

WASHTENAW COUNTY

SOIL EROSION AND SEDIMENTATION CONTROL ORDINANCE



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ARTICLE I. General

A. Rules Adopted

Part 91, Soil Erosion & Sedimentation Control, P.A. 451 of 1994, as amended and the Rules 323.1701-1714, promulgated under Part 91 are hereby adopted by reference and made a part of this Ordinance as if fully set forth herein.

B. Purpose & Authority

In the interest of preventing environmental harm caused by sedimentation and erosion; and to provide for, and as authorized by, the orderly and uniform administration of the soil erosion and sedimentation control provision of the State of Michigan and in particular part 91, Soil Erosion and Sedimentation Control of the Natural Resources and Environmental Protection Act, Act 451 of the Public Acts of 1994, as amended, being Sections 324.9101-324.9123a of the Compiled Laws of 1948 (MSA 13A.101-13A.9123a), and the Administrative Rules promulgated by the Michigan Department of Environmental Quality ("MDEQ") and in particular, Rule 323.1701 to Rule 323.1714; the County of Washtenaw, Michigan does hereby adopt the following Ordinance:

C. Designated County Enforcing Agency

The Office of the Washtenaw County Water Resources Commissioner will be the designated enforcing agency for the County.

D. Objectives

- Discourage soil erosion and off-site sedimentation resulting from earth changes, by requiring proper provisions for drainage and the protection of soil surfaces during and after construction.
- Prevent unnecessary stripping of vegetation and loss of soils, especially adjacent to surface water.
- Promote inclusion of soil erosion and sediment control practices into site development in the planning and design process.
- Ensure that all soil erosion and sediment control facilities are properly designed, constructed, and maintained so as to provide water quality protection, and prevent the conveyance of sediment via wind and stormwater runoff and the tracking of sediment off site.
- Eliminate the need for costly remediation projects as a result of accelerated soil erosion and sedimentation.
- Provide for enforcement of this Ordinance and establish penalties for violations.
- Provide education and assistance regarding soil erosion and sedimentation.

ARTICLE II. Language & Definitions

A. Language

The following rules of language shall apply to the text of this Ordinance:

The word “shall” is mandatory. The word “may” is permissive. When not inconsistent with the context, words in the present tense shall include the future and words designating singular numbers shall include the plural.

B. Definitions

The following rules, terms, and phrases shall have the definitions given:

ACCELERATED SOIL EROSION – the increased loss of the land surface that occurs as a result of human activities.

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 COUNTY OFFICIAL – a County Sheriff’s Deputy, the Chief Deputy Water Resources Commissioner, Soil Erosion Program staff or other personnel of Washtenaw County legally authorized to issue municipal civil infractions citations.

AUTHORIZED PUBLIC AGENCY – a state agency or an agency of a local unit of government authorized by section 324.9110 to implement soil erosion and sedimentation control procedures with regard to earth changes undertaken by it.

BEST MANAGEMENT PRACTICES (BMP) – structural, vegetative or managerial measures and/or activities, which help prevent or reduce soil erosion and sedimentation.

BOARD OF COMMISSIONERS – Washtenaw County Board of Commissioners.

CEASE and DESIST ORDER – an order that stops only the work relative to a project which is causing a violation of this Ordinance or Part 91 until said violation is corrected.

CERTIFICATION OF COMPLETION – means a signed written statement by the Soil Erosion and Sedimentation Control Program that the specific construction, permitted activities and inspections have been performed and that such work complies with the applicable requirements of Part 91, the Rules, this Ordinance and the Programs Fee Schedule.

COMMERCIAL PROJECT – earth changes undertaken for the purposes of commerce, multiple residential, or public service, including, but not limited to, residential developments (as defined), commercial projects and additions, industrial projects, recreational developments, churches, schools,

road and street construction, drainage construction, mining, utilities and pipelines not exempt under Part 91.

COUNTY DRAIN – drains established and/or constructed pursuant to the Michigan Drain Code (Act 40, P.A. 1956 as amended).

DESIGNATED AGENT – A person who has written authorization from the landowner to sign the application and secure a permit in the landowner’s name.

DISTURBED AREA – an area of land subject to erosion due to the removal of vegetative cover and/or earth changing activities, including filling.

EARTH CHANGE – a human made change in the natural cover or topography of land, including cut and fill activities, which may result in or contribute to soil erosion or sedimentation of waters of the state. Earth change does not include the practice of plowing and tilling soil for the purpose of crop production.

EROSION – the wearing a way of land by the action of wind, water, gravity, tracking, or a combination thereof.

FEE SCHEDULE – program fees adopted by the Washtenaw County Board of Commissioners.

