Packet Addition
September 14, 2026
Planning Commission Meeting

Outlook

Slope Ordinance, please include in PC packet for next meeting

From Jed Hemming <janddhemming@hotmail.com>
Date Wed 9/9/2026 9:22 AM
To Planning & Zoning Administrator <zoning@peninsulatownship.com>; Kevin Beard <duneclimber55@yahoo.com>

1 attachment (235 KB)
Soil Erosion and Sediment Control_9_202111300845238806.pdf;

Members of the Planning Commission,
While considering the need for a Slope and Erosion Ordinance please consider the attached current 19 page County ordinance which applies to Peninsula Township. There are also extensive multiple State and Federal Laws and Regulations, EPA and EGLE for example. While they may not address all of each board members concerns, they are comprehensive and do apply to Peninsula Township. You all just paid your Summer Tax bill so consider the expense of creating and enforcing a new ordinance, TB and PC Board members per diem, Planners time, Attorneys time, McKenna and Associates time, and Enforcement costs. Peninsula Township has trouble enforcing its current ordinances, short term rental for example, and has not yet been able to hire a "part time ? " zoning enforcement officer. Consider the duplication of efforts with the County, State and Federal agencies. We all talk about expensive, over burdensome and redundant government. Is this duplication of existing law an example ?
Thank You,
Jed Hemming

Outlook

Re: Slope Ordinance, please include in PC packet for next meeting

From Jed Hemming <janddhemming@hotmail.com>
Date Wed 9/9/2026 2:52 PM
To Planning & Zoning Administrator <zoning@peninsulatownship.com>; Kevin Beard <duneclimber55@yahoo.com>

Could you please also include this, which is on the agenda, for consideration on ADUs ?

Accessory Dwelling Units
Peninsula Township has spent millions of dollars to preserve Ag land and keep it from becoming residential developments. It is my opinion ADUs will only create opportunity for additional development and density in residential areas.
Consider ADUs may also create tremendous opportunity for short term rentals. The Township may believe ADUs are for visiting friends and family or elderly relatives and cannot be short term rented, but what happens when the elderly relative passes or friends and family are not visiting? The Township is unsuccessfully struggling to enforce its current ordinance prohibiting short term rentals. Short term rentals on the Peninsula are easy to find. Monitoring Short term rentals through social media is not going to stop it. In an area where multitudes of people are wanting to visit, word of mouth will and does create opportunity and circumvent enforcement. Is the Township going to monitor license plates of cars in driveways and somehow confirm it's not friends or family ? Talk to some of the citizens in Traverse City about the troubles created by ADUs being used as short-term rentals.
We can call them what we want, ADUs, short term rentals, B and Bs, or whatever could all be on ag land less suitable for crops or with existing structures. It has many advantages like separation and isolation from neighbors, and additional revenue for farms with minimal interference with neighbors.
I find it ironic that a Township struggling with the idea of Farm Stays, which could create opportunity and provide onsite activities, is considering an ordinance which will increase tourism, density, and traffic in residential neighborhoods .
Thanks
Jed Hemming

GRAND TRAVERSE COUNTY
SOIL EROSION AND SEDIMENTATION CONTROL ORDINANCE
ORDINANCE No. 9

PREAMBLE

The Board of Commissioners of the County of Grand Traverse has determined that the health, safety, and welfare of the inhabitants of the County would be better served by the adoption of an ordinance to regulate or control soil erosion and sedimentation.

Section I: Name

This ordinance shall be known and cited as "Grand Traverse County Soil Erosion and Sedimentation Control Ordinance, Ordinance No. 9."

Section II: Purpose

The purpose of this ordinance to provide for soil erosion and sedimentation control; definitions; application requirements; soil erosion and sedimentation control permits; soil erosion and sedimentation control plans; inspections; building and other permits; penalties; enforcement; construction; severability; and repeal.

Section III: Definitions

All definitions included in Part 91 and as amended from time to time are incorporated by reference. The following additional definitions shall apply. Where a definition in this Ordinance conflicts with a definition included in Part 91, or as interpreted by Michigan Courts, the Part 91 definition shall control.

A. "Accelerated Soil Erosion" shall mean the increased loss of the land surface that occurs as a result of human activities.

B. "Act" shall mean Part 91, Soil Erosion and Sedimentation Control of the Natural Resources and Environmental Protection Act, being Act 451, Public Acts of 1994, as amended.

C. "Agricultural practices" shall mean all land farming operations except the plowing or tilling of land or the purpose of crop production or the harvesting of crops.

D. "Appointed Local Official" shall mean the Enforcing Agency or its designee who is legally authorized to issue municipal civil infraction citations.

E. "Authorized public agency" shall mean a state agency or an agency of a local unit of government authorized under section 9110 to implement soil erosion and sedimentation control procedures with regard to earth changes undertaken by it.

F. “Board of Commissioners” shall mean Grand Traverse County Board of Commissioners.

G. “Citation” shall mean a written complaint or notice to appear in District Court upon which an appointed local official records the occurrence or existence of one or more violations of the Act, the Rules and/or this Ordinance by the party cited.

