

# **Charter Township of Orion**

## **Ordinance No. 139**

### **Stormwater Management and Soil Erosion & Sedimentation Control Ordinance**

Adopted October 2, 2006

AN ORDINANCE ENACTED TO PROTECT THE HEALTH, SAFETY, AND GENERAL WELFARE OF ORION TOWNSHIP RESIDENTS; TO MINIMIZE WATER QUALITY DEGRADATION, FLOODING, AND DRAINAGE PROBLEMS FROM STORMWATER RUN-OFF; TO REDUCE SOIL EROSION AND SEDIMENTATION DURING AND AFTER SITE DEVELOPMENT; TO DESIGNATE THE ORION TOWNSHIP BUILDING DEPARTMENT AS THE MUNICIPAL ENFORCING AGENCY, IN ACCORDANCE WITH PART 91 OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994 PA 451, MCL 324.9101, *ET SEQ.*; MSA 13A.101, *ET SEQ.*, AS AMENDED; TO REDUCE THE NEED FOR PUBLIC EXPENDITURES RELATED TO FLOODING AND POLLUTION CONTROL; TO IDENTIFY REQUIREMENTS FOR STORMWATER MANAGEMENT AND SOIL EROSION AND SEDIMENTATION CONTROL; TO PROVIDE FOR MAINTENANCE AGREEMENTS AND TOWNSHIP INSPECTIONS; AND TO PROVIDE FOR PENALTIES FOR THE VIOLATION OF THIS ORDINANCE; AND TO PROVIDE FOR THE REPEAL OF ORDINANCE 92.

### **Article 1 – Short Title**

This Ordinance shall be known and may be cited as the *ORION TOWNSHIP STORMWATER MANAGEMENT AND SOIL EROSION & SEDIMENTATION CONTROL ORDINANCE*, and referred to as Ordinance No. 139.

### **Article 2 – Definitions**

The following terms, phrases, words and derivatives, when used in this Ordinance, shall have the meaning given herein, unless the context otherwise requires:

**Accelerated Soil Erosion** – The increased loss of the land surface that occurs as a result of human activities.

**Agriculture** – Plowing and tilling for the purposes of producing and harvesting crops.

**Agricultural Practices** – All land farming operations except the plowing or tilling of land for the purpose of crop production or the harvesting of crops.

**Authorized Public Agency** – A state agency or an agency of a local unit of government authorized by the Department under Section 9110 of Part 91 to implement Soil Erosion and Sedimentation Control Procedures with regard to Earth Changes undertaken by it.

**Certification of Completion** – A signed written statement by the Township Engineer, Building Official, or Soil Erosion and Sedimentation Control Agent(s) that specific construction has been inspected and found to comply with any Stormwater Management Plan or that specific construction and permanent stabilization has been inspected and found to be complete and comply with Part 91 and any approved Soil Erosion and Sedimentation Control Permit and/or any Soil Erosion and Sedimentation Control Plan.

**Conservation District** – A conservation district authorized under Part 93, Soil Conservation Districts, of the Natural Resources and Environmental Protection Act, 1994 PA 451, being 324.9301 *et seq.* of the Michigan Compiled Laws, as defined therein.

**Conveyance Facility** – A structure or channel which transports stormwater run-off.

**Department** – The Michigan Department of Environmental Quality.

**Designated Agent** – A person who has written authorization from the landowner to sign the application and secure a soil erosion and sedimentation control permit in the landowner's name.

**Detention Basin** – A structure or facility, natural or artificial, which stores stormwater on a temporary basis and releases at a controlled rate. A detention basin may drain completely after a storm event, or it may be a pond with a fixed minimum water elevation between run-off events.

**Discharge** – The rate of flow of water at a given point and time resulting from a storm event, measured in cubic feet per second (cfs).

**Disturbed Area** – An area of land subjected to the removal of vegetative cover and/or earthmoving activities.

**Drainage System** – All facilities, channels, and areas which serve to convey, catch, filter, store, and/or receive stormwater, either on a temporary or permanent basis.

**Earth Change** – Any human-made change in the natural cover or topography of land, including cut and fill activities, grading, and land clearing which may result in, or contribute to, soil erosion or sedimentation of Waters of the State, watercourses or wetlands. Earth change does not include the practice of plowing and tilling soil Agriculture.

**Erosion** – See "*Soil Erosion.*"

**Flood** – A temporary rise in the level of any waterbody, watercourse or wetland which causes the inundation of areas not ordinarily covered by water.

**Floodplain** – The area of land adjoining a river, stream, watercourse, lake or other body of water which will be inundated by a 100-year frequency flood event.

**Gardening** – Activities necessary to the growing of plants for personal use, consumption, or enjoyment.

**Grading** – Any leveling, stripping, excavating, filling, stockpiling, or any combination thereof, including the land in its excavated or filled condition.

**Illicit Connection** – An improper physical connection of Illicit Discharges to the storm water drainage system, or other connections not authorized by local authority (where required), to the stormwater drainage system.

**Illicit Discharge** – The discharge of untreated sanitary wastewater (including industrial and commercial wastewater) or other polluting materials into a river, stream, or other water body from improper sewer connections, effluent from improperly designed and/or operated septic systems, sanitary sewer overflows, improper disposal of waste products, and other discharges not composed entirely of stormwater.

**Infiltration Facility** – A structure or area which allows stormwater run-off to gradually seep into the ground, e.g. French drains, seepage pits, infiltration basin, dry well, or perforated pipe.

**Lake** – The Great Lakes and all natural and artificial inland lakes or impoundments that have definite banks, a bed, visible evidence of a continued occurrence of water, and a surface area of water that is equal to, or greater than 1 acre. "Lake" does not include sediment basins and basins constructed for the sole purpose of storm water retention, cooling water or treating polluted water.

**Landowner** – The person who owns the property 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 Highway Obstructions and Encroachments; use of Highway by Public Utilities, 1925 PA 368, as amended, being 247.183, 247.184, 247.185 and 247.186 of the Michigan Compiled Laws.

**Maintenance Agreement** – A binding agreement between the proprietor and Orion Township which sets forth the terms and conditions for stormwater control facility maintenance.

**Major Development** – Any use or development requiring a site plan in accordance with Section 30.01 of the Orion Township Zoning Ordinance (Ordinance 78), any land proposed for platting, and any development projects of any federal state, and/or local governmental agency.

**Minor Development** – Development of a single-family residential lot or development on any site not subject to site plan approval under the provisions of the Orion Township Zoning Ordinance (Ordinance 78).

**Municipal Enforcement Agent (MEA)** – An agent designated by a municipality under Section 9106 of Part 91 to enforce a local ordinance.

**Non-Erosive Velocity** – A speed of water movement that is not conducive to the development of accelerated soil erosion.

**Off-Site Facility** – All or part of a drainage system which is located partially or completely off of the development site which it serves.

**On-Site Authorized Agent** – The person identified on the permit application by the landowner or the designated agent to be authorized and responsible for making decisions on behalf of the landowner.

**Part 91** – Part 91, Soil Erosion and Sedimentation Control, of the Michigan Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, being 324.9101 *et seq.* of the Michigan Compiled Laws.

**Peak Rate of Discharge** – The maximum allowable rate of stormwater flow from a storm event, as measured at a given point and time in cubic feet per second (cfs).

**Person** – Any individual, firm, partnership, association, corporation, company, organization or legal entity of any kind, including governmental agencies.

**Planning Commission** – Orion Township Planning Commission.

**Pond** – All natural and artificial inland ponds that have definite banks, a bed, visible evidence of continued occurrence of water, and a surface area of water that is less than 1 acre. “Pond” does not include sediment basins and basins constructed for the sole purpose of storm water retention, cooling water or treating polluted water.

**Proprietor** – A Person who holds an ownership interest in land, whether recorded or not.

**Public Storm Sewer** – A drainage system serving a platted subdivision or other development which has been designed and constructed to be operated and maintained by the Oakland County Drain Commissioner, the Oakland County Road Commission, or Orion Township.

**Receiving Body of Water** – Any watercourse, lake, pond, creek, stream, wetland, or groundwater into which stormwater run-off is directed.

**Retention Basin** – A stormwater holding area, either natural or manmade, which does not have an outlet, and may or may not contain a permanent pool of water. Water is removed from retention basins through infiltration and/or evaporation processes.

**Run-Off** – That part of precipitation which flows off the land, measured in depth of inches.

**Rules** – The rules promulgated pursuant to the Administrative Procedures Act of 1969, 1969 PA 306, being 24.201 to 24.328 of the Michigan Compiled Laws for the administration of Part 91.

**Seawall Maintenance** – An earth change activity landward of the seawall.

**Sediment** – Solid particulate matter, including both mineral and organic matter, that is in suspension in water, is being transported, or has been removed from its site of origin by the actions of wind, water, or gravity and has been deposited elsewhere.

**Sediment Basin** – A naturally occurring or constructed depression used for the sole purpose of capturing sediment during and after an earth change activity.

**Site** – Any tract, lot or parcel of land or combination of tracts, lots or parcels of land proposed for development.

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

**Soil Erosion and Sedimentation Control (SESC) Agent** – A person who has a current certification of training in soil erosion and sedimentation control from the Department, and who is appointed by the Township Building Department and is responsible for administering and enforcing Part 91, the Rules and this Ordinance.

**Soil Erosion and Sedimentation Control (SESC) Measures** – A structure, barrier, berm, vegetative cover, basin or other installation designed to control accelerated soil erosion and sedimentation.

**Temporary Measures** – Interim Control Measures which are installed or constructed to control soil erosion and sedimentation and which are not maintained after project completion.

**Permanent Measures** – Control measures which are installed or constructed to control soil erosion and sedimentation and which are maintained after project completion.