FILL – material placed on-site which raises an existing elevation.

GRADING – means to level off to a smooth horizontal or sloping surface.

LAKE – the Great Lakes and all natural and artificial inland lakes and/or impoundments that have definite banks, a bed and visible evidence of a continued occurrence of water and a surface area of water that is equal to or greater than one 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 or holds a record easement on the property or who is engaged in construction in a public right-of-way in accordance with sections 13, 14, 15 and 16 of Act No. 368 of the Public Acts of 1925, as amended, being §§247.183, 247.184, 247.185, and 247.186 of the Michigan Compiled Laws.

LOCAL AGENCY – City, Village, or Township

MDEQ – Michigan Department of Environmental Quality

MINING – The process or business of extracting ore or minerals from a mine.

MUNICIPAL CIVIL INFRACTION – an act or omission that is prohibited by Part 91 of Act 451, the Rules and/or this Ordinance, and for which civil sanctions including without limitation, fines, damages,

expenses and costs may be ordered as authorized by Chapter 87 of Act No. 236 of the Public Acts of 1961, as amended.

MUNICIPAL CIVIL INFRACTION BUREAU – means the Washtenaw County Office of the Water Resources Commissioner, as established by this Ordinance.

MUNICIPAL CIVIL INFRACTION CITATION – Means a written complaint or citation prepared by an authorized County official, directing a person to appear at District Court regarding the occurrence or existence of a municipal civil infraction violation by the person cited.

MUNICIPAL CIVIL INFRACTION NOTICE – means a written notice, other than a citation, prepared by an authorized County official, directing a person to appear at the Office of the Water Resources Commissioner to pay the fines and costs, if any, prescribed for the violation by the schedule of civil fines adopted by the County.

MUNICIPALITY – means any of the following: a city, a village, a charter township, or general law township with a population of 200,000 or more that is located in the County.

MUNICIPAL ENFORCING AGENCY – an agency designated by a municipality under section 9106 of Part 91 to enforce a local ordinance.

PART 91 – Part 91, Soil Erosion and Sedimentation Control, P.A. 451 of 1994, as amended.

PERFORMANCE GUARANTEE – a monetary guarantee of the proper completion and stabilization of commercial projects or residential projects.

PERMANENT SOIL EROSION AND SEDIMENTATION CONTROL MEASURES – control measures installed or constructed to control erosion and sedimentation and which are maintained after project completion.

PERMIT TRANSFER – when ownership of a property subject to a permit under this ordinance is transferred.

PERSON – an individual, partnership, corporation, association, governmental entity or other legal entity.

POND – a permanent body of open water which is less than one (1) acre in size.

RESIDENTIAL PROJECT – earth changes undertaken for a proposed or existing private residence, landscaping activities that require a SESC permit or agricultural practices other than the plowing and tilling of fields for crop production. Activities otherwise defined as a commercial project within this Ordinance are not considered residential projects. Earth changes characterized as residential projects do not necessarily meet the requirements for exemptions identified in Section 9115a (1) of Part 91. The

exemptions in 9115a (1) apply only to the residential property owner who cause those identified activities to be conducted on an individual residential property owned and occupied by him or her.

RESIDENTIAL DEVELOPMENT – subdivision developments as defined by Section 102 of Act 288, P.A. 1967, as amended; and/or site condominium developments or condominiums as defined by Act 59 of 1978, as amended, Section 559.101 et seq. of the Michigan Compiled Laws; and lot splits where three (3) or more sites are created.

RULES – the Administrative Rules promulgated by the Michigan Department of Environmental Quality (“MDEQ”) and in particular, Rule 323.1701 to Rule 323.1714.

SEA WALL MAINTENANCE – an earth change activity landward of a seawall.

SEDIMENT – any solid particulate matter, including both mineral and organic, 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 or after an earth change activity

SITE – lot or parcel of land or combination of contiguous lots or parcels proposed for development or activity undergoing earth change activity.

SOIL EROSION and SEDIMENTATION CONTROL (SESC) PERMIT – a permit issued to authorize work to be performed under this Ordinance.

SOIL EROSION and SEDIMENTATION CONTROL (SESC) PROGRAM – the County’s SESC Program is under the jurisdiction of the Washtenaw County Water Resources Commissioner.

SOIL EROSION WAIVER – a waiver forgoing the need for a Soil Erosion Permit, issued after the receipt of a signed affidavit from the landowner, stating that the earth change will: 1.) Occur farther than 500 feet from all surface water (as defined), and disturb less than one acre; or 2.) Occur within 500 feet of surface water, disturb less than 225 square feet, and will not contribute sediment to surface water.

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.