H. “County Drain” shall mean any drain, irrespective of size, carrying drainage water or sewage or both, located, established, or constructed by the county drain commissioner or drainage board.

I. “County Enforcing Agency” shall mean a county agency, or a conservation district designated by the Board of Commissioners under section 9105 of Part 91.

J. “Department” shall means the Michigan Department of Environment Great Lakes and Energy.

K. “Designated Agent” shall mean a person who has written authorization from the landowner to sign the application and secure a permit in the landowner’s name.

L. “District Court” shall mean means the 86th Judicial District Court.

M. “Earth change” shall means 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.

N. “Erosion” shall mean the wearing away of land by the action of wind, water, ice, gravity, or a combination thereof.

O. “Grading” shall mean to level off to a smooth horizontal or sloping surface.

P. “Hydrologic Soil Group D” shall mean soils that have a very slow infiltration rate (high runoff potential) when thoroughly wet. This group typically has the following characteristics: a greater than forty (40) percent clay ratio; less than 50 percent sand ratio; a high shrink-swell potential; a high-water table; a claypan or clay layer at or near the surface; and/or soils that are shallow over nearly impervious material. These soils have a very slow rate of water transmission.

Q. “Lake” shall mean the Great Lakes and all natural and artificial inland lakes and/or impoundments that have definite banks, a bed, and visible evidence of a continued occurrence of water and a surface area of water that is equal to or greater than one (1) acre. This does not include sediment basins and lakes constructed for the sole purpose of storm water retention or detention, cooling water, or for treating polluted water.

R. “Landowner” shall mean a person who owns or holds 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 368, Public Acts of 1925, as amended.

S. “Mining” shall mean the process or business of extracting ore or minerals from a mine.

T. “Municipal Enforcing Agency” shall mean an agency designated by a municipality under section 9106 of the Act to enforce a local ordinance.

U. “Municipality” shall mean any of the following: a city, a village, a charter township, or a general law township that is located in a county with a population of 200,000 or more.

V. “Municipal Civil Infraction” shall mean an act or omission that is prohibited by the Act, the Rules, and/or this Ordinance, and for which civil sanctions, including without limitation, fines, damages, expenses, and costs may be ordered as authorized by Chapter 87 of Act 236, Public Acts of 1961, as amended.

W. “Non-erosive Velocity” shall mean a speed of water movement that is not conducive to the development of accelerated soil erosion.

X. “Permanent Soil Erosion and Sediment Control Measures” shall mean control measures which are installed or constructed to control soil erosion and sedimentation, and which are maintained after project completion.

Y. “Person” shall mean an individual, partnership, corporation, association, government entity, or other legal entity.

Z. “Pond” shall mean a permanent body of open water less than one (1) acre. This does not include sediment basins and ponds constructed for the sole purpose of storm water retention or detention, cooling water, or for treating polluted water.

AA. “Rules” shall mean the administrative rules promulgated pursuant to the Administrative Procedures Act of 1969, Public Act 306 of 1969, MCL 24.201 to 24, 328, those being Rules 323.1701 to 323.1714.

BB. “Sediment” shall mean 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 or origin by the actions of wind, water, or gravity and has been deposited elsewhere.

CC. “Soil erosion” shall mean the wearing away of land by the action of wind, water, gravity, or a combination of wind, water, or gravity.

DD. “Soil Erosion and Sedimentation Control Permit” (hereinafter referred to as “soil erosion permit” or “permit”) shall mean a document issued to authorize work to be performed under this Ordinance signed by a representative of the Enforcing Agency.

EE. “Stabilization” shall mean 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.

FF. “Stream” shall mean a river, creek, or other watercourse which may or may not be serving as a drain as defined in Act 40, Public Acts of 1956, as amended, which has definite banks, a bed, and visible evidence of continued flow or continued occurrence of water, including the connecting waters of the Great Lakes.

GG. “Temporary Soil Erosion and Sediment Control Measures” shall mean Interim control measures which are installed or constructed to control soil erosion and sedimentation, and which are not maintained after project completion.

HH. “Vegetative Cover” shall mean grasses, shrubs, trees, and other vegetation which are sufficiently established such that soils may be considered stabilized.

II. “Waters of the State” shall mean Great Lakes and their connecting waters, inland lakes and streams as defined in rules promulgated under the Act, and wetlands regulated under Part 303 of Act 451, Public Acts of 1994, as amended.

JJ. “Wetlands” shall mean 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.

Section IV: Regulations

A. In General

1. Authority. The authority for this Ordinance is Part 91, Soil Erosion and Sedimentation Control, of the Natural Resources and Environmental Protection Act, 194 PA 451, as amended, that being MCL 324.9101 *et seq*. and the Administrative Rules promulgated by the Michigan Department of Environment, Great Lakes & Energy.
2. Jurisdiction. This Ordinance shall be administered and enforced throughout the County except within the territorial boundaries of a governmental unit that has adopted an Ordinance and has been designated by the Department as a Municipal Enforcing Agency pursuant to Section 9106 of Part 91 or has been designated by the Department as

an Authorized Public Agency pursuant to Section 9110 of Part 91.

