

PLANNING COMMISSION DRAFT
May 12, 2006

Antrim County

Soil Erosion Sedimentation and Stormwater Runoff Control Ordinance
*Adopted by resolution of the Board of Commissioners in accordance with
the provisions of Section 9105(3) of Part 91 (Soil Erosion and
Sedimentation Control Act) of the Natural Resources and Environmental
Protection Act (Act 45 of 1994, as amended), the Michigan Drain Code
(Act 40 of 1956, as amended) MCL 46.11(j) and Article IV, Section 52 of
the Constitution of the State of Michigan*

SECTION 1 PURPOSE, OBJECTIVES, AND AUTHORITY

1-100 PURPOSE

Pursuant to Section 5 of Part 91 of the Environmental Protection Act 451 of 1994, as amended, (being MCL 324.9105, the Soil Erosion and Sedimentation Control Act), the County is responsible for the administration and enforcement of Part 91 and the rules promulgated under Part 91. Pursuant to MCL 324.9105(3), the County may provide by ordinance for the enforcement of Part 91, and such ordinance concerning enforcement and soil erosion and sedimentation control in the County may be more restrictive than Part 91. The Antrim County Board of Commissioners has determined that development and post-development stormwater runoff creates soil erosion and sedimentation both on and off site of the origin. The Antrim County Board of Commissioners deems that the preservation of the natural resources and the environment of Antrim County from the adverse affects of soil erosion, sedimentation, and stormwater runoff is essential, and that adoption of this ordinance, which in part is more restrictive than Part 91, will better address soil erosion, sedimentation, and stormwater runoff within Antrim County.

It has been determined that proper management to prevent the harmful affects of soil erosion, sedimentation and stormwater runoff will minimize damage to public and private property and infrastructure, and will protect water and aquatic resources. The purpose of this ordinance is to protect, maintain and enhance the control of soil erosion, sedimentation and stormwater runoff by establishing minimum requirements and procedures to control the adverse affects that can arise with earth changes, including new development, redevelopment and post-development stormwater runoff. This Ordinance and its guidelines, set forth the administrative procedures, standards, and enforcement remedies for the enforcement of Part 91 of the Environmental Protection Act of 1994 (Act 451 of 1994, as amended, being the Soil Erosion and Sedimentation Control Act). This Ordinance and its guidelines, together with applicable portions of Part 91 and its rules and regulations, and the Michigan Drain Code (Act 40 of 1956, as amended), will more effectively reduce the harmful effects of soil erosion and the release of sediment from the site of origin. Stormwater runoff control and management is a part of a comprehensive soil erosion and sedimentation control management plan. The benefits of stormwater runoff management, as part of implementing soil erosion and sedimentation control measures, will reduce soil erosion and release of sediment, thus sustaining natural resources, environment, soils and clean water in Antrim County and the State of Michigan.

Stormwater runoff control is a critical element to Soil Erosion Control. When land is used for development, areas that were previously pervious are reduced and may become impervious thereby reducing or disallowing surface water and water flow to percolate into the ground. This increase in the overland flow of stormwater and increasing soil erosion, including sheet or rill soil erosion, can be concentrated and cause severe gully erosion, especially if permanent soil erosion control measures have not been installed. A properly implemented stormwater runoff plan will reduce or avoid soil erosion and control and filter sedimentation before reaching waters of the county and state.

1-200 OBJECTIVES

1-201 This ordinance seeks to meet the above-stated purpose through the following objectives:

1-201.1 To prevent accelerated soil erosion and release of sedimentation from the site of origin resulting from earth changes proposed within Antrim County, both during and after construction, by requiring proper provisions for drainage and the protection of soil surfaces during and after construction.

- 1-201.2** To ensure landowner and/or land owner's contract control any change in the volume, direction and/or rate of stormwater runoff originating from their property, thereby reducing soil erosion and release of sedimentation.
- 1-201.3** To ensure alterations to natural drainage patterns shall not create soil erosion, release of sedimentation from the site of origin or flooding, which can cause soil erosion and release of sedimentation.
- 1-201.4** 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 drain systems.
- 1-201.5** To preserve natural infiltration, the recharge of ground water and to maintain subsurface flows, which replenish lakes, streams and wetlands, which all can be adversely affected by soil erosion and sedimentation.
- 1-201.6** To restrict stormwater runoff entering and leaving development sites to non-erosive velocities by requiring temporary and permanent soil erosion, sedimentation and stormwater runoff control measures.
- 1-201.7** To ensure that soil erosion control, sedimentation and stormwater runoff control systems are incorporated into site development in the planning and design process.
- 1-201.8** To prevent unnecessary stripping of vegetation and loss of soils, especially adjacent to lakes, streams, watercourses, and wetlands.
- 1-201.9** To control construction activity that may cause mass movement or erosion of land surfaces.
- 1-201.10** To eliminate the need for costly maintenance and repairs to roads, embankments, ditches, stream banks, streams, lakes, and wetlands, which are the result of inadequate soil erosion, sedimentation or stormwater runoff controls by use of stormwater control facilities.
- 1-201.11** To reduce maintenance costs, and to eliminate the need for costly remediation projects as a result of accelerated soil erosion, sedimentation and uncontrolled stormwater runoff.
- 1-201.12** To encourage the design and construction of soil erosion, sedimentation and stormwater runoff control systems, which serve to enhance multiple purposes including, but not limited to flood prevention, water quality protection, wildlife habitat preservation, education, recreation, and wetlands protection, all of which can be adversely affected by soil erosion and release of sedimentation.
- 1-201.13** To reduce the detrimental impact of stormwater flows on downstream communities, private property, rivers, streams, and lakes caused by soil erosion and by accepting upstream sedimentation.
- 1-201.14** To allow for off-site stormwater runoff control facilities and measures if proposals meet the requirements of this Ordinance.
- 1-201.15** To ensure that all soil erosion sedimentation and stormwater control facilities are properly designed, constructed and maintained so as to prevent the conveyance of sediment via wind and stormwater runoff, thus providing water quality protection.
- 1-201.16** To ensure that landowners and/or landowner's contactor 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 and release of sedimentation are minimized, and flooding potential is reduced.
- 1-201.17** To provide for enforcement of this ordinance and penalties for violations.

1-300 AUTHORITY

This Ordinance is adopted under the authority granted in MCL 324.9105(3) of Part 91 of the Natural Resources and Environmental Protection Act (Act 451 of 1994), the Michigan Drain Code (Act 40 of 1956), being MCL 280.1 through 280.630, as amended, (hereafter the "Drain Code"), and the County's authority to make ordinances.

1-400 PART 91 AND RULES

Part 91 of the Natural Resources and Environmental Protection Act, as amended, and the rules adopted there under, which are not in conflict with this Ordinance, are hereby adopted and incorporated by reference.

