

L. Sandy Raines

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7-24-06
BOARD ACTION
TO BE PLACED ON FILE

RESOLUTION 2006-24

SOIL EROSION AND SEDIMENTATION CONTROL
FOR MONTCALM COUNTY

MONTCALM COUNTY DRAIN COMMISSION

211 W. MAIN STREET

STANTON, MICHIGAN 48888

REVISED JULY 10, 2006

Whereas the Montcalm County Board of Commissioners, deem it in the best interest of the citizens of the county, that the Montcalm County Drain Commission administer and enforce Part 91, Soil Erosion and Sedimentation Control, of the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, (Part 91) as amended, do adopt this resolution to implement Part 91, and the rules promulgated under Part 91 (Rules).

1. PURPOSE

The purpose of this Resolution is to prevent soil erosion and off site sedimentation from earth change activities within Montcalm County as set forth in Part 91 and the Rules by requiring proper provision for water disposal and protection of soil surfaces during and after construction.

2. DEFINITIONS

For the purpose of the Resolution, the following terms are defined.

- A. "Authorized Public Agency" – a state agency or an agency of a local unit of government authorized under section 9110 of Part 91 to implement soil erosion and sedimentation control procedures with regard to earth changes undertaken by it.
- B. "Designated Agent" – a person who has written authorization from the landowner to sign the application and secure a permit in the landowner's name.
- C. "Drain Commission" – The Drain Commissioner or duly authorized representative(s).
- D. "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.
- E. "Lake" – all natural and artificial inland lakes or impoundments that have definite banks, a bed, visible evidence of a continued occurrence of water, and a surface area of water that is

equal to, or greater than, 1 acre. "Lake" does not include sediment basins and basins constructed for the sole purpose of storm water retention, cooling water, or treating polluted water.

- F. "Permanent soil erosion and sedimentation control measures" – control measures which are installed or constructed to control soil erosion and sedimentation and which are maintained after project completion.
- G. "Permit" – a permit issued to authorize work to be performed under the General Rules and this Resolution.
- H. "Permittee" – landowner to whom a permit is issued in accordance with this Resolution.
- I. "Rules" – the rules promulgated under Part 91 pursuant to the Administrative Procedures Act.
- J. "Sediment" – any solid particulate matter, including both mineral and organic matter, that is in suspension in water, is being transported, or has been removed from its site of origin by the actions of wind, water, or gravity and has been deposited elsewhere.
- K. "Soil" – the natural medium composed of unconsolidated mineral and organic material on the surface of the land.
- L. "Soil Erosion" - the process by which the ground surface is worn away by action of wind, water, gravity or any combination of wind, water, or gravity.
- M. "Stream" – a river, creek, or other surface watercourse which may or may not be serving as a drain as defined in Act No. 40 of the Public Acts of 1956, as amended being Section 280.1 et seq. of the Michigan Compiled Laws, and which has definite banks, a bed, and visible evidence of the continued flow or continued occurrence of water, including the connecting waters of the Great Lakes.

N. "Temporary soil erosion and sedimentation control measures" – interim control measures which are installed or constructed to control soil erosion and sedimentation and which are not maintained after project completion.

3. PERMITS AND FEES.

A. Permit requirements: Except as exempted by Part 91, Rules, and as identified in Section 12 of this Resolution, a land owner or designated agent who contracts for, allows or engages in an earth change in this county shall obtain a permit from the Drain Commission in the landowner's name prior to commencement of an earth change which disturbs one or more acres of land or if the earth change is within 500 feet of the water's edge of a lake or stream.

B. Application for Permit:

1. A landowner or designated agent shall submit an application for a permit to the Montcalm County Drain Commission. In case of land development, if the area is to be developed in one or more stages, a separate permit shall be issued for each phase of the project.
2. The application shall be accompanied by a soil erosion and sedimentation control plan and any other document which the Drain Commission may require.
3. The Drain Commission shall provide an application requiring state prescribed information to an applicant.
4. An authorized public agency is exempt from obtaining a permit, but shall notify the Drain Commission of each proposed earth change.