3. County Enforcing Agency. The Board of Commissioners is responsible for carrying out the requirements of Part 91. The Board of Commissioners designates the Grand Traverse County Health Department as the County Enforcing Agency responsible for administering and enforcing Part 91, its rules, and this Ordinance.

4. Part 91 and Rules Adopted. The County adopts and incorporates by reference Part 91 and the Rules adopted by the Department, and as amended from time to time.

5. Fee Schedule. All fees for administering and enforcing this Ordinance shall be paid to the County in accordance with a Fee Schedule determined by resolution of the Board of Commissioners. The Board of Commissioners may revise the Fee Schedule by adopting a written amendment to the Fee Schedule from time to time. All fees shall be doubled if work starts without a permit.

B. Earth Changes Requiring a Permit

1. A person shall not maintain or undertake an earth change governed by this Ordinance, except in accordance with this Ordinance, Part 91, and, when required, in accordance with a permit issued by the enforcing agency.

2. Earth Changes Requiring Soil Erosion Permits. Except as noted below in Section IV. C, earth changes requiring a soil erosion permit include any of the following:

   a.) An earth change (including soils from grading activities within or adjacent to the earth change area) that disturbs one (1) or more acres.
   b.) An earth change within five hundred (500) feet of the Waters of the State.
   c.) Earth change involving the removal of clay, gravel, sand, peat, or topsoil that is either one (1) or more acres or within 500 feet of the water's edge of a lake or stream; and access roads to and from the removal site or ancillary activities associated with removal.
   d.) Earth change for access roads to and from the site where active mining or logging is taking place or ancillary activities associated with mining or logging.
   e.) Earth change within five hundred (500) feet of an inlet to or an open County drain.
   f.) Earth changes involving slopes of twenty percent (20%) or greater.
   g.) Earth changes involving land classified in hydrologic group D by the United States Geological Survey.

C. Permit Exemptions and Waivers – A soil erosion permit is not required for any of the following:

1. Exemptions:

a.) A beach nourishment project permitted under Part 325 of Act No 451 of the Public Acts of 1994, as amended, being MCL 324.32501 *et seq*. of the Michigan Compiled Laws.
b.) 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.
c.) An earth change of a minor nature that is stabilized within twenty four (24) hours of the initial earth disturbance and that will not contribute sediment to lakes, streams.
d.) Installation of oil, gas, and mineral wells under permit from the supervisor of wells if the owner-operator is found by the supervisor of wells to be in compliance with the conditions of part 91.
e.) Earth changes associated with the logging industry, the mining industry, or the plowing or tilling of land for the purpose of crop production or the harvesting of crops. The exemption from obtaining a soil erosion permit does not apply to access roads to and from the site where active mining or logging is taking place, or ancillary activities associated with logging and mining.
f.) A metallic mineral mining activity that is regulated under a mining and reclamation plan if the plan contains soil erosion and sedimentation control provisions and is approved by the Michigan Department of Environment, Great Lakes & Energy under Part 631 or 632, respectively.
g.) 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 Act 451, 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 Michigan Department of Environment, Great Lakes & Energy under part 615. This section does not apply to a multisource commercial hazardous waste disposal well as defined in section 324.62506a.
h.) Earth change necessary for septic repair or well replacement where no part of the earth change is greater than one (1) acre of disturbance or within 500 feet of Waters of the State.
    i. 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.

ii. Change of a minor nature that is stabilized within (twenty four) 24 hours of the initial earth disturbance.
iii. Gardening, if the natural elevation of the area is not raised.
iv. 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.
v. Removal of tree stumps, shrub stumps, or roots resulting in an earth change not to exceed one hundred (100) square feet.
vi. All of the following activities, if soil erosion and sedimentation controls are implemented, the earth change is stabilized within twenty four (24) hours of the initial earth disturbance, and soil erosion or sedimentation to adjacent properties or the waters of the state has not or will not reasonably occur:
    1. Planting of trees, shrubs, or other similar plants.
    2. Seeding or reseeding of lawns of less than 1 acre if the seeded area is at least one hundred (100) feet from the waters of the state.
    3. Seeding or reseeding of lawns closer than one hundred (100) feet from the waters of the state if the area to be seeded or reseeded does not exceed one hundred (100) square feet.
    4. The temporary stockpiling of soil, sand, or gravel not greater than a total of ten (10) cubic yards on the property if the stockpiling occurs at least one hundred (100) feet from the waters of the state.
    5. Seawall maintenance that does not exceed one hundred (100) square feet.

2. Waivers

a.) Earth changes within five hundred (500) feet of a regulated wetland or County drain, and less than one (1) acre in earth disturbance, but only upon an affirmative showing by the property owner by clear and convincing evidence that the earth change will not result in sedimentation of the Waters of the State. The property owner must provide a signed affidavit stating that the earth change will not result in sedimentation of the Waters of the State. This waiver provision does not apply, however, if the county drain meets the definition of a stream as defined at MCL 323.1701(1)(k).

b.) The 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 two hundred twenty five (225) square feet and that the earth change will not contribute sediment to lakes and streams.