1-500 GRAMMATICAL USAGE

For the purposes of this Ordinance, the following definitions shall govern grammatical usage herein:

- 1-501** Words used in the present tense include the future tense.
- 1-502** The word "may" is permissive.
- 1-503** The word "shall" is always mandatory and not discretionary.
- 1-504** Any word or term not defined herein shall be used with a meaning of common or standard utilization.

SECTION 2 DEFINITIONS

2-100 Definitions

2-101 Definitions set forth at MCL 324.9101 and R 323.1701 of Part 17 of the Soil Erosion and Sedimentation Control Act are included herein by reference and have the same meanings when used in this Ordinance unless otherwise defined herein.

If a definition set forth in this Ordinance is more restrictive or in conflict with one set forth in MCL 324.9101 and/or R 323.1701, the definition in this Ordinance shall control unless it makes lawful that which is unlawful under Part 91 and/or the rules promulgated under Part 91.

The following terms and phrases shall have the given meaning 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. Accessory structure** – A structure, which is clearly incidental to, customarily found in connection with, and located on the same lot as the principal use to which it is related.
- C. Applicant** – Any authorized individual requesting a permit.
- D. Authorized public agency** – A state agency or an agency of a local unit of government authorized under MCL 324.9110 to implement soil erosion and sedimentation control procedures with regard to earth changes undertaken by it.
- E. Best management practice (BMP)** – Any managerial, vegetative, or structural measures, activities, facilities or devices used to manage soil erosion, sediment and stormwater management runoff control objectives.
- F. Board of County Commissioners** – Antrim County Board of Commissioners, also referred to as "County Board".
- G. Cease and Desist Order** – An order issued under this ordinance by the Soil Erosion Control Officer to a person, or the permittee, their employees, agents, or contractors requiring the cessation of activities.

- H. **Channel** – Any permanent or intermittent, natural or human-made waterway, which serves as an area where concentrated flows of water occur.
- I. **Commercial use** – All land uses except for one family detached dwellings and structures connected with residential use. The use of property in connection with or for the purchase, sale, display, manufacturing, storage, warehousing or distribution of goods, merchandise, or personal services, rental dwellings or the maintenance or operation of businesses for recreation or amusement, or telecommunication enterprises, whether for profit or not for profit.
- J. **Control plan** – Soil Erosion, Sedimentation and Stormwater Runoff Control Plan.
- K. **County Drain** - Drains established pursuant to the Michigan Drain Code (Act 40 of 1956, as amended).
- L. **Design standard (or engineering design standard)** – Engineering specifications detailing soil erosion sedimentation and/or stormwater control facilities.
- M. **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, or it may be a body of water with a fixed minimum and maximum water elevation between runoff events.
- N. **Designated Agent** - A person who has written authorization from the landowner to sign the application and secure a permit in the landowner's name.
- O. **Discharge** – The rate of flow of water across land, through a channel or structure at a given point and time, measured in cubic feet per second (cfs).
- P. **Disturbed area** – An area of land subject to erosion due to the removal of vegetative cover, an earth change and/or earthmoving activities.
- Q. **Drain Commissioner** - The Antrim County Drain Commissioner or the authorized representative of the Drain Commissioner.
- R. **Drainage** – The interception and removal of groundwater or surface water by natural or artificial means.
- S. **Dry well** – A bed of stone or a hole in the ground constructed for the purpose of trapping stormwater for infiltration into the ground.
- T. **Downstream** – Lands and waters, which receive stormwater runoff and other surface water flows or those that are subject to soil erosion or accepting released sedimentation from a site of origin.
- U. **Drainage system** – All facilities, channels, and areas, which serve to convey, filter, store, remove, and/or receive stormwater, either on a temporary or permanent basis.
- V. **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.
- W. **Enforcing Agency** – A County agency, drain commissioner, or a conservation district designated by a County Board of Commissioners to enforce this ordinance.
- X. **Environmentally-sensitive site** – Any sites in which a proposed earth change activity is to occur in which one or more of the following characteristics:
 1. Sites of earth change activities where the area of disturbance is on a slope 10 percent or greater (10 feet horizontal to 1 foot vertical), 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 Antrim County Soil Survey, published by the Natural Resources Conservation Service (formerly the Soil Conservation Service), or by the 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 one hundred (100) feet of a protected wetland.
 5. Sites 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.
- Y. Extended detention basin** – Detention basin designed to provide substantial removal of suspended solids and particulates, typically achieved by holding stormwater for at least 24 hours and not more than 72 hours.
- Z. Flood** – Inundation by surface water of lands not normally covered by water.
- AA. Floodplain** – See definition of “Regulated Floodplain.”
- BB. Grading** – Any stripping, clearing, excavating, filling, or stockpiling of the land, or any combination thereof, including the land in its excavated or filled condition.
- CC. Guidelines** – The Soil Erosion, Sedimentation and Stormwater Runoff Design Guidelines promulgated pursuant to this Ordinance.
- DD. Impervious surface** – Impermeable surfaces that prevent the infiltration of water into the soil.
- EE. Industrial use** – Any manufacturing, fabrication, assembly, printing, or improvement of articles or merchandise; warehousing, wholesaling, or storage of goods, vehicles, or materials; research and medical laboratories; activities related to extraction and processing of gravel, sand, peat and topsoil; and other business enterprises not classified as commercial.
- FF. Infiltration** – The downward movement of water from the surface to the subsoil and/or groundwater. The infiltration rate is expressed in terms of inches per hour.
- GG. Infiltration facility** – A structure or area that allows stormwater runoff to gradually seep into the ground.
- HH. Lake** - The Great Lakes and all natural and artificial inland lakes or impoundments that have definite banks, a bed, visible evidence of a continued occurrence of water, and a surface area of water that is equal to, or greater than one acre. "Lake" does not include sediment basins and basins constructed for the sole purpose of stormwater retention, cooling water, or treating polluted water.
- II. Landowner** - A person who owns property and/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, being MCL 247.183, 247.184, 247.185, and 247.186.
- JJ. Land use** – A use of land, which may result in any earth change, including but not limited to subdivision, residential, commercial, industrial, recreational, agricultural practices, or other development, private and public highways, road and stream construction, and drainage construction.
- KK. Landscaping** – Mowing, seeding, sodding, and other landscaping activities, which are not earth changes.
- LL. Local Unit of Government** – means any township, city, or village within any part of the County.