**Soil Erosion and Sedimentation Control (SESC) Plan** – A Plan that contains at a minimum Rule 1703 requirements for an earth change which is designed and planned to show how soil erosion and sedimentation will be controlled and the site permanently stabilized.

**Soil Erosion and Sedimentation Control Permit** – A permit issued by the Municipal Enforcement Agent to authorize work to be performed under the provisions of Part 91, the Rules and this Article.

**Stabilization** – The establishment of vegetation or the proper placement, grading or covering of soil to ensure its resistance to soil erosion, sliding or other earth movement.

**Stop Work Order** – An order that stops all work on a project until any and all violations of Part 91, the Rules and this Ordinance are corrected, except for remedial measures to correct the violation.

**Storage Facility** – A basin, structure, or area, either natural or manmade, which is capable of holding stormwater for the purpose of reducing the rate of discharge from the site.

**Storm Drain** – A conduit, pipe, swale, natural channel or man-made structure which serves to transport stormwater run-off. Storm drains may be either enclosed conduits or open drains.

**Stormwater Management Plan** – Maps and written information for a development or earth change which describe the way in which stormwater run-off is to be controlled, both during and after construction.

**Stormwater Management Measures and Facilities** – Any facility, structure, channel, area, or measure which serves to control stormwater run-off in accordance with the purposes and standards of this Ordinance.

**Storm Water Retention Basin** – An area which is constructed to capture surface water runoff and which does not discharge directly to a lake or stream through an outlet. Water leaves the basin by infiltration and evaporation.

**Stream** – A river, creek or other surface watercourse which may or may not be serving as a drain as defined in The Drain Code of 1956, 1956 PA 40, as amended, being 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 Waters of the State.

**Stripping** – Any activity which removes or significantly disturbs the vegetative surface cover, including clearing and grubbing operations.

**Swale** – Low-lying area with gradual slopes which transports stormwater, either on-site or off-site.

**Township** – Orion Township Board of Trustees.

**Vegetative Cover** – Grasses, shrubs, trees, and other vegetation which hold and stabilize soils.

**Violation** – A violation of Part 91, the Rules or this Ordinance, or a Soil Erosion and Sedimentation Control Permit.

**Waters of the State** – The Great Lakes and their connecting waters, inland lakes and streams, as defined in the Rules, and wetlands regulated under Part 303, Wetlands Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, being 324.30301 *et seq.* of the Michigan Compiled Laws.

**Watercourse** – Any natural or manmade waterway or other body of water having reasonably well-defined banks. Rivers, creeks, and streams, whether continually or intermittently flowing; as well as lakes and ponds are watercourses for purposes of stormwater management.

**Watershed** – A land area, known as a drainage area, which collects precipitation and contributes run-off to a receiving body of water.

**Wetlands** – Areas that are inundated or saturated by surface water or groundwater with a frequency sufficient to support, and under normal circumstances do support, a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands generally include swamps, marshes, bogs, sloughs, potholes, wet meadows, river overflows, mud flats, and natural ponds. Wetlands shall include poorly drained and very poorly drained soils, and other soils classified as "hydric soils" by the U.S. Soil Conservation Service.

### **Article 3 – Stormwater Management**

#### **Section 3.01 – Purpose**

The purpose of this Article shall be:

- A. To protect public health, safety, and general welfare by requiring stormwater management measures and facilities whenever new, expanded, or modified developments are proposed.
- B. To ensure that landowners control stormwater run-off from their property so that lake and stream water quality is protected, flooding is reduced, and to protect the Waters of the State and adjacent properties.
- C. To preserve and use the natural drainage system for conveying and receiving stormwater run-off, and to minimize the need to construct storm drain pipes.
- D. To protect Orion Township's lakes from any adverse effects of stormwater run-off, while at the same time utilizing the water-holding capacity of the lakes.
- E. To encourage the use of stormwater conveyance and detention systems, which serve multiple purposes, including, but not limited to flood control, water quality enhancement, recreation, and wetlands protection.
- F. To ensure that stormwater management systems are incorporated into the early stages of site planning and design.
- G. To allow on-site and/or off-site wetlands to be used for stormwater detention, provided that adverse environmental impacts on wetlands are minimized and provided that any anticipated effects are acceptable to the Orion Township Planning Commission, the Orion Township Board of Trustees, and permitted by the Michigan Department of Environmental Quality.
- H. To allow for off-site stormwater management if proposals meet the requirements of this Ordinance and applicable county and/or state requirements.
- I. To ensure that all stormwater conveyance and detention measures and facilities will be properly constructed, maintained, and preserved.
- J. To ensure that Illicit Discharge to stormwater facilities does not occur within the Township.

#### **Section 3.02 – Construction of Language**

The following rules of construction apply to the text of this Ordinance:

- A. Particulars provided by way of illustration or enumeration shall not control general language.
- B. Ambiguities, if any, shall be construed liberally in favor of protecting natural resources.
- C. Words used in the present tense shall include the future, and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- D. Terms not specifically defined in this Ordinance shall have the meaning customarily assigned to them.

E. In case of conflict between Township maps and the definitions in this Ordinance, the definitions shall control.

### **Section 3.03 – General Provisions**

#### **A. Abrogation and Conflict of Authority**

Nothing in this Ordinance shall be interpreted to conflict with present or future State statutes in the same subject matter. Conflicting provisions of this Ordinance shall be abrogated, but only to the extent of the conflict. Moreover, the provisions of this Ordinance shall be construed to be consistent with and in addition to relevant State regulations and statutes.

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State statutes.

This Ordinance is not intended to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail. If there is another ordinance that is inconsistent, the terms of the ordinance that is most restrictive shall apply.

#### **B. Applicability**

##### **1. Applicability to Minor Developments**

Any Minor Development, including individual single family residential lot development, shall meet the purpose of this Ordinance for Stormwater Management Plans and permits.

##### **2. Applicability to Major Developments.**

The proprietor of any proposed Major Development shall submit a Stormwater Management Plan to the Township for review and approval.

#### **C. Compliance**

Full compliance with the terms of this Ordinance and other applicable regulations shall be met by all persons.

#### **D. Proof of Ownership**

The Township Building Official may require proof of ownership of the subject property before approval of a Stormwater Management Plan.

#### **E. Illicit Discharge**

Illicit Discharges are strictly prohibited within the Township. The Township shall have the legal authority to investigate suspected Illicit Discharges or Connections. If an Illicit Discharge or Connection is found as a result of this investigation, the Township shall have the authority to require elimination of the Illicit Discharge or Connection. If the Illicit Discharge or Connection is not eliminated within a period of time set forth in the notice requiring elimination of the Illicit Discharge, the Township shall have the authority to proceed with penalties and enforcement measures outlined in Article 5 of this Ordinance.

#### **F. Fee Schedule**

All fees for administering and enforcing this Ordinance shall be paid to the Township in accordance with a Fee Schedule determined by resolution of the Township Board. The Township may revise the Fee Schedule by adopting a written amendment to the Fee Schedule from time to time.

All fees shall be doubled if work starts without a permit.

### **Section 3.04 – Stormwater Management Plan Requirements for Major Developments**

**A. Pre-Application Conference**

A pre-application conference may be requested by the proprietor prior to the submittal of a Stormwater Management Plan. The pre-application conference shall be held with the Township Supervisor and/or his/her designee. The purpose of the pre-application conference is to provide information and guidance that will assist the proprietor in preparing the required plan.

**B. Stormwater Management Plan Contents****1. Plan Organization and Presentation.**

- a. Through maps, reports, illustrations, and calculations, the Stormwater Management Plan shall display the required information in a clear and logical sequence.
- b. Information submitted to the Township on a site plan may be used to meet the requirements of this Section, provided that a written statement identifying the Stormwater Management Plan information is provided.
- c. Information submitted to the Township on a tentative preliminary subdivision plat and a final preliminary subdivision plat may be used to meet the requirements of this Section, provided that a written statement identifying the applicable data is provided.
- d. The Stormwater Management Plan must be sufficiently detailed to specify the type, location, and size of stormwater management, using preliminary calculations. Construction drawings and specifications are not required at the plan review stage.
- e. If it is proposed that a parcel be developed in two or more phases, the Stormwater Management Plan shall be prepared and submitted for the total project unless a waiver has been approved by the Planning Commission.

**2. Plan Preparation.**

The Stormwater Management Plan shall be prepared by a registered civil engineer, registered landscape architect, registered land surveyor, and/or registered architect. Other persons and professionals may assist in the preparation of the plan.

**3. Scale for Mapping.**

The Stormwater Management Plan shall be drawn to a scale of one inch equal to fifty feet (1 inch = 50 feet) for property less than three (3) acres and one inch equal to one hundred feet (1 inch = 100 feet) for property three (3) acres or more in size. Sheet size shall be at least twenty-four (24) inches by thirty-six (36) inches.

**4. Required Information: Identification and Description.**

- a. Proprietor's name, mailing address, and telephone number.
- b. Common description of property and complete legal description.
- c. Dimensions of land, total acreage, and net acreage (total acreage minus rights-of-way).
- d. Existing zoning and zoning of all adjacent properties.
- e. Written description of the proposed land use and the name of the proposed development.
- f. Location and size of existing and proposed lots, buildings, structures and pavement.
- g. Name and address of any professional architect, landscape architect, wetland specialist, engineer, or planner responsible for the preparation of the stormwater management plan.
- h. Proof of ownership of the property, as well as any off-site easements for stormwater management.

- i. Title block, scale, northpoint, and date of submission with revisions noted (month, day and year).