3. As used in this section, “mining” does not include the removal of clay, gravel, sand, peat, or topsoil.

4. Exemptions provided under this Section, with the exception of plowing or tilling for purposes of crop production, shall not be construed as exemptions from enforcement procedures under part 91, its Rules or this Ordinance.

5. If the activities exempted cause or result in a violation of Part 91, its Rules, or this Ordinance, at a site where a soil erosion permit was not otherwise required, then the County Enforcing Agency may require the owner to obtain a soil erosion permit, unless that activity is specifically exempt, in which case the County Enforcing Agency may take enforcement action only. Earth changes not requiring a soil erosion permit under this Section shall conform to the same processes and standards and shall be subject to the same enforcement procedures when there is a violation of Part 91, its Rules, or this Ordinance, as if they had required a soil erosion permit.

D. Approval from Other Governmental Agencies.

1. Responsibility for other permits: Soil erosion permits issued in accordance with this Ordinance do not relieve the owner of the responsibility for obtaining all other necessary permits or approvals from federal, state, and/or local agencies.

2. Notice to other permitting authorities: The enforcing agency shall notify all other permitting agencies of permits authorized under this Ordinance and provide a copy of the permit requirements to those other permitting agencies. The Drain Commissioner shall be notified of all permits issued for earth changes within 500 feet of a County drain.

3. Building permits; ingress and driveway permits:
   a.) A local agency or township that issues building permits shall notify the County Enforcing Agency immediately upon receipt of an application for a building permit that requires an earth change permit.
   b.) Pursuant to Rule 323.1711, a township, city, village, or any county agency within the jurisdiction of the County Enforcing Agency shall not issue a building permit to a person engaged in an earth change if the earth change requires a soil erosion permit under the Act, the Rules, or this Ordinance until the County Enforcing Agency has issued the required soil erosion permit.
   c.) The Grand Traverse County Road Commission shall not issue an ingress or driveway permit to a person engaged in an earth change if the earth change requires a soil erosion permit under the Act, the Rules, or this Ordinance, until the County Enforcing Agency has issued the required soil erosion permit.
   d.) In the event that a soil erosion permit is revoked, or a violation of the Act, the Rules, or this Ordinance is found by the County

Enforcing Agency, the applicable township, village, and/or county agency, including the Grand Traverse County Road Commission, that issues building permits or other permits, shall be requested to place a “hold” on any permits, approvals, inspections or legal exchanges of property until the site is brought into compliance.

4. Copies of other permits; verifications by other agencies prior to soil erosion permit issuance: Applicants for a soil erosion permit, shall provide the County Enforcing Agency with copies of the following permits, if those permits are required under the applicable law, and if in the determination of the County Enforcing Agency, those permits are necessary to determine whether soil erosion measures are adequate to protect Waters of the State, and whether the application is in compliance with the Act, the Rules, and this Ordinance:
    a.) Wetland permit, pursuant to Part 303 of Act 451, Public Acts of 1994, as amended, or pursuant to a local wetland ordinance.
    b.) Inland Lake and Streams permit, pursuant to Part 301 of Act 451, Public Acts of 1994, as amended.
    c.) The County Enforcing Agency may require the applicant to provide verification as to the location of Waters of the State, if necessary to ensure compliance with the Act, the Rules, and this Ordinance.
    d.) The County Enforcing Agency may require the applicant to provide a copy of the land use site plans provided to the local township or city, including updated or amended site plans or other documentation to reflect changes at the site during the pendency of the soil erosion permit.

5. Copies of Notice of Coverage, Permit-by-Rule: Soil erosion permit holders, required to obtain a Notice of Coverage (Sites disturbing greater than 5 acres with a direct discharge to waters of the state), Permit-by-Rule, under the National Pollution Discharge Elimination System (NPDES), Rule 323.2190 of Part 31 of Act 451, Public Acts of 1994, as amended, shall submit to the County Enforcing Agency:

    a.) A copy of the NPDES acknowledgement letter within ten (10) business days of issuance of coverage.

6. Notice by Authorized Public Agency: Pursuant to Rule 323.1706(4), an authorized public agency exempt from obtaining a soil erosion permit under this Ordinance, shall notify the County Enforcing Agency of each proposed earth change in Grand Traverse County at least (five) 5 days prior to commencement of that activity.

E. Soil Erosion Permit Application Process

1. Soil Erosion Permit Application Process. Whenever an earth change

activity requires a soil erosion permit under this Ordinance, a soil erosion permit shall be obtained from the County Enforcing Agency prior to the commencement of that activity. Any unauthorized work shall be considered a violation of this Ordinance, subject to all enforcement actions and penalties under this Ordinance, regardless of any later actions taken toward compliance.