- MM. Maintenance Agreement** – A binding agreement between the landowner and Antrim County, which sets forth the location and design of the best management practices, as well as the terms and requirements for soil erosion, sedimentation and stormwater runoff control facilities.
- NN. Nonerosive velocity** – A rate of flow of water or stormwater runoff, measured in feet per second, which is not conducive to the development of accelerated soil erosion. Non-erosive velocities vary for individual sites, taking into account topography, soil type and runoff rates.
- OO. Off-site stormwater control facility** – Soil erosion, sedimentation and stormwater runoff control facility, which is located partially or completely off the development site.
- PP. Ordinance** – The provisions of this Ordinance and the promulgated guidelines.
- QQ. 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.*
- RR. Outfall** - The point where water flows out from a conduit, drain or stream.
- SS. Outlet** – An area or pipe in which water or stormwater runoff is discharged from property or from a stormwater runoff control system
- TT. Part 91** - Part 91 of Act No. 451 of the Public Acts of 1994, as amended, being MCL 324.9101 to 324.9123.
- UU. 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 cfs.
- VV. Permanent Soil Erosion, Sedimentation and Stormwater Control Measures** – Installations designed to control soil erosion, sedimentation and stormwater runoff after a project is completed.
- WW. Permit** - A signed, written statement issued under this Ordinance authorizing a landowner and/or landowner’s contractor to engage in specified earth changes.
- XX. Person** - an individual, partnership, corporation, organization, or association of any kind, including the landowner and contractor performing the earth change on behalf of the landowner.
- YY. Pond** – Any permanent or temporary body of open water which is not a lake and is less than five (5) acres in size.
- ZZ. Regulated Floodplain** – that area of land adjoining a river, stream, or lake, subject to inundation by a 100-year flood, as regulated by the State of Michigan or United States.
- AAA. Regulated wetland (Wetlands)** – A wetland, which meets one or more of the following criteria: (1) a wetland of which any portion is within 500 feet of a lake or stream, (2) a wetland within one thousand feet of Lake Michigan, (3) a wetland subject to regulation by a township, village, city, county, or easement, (4) a wetland connected to any of the foregoing types of wetland or (5) such other wetlands regulated either by the State of Michigan under Part 303 of the Wetland Protection Act, being 324.30301, *et seq.*, or by United States of America.
- BBB. Receiving body of water** – Any lake, stream, wetland, or groundwater into which stormwater runoff is directed.
- CCC. Runoff** - Stormwater runoff.

- DDD. Sediment/Sedimentation** – Solid particulate matter, including both mineral and organic matter, that is in suspension in water, is being transported, or released from its site of origin by the actions of wind, water, or gravity, and has been deposited elsewhere.
- EEE. Site** – Any tract, lot or parcel of land or combination of tracts, lots or parcels proposed for development or undergoing earth moving activity.
- FFF. Site plan** – See soil erosion, sedimentation and stormwater runoff control plan.
- GGG. Soil Erosion Control Officer** - A person who has been issued a certificate of training as provided in MCL 324.9123.
- HHH. Soil erosion** – The wearing away of land by the action of wind, water, snow, snowmelt, gravity, or a combination of these elements.
- III. Soil Erosion, Sedimentation and Stormwater Runoff Control Facilities and Measures** – Any structure, facility, barrier, berm, vegetative cover, basin, or other measure, which serves to control soil erosion, release of sedimentation or stormwater runoff in accordance with the purposes and standards of this Ordinance.
- JJJ. Soil Erosion Sedimentation and Stormwater Runoff Control Plan** – The maps, plans and written statement and information for a proposed land use or earth change on a site, which describe the way in which soil erosion, sedimentation and stormwater runoff will be controlled during and after completion of construction.
- KKK. Storm drain** – A conduit, pipe, natural channel or human-made structure, which serves to transport stormwater runoff.
- LLL. Storm frequency** – The average period of time during which a storm of a given duration and intensity can be expected to be equaled or exceeded.
- MMM. Stormwater Runoff** - The flow of surface water resulting from precipitation.
- NNN. Soil Erosion, Sedimentation and Stormwater Design Guidelines** - Those guidelines that correspond with this Ordinance and specifically govern the process of any earth change activities occurring within the County.
- OOO. Stream** – A river or 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 a continued flow or continued occurrence of water
- PPP. Stream bank** – The usual boundaries, not the flood boundaries, of a stream channel.
- QQQ. Stripping** – Any activity, which removes or significantly disturbs the vegetative ground surface cover, including clearing, stump removal and grubbing operations.
- RRR. Swale** – An elongated depression in the land surface that is seasonally wet, usually heavily vegetated, and normally lacks flowing waters, that receives water or stormwater runoff on an intermittent basis.
- SSS. Temporary measures** – Interim control measures that are installed or constructed to control soil erosion, sedimentation and stormwater runoff during construction, or until soils in the contributing drainage area are stabilized, and which are not maintained after project completion.
- TTT. Vegetative cover** – Grasses, shrubs, trees, and other vegetation, which hold and stabilize soils.
- UUU. Water of the State** - The Great Lakes and their connecting waters, inland lakes and streams, including drains, as defined under Part 301, of the Inland Lakes and Streams Act, being MCL 324.30101, *et seq.*, and wetlands

regulated under Part 303, of the Wetland Protection Act, being 324.30301, *et seq.*, and the rules promulgated there under.

- VVV. Water Pollution** – Degradation of water quality, which prevents the use of water for a specific beneficial purpose
- WWW. 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.
- XXX. Wetland** – See Regulated Wetlands
- YYY. Wetland Vegetation** – Plants that exhibit adaptations to allow under normal conditions, germination and propagation, and allow growth with at least their root systems in water or in saturated soil.

SECTION 3

PERMIT REQUIREMENTS

3-100 Jurisdiction for Permit Administration

3-101 The Board of Commissioners shall by resolution, designate a county agency, the drain commissioner, or the conservation district upon the concurrence of the conservation district, as the county enforcing agency responsible for the administration and enforcement of this Ordinance and Part 91. Such designee shall serve at the pleasure of the Board of Commissioners.

3-102 In the event the Board of Commissioners designate the drain commissioner as the county enforcing agency, the drain commissioner may approve a single plan that covers the requirements of a Soil Erosion, Sedimentation and Stormwater Runoff Control Plan under this ordinance and drains as governed by the Drain Code.

3-103 In the event, the Board of Commissioners designates a person or agency other than the drain commissioner, and if the Soil Erosion Sedimentation and Stormwater Runoff Control Plan requires or incorporates drains governed by the Drain Code, such designee shall work with the drain commissioner in the development of such plan.

3-104 Earth changes carried out by authorized public agencies under Part 91 shall be exempt from this ordinance; however, if any governmental agency loses its status as an Authorized Public Agency under Part 91, the governmental 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).

3-105 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; however, 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.

When earth changes are proposed on sites, which are located in the jurisdiction of two or more local or county enforcing agencies, application review and permit shall be the responsibility of the Michigan Department of Environmental Quality, which shall act as the enforcing agency.

