ordinance by the Enforcing agency to the permittee or permittee's agents, representatives, employees or contractors requiring the cessation of activities.
- G. Channel:** The portion of a natural stream which conveys normal flows of water, or a ditch or channel excavated for the flow of water.
- H. Commercial Use:** All land uses except for one-family detached dwellings and appurtenant structures connected with the residential use. Property utilized or proposed to be utilized in connection with or for the purchase, sale, display, manufacturing, storage, warehousing or distribution of goods, merchandise or personal services, rental dwellings or operation of businesses or recreational, amusement or telecommunications enterprises whether for profit or not for profit.
- I. Consultant:** An individual who has a current certificate of training under Section 9123 of Part 91 or an individual who employs 1 or more individuals who have certificates of training under section 9123 of Part 91.
- J. Conveyance Facility:** A surface or subsurface structure or channel which transports stormwater runoff.
- K. County Drain:** Drains established pursuant to the Michigan Drain Code (Act 40 of 1956, as amended).
- L. County Enforcing Agency:** A county agency or a conservation district as designated by the county board of commissioners under Section 9105 of Part 91.
- M. Depression Storage:** The portion of precipitation trapped in depressions in the ground surface.
- N. Design Standard:** A specification that prescribes the type of design, location, mode of construction, mode of operation, or other engineering detail for soil erosion and sedimentation or stormwater control facilities.
- O. Designated Agent:** A person who has written authorization from the landowner to sign the application and secure a permit in the landowner's name.
- P. Designated Use:** The use of a stream segment assigned by the Michigan Department of Environmental Quality as part of the regulatory process of establishing water quality control standards. Uses may be public drinking water supply, irrigation, recreational use,

fishing, regulated discharges or other categories, as established by the Michigan Department of Environmental Quality.

- Q. Detention Basin:** A structure or facility, natural or artificial, which stores stormwater on a temporary basis and may release 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.
- R. Disturbed Area/Area of Disturbance:** An area of land subjected to erosion due to the removal of vegetative cover and/or earthmoving activities, including filling.
- S. Drainage Well:** A bed of stone or hole in the ground constructed for the purpose of trapping stormwater for infiltration into the ground.
- T. Drainage System:** All facilities, channels, and areas which serve to convey, filter, store and/or receive stormwater, either on temporary or permanent basis.
- U. 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. Earth change does not include the practice of plowing and tilling soil for the purpose of crop production or the harvesting of crops.
- V. Environmentally Sensitive Site:** Any site with a proposed earth change with one or more of the following characteristics:

  - 1. Sites that have been planned where the area of disturbance is on a slope of 10 percent or greater (10 feet horizontal to 1 foot vertical or greater) or where the disturbed area will create a slope greater than 10 percent.
  - 2. Sites with heavy clay soils (commonly termed hardpan clay), and soils classified in hydrologic Group D in the Grand Traverse County Soil Survey, published by the Natural Resources Conservation Service, U.S. Department of Agriculture.
  - 3. Sites where earth changes may cause excessive erosion or sedimentation or which may increase flow onto adjacent lands.
  - 4. Sites located within 100 feet of wetlands regulated pursuant to Part 303, Wetland Protection of Natural Resources and Environmental Protection Act.
  - 5. Sites that are adjacent to or traversed by a drainage easement.
  - 6. 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 stormwater runoff on-site or off-site.
- W. Extended Detention Basin:** A detention basin designed to provide substantial removal of suspended solids and particulates, typically achieved by holding stormwater for 24 hours or more.