5. Required Information: Existing Conditions.

The following information describing existing site conditions is required:

- a. A site location and vicinity map at a scale of not less than one inch equal to two thousand feet (1 inch = 2000 feet) including the approximate boundaries of the small watershed within which the site is located. Maps are available for reference at Orion Township offices.
- b. Topography on the site and within one hundred (100) feet of the site at two (2) foot contour intervals, referenced to a U.S. Geological Survey benchmark.
- c. Soils with a high infiltration rate, including soil map units 14B, 14C, 15B, 15C, 15E, 35A, 62B, 62C, and 63A, as shown on the soil survey maps of Oakland County, published by the U.S. Soil Conservation Service.
- d. Location and flow direction of all watercourses (including lakes, ponds, creeks, and streams) on the site and within one hundred (100) feet of the site, including permanent and intermittent features. Elevations shall be indicated, referenced to a U.S. Geological Survey benchmark.
- e. Entry points where stormwater run-off and watercourses enter the site from off-site locations, with arrows indicating the direction of the flow.
- f. Outlet point and drainage area boundaries for all watercourses on the site and within one hundred (100) feet of the site.
- g. Preliminary engineering analysis of the existing peak rate of discharge from the site.
- h. Location of wetlands on the site, based upon the National Wetland Inventory maps (available for reference in Orion Township offices) or soil survey maps (poorly drained soils, very poorly drained soils, and other hydric soils), and verified by field survey.
- i. Location of any existing storm drains, ditches, swales, or other stormwater management facilities.

6. Required Information – Proposed Conditions.

a. Information Required for Tentative Preliminary Plats:

- i. Proposed changes to the land surface and existing vegetative cover, including delineation of areas to be cut and filled. Final contours at two (2) foot contour intervals shall be provided.
- ii. Flow routes with directional arrows for stormwater Run-Off from the 100-year storm frequency event.
- iii. Proposed outlet points and associated drainage area boundaries.
- iv. The receiving watercourses for stormwater run-off, including but not limited to lakes, streams, wetlands, road drains, and county drains, whether located on-site or off-site.
- v. Preliminary description of the location, type and size of stormwater management facilities and measures, including facilities for the conveyance, infiltration, and/or storage of stormwater Run-Off.
- vi. Approximate location of easements to protect the primary and secondary drainage systems, and to provide access for maintenance.

b. Information Required for Site Plans and Final Preliminary Plats:

- i. All of the information required for tentative preliminary plats.

- ii. A plan and timetable for the staging of site grading and preparation activities.
- iii. Preliminary calculations of the effect of the development upon the peak rate of discharge, and a preliminary determination of the amount of detention storage required to limit the proposed discharge to the existing levels.
- iv. Description and proposed location of all temporary and permanent stormwater management facilities and measures, including facilities for the conveyance, infiltration, and/or storage of run-off. The benefits of stormwater management facilities for water quality and/or flood control shall be indicated. The flow rate at all points of discharge from any conveyance or storage facility shall be indicated. Facility construction plans and specifications are not required at this stage.
- v. Expected alterations of wetlands and watercourses, including expected changes in the type of vegetation and water level.
- vi. Listing of activities proposed to maintain stormwater management and facilities.

**C. Plan Submission**

- 1. Fourteen (14) copies of the Stormwater Management Plan shall be submitted to the Township Clerk. Copies shall be distributed to the Planning Commission, Building Department, Planner, Engineer, and/or other reviewers by the Clerk as appropriate.
- 2. For developments subject to site plan review, the proprietor shall submit a Stormwater Management and Erosion Control Plan to the Township Clerk at the time that the site plan is submitted.
- 3. For developments subject to subdivision plat review, the proprietor shall submit a SESC Plan to the Township Clerk in two phases, as indicated herein.
- 4. For other earth changes or activities subject to Stormwater Management and Erosion Control Plan requirements, the plan shall be submitted to the Township Clerk before construction drawings are submitted.
- 5. Compliance with the requirements of this Ordinance does not eliminate the need for the proprietor to obtain necessary and required permits and approvals from county and state agencies, including, but not limited to:
  - a. Drainage approvals from the Oakland County Drain Commissioner;
  - b. Road drainage approvals from the Road Commission for Oakland County;
  - c. Wetlands, dam construction, Inland Lakes and Streams, and Flood Plain permits from the Michigan Department of Environmental Quality;

**D. Review Procedures**

- 1. The Planning Commission shall determine if a proposed Stormwater Management Plan meets the requirements and standards of this Ordinance. The Planning Commission is authorized to approve, approve with conditions, or disapprove.
- 2. If the Planning Commission disapproves the proposed Stormwater Management Plan, the proprietor shall be notified of the decision. Reasons for the disapproval shall be specified in writing.
- 3. If approval with conditions has been granted, revisions shall be reviewed by the Township Engineer and/or Building Official prior to the issuance of any building permit. If Stormwater Management Plan revisions are not made as specified by the Planning Commission, the building permit(s) shall not be issued.

**E. Review Fees**

The Township Board shall establish fees and escrow requirements by resolution. A copy of the current resolution establishing such fees shall be attached to this Ordinance as an appendix.

**F. Standards for Stormwater Management Plan Approval**

Stormwater management measures and facilities, whether on-site or off-site, shall be designed, constructed, and maintained to prevent flooding and protect water quality.

**1. General Standards for On-Site and Off-Site Stormwater Management.**

- a. Stormwater management, conveyance, storage, and infiltration facilities shall be designed to prevent flood hazards and water pollution related to run-off from the proposed development project.
- b. Stormwater from upstream and off-site locations shall be conveyed through the site or stored on-site.
- c. A primary drainage system which manages Run-Off from storms up to a 100-year frequency storm event shall be provided.
- d. Every basin shall have an internal overflow system to direct run-off from storms of a greater than a 100-year frequency (secondary drainage system).
- e. Every detention basin shall control the release of stormwater from the 100-year frequency event. The peak discharge rate shall not exceed the agricultural discharge rate of 0.2 cubic feet per second (cfs) per acre. There may be cases where the existing outlet has limitations due to downstream conditions. In this situation the discharge from the site will be restricted to conform to the governing downstream conditions.
- f. There may also be cases where the outlet has already reached capacity. The burden is on the proprietor to design and construct, at his expense, any necessary improvements to the downstream outlet. Such designs will be reviewed by the governing agency for adequacy. Additional controls may be required in these cases in order to protect downstream properties.
- g. Unless otherwise approved, stormwater run-off shall be conveyed through swales and vegetated buffer strips so as to decrease run-off velocity, allow for natural infiltration, allow suspended sediment to settle, and to remove pollutants.
- h. Alterations to natural drainage patterns shall not create flooding or water pollution for adjacent or downstream property owners.
- i. Watercourses and adjacent stream banks shall not be dredged, cleared of vegetation, deepened, widened, straightened, stabilized, or otherwise altered without approval from the Department and Township. If the watercourse is a designated County drain, approval from the Oakland County Drain Commissioner shall also be obtained.
- j. No modifications of major watercourses shall be permitted if the primary purpose is to increase the flow capacity of the watercourse.
- k. Discharge of run-off from commercial and industrial sites which may contain oil, grease, toxic chemicals, or other polluting materials shall be prohibited unless measures to reduce and trap pollutants meet the requirements of the Department and Township.
- l. Drainage systems shall be designed to protect public health and safety and to be visually attractive.
- m. No approval shall be made by the Planning Commission if it finds that the action will or is likely to pollute, impair or destroy a wetland or watercourse. However, if the Planning Commission finds that there are no feasible and prudent alternatives and that the approval is consistent with the public interest in light of the purposes of this Ordinance, the Planning Commission may grant approval.

**2. Stormwater Storage and Infiltration Facilities.**

- a. Stormwater storage or infiltration facilities which protect water quality and prevent flooding on-site and off-site shall be required. Storage or infiltration facilities may include, but are not limited to detention basins, retention basins, infiltration trenches, infiltration basins, and swales with check dams, and other facilities.

- b. All detention basins shall be designed to maximize the ability of the basin to hold and trap sediment. The types of basins listed below meet Orion Township requirements. Types of basins are listed in order of preference, with the most desirable listed first:
    - i. Infiltration facilities, provided that soils and groundwater conditions are suitable. The permeability of the existing soils must be demonstrated such that percolation of the retained storm water is possible. Soil boring logs must be submitted for review. The borings must be taken within the proposed basin bottom area to a distance of twenty (20) feet below the proposed basin bottom elevation. Calculations performed by a professional geotechnical engineer must be submitted. The calculations must indicate the percolation rates for the soils encountered during soil boring.
    - ii. Detention basins with a fixed minimum water elevation between run-off events (wet basins). Wet basins, which serve to trap soil particles on-site, are preferable to dry basins.
    - iii. Detention basins which hold stormwater for more than twenty-four (24) hours before completely draining to become a dry basin (extended detention basins).
    - iv. Dry detention basins, which have upland sediment basins to trap sediment.
  - c. Detention basins shall be designed to hold run-off from a 100-year frequency storm event. Basins shall be permanently stabilized to minimize erosion.
  - d. A sediment forebay, or equivalent structure, designed to capture the runoff from a 1-year frequency storm event is required for all sites. The forebay should be a separate cell from the main detention basin and designed such that it will dewater within forty-eight (48) hours. The volume of detention within the forebay, above any proposed permanent pool of water, can be considered when calculating total detention volume required for a site.
  - e. Detention basins shall have an overflow system. If the overflow system cannot discharge to a creek, lake or wetland without causing flooding on adjacent or downstream properties, then the basin shall be designed to hold stormwater run-off from two (2) back-to-back 100-year frequency storm events.
  - f. Detention and retention basins with banks which are steeper than one on four (vertical to horizontal) shall not be permitted unless a waiver is obtained from the Planning Commission. Any basin permitted with a steeper slope than one on four shall provide a fence or other suitable barrier to prevent public access.
  - g. Signs shall be posted by the proprietor to alert residents to hazards and use limitations of any stormwater basin.
  - h. Constructed detention and retention basins may not be a part of a platted subdivision lot, but shall be provided in platted outlots or open space areas.
3. Discharge of Stormwater Run-Off to Wetlands.
- a. Stormwater run-off discharged to wetlands must be diffused to a non-erosive velocity before it reaches the wetland.
  - b. Wetlands may be used for stormwater detention if the following conditions are met:
    - i. That part of the wetland used for a storage or detention area is set back at least one hundred (100) feet from any lake or stream.
    - ii. The wetland does not have significant wildlife habitat or ecological values which are likely to be impaired or destroyed by stormwater.
    - iii. The wetland has sufficient holding capacity for stormwater, based upon calculations prepared by the proprietor and reviewed and approved by the Township Engineer.
    - iv. Adequate soil erosion control is provided to protect the natural integrity of the wetland.