3-200 Earth Changes Requiring a Permit

3-201 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 prior to commencement of activity:

3-201.1 Which disturb one (1) or more acres of land.

3-201.2 Within 500 feet of the water's edge of a lake or stream

3-201.3 Within environmentally sensitive sites.

3-201.4 The following sites regardless of size, location or environmental sensitivity:

3-201.4.1 Commercial use development.

3-201.4.2 Mobile home park or manufactured home developments.

3-201.4.3 Multiple-family residential developments and site preparation for a single-family residence.

3-201.4.4 Site condominium or condominium developments, as defined by Act 59 of Public Acts of 1978, as amended.

3-201.4.5 Platted Subdivision developments.

3-202 The following activities and persons are exempt from obtaining a Soil Erosion, Sedimentation and Stormwater Permit

3-202.1 A person engaged in the logging industry, the mining industry, or the plowing or tilling of land for the purpose of crop production or the harvesting of crops. The exemption from obtaining a permit under this subsection does not include either of the following:

3-202.1.1 Access roads to and from the site where active mining or logging is taking place.

3-202.1.2 Ancillary activities associated with logging and mining.

3-202.2 A beach nourishment project permitted under Part 325 of Public Act 451 of 1994, as amended.

3-202.3 Normal road and driveway maintenance, such as grading or leveling, that does not increase the width or length of the road or driveway, and that will not contribute sediment to lakes or streams or to adjacent property.

3-202.4 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 Soil Erosion Control Officer.

3-202.5 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))

3-203 The following activities by a residential property owner who causes the following activities to be conducted on the individual residential property owned and occupied by him or her if the earth change activities do not result in or contribute to soil erosion or sedimentation of the waters of the state, a discharge of sediment off-site or a discharge of stormwater at a different location and/or at a great velocity

3-203.1 An earth change of a minor nature that is stabilized within 24 hours of the initial earth disturbance

3-203.2 Gardening, if the natural elevation of the area is not raised

3-203.3 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.

3-203.4 Removal of tree stumps, shrubs stumps or roots resulting in an earth change not to exceed 100 square feet.

3-203.5 All of the following activities, if soil erosion and sedimentation controls are implemented, the earth change is stabilized within 24 hours of the initial earth disturbance, and soil erosion or sedimentation to adjacent properties or the waters of the state has not or will not reasonably occur or a discharge of stormwater at a different location and/or at a great velocity:

3-203.5.1 Planting of trees, shrubs, or other similar plants

3-203.5.2 Seeding or reseeded of lawns of less than 1 acre if the seeded area is at least 100 feet from the waters of the state.

3-203.5.3 Seeding or reseeded of lawns closer than 100 feet from the waters of the state if the area to be seeded or reseeded does not exceed 100 square feet.

3-203.5.4 The temporary stockpiling of soil, sand, or gravel not greater than a total of 10 cubic yards on the property if the stockpiling occurs at least 100 feet from the waters of the state.

3-203.5.5 Seawall maintenance that does not exceed 100 square feet.

3-203.6 However, all earth changes associated with the activities listed in this section shall conform to the same standards as if they required a permit under this ordinance and exemptions provided in this section shall not be construed as exemptions from enforcement procedures under this ordinance or guidelines if the exempted activities cause or result in a violation of this ordinance or guidelines

3-300 Permit Application Submittal

3-300-1 Permit applications shall be submitted to the Antrim County Soil Erosion Control Officer by the landowner or the designated agent.

3-300-2 The Antrim County Soil Erosion Control Officer shall make copies of the permit application form available.

3-300-3 Landowners or their designated agents are responsible for determining whether their site is an Environmentally Sensitive Site as defined by this Ordinance. The Soil Erosion Control Officer may also determine that a site constitutes an Environmentally Sensitive Site.

3-300-4 A landowner or Designated Agent shall submit with the application one copy of the soil erosion, sedimentation and stormwater runoff control plan. The Soil Erosion Control Officer may request that the landowner/designated agent submit additional copies of the plan.

3-300-5 An application for a permit shall be made prior to the start of any earth change requiring a permit under this Ordinance including construction of access roads, driveways, tree and vegetation removal, or grading. Permit approval shall be given prior to the initiation of any work activity. Any unauthorized work shall be considered a violation of these procedures regardless of any later actions taken toward compliance. Soil test borings, vegetative cutting for land surveys, percolation tests, and normal maintenance shall not be considered a start of work under these regulations. Grading of land or other earth changes shall not be permitted in any regulated floodplains and other regulated areas unless approved by the Michigan Department of Environmental Quality as well as the Soil Erosion Control Officer.

3-300-6 The application review period begins upon receipt of a completed application.

3-300-7 Submission of an application for permit shall constitute consent by the Landowner for the Soil Erosion Control Officer or designated agent to enter upon the premises described in the application for purposes of inspections attendant to the application, for inspections related to compliance with a soil erosion, sedimentation and stormwater runoff control plan and/or permit, and in the event of the installation of permanent soil erosion, sedimentation and stormwater control measures, to enter upon the premises post completion for inspection of such measures.

3-300-8 When a project is large or complex, the Soil Erosion Control Officer shall require that the project be completed in stages or sections so as to insure that soil erosion and sedimentation is not discharged from the project site or into the waters of the county and state.

3-300-9 Applications for large or complex projects to be developed in stages or sections shall cover the overall conceptual plan for the entire development and detailed plans for each section or stage of the total project.

3-300-10 All permits processed and issued for phases of a project shall be clearly defined as to the nature and extent of work covered, including all construction methods and temporary and permanent soil erosion, sediment and stormwater control measures for each phase, and shall be submitted and approved prior to ground breaking for each phase. The Soil Erosion Control Officer must review each phase of the project.

3-400 Modifications of Approved Plans

Modifications of existing permits shall be submitted to and approved by the Soil Erosion Control Officer before they are undertaken.

3-500 Permit Application Review

3-501 The Soil Erosion Control Officer 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. "Completed" shall mean from the date that all modifications, amendments, and additional information have been submitted.

3-502 Upon a determination by the Soil Erosion Control Officer that the proposed soil erosion, sedimentation and stormwater runoff control plan complies with this Ordinance and Part 91, the Soil Erosion Control Officer shall issue a permit specifying the work approved. The Soil Erosion Control Officer shall notify the permit applicant of the approval by first class mail or written approval delivered in person.

3-503 If the proposed plan does not comply with all of the requirements of this Ordinance and Part 91, the Soil Erosion Control Officer may either disapprove the application, request modifications of the application or plan, or request additional information from the applicant. If an application is disapproved, the Soil Erosion Control Officer shall advise the applicant by certified mail or by a written statement delivered in person, of the reasons for the disapproval and conditions required for approval. An incomplete application constitutes grounds for disapproval.