- X. **Fill:** Non-polluting material placed on-site which raises an existing elevation.
- Y. **Grading:** Any stripping, clearing, stumping, excavating, filling, or stockpiling of the land, or any combination thereof, including the land in its excavated or filled condition.
- Z. **Guidelines:** The Soil Erosion and Stormwater Design Guidelines promulgated pursuant to this Ordinance.
- AA. **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, 1 acre. "Lake" does not include sediment basins and basins constructed for the sole use of stormwater retention or detention, cooling water, or treating polluted water.
- BB. **Landowner:** The person who owns or holds a recorded easement on the property 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.
- CC. **Maintenance Agreement:** A binding agreement between the landowner and Grand Traverse County which sets forth the location and design of best management practices, as well as the terms and requirements for stormwater, erosion and sedimentation control facility maintenance recorded with the Register of Deeds.
- DD. **Nonerosive Velocity:** A speed of water movement that is not conducive to the development of accelerated soil erosion.
- EE. **Ordinary High-Water Mark:** The line between upland and bottomland that persists through successive changes in water levels, below which the presence and action of water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil, and the vegetation. On an inland lake that has a level established by law, it means the high-established level. Where water returns to its natural level as the result of the permanent removal or abandonment of a dam, it means the natural ordinary high-water mark. For the Great Lakes, it is that level determined consistent with State or Federal law.
- FF. **Outfall:** The point where water flows out from a conduit, drain, or stream.
- GG. **Outlet:** The stream or facility receiving the flow from a basin, drain, or other stormwater management facility.
- HH. **Peak Rate of Discharge (Peak Flow):** The maximum calculated rate of stormwater flow at a given point in a channel, watercourse or conduit resulting from a predetermined frequency storm or flood, measured in cubic feet per second (cfs).
- II. **Permanent Soil Erosion and Sedimentation Control Measures:** Control measures which are installed or constructed to control soil erosion and sedimentation and which are maintained after project completion.

- JJ. Receiving Body of Water:** Any lake, stream, river or wetland into which stormwater runoff is directed.
- KK. Regional Detention Basin:** A basin to detain water flow from a number of development sites or a small watershed.
- LL. Retention Basin:** An area which is constructed to capture surface water runoff and which does not discharge directly to a lake or stream through an outlet. Water leaves the basin only by infiltration and evaporation.
- MM. 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 actions of wind, water, or gravity and has been deposited elsewhere.
- NN. Site:** Any tract, lot or parcel of land or combination of tracts, lots or parcels of land proposed for development or activity undergoing earth moving.
- OO. Soil Erosion or Erosion:** The wearing away of land by the action of wind, water, gravity or a combination thereof.
- PP. Soil Erosion, Sedimentation and Stormwater Runoff Control Permit:** A signed, written statement issued under this Ordinance authorizing a landowner to engage in specified earth changes.
- QQ. Soil Erosion, Sedimentation and Stormwater Runoff Control Plan:** The maps, plans and other written information for a proposed land use or earth change on a site which describe the way in which soil erosion and sedimentation and stormwater runoff will be controlled, during and after completion of construction.
- RR. Stormwater Design Guidelines:** Those guidelines that correspond with this ordinance and specifically govern the process of any earth change activities occurring within the county.
- SS. Storm Drain:** A conduit, pipe, natural channel, or human-made structure which serves to transport stormwater runoff.
- TT. Stream:** A river, creek, or other surface watercourse which may or may not be serving as a drain as defined in the Michigan Drain Code, 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.
- UU. Swale:** Low-lying grassed area with gradual slopes which transports stormwater, either on-site or off-site.
- VV. Temporary Soil Erosion and Sedimentation Control Measures:** Interim control measures which are installed or constructed to control soil erosion and sedimentation and which are not maintained after project completion.

- WW. Vegetative Cover:** Grasses, shrubs, trees, and other vegetation which holds and stabilizes soils.
- XX. Waters of the State:** The Great Lakes and their connecting waters, inland lakes and streams, including drains, as defined under Part 301, Inland Lakes and Streams Act, being MCL 324.30101 et seq, and wetlands regulated under Part 303, Wetland Protection, being 324.30301 et seq, and the rules promulgated thereunder.
- YY. Watershed:** A land area, also known as a drainage area, which collects precipitation and contributes runoff to a receiving body of water or point along a watercourse.
- ZZ. 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 and as regulated under Part 303, Wetland Protection, being 324.30301 et seq, and the rules promulgated thereunder.
- AAA. Wetland Vegetation:** Plants that exhibit adaptations to allow, under normal conditions, germination or propagation and to allow growth with at least their root systems in water or saturated soil.