STATE – State of Michigan

STOP WORK ORDER – an order that stops all work on a project until any and all violations of Part 91, the Rules promulgated thereby, and this Ordinance are corrected, except for remedial measures to correct the violation.

STORM DRAIN – a conduit, pipe, natural channel, human-made channel, or human-made structure, which serves to transport stormwater runoff.

STREAM – a river, creek or other watercourse which may or may not be serving as a drain as defined in Act No. 40, of the Public Acts of 1956, as amended, which has definite banks, a bed, and visible evidence of continued flow or continued occurrence of water, including the connecting waters of the Great Lakes.

SURFACE WATER – any water including ponds (as defined), lakes, streams, rivers, county drains (as defined), storm drains (as defined) and wetlands, which holds or conveys water continually or seasonally.

TEMPORARY SOIL EROSION AND SEDIMENTATION CONTROL MEASURES – Interim control measures which are installed or constructed to control soil erosion and sedimentation and which are not maintained after project completion.

TRANSFeree – the person who wishes to purchase all or portions of a site which has a soil erosion permit.

TRANSFEROR – the person who currently holds a soil erosion permit who wishes to sell all or portions of the permitted site.

VEGETATIVE COVER – perennial grasses, legumes, shrubs, trees, and other vegetation which holds and stabilizes soils in a manner to ensure the resistance of the soil to soil erosion, earth movement, and sliding.

VIOLATION – An action which is prohibited by the Part 91, the Rules promulgated under the part (323.1701-1714) and/or this Ordinance. A violation shall include any omission or failure to act where the action is required by the Act, the Rules, and/or this Ordinance.

WATER RESOURCES COMMISSIONER – Washtenaw County Water Resources Commissioner or authorized representative of the Water Resources Commissioner's Office.

WETLAND – means land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support, wetland vegetation or aquatic life, and is commonly referred to as a bog, swamp, or marsh, and which is any of the following:

- (i) Contiguous to the Great Lakes or Lake St. Clair, an inland lake or pond, or a river or stream.
- (ii) Not contiguous to the Great Lakes, an inland lake or pond, or a river or stream; and more than 5 acres in size.
- (iii) Not contiguous to the Great Lakes, an inland lake or pond, or a river or stream; and 5 acres or less in size if the department determines that protection of the area is essential to the preservation of the natural resources of the state from pollution, impairment, or destruction and the department has so notified the owner.

ARTICLE III. Soil Erosion & Sedimentation Control Permit & Waiver Information

A. SESC Permits

Earth changes requiring a SESC Permit include the following except as exempted by Part 91:

- Earth changes within 500 feet of a surface water's edge and disturbing more than 225 square feet
- Earth changes less than 225 square feet in total earth disturbance may be eligible for a waiver
- Earth changes (including spoils from grading activities) that disturb one (1) or more acres
- The removal of clay, gravel, sand, peat, or topsoil associated with gravel pits and landfills
- Installation of new ponds or alterations to existing ponds, regardless of size or proximity to surface water
- Transportation facilities, including streets, highways, railroads, airports, common carrier pipelines and mass transit facilities that are not being conducted by an Authorized Public Agency under Part 91
- Directional drilling or boring for installation of utilities or other infrastructure

An application shall be required and fee(s) paid as established by the Washtenaw County Board of Commissioners.

B. SESC Waivers

A SESC Waiver will be required for projects that do not need a permit and are not exempt. They are required to attest to the extent of the earth change and its proximity to surface water for residential and commercial projects. Waivers may be granted for the following:

- Earth changes that are over 500 feet from all surface water that disturb less than one acre.
- Earth changes within 500 feet of surface water, disturbing less than 225 square feet, and not contributing sediment to surface water.

A Soil Erosion Waiver may be issued upon receipt of a signed affidavit from the landowner that the proposed project meets the above criteria including a waiver erosion control plan. Issuance of a Soil Erosion Waiver shall not be construed as an exemption from enforcement procedures pursuant to Part 91 and the rules promulgated under the Part or this Ordinance. Waivers shall be available for inspection at the site of the earth change and must be posted on site and clearly visible from the road.

C. Exemptions

The following activities are exempt from Soil Erosion Permits and Soil Erosion Waivers:

1. A beach nourishment project permitted under Part 325, Great Lakes Submerged Lands, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, being MCL § 324.32501 et seq., of the Michigan Compiled Laws.