3-600 Permit Expiration or Revocation

3-601 Permits shall terminate automatically upon the project completion date provided by the applicant on the application, not to exceed one (1) year. With the approval of the Soil Erosion Officer, a permit may be extended for a period not to exceed one (1) year upon the 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.

3-602 Any permit issued by the Soil Erosion Control Officer under this Ordinance may be revoked or suspended, for any of the following reasons:

3-602.1 A violation of a condition of the permit.

3-602.2 Misrepresentation or failure to fully disclose relevant facts in the application or soil erosion, sedimentation and stormwater runoff control plan.

3-602.3 A change in a condition that requires a temporary or permanent change in the activity.

3-602.4 Authorized work is abandoned or suspended for a period of six months.

3-602.5 A violation of the setbacks established by the Guidelines.

3-603 The Soil Erosion Control Officer 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 the landowner, landowner's contractor, permit holder 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.

3-700 Administrative Fee Schedule

3-701 Permit fees shall be determined based upon costs of administering the soil erosion, sedimentation and stormwater control/management permit program. In determining the permit fees, the County Board of Commissioners shall take into consideration the costs of administration, direct and indirect costs, staffing, and site inspections, and the funding of a reserve fund to cover the costs of administration.

3-702 The fee schedule shall be proposed by the Soil Erosion Control Officer and shall be approved by the County Board of Commissioners.

3-703 The County Board of Commissioners may establish a reserve fund not to exceed one year's cost of administering the soil erosion, sedimentation and stormwater control/management permit program.

SECTION 4
ISSUANCE OF OTHER PERMITS AND
APPROVALS OF OTHER GOVERNMENTAL AGENCIES

4-100 Issuance of Building Permits/Land Use Permits

4-101 A local unit of government, which is not a Municipal Enforcing Agency under Section 9106 of Part 91, or a county agency that issues building permits and/or land use permits, shall notify the Soil Erosion Control Officer upon receipt of an application involving an earth change subject to permit requirements under this Ordinance.

4-102 A local unit of government, which is not a Municipal Enforcing Agency under Section 9106 of Part 91, or a county agency may not issue a building permit and/or land use permit for an earth change subject to permit requirements until a soil erosion, sedimentation and stormwater runoff control permit has been issued by the Soil Erosion Control Officer. In the event such local unit of government issued such a permit, it shall place a clear notice upon such permit advising that work shall not be commenced until a soil erosion, sedimentation and stormwater runoff permit has been issued.

4-103 A local unit of government having notice that a violation of this Ordinance or Part 91 has occurred within the boundaries of that local unit of government, including but not limited to a violation attributable to an earth change by an authorized public agency, shall notify the Soil Erosion Control Officer of the violation.

4-104 The Soil Erosion Control Officer shall notify a local unit of government or a county agency or other governmental agency with jurisdiction after a permit decision has been made.

4-200 Other Permits and Approvals of Other Government Agencies

Approvals of a permit in this Ordinance or Part 91 shall not relieve a landowner and/or landowner's contractor of the need to obtain other applicable permits or approvals from federal, state, county, and local agencies.

SECTION 5
GENERAL STANDARDS FOR APPROVAL OF
SOIL EROSION SEDIMENTATION AND STORMWATER CONTROL PLANS

5-100 General Standards for Approval

5-101 The Soil Erosion Control Officer shall approve or disapprove soil erosion, sedimentation and stormwater control permit applications and plans in accordance with this Ordinance and the guidelines promulgated under this Ordinance.

5-102 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 control and retention of soil and sedimentation and the detention of runoff to protect water quality.

5-103 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.

5-104 Stormwater conveyance, storage, and infiltration facilities shall be designed to provide for non-erosive velocities of stormwater runoff.

5-105 Alterations to natural drainage patterns shall not create downstream flooding, soil erosion 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.

- 5-106** When a proposed earth change is located in an approved watershed plan area, 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.

SECTION 6
SOIL EROSION, SEDIMENTATION AND STORMWATER
RUNOFF CONTROL PLAN REQUIREMENTS

6-100 General

- 6-101** 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 requires a permit. A person shall design the plan to effectively reduce accelerated soil erosion and sedimentation and stormwater runoff during construction and after construction is completed, and shall identify factors that may contribute to soil erosion or sedimentation, or both. All temporary soil erosion, sedimentation and stormwater runoff control measures must be in place prior to beginning any other phase of construction.

- 6-102** The Soil Erosion Control Officer may permit a single residential unit (which is not part of a larger development plan or an environmentally sensitive site) to submit a shortened plan as set forth in 6-200.

6-200 Single Residential Development or Environmentally Sensitive Site Plans

- 6-201** A site plan for single residential unit, which is neither part of a larger development plan, nor within an environmentally sensitive area, shall at a minimum contain the following:

6-201.1 A drawing of the location of the site, including a legal description, and a showing of the location of each proposed earth change, the proximity of any proposed earth change to lakes, streams and/or wetlands within the boundaries of the site or within 500 feet of the site boundary, and the general slope of the premises.

6-201.2 A determination of all applicable setbacks.

6-201.3 Proposed earth change activity.

6-201.4 The location and/or description of the installation and removal of all proposed temporary or permanent soil erosion, sedimentation and stormwater control measures, and if required by the Soil Erosion Control Officer, a description of a plan for the continued maintenance of all permanent soil erosion, sedimentation and stormwater control measures that remain after the project completion.

- 6-202** If there are development limitations in regards to the existing site characteristics, the Soil Erosion Control Officer may require such single residential unit to prepare a plan in compliance with Section 6-300 and/or by one of the following registered professionals: civil engineer, land surveyor, architect, and/or landscape architect.

6-300 All Other Soil Erosion Sedimentation and Stormwater Runoff Control Plan Requirements

- 6-301** All other plans shall include, but not be limited to, all of the following:

6-301.1 A map or maps at a scale of not more than 200 feet to the inch or as otherwise determined by the Soil Erosion Control Officer, including a legal description and site location sketch, which includes the proximity of any proposed earth change to lakes or streams or both; predominant land features; and existing and proposed contour intervals or slope descriptions.

6-301.2 A soils survey or written description of the soil types of the exposed land area contemplated for the earth change.

6-301.3 A description of, and the location of the physical limits of each proposed earth change.

6-301.4 A determination of all applicable setbacks.