**VI. SOIL EROSION, SEDIMENTATION AND STORMWATER RUNOFF CONTROL PERMIT REQUIREMENTS**

**A. Jurisdiction for Permit Administration**

- 1. County Enforcing Agency.** The Enforcing agency shall act as the County Enforcing Agency for regulated earth changes proposed within the boundaries of Grand Traverse County under Part 91.
- 2. Authorized Public Agencies.** Earth changes carried out by authorized public agencies under Part 91 shall be exempt under this ordinance.

If any government agency loses its status as an Authorized Public Agency under Part 91, the government agency shall no longer be exempt from this Ordinance.

All Authorized Public Agencies shall notify the Enforcing agency in writing of each proposed earth change pursuant to R 323.1706(4) of Part 91.

- 3. Municipal Enforcing Agencies.** The land within the boundaries of a municipality approved as a Municipal Enforcing Agency under Section 9106 of Part 91 is exempt from this Ordinance. If any municipality loses its status as a Municipal Enforcing Agency under Part 91, the land within the boundaries of the municipality shall no longer be exempt from this Ordinance.
- 4. Earth Changes Affecting Two or More Enforcing Agencies.** When earth changes are proposed on sites which are located in the jurisdiction of two or more local or county enforcing agencies, the applicant must obtain permit coverage in



each jurisdiction, or, if an interlocal agreement exists for joint enforcement of Part 91, then a permit must be obtained according to the provisions of the interlocal agreement.

**B. Regulated Earth Changes**

1. Except as provided in this Ordinance, earth changes that meet any of the following criteria require a Soil Erosion, Sedimentation and Stormwater Runoff Control Permit from the Enforcing agency:
  - a. Which disturbs 1 or more acres of land.
  - b. Within 500 feet of the water's edge of a lake or stream.
  - c. Within an environmentally sensitive site.
  - d. The following sites regardless of size, location or environmental sensitivity:
    1. Commercial use development.
    2. Mobile home park or manufactured home development.
    3. Multiple family residential development.
    4. Site condominium or condominium developments as defined by Act 59 of the Public Acts of 1978, as amended.
    5. Platted subdivision development.
2. The following activities which do not require a Soil Erosion Sedimentation and Stormwater Permit unless they meet the criteria specified in Section VI B, 1 c and d above:
  - a. A beach nourishment project permitted under Part 325 of Public Act 451 of 1994 as amended.
  - b. Normal road and driveway maintenance, such as grading or leveling, that does not increase the width of the road or driveway, and that will not contribute sediment to lakes or streams.
  - c. 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 as determined by the Enforcing agency.
  - d. Earth changes associated with well locations, surface facilities, flow lines or access roads relating to oil or gas exploration and development in conformance with the provisions of Section 9115(3) of Part 91 of Public

Act 451 of 1994, as amended. (MCL 324.9115(3)).

3. A soil erosion permit is not required for activities exempt from Part 91 as set forth in Section 9115 of Part 91 of Public Act 451 of 1994 as amended. (MCL 324.9115)

**C. Identification of Environmentally Sensitive Sites**

1. Landowners or their designated agents are responsible for determining whether their sites are Environmentally Sensitive Sites as defined in this Ordinance. The Enforcing agency may also determine that a site constitutes an Environmentally Sensitive Site.
2. Township, village, city and or county agencies shall be requested to provide assistance to Landowners in identifying earth changes and Environmentally Sensitive Sites subject to review by the Enforcing agency.

**D. Permit Application Submittal**

1. Permit applications shall be submitted to the Enforcing agency by the Landowner or Designated Agent.
2. A Landowner or Designated Agent shall submit with the application, one copy of the soil erosion and sedimentation and stormwater runoff control plan unless additional copies are requested by the Enforcing agency. Copies of the permit application form shall be made available by the Enforcing agency.
3. Application for a permit shall be made prior to the start of any earth change requiring a permit under this Ordinance. Permit approval shall be given prior to the initiation of any work activity. Any unauthorized work shall be considered a violation of this Ordinance regardless of any later actions taken toward compliance.
4. Submission of an application for permit shall constitute consent by the Landowner for the Enforcing agency or designated agent to enter upon the premises described in the application for purposes of inspections attendant to the application or any permit issued as a result thereof.