- c. During the construction phase of development, adequate soil erosion and sedimentation control and protection of wetlands shall be provided. Measures such as the following are encouraged:
  - i. One or more sediment traps or soil settling basins located in upland locations; or
  - ii. Open-water sediment traps within or adjacent to wetlands, provided that the proposal meets the wetlands requirements of the Michigan Department of Environmental Quality and Orion Township, and provided that access for maintenance equipment is provided.
- d. If off-site wetlands are used for stormwater management, easements must be provided in accordance with the requirements of this Ordinance.

#### G. Off-Site Stormwater Management

##### 1. Waiver Option.

In lieu of on-site stormwater detention, the use of off-site stormwater conveyance, infiltration, and/or detention areas may be proposed. In such cases, the proprietor shall request a waiver of the requirements for on-site stormwater detention. This waiver option does not allow for changes in requirements for on-site soil erosion and sedimentation control.

Off-site stormwater management areas may be shared with other landowners, provided that maintenance agreements have been approved by the Planning Commission and Township Board, and properly recorded with the Oakland County Register of Deeds.

##### 2. Stormwater Management Plan.

The waiver request shall be submitted with a Stormwater Management Plan as provided in Section 3.04, including proposed stormwater management measures on-site and off-site.

##### 3. Applicable Standards.

In addition to stormwater management standards specified in Section 3.04 of this Ordinance, the proprietor must demonstrate and provide assurances for all of the following, as applicable:

- a. Stormwater flows and management controls shall not result in excessive stream channel erosion on-site or off-site;
- b. High value or unique wetlands and natural areas shall not be significantly altered by stormwater flows on-site or off-site;
- c. Off-site stormwater facilities shall be protected through appropriate easements; and
- d. Adequate provision and agreements for maintenance of stormwater management facilities shall be made.

### **Section 3.05 – Construction Drawings and Specifications**

#### A. Submittal Requirements.

Following approval of any site plan or final preliminary plat, construction drawings and specifications shall be submitted.

#### B. Approval Responsibilities.

A building or construction permit for a major development shall not be issued unless and until the construction drawings and specifications meet the standards of this Ordinance and have been approved by the Township Engineer. All applicable requirements of State and County agencies shall also be met and proof of necessary permits shall be presented to the Township Building Official.

#### C. Stormwater Run-Off Volume Calculations.

Calculations of stormwater run-off volumes and peak discharge rates from all contributing areas to storage facilities or other outlets shall be submitted with engineering specifications.

1. The rational method of design:

Q = CIA for a 100-year frequency storm event shall be used, where:

Q = Run-off rate in cubic feet per second,

C = Imperviousness coefficient,

A = Contributing area in acres, and

I = Rainfall intensity in inches per hour.

For a 100-year frequency storm event,  $I = 275/T+25$ , where T is the time of concentration in minutes.

2. For proposed developments larger than fifty (50) acres in size, the Soil Conservation Service Method (Technical Release No. 55) as presented in the "Soils and Run-Off Guidebook" of the Land and Water Management Division, Michigan Department of Natural Resources, may be used as an option. A copy of this Guidebook is available for review in the Orion Township Building Department.

D. Retention and Detention Basin Sizing Requirements.

The procedure recommended by the Oakland County Drain Commissioner, titled "A Simple Method of Retention Basin Design" for a 100-year frequency storm event with a maximum of 0.2 cubic feet per second (cfs) per acre allowable outflow shall be used. There may be cases where the existing outlet has limitations due to downstream conditions. In this situation the discharge from the site will be restricted to conform to the governing downstream conditions. If a drainage outlet to an existing watercourse for the basin is not available, the basin volume shall be designed for back to back 100-year frequency storm events.

### **Section 3.06 – Waivers**

A. Planning Commission Authority

The Planning Commission shall have the authority to grant waivers from the strict application of this Article regarding stormwater management, in accordance with the terms of this Section.

B. Written Application Required

A written application requesting a waiver shall be submitted to the Township Clerk, demonstrating that:

1. Special conditions and circumstances exist which are peculiar to the land or project involved, and which are not generally applicable to other plans or projects;
2. The special conditions and circumstances do not result or have not resulted from the actions of the applicant or the applicant's predecessor;
3. Literal interpretation of the provisions of this Article would deprive the applicant of rights commonly enjoyed by other properties under the terms of this Article; and
4. Granting of the waiver shall not result in an unreasonable risk of impairment or destruction of property and/or natural resources which this Article is designed to protect.

C. Standards for Waivers

1. All waivers of the provisions of this Article regarding stormwater management shall be granted only if all of the following standards are met:

- a. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property that do not apply generally to other properties or class of uses in the same district or zone.
  - b. That such waiver is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone and vicinity.
  - c. That the granting of such waiver or modification will not be materially injurious to the property or improvements in such zone or district in which the property is located.
2. In addition, the Planning Commission shall, prior to granting a waiver to the provisions of this Article, make a determination that the proposed waiver will not pollute, impair, or destroy air, water or other natural resources or the public trust therein.
- D. In exercising their authority to grant waivers to the provisions of this Article, the Planning Commission shall have the following responsibilities:
- a. The Planning Commission may permit modification in the size and location of stormwater management facilities, provided that off-site pollution, flooding and health hazards are avoided.
  - b. The Planning Commission may impose such conditions and restrictions as may be necessary to comply with the standards and objectives of this Article.

### **Section 3.07 – Performance Guarantees, Inspections, and Maintenance**

#### **A. Performance Guarantees**

1. After Stormwater Management Plan approval, but prior to the beginning of construction, the proprietor shall be required to post a cash escrow, certified check, or other acceptable form of performance security in an amount determined by a Resolution of the Township Board.
2. After determination by Orion Township that all measures and facilities are installed in compliance with the approved plan, the security shall be released.

#### **B. Maintenance**

All stormwater management facilities shall be maintained in proper working condition by the owner of the facility. If, after due notice, a facility is not properly maintained, Orion Township may withhold any other inspections, retain bond and/or escrow funds, revoke and/or refuse issuance of occupancy permits, and/or perform the necessary maintenance and assess the cost to the owner. The cost of the work shall be a lien on the property, or pro-rated against the beneficial users of the property, and may be placed on the tax roll and collected as ordinary taxes. The financing requirement shall be stated in the maintenance agreement. Additionally, the Township may institute appropriate court action to prohibit further activities upon the site.

#### **C. Stormwater Management Easements**

1. Necessity of Easements.

Stormwater management easements shall be provided by the property owner if necessary to ensure: (1) access for stormwater management facilities inspections and maintenance; and (2) preservation of stormwater management conveyance, infiltration, and storage areas, including overflow routes.

2. Easements for Off-Site Stormwater Management.

Stormwater management and flood easements are required for all areas used for off-site stormwater management, unless the areas are under the ownership of the proprietor at the time of stormwater management plan submittal.

3. Recording of Easements.

Easements shall be recorded with the Oakland County Register of Deeds according to Oakland County requirements.

4. Recording Prior to Building Permit Issuance.

The proprietor must provide the Building Official with evidence of the recording prior to the issuance of a building permit.

D. Maintenance Agreement

1. Purpose of Maintenance Agreement.

The purpose of the Maintenance Agreement is to provide the means and assurance that maintenance of stormwater management facilities shall be undertaken.

2. Maintenance Agreement Required.

a. The proprietor of a development and/or earth change subject to Stormwater Management Plan requirements (Article 3) shall submit a Maintenance Agreement to the Township Clerk.

b. Maintenance agreements shall be reviewed by the Township Engineer and Township Attorney and approved by the Township prior to the issuance of any building permit or final preliminary plat approval.

3. Maintenance Agreement Provisions.

a. The Maintenance Agreement shall provide for routine maintenance and emergency maintenance.

b. The Maintenance Agreement shall be binding on all subsequent owners of land served by the stormwater management and erosion control facilities, and shall be recorded in the land records of Oakland County within thirty (30) days after approval by the Township.

E. Notification

In the event that an owner or developer fails to comply with the requirements of this Ordinance, or fails to conform to the requirements of any approval given under this Ordinance, the Orion Township Building Official or his/her designee, shall provide written notification of any violation. Such notification shall set forth the nature of the violation and establish a time limit for correction.

F. Notice of Completion; Certificate of Completion

Upon satisfactory execution of the approved plans and permit conditions and other requirements imposed under this Article, the landowner shall file a written notice of completion with the Orion Township Building Official or his/her designee. The Orion Township Building Official or his/her designee shall make a final inspection within thirty (30) days of receiving notice of completion and shall issue a certificate or letter of completion and release of bond if the landowner has satisfactorily complied with the plan, permit conditions and this Article. If the project is to be completed in different phases, the landowner may submit a written notice of completion for a project phase and the Orion Township Building Official or his/her designee may issue separate certificates of completion and authorize a proportionate release of a cash bond for each completed project phase.

### **Section 3.08 – Violation and Enforcement**

A. Effect of Approval on Remedies

The approval or disapproval of any stormwater management plan shall not have any effect on any remedy of any person at law or in equity, provided that, where it is shown that there is a wrongful failure to comply with this Ordinance, there shall be a rebuttable presumption that the violation was the proximate cause of the damage to the land of any person bringing suit.