2. To make application for a soil erosion permit, the landowner or designated agent shall submit to the County Enforcing Agency a completed application form, a fee, and a soil erosion and sedimentation control plan along with any other materials required in the application. All applications shall be made to:

Grand Traverse County Health Department Soil Erosion and Sedimentation Control Program
2650 LaFranier Road
Traverse City, MI 49686

3. The County Enforcing Agency shall review and determine if the application and soil erosion and sedimentation control plan is complete, informing the applicant of any deficiencies found. If no deficiencies are found, pursuant to Section 9112(1) of the Act, the County Enforcing Agency shall approve or deny an application for a soil erosion permit within thirty (30) calendar days after the filing of a complete application.

F. Earth Change Requirement.

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 County 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 non-erosive 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 prescribed by R 323.1710.
5. A person shall complete permanent soil erosion control measures for all slopes, channels, ditches, or any disturbed land area within 5 calendar days after final grading or the final earth change has been completed. If it

is not possible to permanently stabilize a disturbed area after an earth change has been completed or if significant earth change activity ceases, then a person shall maintain temporary soil erosion and sedimentation control measures until permanent soil erosion control measures are in place and the area is stabilized.

G. Soil Erosion and Sedimentation Control Plan Requirements. A person shall prepare a soil erosion and sedimentation control plan for any earth change identified as requiring a soil erosion and sedimentation control permit under Article III, above. A person shall design the plan to effectively reduce accelerated soil erosion and sedimentation 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 including all of the following and to the scale indicated:
   a.) Site location sketch that includes the proximity of any proposed earth changes within five hundred (500) feet of Waters of the State.
   b.) Legal description of the affected parcel of land including the property tax identification number, easements, township, section, and address, if available.
   c.) Predominate land features.
   d.) Contour lines at 2-foot intervals or slope description.
   e.) Scale:
      1. Non-residential. A scaled site plan, of not more than one hundred (100) feet to the inch for commercial soil erosion plans.
      2. Residential. A scaled site plan not more than one hundred (100) feet to the inch for residential soil erosion plans, or indication of exact distances between notes featured on site plan.

2. A soils survey or a written description of the soil types of the exposed land area contemplated for the earth change.

3. Details for proposed earth change, including all of the following:
   a.) Description and location of the physical limits of each proposed earth change, labeled limits of earth disturbance.
   b.) A Description and the location of all existing and proposed on-site drainage and dewatering facilities, including drainage arrows and discharge pipes and the location of catch basins.
   c.) The timing and sequence of each proposed earth change.
   d.) The location and description for installing and removing of all proposed temporary soil erosion and sediment control measures.
   e.) A description and the location of all proposed permanent soil erosion and sediment control measures. The plan is to reflect that permanent soil erosion and sediment control measures are to be

completed for all slopes, channels, ditches, or any other disturbed area within five (5) calendar days after final grading or the final earth change has been completed. If it is not possible to permanently stabilize a disturbed area after an earth change has been completed or if significant earth change activity ceases, then a person may request that the Part 91 agency consider approval of a soil erosion plan modification detailing the specific timeline for establishing permanent stabilization and the interim temporary measures that will be implemented and maintained until such time permanent stabilization can be achieved.

f.) A program proposal for the continued daily maintenance of all permanent soil erosion and sedimentation control measures that remain after project completion, including the designation of the person responsible for each maintenance. Maintenance responsibility shall become part of any sales or exchange agreement for the land on which the permanent soil erosion control measures are located.

g.) Name, address, and telephone numbers of the landowner, builder, and designated agent, if any.

h.) Any other specific information needed to determine the adequacy of the soil erosion plan for assuring minimization of soil erosion and sedimentation, as determined by the County Enforcing Agency. This could include requesting engineering calculations, product specifications, etc.

4. Qualified Plan

a.) Except for sites disturbing one (1) acre or less, the soil erosion plan shall be prepared under the direction of a qualified individual, certified in Michigan, unless waived in writing by the County Enforcing Agency.

b.) A “qualified individual” is an engineer or landscape architect, or other qualified individual if approved by the County Enforcing Agency. The soil erosion plan for sites disturbing 1 acre or less will not require preparation under the direction of a professional engineer, certified in Michigan, unless determined necessary due to site condition by the County Enforcing Agency in writing to the applicant.

c.) All site developments disturbing 1 acre of soil or less shall contain one (1) set of plans. All other soil erosion permit applications shall contain three (3) sets of plans.

d.) A soil erosion plan shall be considered complete when all of the items required in Section IV. G, above, have been included on the plan. However, the plan may not be approvable as submitted unless the provisions identified in Section IV. F, above, are also met.

H. Best Management Practices. All temporary and permanent measures proposed in the soil erosion plan shall be installed and maintained in accordance with the

standards and specifications of the product manufacturer, Department guidelines, including “Guidebook of Best Management Practices for Michigan Watersheds,” the local conservation district, the Michigan Department of Transportation, and County Enforcing Agency, if applicable and if formally adopted. If a conflict exists between the standards and specifications, then the enforcing agency or authorized public agency shall determine which specifications are appropriate for the project.