**E. Sequential Applications**

1. Projects on a site which are so large or complex that a Soil Erosion, Sedimentation and Stormwater Runoff Control Plan encompassing all phases of the project cannot reasonably be prepared prior to initial groundbreaking, application for permit on successive major incremental earth change activities may be allowed. Requests for sequential applications shall be approved by the Enforcing agency prior to submittal of the initial permit application.
2. Approval of sequential applications shall take place in two phases. First, the

overall conceptual plan for the entire development shall be submitted for review and approval. Second, detailed plans for sections of the total project shall be submitted for review and approval upon the request of the Enforcing agency.

3. All permits processed and issued for phases of a project shall be clearly defined as to the nature and extent of work covered. Each phase of the project must be reviewed and permitted by the Enforcing agency prior to construction.

#### **F. Permit Application Review**

The Enforcing agency shall approve, approve with conditions, disapprove, or require modification of an application and soil erosion, sedimentation and stormwater runoff control plan within 30 days. The review period begins upon the receipt of a completed application, plans and fees.

1. **Approval.** Upon a determination by the Enforcing agency that the permit applicant has met all of the requirements of this Ordinance and Part 91, the Enforcing agency will issue a permit specifying the work approved. The Enforcing agency shall notify the permit applicant of approval by first class mail or written approval delivered in person.
2. **Disapproval or Modification.** If the permit applicant has not met all of the requirements of this Ordinance and Part 91, the Enforcing agency may either disapprove the application, request modification of the application or plan, or request additional information from the applicant. If an application is disapproved, the Enforcing agency shall advise the applicant by certified mail or written statement delivered in person of the reasons for disapproval and conditions required for approval. An incomplete application constitutes grounds for disapproval.

#### **G. Permit Expiration or Revocation**

1. **Permit Expiration.** Permits shall expire automatically upon the project completion date provided by the applicant on the application, not to exceed one (1) year. With the approval of the Enforcing agency, a permit may be extended for a period not to exceed one (1) year upon request of the permit holder, provided the request for extension is made before the date of expiration of the permit setting forth, in writing, the reasons for the extension request.
2. **Permit Revocation.** Any permit issued by the Enforcing agency under this Ordinance may be revoked or suspended for any of the following reasons:
  - a. A violation of a condition of the permit.
  - b. Misrepresentation or failure to fully disclose relevant facts in the application or soil erosion and stormwater runoff control plan.
  - c. A change in a condition that requires a temporary or permanent change in

the activity.

- d. Authorized work is abandoned or suspended for a period of six months.
- e. A violation of the setbacks established by the Guidelines.

The Enforcing agency will provide the permit holder notice of any revocation and/or suspension of the permit, in writing, within 10 days of the revocation and/or suspension. The notice will be sent by first-class mail or served personally upon landowner or designated agent. The notice will specify the reason(s) for the revocation and/or suspension and will set forth the availability and time period for an appeal of the revocation and/or suspension.

#### **H. Issuance of Building Permits**

- 1. A general law township, charter township, city, village or county agency which issues land use permits and/or building permits shall notify the Enforcing agency upon receipt of an application involving an earth change subject to permit requirements under this Ordinance.
- 2. A township, city, village or county agency shall not issue a land use permit or building permit for an earth change subject to permit requirements until a soil erosion, sedimentation and stormwater runoff control permit has been issued by the Enforcing agency.
- 3. The Enforcing agency shall notify the township, city, village or county agency after a permit decision has been made.

#### **I. Permits and Approvals of Other Government Agencies**

Approvals under this Ordinance or Part 91 shall not relieve a landowner of the need to obtain other applicable permits or approvals as required by federal, state, county and local agencies.