B. Liability for Township Expenses for Violations

*Clerical Revision 07/16/09*

Any person violating the provisions of this Ordinance shall become liable to the Township for any expense or loss or damage occasioned by the Township by reason of such violation.

C. Circuit Court Action

In addition to municipal civil infraction penalties which may be imposed, the Township may institute circuit court action to obtain injunctive relief for a violation of this Ordinance. A violation of this Ordinance shall be deemed a nuisance *per se* and shall be abated by order of the court.

D. Stop Work Order

Upon notice of the Township Building Official or his/her designee that activity which requires a Stormwater Management Plan approval is being conducted without such approval, such activity shall be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property involved and/or to the person conducting the activity.

E. Injunction; Inspection and Investigation; Interference with Administration and Enforcement

1. Injunction

Notwithstanding the existence or pursuit of any other remedy, the Department or the Township may maintain an action in its own name in a court of competent jurisdiction for an injunction or other process against a person to restrain or prevent violations this Ordinance.

2. Right of Entry and Inspection

An agent appointed by the Department or the Township may enter at all reasonable times in or upon any private or public property for the purpose of inspecting and investigating conditions or practices that may be in violation of this Ordinance.

3. Interference with Administration and Enforcement

No person shall unlawfully hinder, oppose or resist the Orion Township Building Official or his/her designee in the discharge of the administration and enforcement this Ordinance. No person shall remove, mutilate or conceal any notice posted by the Orion Township Building Official or his/ her designee except by written permission of the Orion Township Building Official or his/ her designee.

## **Article 4 – Soil Erosion and Sedimentation Control (SESC)**

### **Section 4.01 – Purpose**

The purpose of this Article shall be:

- A. To protect public health, safety, and general welfare by requiring soil erosion and sedimentation control measures and facilities whenever new, expanded, or modified developments are proposed.
- B. To prevent soil erosion and off-site sedimentation to adjacent properties and to the waters of the state.
- C. To effectively reduce soil erosion and sedimentation by requiring both temporary and permanent soil erosion and sedimentation control measures in accordance with Part 91 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.9101, *et seq.*
- D. To regulate earth change activities, which can harm the environment through soil erosion and sedimentation and the unnatural accumulation of sediment in accordance with provisions of Part 91 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.9101, *et seq.*

- E. To provide necessary legal authority for the designation of the Orion Township Building Department as the Municipal Enforcement Agency (MEA) in accordance with provisions of Part 91 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.9101, *et seq.*
- F. To ensure that soil erosion and sedimentation control systems are incorporated into the early stages of site planning and design.
- G. To ensure that all soil erosion and sedimentation control measures will be properly constructed, maintained, and preserved.
- H. To provide penalties for violation of the provisions of this Article.

### **Section 4.02 – Construction of Language**

The following rules of construction apply to the text of this Article:

- A. Particulars provided by way of illustration or enumeration shall not control general language.
- B. Ambiguities, if any, shall be construed liberally in favor of protecting natural resources.
- C. Words used in the present tense shall include the future, and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- D. Terms not specifically defined in this Article shall have the meaning customarily assigned to them.
- E. In case of conflict between Township maps and the definitions in this Article, the definitions shall control.

### **Section 4.03 – General Provisions**

#### **A. Abrogation and Conflict of Authority**

Nothing in this Article shall be interpreted to conflict with present or future State statutes on the same subject matter. Conflicting provisions of this Article shall be abrogated to, but only to the extent of the conflict. Moreover, the provisions of this Article shall be construed to be consistent with and in addition to relevant State regulations and statutes.

In their interpretation and application, the provisions of this Article shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State statutes.

This Article is not intended to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this Article imposes greater restrictions, the provisions of this Article shall prevail. If there is another ordinance that is inconsistent, the terms of the ordinance that is most restrictive shall apply.

#### **B. Applicability**

##### **1. Applicability to Minor Developments.**

- a. Any Minor Development, including single-family residential lot development, shall meet the requirements of this Article for SESC Plan and permits, if a permit is required for an earth change under Part 91, the Rules, or this Article.

##### **2. Applicability to Major Developments.**

- a. The landowner of any proposed Major Development shall submit a SESC Application and Plan to the MEA for review and approval for earth changes that require a permit under Part 91, the Rules, or this Article.

#### **C. Soil Erosion and Sedimentation Control Permit Required**

1. Activities Requiring a SESC Permit

a. Earth change activity which:

- i. Disturbs one or more acres of land; or
- ii. Is located within five hundred (500) feet of the Waters of the State regardless of the amount of land disturbed.

b. If the earth change is under the jurisdiction of two or more local or county enforcing agencies, then the department shall act as the enforcing agency.

c. An earth change activity that does not require a SESC Permit under this Ordinance is not exempt from enforcement procedures under Part 91, the Rules or this Article, if the activity results in violation of Part 91, the rules, or this Article.

2. A SESC Permit shall be issued only if the following conditions are met:

a. A SESC Plan has been submitted for review with the SESC Permit application and approved by the MEA.

b. Any required fees or bonds have been received by the Township.

3. All SESC Permits shall be issued for a period of one (1) year and may be renewed annually.

4. Earth Change Requirements

The landowner and the On-Site Responsible Party engaged in an Earth Change shall:

- a. Conduct the Earth Change in a manner that will effectively reduce accelerated soil erosion and resulting off-site sedimentation.
- b. Plan, implement and maintain acceptable SESC Measures in conformance with Part 91, the Rules and this Article, which effectively reduce accelerated soil erosion and off-site sedimentation.
- c. Carry out the Earth Change activities in accordance with an approved SESC Plan and in compliance with all the requirements of the SESC Permit, Part 91, the Rules and this Article.
- d. The SESC Permit must be posted on-site and clearly visible from the road. The SESC Plan must be available for inspection at the site of the Earth Change at all times.

D. Compliance

Full compliance with the terms of this Article and other applicable regulations shall be met by all persons.

E. Proof of Ownership

The MEA may require proof of ownership of the subject property before issuance of a SESC Permit.

F. Rules Adopted

The Township hereby adopts by reference and incorporates into this Article as if fully set forth herein the Rules adopted by the Department pursuant to Part 91 and duly filed with the Secretary of State. Said rules shall be available for public distribution at a reasonable charge and will be available for public inspection at the Township Clerk and Building Department offices.

G. Fee Schedule

All fees for administering and enforcing this Article shall be paid to the Township in accordance with a Fee Schedule determine by resolution of the Township Board. The Township may revise the Fee Schedule by adopting a written amendment to the Fee Schedule from time to time.

All fees shall be doubled if work starts without a SESC permit.

#### **Section 4.04 – Soil Erosion and Sedimentation Control Plan and Permit Requirements for Minor Developments**

##### **A. Soil Erosion and Sedimentation Control Plan Requirements**

1. Any person proposing to initiate an Earth Change which meets the requirements of Section 4.03 in the Township shall submit a SESC Application and Plan to the MEA for review and approval.
2. The SESC Application shall be on the form supplied by the Township and shall be accompanied by three (3) copies of the plan drawn to a scale of 1" = 50' (one inch equals 50 feet) on a sheet of paper no smaller than eleven (11) inches by seventeen (17) inches and no larger than twenty-four (24) inches by thirty-six (36) inches.
3. The SESC Plan shall meet the requirements of Part 91.
4. If a building permit is required, the Township shall not issue the building permit to a person engaged in an Earth Change if the change requires a permit under Part 91 or the Rules until the MEA has issued the required state-prescribed SESC permit for the Earth Change.
5. The SESC Plan shall include the following information:
  - a. Legal description of the property.
  - b. Site location map.
  - c. A soils survey or written description of the soil types of the exposed land area contemplated for the Earth Change.
  - d. Existing topography including predominant land features, and proposed changes in topography.
  - e. Location of all existing Waters of the State, and ponds on the site and within five hundred (500) feet of the site.
  - f. Description and location of the physical limits of existing and proposed buildings, pavement, and other Earth Changes.
  - g. Flow direction(s) of stormwater run-off from the site, before and after development.
  - h. A description and the location of all existing and proposed on-site drainage and dewatering facilities.
  - i. Description and location of all proposed temporary and permanent SESC Measures and removal of temporary SESC measures.
  - j. Description and location of all existing and proposed on-site stormwater management facilities, if applicable.
  - k. The timing and sequence of each proposed Earth Change.
  - l. A program proposal for the continued maintenance of all permanent SESC Measures that remain after project completion, including the designation of the person responsible for the maintenance. Maintenance responsibilities shall become part of any sales or exchange agreement for the land on which the permanent SESC Measures are located.
6. SESC Permit Application; Designated Agent; Meeting with Soil Erosion Control Agent

- a. A landowner or Designated Agent shall submit a SESC Permit Application to the MEA. Copies of the SESC Permit Application containing the state-prescribed information are available at the Township Offices.
- b. The SESC Permit Application shall be signed and dated by the landowner or Designated Agent. If the landowner is a corporation, the name and title of the authorized corporate representative shall be included.
- c. If a Designated Agent is signing the application for the landowner, the landowner shall either also sign the application or provide a letter authorizing the Designated Agent to act on his/her behalf including authority for the Designated Agent to designate an On-Site Responsible Party. The landowner or Designated Agent shall meet with the SESC Agent, if requested, to ensure that the SESC Plan meets the provisions of Part 91, the Rules and this Article.