I. Soil Erosion Permit Approval and Issuance. A soil erosion permit will be issued provided the applicant meets all the requirements of the Act, the Rules, and this Ordinance; and if, in the determination of the County Enforcing Agency, the earth disturbance is designed such to assure minimization of erosion and sedimentation and will not result in or contribute to the soil erosion or sedimentation of the waters of the State and adjoining properties. If the application and soil erosion and sedimentation control plan is approved and a soil erosion permit is issued, the applicant shall be notified by first-class mail. The County Enforcing Agency need not notify by mail if the permit is given to the applicant in person. A soil erosion permit is issued for up to twelve (12) months, based upon the project, and must be renewed unless the site is permanently stabilized, and the permit is closed by the County Enforcing Agency. The County Enforcing Agency may increase the permit timeframe upon request and with a prorated fee if the County Enforcing Agency deems it appropriate to have a longer permit period. The soil erosion permit shall be posed at the site in a location noted in the permit, until the site is permanently stabilized, and the permit is closed by the County Enforcing Agency. The soil erosion plan shall be available on-site for inspection upon request by the County Enforcing Agency.

J. Soil Erosion Permit Denial. A soil erosion permit will be denied, or the application required to be modified, when the County Enforcing Agency determines that the application and/or soil erosion and sedimentation control plan as submitted is incomplete, not assuring minimization of soil erosion and sedimentation, will result in or contribute to the soil erosion or sedimentation of the Waters of the State or adjoining properties, or is not consistent with the requirements of the Act, the Rules, or this Ordinance. If the application is disapproved, and the permit denied, the County Enforcing Agency shall notify the applicant by certified mail of the reasons for denial and the conditions necessary for approval. The County Enforcing Agency need not notify by mail if the applicant is given written disapproval in person.

K. Soil Erosion Permit Modifications. A soil erosion permit may be modified by written order of the County Enforcing Agency at any time. If there are any changes to the scope or character of the project from what was approved in the issued soil erosion permit, including but not limited to the area of disturbance or temporary soil erosion control measures, the permittee must submit these changes to the County Enforcing Agency for approval as a modification of the permit prior to the change occurring. This request shall be in writing and include

a revised soil erosion plan reflecting any proposed modifications. The County Enforcing Agency shall provide written notification of its determination of the request for permit modification within ten (10) days of receipt of the request. There will be no additional fee for modification of a permit unless the area under disturbance is increased.

L. Soil Erosion Permit Renewal. All soil erosion permits must be renewed before expiration unless the County Enforcing Agency determines that the earth disturbance is permanently stabilized, and the permit can be closed. If the County Enforcing Agency has not made that determination, the permittee shall make application for renewal at least two (2) weeks prior to the expiration of the permit. The request for renewal shall include the appropriate fee in effect at the time of renewal, and a written description and revised soil erosion plan reflecting any changes to the scope of the activity or other information, since the previous permit was issued. The renewal permit is to be posted-on-site with the original permit. The County Enforcing Agency retains the right to require a plan modification in accordance with Section IV. K (above) where a delay may impact plan requirements.

M. Soil Erosion Permit Transfers. If property subject to a permit under this part is proposed to be transferred, the transferor shall notify the transferee of the permit in writing on a form developed by the department and provided by the County Enforcing Agency or municipal enforcing agency. The notice shall inform the transferee of the requirements of MCL 324.9112, subsection (2) and, as applicable, MCL 324.9112, subsection (3) or (4). The notice shall include a copy of a permit. The transferor and transferee shall sign the notice, and the transferor shall submit the signed notice to the County Enforcing Agency before the property is transferred. The County Enforcing Agency may charge a fee for the transfer of a permit. The fee shall not exceed the administrative costs of transferring the permit. Fees collected under this subsection shall only be used for the enforcement and administration of this part by the County Enforcing Agency. Violations, responsibility for violations, and partial transfer scenarios shall be governed in accordance with MCL 324.9112 and as amended.

N. Soil Erosion Permit Closure. A soil erosion permit will be closed when the County Enforcing Agency has determined that the earth disturbance has been permanently stabilized. For purposes of this determination, the earth disturbance is considered permanently stabilized when permanent control measures (pavement, rock, grasses or other vegetation and landscaping) are installed in a manner that ensures its resistance to soil erosion, sliding, or other earth movement. The Construction Site is considered permanently stabilized when all earth change activity has ceased, all permanent control measures have been installed, maintenance for the permanent controls has been arranged, vegetation is well established throughout all areas that were disturbed to a degree that ensures their resistance to erosion, slumping, etc., and temporary controls have

been removed.

O. Soil Erosion Permit Revocation or Suspension. Soil erosion permits may be suspended or revoked for any of the following reasons:

1. Failure to adhere to conditions of the permit, including the approved SESC plan.
2. Misrepresentation or failure to disclose relevant facts in the application or plans as submitted.
3. Failure to adhere to the requirements of the Act, the Rules, or this Ordinance that results in the issuance of a Cease-and-Desist Order.
4. Notice of permit revocation shall be by certified mail and by posting on-site. A copy of the notice may also be given in person or by facsimile but will not substitute for the other notice. If a permit has been revoked for any reason, the permit process will begin again and an application, plan, and necessary fees, including re-inspection fees, will have to be submitted. Fees will be based on those in effect at the time of reapplying for a permit.
5. Revocation must be made in accordance with the Administrative Procedures Act.