#### **J. General Standards for Approval of Soil Erosion Sedimentation and Stormwater Runoff Control Plans**

- 1. The Enforcing agency shall approve or disapprove soil erosion sedimentation control permit applications and plans in accordance with this Ordinance, the guidelines promulgated under this Ordinance, as may be amended by the Enforcing agency and Part 91.
- 2. All earth changes subject to review under the requirements of this Ordinance shall be designed, constructed, and maintained consistent with the guidelines and best management practices promulgated under this Ordinance to provide for the detention of runoff and to protect water quality.
- 3. Measures required for soil erosion, sedimentation and stormwater runoff control

shall take into consideration natural features, proximity of the site to lakes, streams and wetlands, applicable setback requirements, the extent of impervious surfaces, the potential for soil erosion and sedimentation and flooding, and the size of the site.

4. Stormwater conveyance, storage, and infiltration facilities shall be designed to provide for non-erosive velocities of stormwater runoff.
5. Alterations to natural drainage patterns shall not create downstream flooding or sedimentation or obstruct runoff from lands upstream from the project site or diminish capacity of watercourses, streams or drainage ways serving lands upstream of the project site.
6. When a proposed earth change is located in an area where a watershed plan has been approved by the Board of Commissioners, the standards for stormwater detention and/or retention volumes, discharge rates, and stormwater facility locations specified in the approved watershed plan shall be deemed to meet the requirements of this Ordinance, as it relates to stormwater runoff requirements.

**K. Soil Erosion Sedimentation and Stormwater Runoff Control Plan Requirements**

A person shall prepare a soil erosion, sedimentation and stormwater runoff control plan for any earth change identified in this Ordinance or in Part 91 that require a permit. A person shall design the plan to effectively reduce accelerated soil erosion and sedimentation and stormwater runoff and shall identify factors that may contribute to soil erosion or sedimentation, or both. The plan shall include, but not be limited to, all of the following:

1. A map or maps at a scale of not more than 200 feet to the inch or as otherwise determined by the Enforcing agency, including a legal description and site location sketch that includes the proximity of any proposed earth change to lakes, streams, and or wetlands; predominant land features; and contour intervals or slope description.
2. A soils survey or a written description of the soil types of the exposed land area contemplated for the earth change.
3. A description and the location of the physical limits of each proposed earth change.
4. A determination of all applicable setbacks.
5. The location of all lakes, streams and wetlands partially or completely contained within the boundaries of the site or within 50 feet of the site boundary.
6. A description and the location of all existing and proposed on-site stormwater management and dewatering facilities.

7. The timing and sequence of each proposed earth change.
8. The location and description for installing and removing all proposed temporary soil erosion and sediment control measures.
9. A description and the location of all proposed permanent soil erosion and sedimentation control measures.
10. 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 maintenance. Maintenance responsibilities shall become a part of any sales or exchange agreement for the land on which permanent soil erosion and sediment control measures are located.
11. Other information which the Enforcing agency requires to review the impact of the proposed earth change in relationship to the standards and requirements of this Ordinance and Part 91.
12. The Enforcing agency may require that the soil erosion, sedimentation and stormwater runoff control plan be prepared by one of the following registered professionals: civil engineer, land surveyor, architect, and/or landscape architect.

**L. Earth Change Design, Installation and Removal Requirements**

1. 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 Enforcing agency.
2. A person shall remove sediment caused by accelerated soil erosion from runoff water before it leaves the site of the earth change.
3. 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.
4. 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 stabilized. A person shall stabilize the area with permanent soil erosion control measures under approved standards and specifications as outlined in this Ordinance as required by state law. Temporary and permanent soil erosion and sedimentation measures shall comply with the standards and specifications as set forth in Section VI M.

**M. Standards and Specifications for Temporary and Permanent Soil Erosion**

### **Sedimentation and Stormwater Runoff Control Measures**

1. A person shall complete all temporary and permanent erosion and sedimentation control measures according to the approved soil erosion, sedimentation and stormwater runoff control plan.
2. 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 Enforcing agency as provided in stormwater design guidelines published by the Enforcing agency's office.
  - c. The Conservation District.
  - d. The Michigan Department of Environmental Quality.
  - e. The Michigan Department of Transportation.

If a conflict exists between the standards and specifications, then the Enforcing agency shall determine which specifications are appropriate for the project.