**B. Review Procedures and Standards**

1. The SESC Agent shall 1) approve, 2) approve with conditions, or 3) deny the SESC Permit following a review of the SESC Permit Application and Plan. A decision shall be made within ten (10) working days of receipt of a complete SESC Permit Application and Plan.
2. The SESC Agent shall review SESC Plans to ensure compliance with the following standards:
  - a. Cutting, filling and grading shall be minimized and the natural topography of the site shall be preserved to the maximum possible extent.
  - b. Sediment resulting from accelerated soil erosion shall be trapped and retained on the site through the use of effective sediment control measures.
  - c. Seeding, mulching, establishment of vegetative cover, or other permanent soil erosion control measures for all disturbed land areas shall be completed within five (5) calendar days following the completion of the Earth Change.
  - d. Temporary SESC measures shall be installed before or on commencement of the earth change activity and shall be maintained on a daily basis.
  - e. Temporary SESC measures shall be removed after permanent SESC measures are in place and the area is stabilized.
  - f. The area shall be stabilized with permanent SESC measures under approved standards as prescribed by R 323.1710.
  - g. If it is not possible to permanently stabilize a disturbed area after an Earth Change has been completed, or if significant earth change activity ceases, then all temporary SESC measures shall be maintained until permanent SESC measures are in place and the area is stabilized.
  - h. Stormwater infiltration into the ground shall be encouraged through the design and location of swales, yards, buildings, and paved areas.
  - i. Diversion of stormwater run-off to adjacent properties which increases the volume, rate of discharge, or pollutants shall be prohibited unless approval from the affected property owners has been obtained in the form of a document recordable with the Oakland County Register of Deeds.

**Section 4.05 – Soil Erosion and Sedimentation Control Plan Requirements for Major Developments****A. Pre-Application Conference**

A pre-application conference may be requested by the landowner prior to the submittal of a SESC Plan. The pre-application conference shall be held with the MEA and/or his/her designee. The purpose of the pre-application conference is to provide information and guidance that will assist the landowner in preparing the required plan.

**B. Construction Drawings and Specifications**

1. Submittal Requirements.

Following approval of any site plan, final preliminary plat or final planned unit development, construction drawings and specifications shall be submitted.

2. Approval Responsibilities.

A building or construction permit for a Major Development shall not be issued unless and until the construction drawings and specifications are found to meet the standards of this Article and have been approved by the MEA and the Township Engineer. All applicable requirements of State and County agencies shall also be met and proof of necessary permits shall be presented to the MEA.

3. Soil Erosion and Sedimentation Control Requirements

SESC Plans for a Major Development shall be included in the construction drawings. A building or construction permit for a Major Development shall not be issued unless and until the construction drawings and specifications are reviewed by the MEA and all requirements of Part 91, the Rules, and this Article are met.

C. Soil Erosion and Sedimentation Control Plan Requirements

1. Plan Organization and Presentation.

- a. Through maps, reports, illustrations, and calculations, the SESC Plan shall display the required information in a clear and logical sequence.
- b. The SESC Plan must be sufficiently detailed to specify the type, location, and size of soil erosion and sedimentation control measures. Construction drawings and specifications are not required at the plan review stage.
- c. If it is proposed that a parcel be developed in two or more phases, the SESC Plan shall be prepared and submitted for the total project unless a waiver has been approved by the MEA.

2. Plan Preparation.

The SESC Plan shall be prepared by a registered civil engineer, registered landscape architect, registered land surveyor, and/or registered architect. Other persons and professionals may assist in the preparation of the plan.

3. Scale for Mapping.

The SESC Plan shall be drawn to a scale of one inch equal to fifty feet (1 inch = 50 feet) for property less than three (3) acres and one inch equal to one hundred feet (1 inch = 100 feet) for property three (3) acres or more in size. Sheet size shall be at least twenty-four (24) inches by thirty-six (36) inches.

4. Required Information: Identification and Description.

The SESC Plan shall meet the requirements of Part 91 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL Rule 323.1703, *et seq.*, and contain all of the following information:

- a. Landowner's name, mailing address, and telephone number.
- b. Common description of property and complete legal description.
- c. Dimensions of land, total acreage, and net acreage (total acreage minus rights-of-way).
- d. Existing zoning and zoning of all adjacent properties.
- e. Written description of the proposed land use and the name of the proposed development.
- f. Location and size of existing and proposed lots, buildings, structures and pavement.

- g. Name and address of any professional architect, landscape architect, wetland specialist, engineer, or planner responsible for the preparation of the SESC Plan.
- h. Proof of ownership of the property, as well as any off-site easements for stormwater management.
- i. Title block, scale, northpoint, and date of submission with revisions noted (month, day and year).

5. Required Information: Existing Conditions.

The following information describing existing site conditions is required:

- a. A site location and vicinity map at a scale of not less than one inch equal to two thousand feet (1 inch = 2000 feet) including the approximate boundaries of the small watershed within which the site is located. Maps are available for reference at Orion Township offices.
- b. Topography on the site and within one hundred (100) feet of the site at two (2) foot contour intervals, referenced to a U.S. Geological Survey benchmark.
- c. Predominate land features on or within one hundred (100) feet of the site.
- d. Soils with a high infiltration rate, including soil map units 14B, 14C, 15B, 15C, 15E, 35A, 62B, 62C, and 63A, as shown on the soil survey maps of Oakland County, published by the U.S. Soil Conservation Service.
- e. Location and flow direction of all waters of the state and ponds on the site and within five hundred (500) feet of the site, including permanent and intermittent features.
- f. Entry points where stormwater run-off and waters of the state enter the site from off-site locations, with arrows indicating the direction of the flow.
- g. Outlet point and drainage area boundaries for all waters of the state on the site and within one hundred (100) feet of the site.
- h. Location of wetlands on the site, based upon the National Wetland Inventory maps (available for reference in Township offices), soil survey maps (poorly drained soils, very poorly drained soils, and other hydric soils), and field inspection.
- i. Location of any existing storm drains, ditches, swales, or other stormwater management facilities.

6. Required Information – Proposed Conditions.

- a. Proposed changes to the land surface and existing vegetative cover, including delineation of areas to be cut and filled. Final contours at two (2) foot contour intervals shall be provided.
- b. Flow routes with directional arrows for stormwater run-off from both the 10-year storm frequency event and the 100-year storm frequency event.
- c. Proposed outlet points and associated drainage area boundaries.
- d. The receiving watercourses for stormwater run-off, including but not limited to lakes, streams, wetlands, road drains, and county drains, whether located on-site or off-site.
- e. A description of the location, type and size of stormwater management facilities and measures, including facilities for the conveyance, infiltration, and/or storage of stormwater run-off.
- f. A plan and timetable for the staging of site grading and preparation activities.

- g. Description, location, and scheduling the installation and removal of temporary and permanent SESC measures, including but not limited to sediment traps, sediment basins, diversion structures, stone filters around storm drain inlets, filter fabric, straw bale berms, seeding and vegetative cover.
- h. Description and proposed location of all temporary and permanent stormwater management measures, including facilities for the conveyance, infiltration, and/or storage of run-off. The benefits of stormwater management facilities for water quality and/or flood control shall be indicated. The flow rate at all points of discharge from any conveyance or storage facility shall be indicated.
- i. Expected alterations of wetlands and watercourses, including expected changes in the type of vegetation and water level.
- j. Listing of activities proposed to maintain soil erosion and sedimentation control measures.

**D. Plan Submission**

- 1. Two (2) copies of the SESC Plan, required under Section 4.03.2(B), shall be submitted to the Township Clerk. Copies shall be distributed to the Building Department, Engineer, and/or other reviewers by the Clerk, as appropriate.
- 2. For all Major Developments, the landowner shall submit a SESC Permit Application and Plan to the Township Clerk at the time that the construction drawings are submitted.
- 3. Compliance with the requirements of this Article does not eliminate the need for the landowner to obtain necessary and required permits and approvals from county and state agencies, including, but not limited to:
  - a. Drainage approvals from the Oakland County Drain Commissioner;
  - b. Road drainage approvals from the Road Commission for Oakland County;
  - c. Wetlands, dam construction, inland lakes and streams, and flood plan permits from the Michigan Department of Environmental Quality,

**E. Review Procedures**

- 1. The SESC Agent shall approve, disapprove, or require modification to an application for a SESC Permit within thirty (30) calendar days after the filing of a complete Permit Application. A complete application includes the completed application, plans and required fees. The SESC Agent shall notify an applicant of approval. If an application is disapproved, then the SESC Agent shall advise the applicant of its reasons for disapproval and any conditions required for approval. The SESC Agent need not notify an applicant of approval or disapproval by mail if the applicant is given written notification of the determination in person. A permit given to the applicant in person constitutes approval.
- 2. Upon determination that a Permit Application has met all the requirements of Part 91, the Rules and this Article, the SESC Agent shall issue a Permit for the proposed Earth Change on a form that contains State-prescribed information as well as that prescribed by the Township.

**F. Review Fees**

The Township Board shall establish fees and escrow requirements by resolution. A copy of the current resolution establishing such fees shall be attached to this Ordinance as an appendix.

**G. Standards for Soil Erosion and Sedimentation Control Plan Approval**

SESC measures, whether on-site or off-site, shall be designed, constructed, and maintained to prevent flooding and protect water quality.

- 1. Soil Erosion and Sedimentation Control.