C. Application Data Required:

A soil erosion and sedimentation control plan shall be prepared for any earth change identified in Section 3-A. The plan shall be designed to effectively reduce soil erosion and off-site sedimentation and shall identify factors which may contribute to soil erosion or sedimentation or both. The plan shall include, but not be limited to, the following, plus any other information required by the Drain Commission.

1. A vicinity sketch of the site location and proximity of any proposed earth change to lakes, streams, wetlands, county drains, and other predominant land features.
2. A boundary line survey or legal description of the site.
3. Name, address, and telephone number of the owner, designated agent and on-site responsible person.
4. A plan of the site of a scale of not more than 200 feet to the inch or as otherwise determined by the Drain Commission, showing existing topography at five-foot contour intervals and also proposed topography as five-foot contour intervals, or slope description.
5. A soil survey map or written description of the soil types of the exposed land area contemplated for the earth change.
6. Details for the proposed earth changes including:
 - (a) A description and the location of the physical limits of each proposed earth change.
 - (b) A description and the location of all existing and proposed on site drainage and dewatering facilities.

- (c) The timing sequence of each proposed earth change, such as starting and completion dates of the development sequence and time exposure of each area prior to the completion of effective soil erosion and sediment control measures.
- (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.
- (f) A program proposal for the continued maintenance of all permanent soil erosion and sediment control measures that remain after project completion, including the designation of the person responsible for the maintenance. Maintenance responsibilities shall become a part of any sales or exchange agreement for the land on which the permanent soil erosion control measures are located.
- (g) A statement of the quantity of the excavation and fill involved.

D. Application Review and Permit Procedures

1. The soil erosion and sedimentation control plan shall be reviewed and approved prior to the issuance of a permit, by a person who has a valid soil erosion and sedimentation control training certificate.
2. The Drain Commission shall approve, disapprove, or require modification of an application for an earth change permit within 30 calendar days following receipt of the application. The Drain Commission shall notify an applicant of approval by first-class mail. If an application is disapproved, then the Drain Commission shall

advise the applicant by certified mail of its reasons for disapproval and conditions required for approval. The Drain Commission need not notify an applicant of approval or disapproval by mail if the applicant is given written approval or disapproval of the application in person. A permit given to the applicant either in person or by first-class mail constitutes approval.

3. Upon a determination that a permit applicant has met all the requirements of the Rules, Part 91, Soil Erosion and Sedimentation Control, and this Resolution, the Drain Commission shall issue a permit for the proposed earth change.
4. A state prescribed permit shall be used by the Drain Commission and shall include any additional provisions, which may be required. The permit and the approved plan shall be available on the site of the earth change for inspection.

4. Fees

Payment for the charges for plan review and the permit should be submitted at the time of filing the permit application.

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| <u>RESIDENTIAL</u> | | \$ 50.00 |
| Plan Review | | \$ 15.00 |
| Each re-inspection (over 2) | | \$ 25.00 |

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| <u>COMMERCIAL & INDUSTRIAL</u> | | |
| <u>INCLUDING SAND & GRAVEL MINING</u> | Up to 10 acres | \$135.00 |
| Each additional acre or fraction thereof | | \$ 5.00 |
| Plan Review | | \$100.00 |
| Each re-inspection (over 2) | | \$ 25.00 |

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| <u>SUBDIVISION/LOT DEVELOPMENT</u> | | |
| Plat developments, mobile home parks, and multiple housing units, | Up to 20 acres | \$135.00 |
| Each additional acre or fraction thereof | | \$ 5.00 |
| Plan Review | | \$100.00 |
| Each re-inspection (over 2) | | \$ 25.00 |

SERVICE FACILITIES

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| Including, but not limited to sanitary landfills, schools and shopping centers, | Up to 50 acres | \$135.00 |
| Each additional acre or fraction thereof | | \$ 5.00 |
| Plan Review | | \$100.00 |
| Each re-inspection (over 2) | | \$ 25.00 |

RECREATIONAL FACILITIES

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| Including, but not limited to campground, golf courses, parks, ski slopes and trails, | Up to 50 acres | \$135.00 |
| Each additional acre or fraction thereof | | \$ 5.00 |
| Plan Review | | \$100.00 |
| Each re-inspection (over 2) | | \$ 25.00 |