### **N. Maintenance of Control Facilities and Measures**

1. All soil erosion, sedimentation and stormwater runoff control facilities and measures shall be maintained in accordance with this Ordinance, Part 91 and permit conditions.
2. The person(s) designated as responsible for maintenance under the soil erosion and stormwater runoff control plan as required in this Ordinance shall be one of the following:
  - a. The landowner or recorded interest (easement holder).
  - b. The property owners association or other non-profit organization, provided that provisions requiring the maintenance outlined in the soil erosion and stormwater runoff control plan and the financing of the maintenance are included in deed restrictions or other contractual agreements.
  - c. The Enforcing agency, in accordance with the Michigan Drain Code, Public Act 40 of 1956, as amended.
3. Maintenance Agreements shall specify responsibilities for financing maintenance, performing emergency repairs and responsibility for violations of this Ordinance or Part 91.
4. The Enforcing agency will make the final decision of what maintenance option is

appropriate in a given situation. Considerations in making this decision will include, but not be limited to, natural features, proximity of site to lakes, streams and wetlands, extent of impervious surfaces, size and location of site, and potential need for ongoing maintenance activities.

**O. Off-Site Stormwater Control**

1. **Waiver Option.** In lieu of on-site stormwater facilities and measures, the use of off-site stormwater facilities and measures, together with on-site soil erosion and sedimentation control measures, may be proposed. In such cases, the applicant shall request a waiver of the requirements for on-site stormwater runoff control. The waiver request shall be submitted to the Enforcing agency with a permit application and a soil erosion, sedimentation and stormwater runoff control plan, including information specified in this Ordinance. This waiver option does not allow for changes in requirements for on-site soil erosion and sedimentation control measures.
2. **Shared Off-Site Stormwater Control Facilities.**
  - a. Off-site stormwater runoff control areas may be shared between two or more landowners or developments, provided that maintenance agreements have been approved by the Enforcing agency and stormwater management easements have been obtained and recorded.
  - b. Stormwater management easements are required for all areas for off-site stormwater control unless an exception has been granted by the Enforcing agency. Easements shall be recorded with the Grand Traverse County Register of Deeds prior to the approval of the final development plan by the Enforcing agency.

**P. Stormwater Management Easements**

1. Stormwater management easements shall be provided by the landowner if necessary for: (1) access for facility inspections and maintenance; and/or (2) preservation of stormwater runoff conveyance, infiltration, and detention areas and facilities, including flood routes for the 100-year storm event. The purpose and the holder of the easement shall be specified in the maintenance agreement signed by the landowner.
2. Stormwater management easements are required for all areas used for off-site stormwater runoff control.
3. Easements shall be recorded with the Grand Traverse County Register of Deeds prior to the final inspection, approval and release of a building permit by the Enforcing agency.



**Q. Grand Traverse County Road Commission**

The Road Commission may take all actions necessary to maintain its authorized public agency designation under Part 91 and may annually review its operational procedures with The Conservation District and the Enforcing agency. A summary report of the previous year's activities and any noted deficiencies may be made and submitted to the Board of County Road Commissioners and the Board of Commissioners. The Enforcing agency, the Board of Commissioners or the Board of County Road Commissioners may call for a review meeting with a seven (7) day notice if a deficiency is observed and not resolved in a reasonable method.

The Road Commission shall use its best effort to meet the goals and guidelines for stormwater runoff control contained in this Ordinance on all new roads constructed on rights-of-way acquired after the adoption of this Ordinance. Stormwater retention or detention shall be compatible to the current highway safety guidelines, geometric design standards, structural requirements, maintenance practices and general drain laws that govern natural surface water flow, concentration, location and/or velocity. When right-of-way is available on existing improved county roads, the Road Commission will review the feasibility of providing stormwater runoff controls that are reasonable to be constructed and maintained at a nominal cost.

**VII. INSPECTIONS**

- A.** The Enforcing agency or authorized representatives may enter at all reasonable times in or upon any private or public property for the purpose of inspection and investigating the conditions or practices that may be in violation of this Ordinance. Inspections may take place before, during, and/or after any earth change activity.
- B.** If upon inspection, existing site conditions are found to be in conflict with an approved permit or soil erosion, sedimentation and stormwater runoff control plan, a cease and desist order may be issued. No earth moving shall be performed unless authorized for the purpose of protection until a revised soil erosion and stormwater runoff control plan has been approved, and the permit modified.
- C.** Requests for revisions must be submitted to and approved by the Enforcing agency in writing or approved by the Enforcing agency or an authorized representative on-site before being effective. If approved, a revised site plan shall be submitted to the Enforcing agency for review and approval.