- a. Cutting, filling and grading shall be minimized and the natural topography of the site shall be preserved to the maximum possible extent, except where specific findings demonstrate that major alterations will still meet the purposes and requirements of this Article.
  - b. Development shall be staged to keep the exposed areas of soil as small as practicable.
  - c. SESC measures shall be installed between the disturbed area and any Waters of the State, ponds; or roadways on or near the site.
  - d. Sediment resulting from accelerated soil erosion shall be removed from run-off water before that water leaves the site.
  - e. Temporary and permanent SESC measures designed and constructed for the conveyance of water around, through, or away from the site shall be designed to limit the water flow to a non-erosive velocity.
  - f. Temporary SESC measures shall be removed after permanent SESC measures have been implemented and the site is permanently stabilized. All sites shall be stabilized with permanent SESC measures.
  - g. If lakes, ponds, creeks, streams, or wetlands are located on or near the site, SESC measures which divert run-off and trap sediment must be provided at strategic locations. Straw bale berms may be used as temporary stormwater diversion structures, but will not be considered sufficient for trapping sediment. The use of sediment basins, filter fabric, vegetated buffer strips, and rock filters in lieu of straw bale berms shall be strongly encouraged. Other measures may be required if reasonably determined to be necessary to protect Waters of the State.
  - h. If it is not possible to permanently stabilize a disturbed area after an Earth Change has been completed or when significant Earth Change activity ceases, temporary SESC measures shall be maintained until permanent SESC measures are installed and the area is permanently stabilized.
  - i. Permanent SESC measures for all slopes, channels, ditches, or any disturbed land area shall be completed within five (5) calendar days after final grading or the final earth change has been completed.
  - j. It is recommended that a twenty-five (25) foot vegetated buffer strip be created or retained along the edge of all Waters of the State and ponds.
  - k. SESC measures shall be maintained on a daily basis to ensure proper functioning.
  - l. Permit Application shall be complete and comply with the provisions of Part 91, the Rules and this Article.
2. Earth Change requirements; time; sediment removal; design installation, and removal of temporary or permanent control measures; Standards and Specifications (see R 323.1708 and 1709 and 1710)
- a. A person shall design, construct and complete Earth Change activities in a manner that limits the exposed area of any disturbed land for the shortest possible period of time as determined by the MEA.
  - b. A person shall remove sediments caused by accelerated soil erosion from runoff waters before it leaves the site of the Earth Change.
  - c. A person shall design a temporary or permanent SESC measure that is designed and constructed for the conveyance of water around, through or from, the soil moving area to limit the water flow to a non-erosive velocity.
  - d. A person shall complete permanent soil erosion control measures for all slopes, channels, ditches or any disturbed land area as approved in the timing sequence schedule but not later than five (5) calendar days after final grading or the final earth change activates have been completed. A person shall install and maintain temporary and permanent SESC measures in accordance with the standards and specifications of all the following:
    - i. Those formally adopted by the Township.
    - ii. The Department, and

- iii. The product manufacturer.
- e. If a conflict exists between standards and specifications referenced in this section, then the MEA shall determine which specifications are appropriate for the project.

**Section 4.06 – Waivers**

- A. A SESC permit is not required for any of the following:
  - 1. A beach nourishment project permitted under part 325 of Act 451 of the Public Acts of 1994, as amended, being §324.32501 et seq. of the Michigan Compiled Laws
  - 2. Earth changes associated with well locations, surface facilities, flowlines or access roads relating to oil or gas exploration and development activities regulated under Part 615, Supervisor of Wells, of the Natural Resources and Environmental Protection Act, 1994 PA 451 being MCL 324.61501 *et seq.*, provided the permit application to drill and operate contains a Soil Erosion and Sediment Control Plan that is approved by the Department under Part 615. However, those earth changes shall conform to the same standards as required for a Permit under Part 91, the Rules and this Article.
  - 3. Earth changes associated with a metallic mineral mining activity regulated under a mining and reclamation plan that contains soil erosion and sedimentation control provisions approved by the Department under Part 631, Reclamation of Mining Lands, of the Natural Resources and Environmental Protection Act, 1994 PA 451, being MCL 324.63101 *et seq.*
    - a. As used in this section “mining” does not include the removal of clay, gravel, sand, peat, or topsoil as stated in Part 91 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.9115, *et seq.*
  - 4. 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.
  - 5. An Earth Change of a minor nature that is stabilized within twenty-four (24) hours of the initial earth disturbance and that will not contribute sediment to lakes or streams.
  - 6. Installation of oil, gas, and mineral wells under permit from the Supervisor of Wells to be in compliance with the conditions of Part 91.
  - 7. Gardening, if the natural elevation area is not raised.
  - 8. Seawall maintenance that does not exceed one hundred (100) square feet.
- B. The MEA may grant a permit waiver for an Earth Change after receiving a signed affidavit from the landowner stating that the Earth Change will disturb less than two hundred twenty-five (225) square feet and that the Earth Change will not contribute sediment to lakes or streams.
- C. Exemptions provided in subsections A and B of this Section shall not be construed as exemptions from enforcement procedures under Part 91 or the Rules, if the activities exempted by subsections A and B cause or result in a violation of Part 91, the Rules, or this Article.

**Section 4.07 – Performance Guarantees, Inspections, and Maintenance**

- A. Performance Guarantees
  - 1. After SESC Application and Plan approval, but prior to the beginning of construction, the landowner shall be required to post a cash escrow, certified check, or other acceptable form of performance security in an amount determined by the Township.
  - 2. After determination by the MEA that all permanent soil erosion and sedimentation measures are installed in compliance with the approved SESC plan and the site is permanently stabilized, the security shall be released.

3. In the event that the landowner fails to comply with the terms and conditions of the SESC Permit; or fails to comply with the provisions of Part 91, the Rules, or this Article; or fails to implement the approved SESC Plan, the SESC Agent may order such work as necessary to provide for effective soil erosion and sediment control. The landowner or person issuing the irrevocable letter of credit or making a cash bond shall continue to be firmly bound under a continuing obligation for the payment of all necessary costs and expenses, including legal, that the Township incurs in causing any and all work to be done to comply with the provisions of Part 91, the Rules or this Article. In the case of a cash bond, the SESC Agent shall authorize the Township to refund any unused portion to the person who posted the bond.

**B. Maintenance**

All soil erosion and sedimentation control measures shall be maintained in proper working condition by the landowner. If, after written notice, SESC measures are not properly maintained, the Township may withhold any other inspections, retain bond and/or escrow funds, revoke and/or refuse issuance of occupancy permits, and/or perform the necessary maintenance and assess the cost to the owner. The cost of the work shall be a lien on the property, or pro-rated against the beneficial users of the property, and may be placed on the tax roll and collected as ordinary taxes in accordance with Part 91, the Rules, and this Article. The financing requirement shall be stated in the maintenance agreement. Additionally, the Township may institute appropriate court action to prohibit further activities upon the site.

**C. Notification**

If MEA determines that the soil erosion and sedimentation onto adjacent properties or the Waters of the State has or will reasonably occur from land in violation of Part 91, the Rules, or this Article, the MEA may seek to enforce Part 91, the Rules, or this Article by notifying the person who owns the land, by mail, with return receipt requested, of its determination that a violation has occurred. The notice shall contain a description of the violation and what must be done to remedy the violation and specify a time to comply with Part 91, the Rules, and this Article.

**D. Notice of Completion; Certificate of Completion**

Upon satisfactory execution of the approved SESC plans and permit conditions and other requirements imposed under this Article, the Permittee shall file a written notice of completion with the MEA. The MEA shall make a final inspection within thirty (30) days of receiving notice of completion and shall issue a certificate or letter of completion and release of bond if the landowner has satisfactorily complied with the SESC Plan, SESC Permit conditions, Part 91, the Rules, and this Article. If the project is to be completed in different phases, the landowner may submit a written notice of completion for a project phase and the MEA may issue separate certificates of completion and authorize a proportionate release of a cash bond for each completed project phase if separate SESC Permits are issued for each phase.

**Section 4.08 – Violations and Enforcement****A. Effect of Approval on Remedies**

The approval or disapproval of any SESC Plan shall not have any effect on any remedy of any person at law or in equity, provided that, where it is shown that there is a wrongful failure to comply with Part 91, the Rules and this Article, there shall be a rebuttable presumption that the violation was the proximate cause of the damage to the land of any person bringing suit.

**B. Liability for Township Expenses for Violations**

Any person violating the provisions of Part 91, the Rules, or this Article shall become liable to the Township for any expense or loss or damage occasioned by the Township by reason of such violation.

**C. Circuit Court Action**

In addition to municipal civil infraction penalties which may be imposed, the Township may institute circuit court action to obtain injunctive relief for a violation of Part 91, the Rules, or this Article. A violation of Part 91, the Rules, or this Article shall be deemed a nuisance *per se* and shall be abated by order of the court.

**D. Stop Work Order**

Upon notice of the MEA that activity which requires a SESC Permit is being conducted without such permit, such activity shall be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property involved, or to the person conducting the activity.

**E. Enforcement****1. Enforcement**

The MEA or SESC Agents may issue a municipal civil infraction citation, Stop Work Order or revoke a permit based upon its findings that there is a violation of Part 91, the Rules or this Article, or a finding that there is a violation of a permit or an approved SESC Plan. (See R 323.1712)

**2. Notice of Determination**

If the MEA determines that soil erosion or sedimentation onto adjacent properties or the Waters of the State has or will occur from land in violation of Part 91, the Rules or this Article, the MEA may seek to enforce Part 91, the Rules, or this Article by notifying the landowner through a notice of violation served in person or by mail. 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 Part 91, the Rules and this Article. (See R 324.9117)

**3. Compliance; Time**

Within five (5) days after a notice of violation has been issued under Section 3.08.6(B) of this Article, a person who owns land subject to Part 91, the Rules or this Article shall implement and maintain SESC Measures in conformance with Part 91, the Rules or this Article. (See R 324.9118)

**4. Entry upon Land; Construction; Implementation and Maintenance of Soil Erosion and Sedimentation Control Measures; Cost**

Not sooner than five (5) days after notice of violation has been served in person or mailed under Section 4.08 of this Article, if the condition of the land, in the opinion of the MEA, may result in or contribute to soil erosion or sedimentation of adjacent properties or to the Waters of the State, and if soil erosion and sedimentation control measures in conformance with Part 91, the Rules, this Article are not in place, the MEA, or its designee, may enter upon the land and construct, implement and maintain soil erosion and sedimentation control measures in conformance with Part 91, the Rules and this Article. However, the MEA shall not expend more that \$10,000 for the cost of the work, materials, labor and administration without prior written notice in the Notice of Determination provided in Section 4.08 of this Article to

the landowner that an expenditure of more than \$10,000 may be made. If more than \$10,000 is to be expended under this section, than the work shall not begin until at least 10 days after the notice of violation has been mailed.