UTILITIES

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|---|----------------|----------|
| Including, but not limited to underground cables, conduit or pipeline | Up to one mile | \$135.00 |
| Each additional mile or fraction thereof. | | \$ 20.00 |
| Plan Review | | \$100.00 |
| Each re-inspection (over 2) | | \$ 25.00 |

OIL, GAS, AND MINERAL WELLS

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| Plan Review | | \$135.00 |
| Each re-inspection (over 2) | | \$100.00 |
| | | \$ 25.00 |

TRANSPORTATION FACILITIES

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| Including streets, highways, railroads, airports, and mass transit facilities, | Up to one mile | \$135.00 |
| Each additional mile or fraction thereof | | \$ 5.00 |
| Plan Review | | \$100.00 |
| Each re-inspection (over 2) | | \$ 25.00 |

TIME EXTENSION

\$50.00

5. BOND REQUIREMENT

A permit shall not be issued for an earth change involving the movement of more than 1,000 cubic yards of soil unless the Permittee shall first post with the Drain Commission a bond executed by the owner and a corporate surety with authority to do business in this state as a surety.

The bond shall be in a form approved by Civil Counsel, payable to the County and in the amount of the estimated cost of the necessary soil erosion and sedimentation controls. In lieu of a

surety bond, the applicant may file with the County a cash bond or an instrument of credit approved by Civil Counsel in the amount equal to that which would be required for a surety bond.

In lieu of a surety or cash bond or an instrument of credit, the Drain Commissioner may in his/her discretion upon application by a person who regularly engages in earth change activities within the County, issue a certificate of self insurance to such person, when they are satisfied that such person is possessed and will continue to be possessed of the ability to pay those costs and expenses which may be incurred by the County should the person fail to comply with all of the provisions of this Resolution and all the terms and conditions of the permit. Upon not less than 10 days, and a hearing pursuant to such notice, the Drain Commission may upon reasonable grounds cancel a certificate of self-insurance.

Every bond, instrument of credit and every cash deposit shall include and every certificate of self insurance shall be made on the conditions that the Permittee shall comply with all of the provisions of this Resolution and all terms and conditions of the permit and shall complete all the work contemplated under the permit within the time limit specified in the permit. If no time limit is specified, the project shall be completed within 180 days after the date of the issuance of the permit.

6. EXTENSION OF TIME.

If the permittee is unable to complete the work within the specified time, he may at least 10 days prior to the expiration date of the permit, present in writing to the Drain Commission, a request for an extension. In the event such an extension is warranted, the Drain Commission may grant additional time for the completion, but no such extension shall release the owner or the surety on the bond or the person furnishing the instrument of credit, cash bond, or certificate of self insurance.

7. FAILURE TO COMPLETE WORK.

In the event of failure to complete work, the Drain Commission may order such work as necessary to provide for effective soil erosion and sediment control. The Permittee and the surety executing the bond or person issuing the instrument of credit, making the cash deposit or the certificate of self insurance, shall continue to be firmly bound under a continuing obligation for the payment of all necessary costs and expenses that may be incurred by the County in causing any and all work to be done to comply with the regulations. In the case of a cash deposit, any unused portion thereof shall be refunded to the Permittee.

8. DENIAL OF PERMIT

Permits shall not be issued where:

- A. The proposed work would cause uncontrolled soil erosion and off-site sedimentation, or
- B. The land area for which the work is proposed is subject to geological hazard to the extent that no reasonable amount of correction work can eliminate or sufficiently reduce settlement, slope instability or any other such hazard to persons or property; or
- C. The land area for which the work is proposed may be within the one hundred (100) year flood plain of any stream or watercourse (not specifically designated and delineated by the county as an area subject to flood hazard), unless a permit from the Department of Environmental Quality accompanies the application and a hydrologic report prepared by a professional engineer is submitted to certify that the proposed work will have in his opinion, no detrimental influence on the public welfare or upon the total development of the water shed.

9. MODIFICATION OF APPROVED PLANS

All modifications of the approved plan must be submitted to and approved by the Drain Commission. All necessary sustaining reports shall be submitted with the proposal to modify the approved plan. No work in connection with any proposed modification shall be permitted without the approval of the Drain Commission.

