

**ANN ARBOR CHARTER TOWNSHIP
BOARD OF TRUSTEES
AMENDMENT TO CODE: CHAPTER 26, ENVIRONMENT
ARTICLE VII SOIL EROSION AND SEDIMENTATION CONTROL**

November 18, 2024

The Ann Arbor Charter Township Board of Trustees ordains and adopts the following amendments to Chapter 26, Environment, Article VII Soil Erosion and Sedimentation Control, [new language underlined, deleted language ~~stricken~~]:

SECTION 1. Amendment of CHAPTER 26, ARTICLE VII, Division 1, Section 26-434.

Chapter 26, Article VII, Division 1, Section 26-434 is amended to read as follows:

Sec. 26-434. Incorporation by reference.

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

SECTION 2. Amendment of CHAPTER 26, ARTICLE VII, Division 2, Section 26-451.

Chapter 26, Article VII, Division 2, Section 26-451 is amended to read as follows:

Sec. 26-451. Definition of terms.

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

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

Earth change. A human-made change in the natural cover or topography of land, including cut and fill activities, which may result in or contribute to soil erosion or sedimentation of the waters of the State of Michigan or onto properties adjacent to the change. This includes, but is not limited to, grading and preparation for wells, septic fields (including perimeter drains), driveways, foundations, backfill, final grade changes, and stockpiling of material. "Earth change" shall not apply to the practice of plowing and tilling soil for the purpose of crop production and ordinary household gardens.

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

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

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

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

~~*MDEQ EGLE.*~~ The Michigan Department of ~~Environmental Quality or any successor agency~~ Environment, Great Lakes, and Energy.

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

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

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

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

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

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

Township. Ann Arbor Charter Township.

Township Board. Ann Arbor Charter Township Board.

SECTION 3. Amendment of CHAPTER 26, ARTICLE VII, Division 3, Section 26-461.

Chapter 26, Article VII, Division 3, Section 26-461 is amended to read as follows:

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

- (a) A person shall not maintain or undertake an earth change governed by this article except as authorized by a permit issued by the municipal enforcing agency.
- (b) An owner of property in the Township who contracts for, allows, or engages in a public or private earth change shall obtain a permit from the municipal enforcing agency before commencing an earth change, except: (i) earth changes by an authorized public agency approved under Section 9110 of Part 91, and (ii) earth changes exempted under section 26-464 below. An earth change activity that does not require a permit under section 26-464 is not exempt from enforcement procedures under this article, Part 91 or the rules if the exempted activity causes or results in a violation of this article, Part 91 or the rules.

- (c) An owner may request from the municipal enforcing agency a permit waiver for an earth change that will disturb less than 225 square feet and that will not contribute to sedimentation of lakes or streams, or adjacent properties.
- (d) At the time that the permit application is submitted to the municipal enforcing agency:
 - (1) For projects consisting of an earth change activity which disturbs one or more acres of land or which is within 500 feet of a lake or stream, the applicant shall ~~also~~ submit a soil erosion and sedimentation control plan as set forth in the SESC plan checklist attached to the SESC permit application which is consistent with Part 91 and the rules (including, but not limited to, Rules 323.1703 and 323.1708—323.1710), along with any other document required by the municipal enforcing agency. The soil erosion and sedimentation control measures shall also be implemented and maintained in accordance with best management practices and the approved SESC plan.
 - (2) For projects consisting of an earth change activity which disturbs less than one acre of land, is greater than 500 feet from a lake or stream, and does not otherwise require a SESC permit according to Part 91 and the rules, the applicant shall submit a Grading Plan as set forth in the Grading Plan checklist attached to the Grading Plan permit application. Soil erosion and sedimentation control measures shall be required as part of the Grading Plan, however the Grading Plan does not need to comply with the Part 91 requirements.
- (e) The owner of property that is subject to a permit under this article is responsible for compliance with the terms of the permit that apply to the owner's property.
- (f) The Township Building Official shall not issue a building permit for any proposed construction, alteration or improvement within the Township unless the applicant provides evidence that any necessary permit for an earth change under this article has been approved and all fees and deposits paid.

SECTION 4. Amendment of CHAPTER 26, ARTICLE VII, Division 3, Section 26-462.

Chapter 26, Article VII, Division 3, Section 26-462 is amended to read as follows:

Sec. 26-462. Transfer.

- (a) Except as provided in subsection 26-462(b) below, if property subject to a permit under this article is transferred, both of the following are transferred with the property:
 - (1) The permit, including the permit obligations and conditions.
 - (2) Responsibility for any violations of the permit that exist on the date the property is transferred.
- (b) If property is subject to a permit under this article and a parcel of the property, but not the entire property, is transferred, both of the following are transferred with the parcel:
 - (1) The permit obligations and conditions with respect to that parcel, but not the permit itself.
 - (2) Responsibility for any violations of the permit with respect to that parcel that exist on the date the parcel is transferred.

- (c) If property subject to a permit under this article is proposed to be transferred, the transferor shall notify the transferee of the permit in writing on a form developed by the MDEQ EGLE. The notice shall inform the transferee of the requirements of section 26-461, subsection (d) above and, as applicable, subsections (a) and (b) of this section 26-462. The notice shall include a copy of the permit. The transferor and transferee shall sign the notice, and the transferor shall submit the signed notice to the municipal enforcing agency before the property is transferred.
- (d) The municipal enforcing agency may charge a fee for the transfer of a permit under subsections (a) or (b) of this section 26-462. The fee shall be established by resolution of the Township Board and shall not exceed the administrative costs of transferring the permit. Fees collected under this section 26-462 shall only be used for the enforcement and administration of this article by the municipal enforcing agency.

SECTION 5. SEVERABILITY.

The provisions of this Ordinance are hereby declared to be severable and if any part is declared invalid for any reason by a court of competent jurisdiction it shall not affect the remainder of this Ordinance which shall continue in full force and effect.

SECTION 6. REPEAL.

All other ordinances or parts of ordinances in conflict with this ordinance are hereby repealed, but only to the extent to give this Ordinance full force and effect.

SECTION 7. SAVINGS CLAUSE

All proceedings pending and all rights and liabilities existing, acquired or incurred, at the time this ordinance takes effect, are hereby saved, and such proceedings may be consummated under and according to the ordinance in force at the time such proceedings are or were commenced. It is the legislative intent that this ordinance shall not be construed to alter, affect or abate any pending prosecution or enforcement action, or prevent prosecution or enforcement hereafter instituted under such repealed sections, for violations committed prior to the effective date of this ordinance; and all prosecutions or enforcement actions pending at the effective date of this ordinance, and all prosecutions or enforcement actions instituted after the effective date of this ordinance for violations that occurred prior to the effective date of this ordinance may be continued or instituted under and in accordance with the provisions of the ordinance in force at the time of the occurrence of such violation.

SECTION 6. EFFECTIVE DATE.

This Ordinance shall take effect upon publication as provided by law.

FIRST READING DRAFT

Motion By: Second By:

YEAS:

NAYS:

Abstain:

Absent:

ORDINANCE DECLARED ADOPTED

CERTIFICATION

It is hereby certified that the foregoing Ordinance was adopted by the Township Board of Ann Arbor Charter Township, Washtenaw County, Michigan at a meeting of the Board duly called and held on _____, 2024.

ANN ARBOR CHARTER TOWNSHIP

By: _____
Diane O'Connell, Supervisor

By: _____
Rena Basch, Clerk

First Reading: 11/18/2024

Second Reading:

Approved by Board:

Effective: _____, 2024 (7 days after publication)