5. Reimbursement of Township Expenses

All expenses incurred by the MEA under this Article to construct, implement and maintain SESC Measures to bring land into compliance with Part 91, the Rules and this Article shall be reimbursed to the MEA by the lien. (See R 324.9120)

F. Inspection and Investigation; Interference with Administration and Enforcement

1. Right of Entry and Inspection

An agent appointed by the Department or the MEA may enter at all reasonable times in or upon any private or public property for the purpose of inspecting and investigating conditions or practices that may be in violation of Part 91, the Rules or this Article.

2. Interference with Administration and Enforcement

No person shall unlawfully hinder, oppose or resist the SESC Agent in the discharge of the administration and enforcement of Part 91, the Rules or this Article. No person shall remove, mutilate or conceal any notice posted by the SESC Agent except by written permission of the SESC Agent.

G. Appeal Procedures

1. Appeal of Permit Decision; Informal Hearing

If the landowner or Designated Agent is aggrieved by a permit decision made by the SESC Agent, a written appeal including the reason for the appeal referencing applicable sections of this Article; a photocopy of any written action; and the required fees may be filed with the MEA within 14 calendar days of that decision. If an appeal is filed, a hearing will be scheduled within fourteen (14) calendar days from the date of the filing. However, an appeal decision cannot waive or conflict with any requirements set forth in Part 91, the rules, and this Article. During this period the permittee must not allow any further discharges of sediment onto adjoining properties or into waters of the state.

2. Appeal of Notice of Violation; Informal Hearing

If the landowner or On-Site Authorized Agent is aggrieved by a compliance and enforcement action made by the Soil Erosion Control Agent pursuant to Section 4.08. of this Ordinance, a written appeal including the reason for the appeal referencing applicable sections of the Ordinance; a photocopy of any written action; and the required fees may be filed with the MEA within 24 hours of receiving a notice of violation. If an appeal is filed, a hearing will be scheduled within five (5) business days of the date of the filing. However, an appeal decision cannot waive or conflict any requirements set forth within Part 91 and the Rules.

The hearing will allow the landowner or On-Site Authorized Agent opportunity to submit additional information or re-emphasize previously submitted data. The MEA will then review the information and take under advisement any other information received before making a final decision within two (2) days of the informal hearing, and forward this final decision to the landowner or On-Site Authorized Agent in person or by mail.

3. Municipal Enforcing Agency Decisions; Standard of Review

a. The MEA shall sustain the decision of the SESC Agent unless it is found, by clear and convincing evidence that the SESC Agent's decision:

- i. Was based upon a mistake(s) of fact or law and upon the correction of that mistake(s) it is found that there is no violation; or,
- ii. Was based upon a mistake(s) of fact or law and upon the correction of that mistake(s) it is found that there is a different violation; or,

- iii. Constitutes an abuse of discretion and no factual or legal argument provides any support for the SESC Agent's position.
4. All decisions, whether oral or written, must include a brief recap of testimony and evidence presented. The decision of the MEA shall be binding upon the SESC Agent and the Landowner, Designated Agent and/or On-Site Responsible Party.

## **Article 5 – Penalties and Enforcement**

- A. **Municipal Civil Infraction/Payment of Fine.** Any person, firm, or corporation violating a provision of this Ordinance, upon an admission or finding of responsibility for such violation, shall be deemed responsible for a municipal civil infraction, and shall pay a fine.
- B. **Costs.** Except as otherwise provided herein, the person, firm, or corporation ordered to pay a fine under Subsection (A) shall be ordered by the District Court Judge or Magistrate to pay costs of not less than Nine Dollars (\$9) or more than Five Hundred Dollars (\$500), which costs may include all expenses, direct and indirect, to which the Township has been put in connection with the violation of this Ordinance up to the entry of the Court's judgment or order to pay fines and costs.
- C. **Additional Writs and Orders.** A person who admits or is found responsible for violation of this Ordinance shall comply with any order, writ or judgment issued by the District Court to enforce this Ordinance.
- D. **Default on Payment of Fines and Costs.** A default in payment of a civil fine, costs, or damages or expenses ordered under Subsection (A) or (B) or an installment of the fine, costs, or damages as allowed by the Court, may be collected by the Township by a means authorized for the enforcement of a judgment.
- E. **Failure to Comply with Judgment or Order.** If a defendant fails to comply with an order or judgment pursuant to this section within the time prescribed by the Court, the Court may proceed under Subsection (G).
- F. **Failure to Appear in Court.** A defendant who fails to answer a citation or notice to appear in Court for a violation of this Ordinance is guilty of a misdemeanor, punishable by a fine of not more than Five Hundred Dollars (\$500) plus costs and/or imprisonment not to exceed ninety (90) days.
- G. **Civil Contempt.**
  1. If a defendant defaults in the payment of a civil fine, or other damages or expenses, or an installment as ordered by the District Court, upon motion of the Township or upon its own motion, the Court may require the defendant to show cause why the defendant should not be held in civil contempt and may issue a summons, order to show cause, or bench warrant of arrest for the defendant's appearance.
  2. If a corporation or an association is ordered to pay a civil fine, costs, or damages or expenses, the individuals authorized to make disbursements shall pay the fine, costs, damages or expenses, and their failure to do so shall be civil contempt unless they make the showing required in this subsection.
  3. Unless the defendant shows that the default was not attributable to an intentional refusal to obey the order of the Court or to a failure on their part to make a good faith effort to obtain the funds required for payment, the Court shall find that the default constitutes a civil contempt and may order the defendant committed until all or a specified part of the amount due is paid.
  4. If it appears that the default in the payment of a fine, costs, or damages or expenses does not constitute civil contempt, the Court may enter an order allowing the defendant additional time for payment, reducing the amount of each installment, or revoking the fine, costs, damages or expenses.
  5. The term of imprisonment on civil contempt for nonpayment of a civil fine, costs, or damages or expenses shall be specified in the order of commitment and shall not exceed one day for each Thirty Dollars (\$30) due. A person committed for nonpayment of a civil fine, costs, or damages or expenses shall be given credit toward payment for each day of imprisonment and each day of detention in default of recognizance before judgment at the rate of Thirty Dollars (\$30) per day.

6. A defendant committed to imprisonment for civil contempt for nonpayment of a fine, costs, damages or expenses shall not be discharged until one of the following occurs:
  - a. Defendant is credited with an amount due pursuant to Subsection (G)(5) above.
  - b. The amount due is collected through execution of process or otherwise.
  - c. The amount due is satisfied pursuant to a combination of subdivisions G(6)(a) and (b) above.
7. The civil contempt shall be purged upon discharge of the defendant pursuant to Section G(6).

#### **H. Lien Against Land, Building, or Structure.**

If a defendant does not pay a civil fine or costs or installment ordered under Subsection (A) or (B) within thirty (30) days after the date upon which the payment is due for a violation of this Ordinance involving the use or occupation of land or a building or other structure, the Township may obtain a lien against the land, building, or structure involved in the violation by recording a copy of the court order requiring payment of the fine and costs with the Oakland County Register of Deeds. The court order shall not be recorded unless a legal description of the property is incorporated in or attached to the court order.

1. The lien is effective immediately upon recording of the court order with the Register of Deeds.
2. The court order recorded with the Register of Deeds shall constitute the pendency of the lien. In addition, a written notice of the lien shall be sent by Orion Township by first class mail to the owner of record of the land, building, or structure at the owner's last known address.
3. The lien may be enforced and discharged by Orion Township in the manner prescribed by its Charter, by the General Property Tax Act, Act No. 206 of the Public Acts of 1893, being Section 211.1 *et seq.*, of the Michigan Compiled Laws, or by an ordinance duly passed by the Township. However, property is not subject to sale under Section 60 of Act No. 206 of the Public Acts of 1893, being Section 211.60 of the Michigan Compiled Laws, for non-payment of a civil fine or costs or an installment ordered under Subsection (A) or (B) unless the property is also subject to sale under Act No. 206 of the Public Acts of 1893 for delinquent property taxes.
4. A lien created under this section has priority over any other lien unless one or more of the following apply:
  - a. The other lien is a lien for taxes or special assessments.
  - b. The other lien is created before the effective date of the amended ordinance that added this section.
  - c. Federal law provides the other lien has priority.
  - d. The other lien is recorded before the lien under this section is recorded.
5. The Township may institute an action in a court of competent jurisdiction for the collection of the fines and costs imposed by a court order for a violation of this Ordinance. However, an attempt by the Township to collect the fines or costs does not invalidate or waived the lien upon the land, building, or structure.
6. A lien provided for by this subsection shall not continue for a period longer than five (5) years after a copy of the court order imposing a fine or cost is recorded unless within that time an action to enforce the lien is commenced.

#### **Article 6 – Repealer**

Ordinance No. 92 of the Charter Township of Orion, and all other ordinances or parts of ordinances which are inconsistent or in conflict herewith, are hereby repealed to the extent of such inconsistency or conflict.

**Article 7 – Severability**

The various parts, sections and clauses of this Ordinance are declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected.

**Article 8 – Effective Date**

This Ordinance shall be published in full in a newspaper of general circulation in the Charter Township of Orion, qualified under State law to publish legal notices, and shall become effective upon publication, as provided by law.

**Article 9 – Adoption**

This Ordinance is hereby declared to have been adopted by the Board of Trustees of the Charter Township of Orion at a meeting thereof duly called and held on the 2nd day of October, 2006, and ordered to be given publication in the manner prescribed by the Charter of the Township of Orion.