P. Soil Erosion Permit Performance Guarantees. Permit performance guarantees may be required by the County Enforcing Agency at the issuance of a permit, including after a Cease-and-Desist Order has been issued. The performance guarantee shall be in an amount sufficient to assure the installation and completion of such protective or corrective measures as may be required by the County Enforcing Agency to implement and maintain soil erosion and sedimentation controls authorized by the permit, until the site is permanently stabilized. All necessary costs and expenses incurred, including the incidental administrative and legal costs, shall be covered through this performance guarantee. At the permittee's choosing, this performance guarantee shall be in the form of cash, certified check, irrevocable bank letter of credit or bond acceptable to the County Enforcing Agency. The remaining balance of the performance guarantee will be returned to the permittee upon the determination by the County Enforcing Agency at permit closure inspection, that the site is permanently stabilized and has met all requirements set forth by the Act, the Rules, this Ordinance, and the issued permit. The remaining balance of the performance guarantee shall be returned within one month of this determination.

Q. Inspections. As specifically allowed under Section 9113(2) of the Act, the County Enforcing Agency may enter at any reasonable time upon any property to conduct onsite inspections and investigations to ensure compliance with the Act, the Rules, this Ordinance, or any issued permit. Such inspections may take place before, during and/or after any earth change activity. If, upon inspection, existing site conditions are found to be in conflict with the Act, the Rules, this Ordinance, or with an issued soil erosion permit, a Cease-and-Desist Order and/or any other enforcement action authorized under the Act, the Rules, or this Ordinance may

be pursued by the County Enforcing Agency.

R. Fees. All fees shall be paid to the County Enforcing Agency in accordance with a fee schedule determined by resolution to the Grand Traverse County Board of Commissioners, which shall be amended from time to time.

Section V: Violations and Penalties

A. Notice of Violation. If the County Enforcing Agency determines that soil erosion and sedimentation of the Waters of the State or adjoining properties has occurred or could reasonably occur in violation of the Act, the Rules, or this Ordinance, the County Enforcing Agency may seek to enforce compliance by notifying the landowner and agent by certified mail, return receipt requested, of its determination. In addition, the property upon which the violation is occurring will be posted with the notice. The notice shall contain a description of the violation, what must be done to remedy the violation, and specify a time in which to comply with the notice, but not more than five (5) calendar days from mailing of the notice.

In addition, the County Enforcing Agency may require the landowner to obtain a permit and remit fees for the activity, even if the activity causing the violation was otherwise not required to obtain a permit.

B. Compliance; time. If the landowner has failed to comply with the notice of violation within five (5) calendar days of mailing, the County Enforcing Agency may enter upon the land to construct, implement, and maintain soil erosion and sedimentation control measures in conformance with the Act, the Rules, this Ordinance, and the notice, whenever soil erosion and sedimentation of the waters of the State or adjoining properties could reasonably occur or have occurred. However, the County Enforcing Agency shall not expend more than Ten Thousand and no/100 ($10,000) for the cost of the work, materials, labor, and administration without prior written notice that the expenditure could exceed Ten Thousand and no/100 ($10,000). If more than Ten Thousand and no/100 ($10,000) is to be expended, then the work shall not begin until at least ten (10) calendar days after the notice of violation has been mailed.

C. Reimbursement of County Enforcing Agency's Lien for Expenses; Priority; Collection and Treatment of Lien. All expenses incurred by the County Enforcing Agency to bring land into compliance under this Section shall be reimbursed by the landowner. The County Enforcing Agency shall have a lien for the expenses incurred to bring the land into conformance. With respect to single-family or multi-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, pursuant to the Act. 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, being Act 206, Public Act

of 1893, as amended.

D. Cease-and-Desist. The County Enforcing Agency may issue a Cease-and-Desist Order upon finding a violation of the Act, the Rules, or this Ordinance, an issued soil erosion permit, including the soil erosion plan, or an affidavit of compliance. Notice shall be given by certified mail, return receipt requested, and posted on-site. When a Cease-and-Desist Order is issued, the soil erosion permit or affidavit of compliance is revoked pursuant to Section IV. O as described above.

E. Penalty. A person who violates Part 91, the Rules, or this Ordinance, is responsible for a municipal civil infraction and may be ordered to pay a civil fine of not more than Twenty-Five Hundred and no/100 Dollars ($2,500).

F. A person who knowingly violates Part 91, the Rules or this Ordinance 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 Ten Thousand and no/100 Dollars ($10,000) for each day of violation. A person who knowingly violates Part 91 after receiving a notice of determination under MCL 324.9112 or 324.9117 is responsible for the payment of a civil fine of no less than Twenty-Five Hundred and no/100 Dollars ($2,500) or Twenty-Five Thousand and no/100 Dollars ($25,000) for each day of the violation.

G. Enforcement Officer. Any peace officer and any soil erosion and sedimentation control officer designated as such by the Enforcing Agency is authorized to issue a municipal civil infraction for violation of this Ordinance.