- 6-301.5 Location of all lakes, streams, and protected wetlands partially or completely contained within the boundaries of the site or within 500 feet of the site boundary.
- 6-301.6 Stormwater runoff calculations – in accordance with the guidelines.
- 6-301.7 A description of, and the location of all existing and proposed on site stormwater runoff control facilities and measures.
- 6-301.8 A staging plan, which details the timing and sequence of each proposed earth change.
- 6-301.9 A description of, and the location of all proposed temporary soil erosion, sedimentation and stormwater control facilities and measures.
- 6-301.10 A description of, and the location of all proposed permanent soil erosion, sedimentation and stormwater control facilities and measures.
- 6-301.11 A program proposal for the continued maintenance of all permanent soil erosion, sediment control and stormwater runoff control measures that remain after the project completion as may be required under Section 7.
- 6-301.12 Applicants for a subdivision plat/condominium site may need to submit additional information, including but not limited to the following: off-site watershed boundaries, existing and proposed easements, and proposed drainage system, including water movement onto and out of the proposed plat.
- 6-301.13 Other information, which the Soil Erosion Control Officer requires to review the impact of the proposed earth change in relationship to the standards and requirements of this Ordinance and Part 91.
- 6-301.14 The Soil Erosion Control Officer 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.

6.400 Earth Change Design, Installation and Removal Requirements

- 6.401 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 Soil Erosion Control Officer.
- 6.402 A person shall remove sediment caused by accelerated soil erosion from runoff water before it leaves the site of the earth change.
- 6.403 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.
- 6.404 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, sedimentation and stormwater 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, sedimentation and stormwater control measures under approved standards and specifications as outlined in this Ordinance and as required by state law. Temporary and permanent soil erosion sedimentation and stormwater control measures shall comply with the standards and specifications as set forth in Section 6.500.
- 6.500 Standards and Specifications For Temporary and Permanent Soil Erosion Sedimentation and Stormwater Runoff Control Measures

6.501 A person shall complete all temporary and permanent soil erosion, sedimentation and stormwater runoff control measures according to the approved soil erosion, sedimentation and stormwater runoff control plan and as set-forth in any permit..

6.501.1 A person shall install and maintain control measures in accordance with the standards and specifications set forth in this ordinance, the guideline and as set-forth in any permit issued.

6.502 If a conflict exists between the standards and specifications, then the Soil Erosion Enforcement Officer shall determine which specifications are appropriate for the project.

6-600 County Road Commission

6-601 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 Soil Erosion Control Officer. A Summary Report of the past year's activities and any noted deficiencies may be made and submitted to the Board of County Road Commissioners and the Board of County Commissioners. The Soil Erosion Control Officer, Board of County Road Commissioners and the Board of County Commissioners may call for a review meeting with seven (7) days notice if a deficiency is observed and not resolved in a reasonable manner.

6-602 The Road Commission shall use its best efforts to meet the goals and guidelines of the ordinance for stormwater runoff control on all new roads constructed on right-of-ways acquired after the adoption of this Ordinance. Stormwater retention/detentions 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 a right-of-way is available on existing or 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.

SECTION 7

OFF-SITE STORMWATER CONTROL

7-100 Waiver Option

In lieu of on-site stormwater facilities and measures, the use of off-site stormwater control facilities and measures, together with on-site soil erosion and sedimentation control measures, may be proposed. Before any off-site proposal will be considered, the applicant must provide proof of ownership and approval/consent to use such property for the purpose of stormwater control facilities or measures. 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 Soil Erosion Control Officer 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.

7-200 Shared Off-Site Stormwater Control Facilities

7-201 Off site stormwater control facilities may be shared between two or more property owners or developments, provided that maintenance agreements have been approved by the Soil Erosion Control Officer and easements have been obtained and recorded with the Antrim County Register of Deeds

7-202 Stormwater management easements are required for all areas used for off-site stormwater control unless the Soil Erosion Control Officer has granted an exception. Easements shall be recorded with the Antrim County Register of Deeds prior to issuance of permit.

SECTION 8 MAINTENANCE

8-100 Maintenance

- 8-101** All soil erosion, sedimentation and stormwater runoff control facilities and measures shall be maintained in accordance with the plan and permit.
- 8-102** The person(s) or organization(s) responsible for maintenance shall be designated in the Soil Erosion and Stormwater Runoff Control Plan or the permit application submitted to the Soil Erosion Control Officer. Options include:
- 8-102.1** The owner of the property.
 - 8-102.2** Property owners associations or other organizations, provided that provisions for financing necessary maintenance are included in deed restrictions or other contractual agreements.
- 8-103** Maintenance plans shall specify responsibilities for financing maintenance and emergency repairs, including but not limited to the procedures specified in Section 3 and 8 of this Ordinance. All maintenance plans shall be recorded with the Antrim County Register of Deeds.
- 8-104** The Soil Erosion Control Officer shall make the final approval of what maintenance option is appropriate in a given situation. Natural features, proximity of site to lakes, streams and protected wetlands, extent of impervious surfaces, size of the site and potential need for ongoing maintenance activities will be considered when making this decision.

SECTION 9 STORMWATER MANAGEMENT EASEMENTS

9-100 Easements

- 9-101** Stormwater management easements shall be provided by the landowner if necessary for: (1) access for facility inspections and maintenance, or (2) preservation of stormwater runoff conveyance, infiltration, and detention areas and facilities, including flood routes for the 100-year storm event. The purpose of the easement shall be specified in the maintenance agreement signed by the landowner.
- 9-102** Stormwater management easements, which are part of a permit, shall include a provision that the Soil Erosion Control Officer or authorized representative may enter at all reasonable times in or upon any private or public property for the purpose of inspection and investigating whether the terms and condition of the management easement are being complied with and/or the conditions or practices may be in violation of this Ordinance.
- 9-103** Once permanent soil erosion, sedimentation and stormwater runoff control facilities are in place, the Soil Erosion Control Officer, except in the case of an imminent threat of harm, shall give reasonable notice to the landowner that the Soil Erosion Control Officer will be inspecting the easement.
- 9-104** Stormwater management easements are required for all areas used for off-site stormwater control, unless a waiver is granted by the Soil Erosion Control Officer.
- 9-105** Easements shall be recorded with the Antrim County Register of Deeds prior to issuance of a permit.

SECTION 10 COMPLIANCE ASSURANCES, ISSUANCE OF CERTIFICATE OF COMPLIANCE

10-100 Performance Guarantees

- 10-101** As a condition of issuance of a permit, the Soil Erosion Control Officer may require the applicant to deposit cash, a certified check or an irrevocable letter of credit whichever the applicant selects, or a surety bond acceptable to the

legislative body of the county in an amount sufficient to assure the installation and completion of such protective or corrective measures as may be required by the Soil Erosion Control Officer. Irrevocable letters of credit, if used as a performance guarantee, shall extend for a minimum of one (1) year with the option of renewal. The required security shall be held in the office of the Antrim County Treasurer until authorized to be returned. The Soil Erosion Control Officer may require a performance guarantee after the issuance of a permit if the Soil Erosion Control Officer determines that events since the issuance of the permit show either a high potential for soil erosion, that there has been non-compliance with the approved permit or disregard of a cease and desist order.