**VIII. FEES**

All fees shall be paid to Grand Traverse County in accordance with the current fee schedule approved by the Grand Traverse County Board of Commissioners.

**IX. COMPLIANCE ASSURANCES**

- A. Performance Guarantees**

1. As a condition of issuance of a permit, the Enforcing agency may require the applicant to deposit cash, a certified check, or an irrevocable letter of credit acceptable to the Enforcing agency in an amount sufficient to assure the installation and completion of such protective or corrective measures as may be required by the Enforcing agency. Irrevocable letters of credit, if used as a performance guarantee, shall extend for a minimum of one year with the option of renewal. The required security shall be held in the office of the Enforcing agency until authorized to be returned.
2. Performance guarantees will be returned to the applicant when:
  - a. The site is certified, by the licensed professional who designed the site, that the site is completely stabilized and was constructed as designed and approved by the Enforcing agency; and
  - b. Following inspection, the Enforcing agency determines that the site is completely stabilized and meets the requirements set forth by the Enforcing agency.

**B. Construction Certification by Registered Professional**

For any sites that require a sealed site plan, a certification letter, with a registered professional's signature, shall be submitted after soil erosion and sedimentation and stormwater runoff control facilities have been installed to affirm that construction has been completed in accordance with the approved soil erosion, sedimentation and stormwater runoff plan. This certification letter can be prepared by one of the following registered professionals: civil engineer, land surveyor, architect, and/or landscape architect. If the Enforcing agency specifies that a professional civil engineer prepare the plan, the certification must be submitted by the professional civil engineer that certifies construction.

If there are changes during the course of construction, the Enforcing agency may require final "as built" drawings for final approval of the site work.

**C. Certificate of Compliance**

Upon receipt and approval of the certification letter, the Enforcing agency shall issue a certificate of compliance to the landowner.

**X. ENFORCEMENT**

Persons in violation of this Ordinance or Part 91, including earth changes exempt from permit requirements, may be subject to one or all of the following enforcement actions.

**A. Notice of Violation**

1. If the Enforcing agency determines that soil erosion or sedimentation or flooding of adjacent properties or the waters of the state has or will reasonably occur from

land in violation of this Ordinance or Part 91, the Enforcing agency may seek to enforce a violation of this Ordinance or Part 91 by notifying the landowner, by mail, with return receipt requested, of its determination. 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 Ordinance and Part 91. If the Enforcing agency determines that expenditures exceeding \$10,000.00 must be made to meet compliance, the notice must state that conformance may result in expenditures above this amount.

2. Within 5 days after a Notice of Violation has been issued, the landowner shall implement and maintain soil erosion and sedimentation control measures in conformance with this Ordinance and Part 91.

#### **B. Enforcement Actions**

1. After a Notice of Violation has been mailed, if the Enforcing agency determines that the condition of the land may result in or contribute to soil erosion and sedimentation or flooding of adjacent properties or to the waters of the state, and if soil erosion and sediment and stormwater runoff control measures in conformance with this Ordinance and Part 91 are not in place, the Enforcing agency may enter upon the land and construct, implement and maintain soil erosion and sedimentation and stormwater runoff control measures in conformance with this Ordinance and Part 91.
2. The Enforcing agency shall not expend more than \$10,000.00 for the cost of the work, materials, labor and administration unless the Notice of Violation stated that an expenditure of more than \$10,000.00 may be made and that the work may not begin until 10 days after the Notice of Violation was mailed.
3. Except as otherwise provided through Maintenance Agreements, all expenses incurred under this Ordinance by the Enforcing agency to construct, implement, and maintain soil erosion and sedimentation control measures to bring land into conformance with this Ordinance and Part 91 shall be reimbursed to the Enforcing agency by the landowner.
4. The Enforcing agency shall have a lien for the expenses incurred to bring the land into conformance. However, with respect to single-family or multiple family 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, Public Act 206 of 1893, as amended.