H. Violations Bureau; Payments. The Grand Traverse County District Court with jurisdiction has been established as the Violations Bureau for the uniform municipal civil infraction citations. All persons that receive uniform municipal civil infraction citation shall have twenty-one (21) days to pay the fine to the District Court Office. If responsibility is denied or the fine is unpaid after 21 days, the uniform municipal civil infraction citation shall be processed by the District Court for resolution pursuant to Chapter 87 of the Revised Judicature Act, MCL 600.8701, *et seq*. Either party may request a formal hearing before a judge.

I. All fines paid pursuant to this Ordinance shall be paid to the County Enforcing Agency for purposes of enforcing this Ordinance, Part 91, and its Rules.

J. Injunctive Relief. Notwithstanding any other remedy and penalty provided in the Act, the Rules, or this Ordinance, the County may maintain an action in its own name in a court of competent jurisdiction for an injunction or other process against any person to restrain or prevent violation of the Act, the Rules, this Ordinance, or a permit issued hereunder.

Section VI: Appeals

A. Appeal of Permit Decision; Informal Hearing. If any person is aggrieved by a permit decision, they may file a written appeal including the reason for the appeal, which references the applicable section of the Ordinance along with the required fees, if any, with the Grand Traverse County Health Department within 30 days of the decision. An informal hearing before the Health Officer or his/her designee will be scheduled within 5 calendar days of receiving the request. The informal hearing will allow the appellant, landowner, designated agency, or County Enforcing Agency staff an opportunity to submit additional information or re-emphasize previously submitted data. The Health Director will then review the information and take under advisement any other comments received before making a final decision which shall be made within 5 calendar days after receiving the request, not including the day on which the request is received, and forward this final decision to the appellant, landowner, and designated agent by first class mail. A permit shall not be invalidated during this appeal period.

B. Appeal of Notice of Violation; Informal Hearing. If the landowner or designated agent is aggrieved by a compliance and enforcement action made by the County Enforcing Agency pursuant to this Ordinance, they may file a written appeal including the reason for the appeal, which references the applicable section of the Ordinance along with the required fees, if any, with the Grand Traverse County Health Department within twenty-four (24) hours of receiving a notice of violation. If an appeal is filed, an informal hearing will allow the landowner or designated agent an opportunity to submit additional information or re-emphasize previously submitted data. The Health Director or his/her designee will then review the information and take under advisement any other information received before making a final decision within five (5) calendar days of having received the request and forward this final decision to the landowner and any designated agent in person or by certified mail, return receipt requested.

C. Standard of Review. The Health Officer or his/her designee, who must also be a certified enforcement agent, shall review the decision of the County Enforcing Agency staff and may affirm, modify, or reverse the decision, but only if the decision of the Director is in accordance with Part 91, its Rules, and this Ordinance.

D. Final Decision. All decisions of the Health Officer, his/her designee or an arbiter shall be in writing and shall include a brief recap of testimony and evidence presented. The decision of the Health Officer or his/her designee or arbiter shall be binding upon the County Enforcing Agency and the Landowner, Designated Agent and/or On-Site Authorized Agent. A person may file an appeal or seek judicial review of any final decision as authorized by Michigan law.

E. Administrative Procedures Act. All appeals shall comply with the requirements of the Administrative Procedures Act.

F. Qualifications. The Health Officer, his/her designee must have a level II certification issued by the Michigan Department of Environment, Great Lakes & Energ.

G. Irrespective of the filing of an appeal, the landowner must come into compliance within (5) five days of notice of determination and ensure that there is no discharge off-site or to waters of the state in order to be in compliance with Part 91. An appeal does not put the obligation for compliance on hold. The appeals process does not extend or void the responsibility of the landowner to comply with Part 91, nor does it alleviate the obligations of the Part 91 agency to pursue enforcement remedies necessary to return the site to compliance in a timely manner.

Section VII: Miscellaneous

A. Severability. The various parts, sections, subsections, paragraphs, sentences, phrases, and clauses of this Ordinance are declared to be severable. If any part, section, subsection, paragraph, sentence, phrase, or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, it shall be considered severed from this Ordinance and shall not be construed as affecting the validity of the remaining portions of this Ordinance.

B. Effective Date. This Ordinance shall be effective when approved by the Department, and notice of adoption is published in a newspaper of general circulation within the County. All unexpired permits issued prior to the adoption of this Ordinance and bonds on file pursuant to those permits shall remain in effect and shall be subject to provisions of this Ordinance.

C. Other Regulations Repealed. All other Ordinances and Regulations and parts of Ordinances and Regulations which are inconsistent with the provisions of this Ordinance are repealed. In addition, the Grand Traverse County Soil Erosion Sedimentation and Storm Water Control Ordinance is repealed.

D. More Restrictive Provisions. To the extent that any regulations contained in this Ordinance are more restrictive than, or are in addition to, the provisions or requirements of Part 91 or the Rules, this Ordinance shall control.

Bob Hentschel
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Chairperson of the Board of Commissioners
of Grand Traverse County

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