10-102 Performance guarantees will be returned to the applicant when:

10-102.1 The site is certified by the licensed professional who designed the site that the site is completely stabilized as designed and approved by the Soil Erosion Control Officer; and,

10-102.2 Following inspection, the Soil Erosion Control Officer determines that the site is completely stabilized and meets the requirements set forth by the Soil Erosion Control Officer.

10-200 Construction Certification by Registered Professional

10-201 For any sites that require a professional 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 and stormwater runoff control 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 Soil Erosion Control Officer specifies that a professional civil engineer prepare the plan, the same professional civil engineer must submit the certification.

10-202 If there are changes during the course of construction, the Soil Erosion Control Officer may require final "as built" drawings for final approval of the site work.

10-300 Certificate of Compliance

Upon the completion of all earth changes and the fulfillment of all permit requirements; and if required, upon receipt and approval of the certification letter, the Soil Erosion Control officer shall issue a certificate of compliance to the landowner.

SECTION 11 INSPECTIONS

11-100 Inspections

11-101 The Soil Erosion Control Officer or an authorized representative may enter at 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. However, an investigation or inspection under this subsection shall comply with the United States constitution and the state constitution of 1963. Such inspections may take place before, during and after any earth change activity for which a permit has been issued.

11-102 After issuance of a certificate of compliance, the Soil Erosion Control Officer or an authorized representative may enter at reasonable times in or upon any private or public property for the purpose of inspection of permanent soil erosion, sedimentation and stormwater control measures. Prior to entry, except in the case of an imminent threat of harm, reasonable notice shall be given to the landowner that the Soil Erosion Control Officer will be inspecting the premises/control measures for the purpose of determining whether they are being properly maintained and/or whether they remain in compliance with the permit.

11-103 If upon inspection, existing site conditions are found to be in conflict with an approved permit or approved 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, sedimentation and stormwater runoff control plan has been approved and the permit modified.

11-104 Requests for revision must be submitted to and approved by the Soil Erosion Control Officer in writing or approved by the Soil Erosion Control Officer or an authorized representative on site before being effective. If approved, a revised site plan shall be submitted to the Soil Erosion Control Officer for review and approval.

SECTION 12

CEASE AND DESIST ORDERS AND EMERGENCY ACTIONS

12-100 Cease and Desist Orders

12-101 The Soil Erosion Control Officer may issue a cease and desist order if he/she finds that an activity being conducted is in violation of this Ordinance or any guideline adopted, Part 91 or of any rule adopted, or a permit or an approved soil erosion, sedimentation and stormwater runoff control plan, or if work is being conducted without an approved permit or plan.

12-102 The Cease and Desist Order, when issued, shall require all specified earth change activities to be stopped.

12-103 The Cease and Desist Order shall be in writing, and shall state what work is to be stopped and what measures are required to abate the violation. The delivery of equipment and materials, which does not contribute to the violation, may continue while the stop work order is in effect.

12-104 The Soil Erosion Control Officer shall rescind the Cease and Desist order if all of the violations for which the stop work order was issued are corrected, no other violations have occurred, and all measures necessary to abate the violations have been taken. The Soil Erosion Control Officer shall rescind a Cease and Desist order that was issued in error.

12-105 A copy of the Cease and Desist Order shall immediately be submitted to other state and local agencies with regulatory jurisdiction.

12-106 If necessary to protect public safety or water resources, including lakes, streams, protected wetlands, and other receiving bodies of water, the Soil Erosion Control Officer may initiate emergency action to abate threatened and/or imminent and substantial danger and risk.

12-107 Except as otherwise provided through maintenance agreements, the landowner and/or landowner's contractor may be held responsible for reimbursing Antrim County for all costs incurred as a result of emergency action, including attorney fees and administrative costs, provided that a finding is made that the landowner and/or landowner's contractor violated provisions of this Ordinance, or a permit, or an approved maintenance agreement.

12-108 If the Soil Erosion Control Officer determines that soil erosion and sedimentation has entered or is threatening to enter the waters of this state, or that this has or will reasonably occur from a parcel of land in violation of this Ordinance or Part 91, it may seek to enforce the ordinance by notifying the person who owns the land, by certified mail, with return receipt requested or written notice delivered in person of its determination. The notice shall contain a description of specific soil and sedimentation control measures, which, if implemented by the landowner and/or landowner's contractor, would bring the owner into compliance.

12-109 A person who owns land subject to this ordinance shall implement and maintain soil erosion and stormwater runoff control measures in conformance with this Ordinance within five (5) days after the notice of violation has been given as specified in Section 12-108 above.

12-200 Emergency Action

12-201 If necessary to protect public safety or water resources, including lakes, streams, protected wetlands, and other receiving bodies of water, the Soil Erosion Control Officer may initiate emergency action to abate threatened and/or imminent and substantial danger and risk.

SECTION 13
ENFORCEMENT ACTION

13-100 Enforcement General Provisions

13-101 Antrim County and the Soil Erosion Control Officer have all enforcement action as provided in this Ordinance and Part 91.

13-102 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.

13-200 Notice of Violation

13-201 If the Soil Erosion Control Officer 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 Soil Erosion Control Officer may seek to enforce a violation of this Ordinance or Part 91 by notifying the landowner and/or landowner's contractor by certified mail with return receipt requested or written notice delivered in person. 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 Soil Erosion Control Officer 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.

13-202 Within 5 days after a Notice of Violation has been issued, the landowner and/or landowner's contractor shall implement and maintain soil erosion, sedimentation and stormwater runoff control measures in conformance with this Ordinance and Part 91.

13-203 A Soil Erosion Control Officer has the authority to issue a municipal civil infraction citation/ticket.

13-300 Enforcement Actions

13-301 After a Notice of Violation has been mailed or personally delivered, if the Soil Erosion Control Officer determines that the condition of the land may result in or contribute to soil erosion, sedimentation, stormwater runoff or flooding of adjacent properties or to the waters of the state; and if soil erosion, sediment and stormwater runoff control measures in conformance with this Ordinance and Part 91 are not in place, the Soil Erosion Control Officer may enter upon the land and construct, implement and maintain soil erosion, sedimentation and stormwater runoff control measures in conformance with this Ordinance and Part 91.

13-302 The Soil Erosion Control Officer 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 or delivered.

13-303 Except as otherwise provided through Maintenance Agreements, all expenses incurred under this Ordinance by the Soil Erosion Control Officer 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 County by the landowner and/or landowner's contractor.

13-304 The Soil Erosion Control Officer and Antrim County 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.

13-400 Injunctive Relief

Notwithstanding any other remedy, the Soil Erosion Control Officer and/or Antrim County 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.

13-500 Fines and Penalties

13-501 A person who violates this ordinance or Part 91 is responsible for the following:

13-501.1 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 (two-thousand five-hundred dollars).