#### **C. Emergency Actions**

When emergency actions are necessary to moderate a nuisance, to protect the public safety, health and welfare, and/or prevent the loss of life, injury or damage to property, the Enforcing agency is authorized to carry out or arrange for all such emergency actions.

Property owners shall be responsible for the cost of such measures made necessary as a result of a violation of this ordinance, and shall promptly reimburse the Enforcing agency for all such costs.

**D. Cease and Desist Orders**

1. The Enforcing agency may issue a Cease and Desist Order or revoke a permit upon the determination that there is a violation of this Ordinance or Part 91 or a finding that there is a violation of a permit or an approved soil erosion and sedimentation and stormwater runoff control plan.
2. The Cease and Desist Order, when issued, shall require all specified earth change activities to be stopped.
3. A copy of the Cease and Desist Order shall immediately be submitted to other state and local agencies with regulatory jurisdiction.

**E. Injunctive Relief**

Notwithstanding any other remedy, the Enforcing agency may maintain an action in a court of competent jurisdiction for an injunction or other process against a person to restrain or prevent violations of this Ordinance or Part 91.

**F. Fines and Penalties**

1. A person who violates this Ordinance or Part 91 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 this Ordinance or Part 91 or knowingly makes a false statement in an application for permit or in a soil erosion and sedimentation and stormwater runoff control plan is responsible for a civil infraction and may be ordered to pay a civil fine of not more than \$10,000.00 for each day of violation.
3. A person who knowingly violates this Ordinance or Part 91 after receiving a Notice of Violation 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 this Ordinance shall be deposited with Treasurer for Grand Traverse County.
5. A default in the payment of a civil fine or costs ordered under this Ordinance or an installment of the fine or costs may be remedied by any means authorized under the Revised Judicature Act of 1961, as amended.

**G. Notification of Violation and Enforcement Actions**

1. The Enforcing agency shall notify the Michigan Department of Environmental Quality of all violations of this Ordinance and Part 91, including violations

attributable to an earth change created by an authorized public agency.

2. If a local unit of government has notice that a violation of this Ordinance or Part 91 has occurred within the boundaries of the local unit of government, including but not limited to a violation attributable to an earth change by an authorized public agency, the local unit of government shall notify the Enforcing agency and the Michigan Department of Environmental Quality of the violation.

## **XI. WAIVER**

The Enforcing agency may waive certain requirements specified in this Ordinance upon being provided with demonstrable evidence of special circumstances warranting waiver so long as there is compliance with the purpose, intent and objectives of the ordinance utilizing the following criteria:

- a. The relative extent of the public and private need for the proposed activity.
- b. The availability of feasible and prudent alternative locations and methods to accomplish the expected benefits from the activity.
- c. The extent and permanence of the beneficial or detrimental effects that the proposed activity may have on the public and private uses to which the area is suited.
- d. The probable impact of each proposal in relation to the cumulative effect created by other existing and anticipated activities in the watershed.

The Enforcing agency may not waive requirements that are specified in Part 91 of the Natural Resources and Environmental Protection Act, as amended or the rules promulgated there under.

## **XII. APPEALS**

Any person aggrieved by the action or inaction of the Enforcing agency related to this Ordinance may appeal to the Grand Traverse County Appeals Board for Building Code, Soil Erosion, Health and BOCA Fire. All requests for appeal shall be filed in writing within 30 days of the action or inaction appealed from and include the basis of the appeal.

The filing of an appeal does not preclude other remedies available to either party, nor does it act as a stay of any order from the Enforcing agency for the installation of measures or controls to reduce or eliminate soil erosion or sedimentation pending the outcome of the appeal.

The affected Township Zoning Board of Appeals will have jurisdiction to hear a variance of the setbacks suggested when a zoning variance is concurrently considered.

## **XIII. SEVERABILITY**

If any section, clause, provision or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected.

**XIV. EFFECTIVE DATE**

This Ordinance shall take effect publication according to statute.