10. RESPONSIBILITY OF THE PERMITTEE

During work operations, the Permittee shall be responsible for:

- A. Carrying out the proposed work in accordance with the approved plan and in compliance with all the requirements of the permit, the rules, and this resolution.
- B. The prompt removal of any sediment that may inadvertently be deposited in any lake, stream, wetland, or adjacent properties leading from the site of the permit. Removal of the sediment must be approved by and coordinated with the Department of Environmental Quality.

11. MAINTENANCE REQUIRED

Persons who carry out soil erosion and sediment control measures under this resolution and all subsequent owners of property concerning which such measures have been taken, shall maintain all permanent erosion and sediment control devices, retaining walls, structures, plantings and other protective devices.

12. PERMIT EXEMPTIONS AND WAIVERS

A. No permits shall be required for the following:

- (1) The plowing or tilling of land for the purpose of crop production or the harvesting of crops.

- (2) Earth changes undertaken by agencies that have been designated an "Authorized Public Agency" by the Department of Environmental Quality, however they must notify the Drain Commission of each proposed earth change.
- (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.
- (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
- (5) Earth changes associated with well locations, surface facilities, flowlines, or access roads related to oil or gas exploration and development activities regulated under Part 615, if the application for a permit to drill and operate under Part 615 contains a Soil Erosion and Sedimentation Control Plan that was approved by the DEQ under Part 615.
- (6) Earth change activities associated with logging and mining. However, this exemption does not apply to:
 - a) Access roads to and from the site where active logging or mining is taking place.
 - b) Ancillary activities related with logging and mining
 - c) The removal of clay, gravel, sand, peat, or topsoil
- (7) Gardening, if the natural elevation of the area is not raised
- (8) Postholes for fencing, decks, utility posts, mailboxes, or similar applications, if no additional grading or earth change occurs for use of the post holes.

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

B. Although no permits are required under sub-sections A (1-6) of this section, the operations and constructions exempted from obtaining permits must comply with the rules and regulations concerning earth changes and erosion and sediment control.

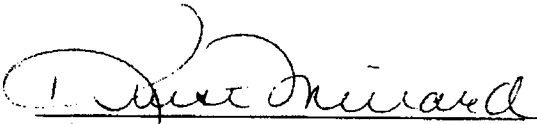
13. INSPECTION AND ENFORCEMENT

The Drain Commission shall make inspections of the earth change site. If the Drain Commission finds that the Permittee has not complied with Part 91, the Rules, and the Resolution and that his work does not conform to the permit issued, he shall issue a Notice of Violation. The Notice shall be delivered by certified mail and the permittee will have 5 days from the date of receipt of the notice to comply. If compliance is not reached within the 5-day time frame, a Cease and Desist Order will be issued by the Drain Commissioner and he shall revoke the permit. The Permittee shall be notified by certified mail that he will have 5 days in which to respond and unless the requirements of the Part 91, the Rules, and the Resolution are met, the county enforcing agency, or a designee of the agency, may enter upon the land and construct, implement, and maintain soil erosion and sedimentation control measures. All incurred expenses shall be reimbursed by the person who owns the land, or a tax lien will be placed against the property. In addition to the above, all other enforcement actions authorized in Part 91 may be pursued, including, but not limited to, state civil infractions and civil fines.

STATE OF MICHIGAN }
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 } SS.
COUNTY OF MONTCALM }

I, the undersigned, duly qualified and acting Clerk of the County of Montcalm, Michigan (the "County") do hereby certify that the foregoing is a true and complete copy of Resolution 2006-24, adopted by the Board of Commissioners at a regular meeting on the 10th day of July, 2006, the original of which is on file in my office. Public notice of said meeting was given pursuant to and in compliance with Act No. 267, Public Acts of Michigan, 1976, as amended, including in the case of a special or rescheduled meeting, notice by posting at least eighteen (18) hours prior to the time set for the meeting.

IN WITNESS WHEREOF, I have hereto affixed by official signature on this 10th day of July, 2006, A.D.


Kristen Millard, County Clerk
County of Montcalm, State of Michigan