13-501.2 A person who knowingly violates this Ordinance or Part 91, or knowingly makes a false statement in an application for a permit or in a soil erosion, 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 (ten-thousand dollars) for each day of violation.

13-501.3 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 (two-thousand-five hundred dollars) or more than \$25,000.00 (twenty-five thousand dollars) for each day of violation.

13-501.4 Civil fines collected under this Ordinance shall be deposited with the Treasurer for Antrim County.

13-501.5 A default in the payment of a civil fine or costs ordered under this section or an installment of the fine or costs may be remedied by any means authorized under the Revised Judicature Act of 1961.

13-501.6 In addition to a fine assessed under this section, a person who violates this ordinance is liable to the County for damages for injury to, destruction of, or loss of natural resources resulting from the violation. The court may order a person who violates this part to restore the area or areas affected by the violation to their condition as existing immediately prior to the violation and order such person to pay for expenses of prosecution/enforcement, including reasonable attorney fees.

13-600 Notification of Violation and Enforcement Actions

13-601 The Soil Erosion Control Officer 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.

13-602 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 Soil Erosion Control Officer and the Michigan Department of Environmental Quality of the violation.

SECTION 14 APPEALS

14-100 Appeals

14-101 Any person aggrieved by the action or inaction of the Soil Erosion Control Officer related to this Ordinance may appeal to the Antrim County Soil Erosion, Sedimentation and Stormwater Runoff Appeal Board. 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.

14-102 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 Soil Erosion Control Officer for the installation of measures or controls to reduce or eliminate soil erosion or sedimentation pending the outcome of the appeal.

14-103 The affected Township Zoning Board of Appeals will have jurisdiction to hear a variance of the setbacks when a zoning variance is concurrently considered.

14-200 Antrim County Soil Erosion, Sedimentation And Stormwater Runoff Appeal Board

14-201 There is hereby established the Antrim County Soil Erosion, Sedimentation and Stormwater Runoff Appeal Board.

14-202 Powers and Authority

14-202.1 Hearing appeals from any person aggrieved by the action or inaction of the Soil Erosion Control Officer related to this Ordinance.

14-202.2 Selecting a chair and vice-chair.

14-202.3 Shall adopt rules for the transaction of business, which shall be approved by a majority vote of the County Board.

14-203 The Antrim County Soil Erosion, Sedimentation and Stormwater Runoff Appeal Board shall keep a record of its resolutions, transactions, findings, and determinations, which shall be a public record and subject to the Freedom of Information Act.

14-204 All Appeal Board meetings and hearings shall be open to the public in accordance with the Open Meetings Act, Act 267 of 1976.

14-205 Members; Appointment; Term; Vacancies; Compensation; Expenses

14-205.1 The Appeal Board shall consist of five members appointed by the County Board of Commissioners, who shall appoint members by majority vote of the full membership of the County Board of Commissioners

14-205.2 One member of the Antrim County Board of Commissioners, elected and serving, may be a member of the Appeal Board.

14-205.3 The term of each appointed member shall be for 3 years, and shall be staggered so that no more than two (2) members' terms shall expire in any one year. This provision shall not apply to the terms of members who are County Board of Commissioners. Two (2) members shall initially serve for three (3) years, two (2) members shall initially serve for two (2) years, and in the event a member of the Board of Commissioners is not appointed, then one (1) member shall initially serve for one (1) year. At the completion of the terms herein set forth above, all members shall be appointed for a term of three years, except that being first appointed, the terms of office may be varied to permit establishment or for correction of overlapping terms of office.

14-205.4 The County Board shall by majority vote of all commissioners elected, fill any vacancy on the Appeal Board for the duration of the unexpired term.

14-205.5 The County Board may remove any members of the Appeal Board for nonperformance of duties or misconduct upon a public hearing. Failure to regularly attend meetings or hearings of the Appeal Board shall be grounds for removal.

- 14-205.6** The County Board may set compensation and mileage for members of the Appeal Board, which shall not exceed that provided to members of the County Board. The County Board may appropriate funds for reimbursement to the members of the Appeal Board for such reasonable and necessary expenses, and if funding is approved, and upon approval by a majority vote of the County Board, members may be reimbursed for actual, reasonable and necessary expenses incurred in the discharge of their duties.

SECTION 15
ADOPTION OF STATE RULES AND REGULATIONS

- 15.101** This Ordinance adopts all sections of Part 91 and the rules and regulations promulgated under Part 91; however, to the extent that this Ordinance is more restrictive than, or is in conflict with Part 91 and the rules and regulations promulgated under Part 91, this Ordinance shall control.
- 15.102** This ordinance is more restrictive than Part 91 and the rules promulgated there under, however, this ordinance shall not be deemed to make lawful that which is unlawful under Part 91 and the rules promulgated under Part 91.
- 15.103** The county enforcing agency shall notify a person receiving a permit under the ordinance that the ordinance is more restrictive than Part 91 and the rules promulgated under Part 91.

**SECTION 16
SAVINGS CLAUSE**

16-100 Savings Clause

If any provision of this ordinance is declared by a court to be invalid, the invalid provision shall not affect the remaining provisions of the part that can be given effect without the invalid provision. The validity of the ordinance as a whole or in part shall not be affected, other than the provision invalidated. In the event a provision or this ordinance is held invalid Part 91 and the rules promulgated under Part 91 shall control.

**SECTION 17
EFFECTIVE DATE**

17-100 Effective Date

The ordinance shall take effect on, _____, 2006 and after publication according to statute.

Chairperson
Antrim County Board of Commissioners

At a regular/special meeting of the County Board of Commissioners of Antrim County held in Bellaire, Michigan on _____, _____, adoption of the foregoing ordinance was moved by _____, and supported by _____.

Ordinance # _____, 2006, carried by yea and nay votes as follows:

YEAS _____ NAYS _____

This Ordinance shall take effect upon publication of notice of adoption and upon approval by MDEQ. If within 50 days after the County Board of Commissioners has adopted an Ordinance, a petition, signed by not less than 20% of the electors residing in the district to be affected by the Ordinance, is filed with the County Clerk asking that the Ordinance be submitted to the electors of the district to be affected by the Ordinance for approval or rejection, then the Ordinance shall not take effect until it has been approved by a majority of the electors of the district affected voting on that issue at a regular or special election called for that purpose.

Laura Sexton
Antrim County Clerk
Effective date:

F/SHARED/ORDINANCE/SOIL EROSION/ PLANNING COMMISSION DRAFT 5-12-06
MAY 12, 2006

Key

Key = Pink Highlighted is Reworded State Law

Key = Yellow Highlighted is State Law

Key = No Highlighted is proposed County language

Key = Italics is possibly in another State Law