2. Normal residential 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 waters of the state,
3. An earth Change of a minor nature that is stabilized within 24 hours of the initial earth disturbance and that will not contribute sediment to lakes or streams.
4. Installation of oil, gas, and mineral wells under permit from the supervisor of wells if the owner-operator is found by the supervisor of wells to be in compliance with the conditions of Part 91.
5. A residential property owner who causes the following activities to be conducted on individual residential property owned and occupied by him or her is not required to obtain a permit under this part if the earth change activities do not result in or contribute to soil erosion or sedimentation of the waters of the state or a discharge of sediment off-site:
 - a. An earth change of a minor nature that is stabilized within 24 hours of the initial earth disturbance.
 - b. Gardening, if the natural elevation of the area is not raised.
 - c. Post holes for fencing, decks, utility posts, mailboxes, or similar applications, if no additional grading or earth change occurs for use of the post holes.
 - d. Removal of tree stumps, shrub stumps, or roots resulting in an earth change not to exceed 100 square feet.
 - e. All of the following activities, if soil erosion and sedimentation controls are implemented, the earth change is stabilized within 24 hours of the initial earth disturbance, and soil erosion or sedimentation to adjacent properties or the waters of the state has not or will not reasonably occur:
 - (i) Planting of trees, shrubs, or other similar plants.
 - (ii) Seeding or reseeding of lawns of less than 1 acre if the seeded area is at least 100 feet from the waters of the state.
 - (iii) Seeding or reseeding of lawns closer than 100 feet from the waters of the state if the area to be seeded or reseeded does not exceed 100 square feet.
 - (iv) The temporary stockpiling of soil, sand, or gravel not greater than a total of 10 cubic yards on the property if the stockpiling occurs at least 100 feet from the waters of the state.
 - (v) Seawall maintenance that does not exceed 100 square feet.
6. Earth changes associated with the Logging, Mining or Land Plowing or Tilling:
 - a. Subject to subsection (b), a person engaged in the logging industry, the mining industry, or the plowing or tilling of land for the purpose of crop production or the harvesting of crops is not required to obtain a permit under Part 91. However, all earth changes associated with the activities listed in this section shall conform to the same standards as if they required a permit under the part. The exemption from obtaining a permit under this subsection does not include either of the following:
 - (i) Access roads to and from the site where active mining or logging is taking place.
 - (ii) Ancillary activities associated with logging and mining.
 - (iii) The removal of clay, gravel, sand, peat or topsoil
 - b. The part does not apply to a metallic mineral mining activity that is regulated under a mining and reclamation plan or a mining, reclamation, and environmental protection plan

if the plan contains soil erosion and sedimentation control provisions and is approved by the department under part 631 or 632, respectively.

- c. A person is not required to obtain a permit from a county enforcing agency or a municipal enforcing agency for 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, if the application for a permit to drill and operate under part 615 contains a soil erosion and sedimentation control plan that is approved by the department under part 615. However, those earth changes shall conform to the same standards as required for a permit under this part. This subsection does not apply to a multisource commercial hazardous waste disposal well as defined in section 62506a.
 - d. As used in this section, "mining" does not include the removal of clay, gravel, sand, peat, or topsoil.
7. Exemptions provided in this section shall not be construed as exemptions from enforcement procedures under Part 91 or the rules promulgated under the part and this ordinance if the exempted activities cause or result in a violation of Part 91 or the rules promulgated under the part or this ordinance, enforcement will occur.

D. Approval from Other Governmental Agencies

If a SESC Permit is required for the earth change, a local agency shall not issue a building permit without the landowner first obtaining a SESC Permit. SESC Permits and Waivers issued in accordance with this Ordinance do not relieve the owner of responsibility for obtaining all other necessary permits or approvals from federal, state, county and/or local agencies. If requirements vary, the most stringent requirements shall be followed.

ARTICLE IV. Soil Erosion & Sedimentation Control Permit & Waiver Process

A. SESC Permit and Waiver Application

A SESC Permit or SESC Waiver shall be obtained prior to the start of any earth change including construction of access roads, driveways, well and septic field installation, tree and shrub removal or grading. The permit or waiver must be posted on-site and clearly visible from the road. Any unauthorized work shall be considered a violation of this ordinance regardless of any later actions taken toward compliance. The soil erosion permit and waiver review period begins upon the receipt of;

- A completed application.
- Erosion Control Plans as set forth in Article V for permits and waiver erosion control plan for waivers.
- Designated Agent Letter for SESC Permits, if applicable. All waiver applications must be signed by the landowner.
- Fees established by the Washtenaw County Board of Commissioners.

The SESC Program shall approve, disapprove or require modification of the application for an earth change permit within 30 days following receipt of the completed application.

B. Performance Guarantees

A performance guarantee is required for all commercial projects (as defined). Any qualified applicant for a SESC Permit may submit a performance guarantee. The performance guarantee provides funds to assure that all exposed soil surfaces will be stabilized should development discontinue; proper control measures are not installed and/or maintained; or provide for remedy should the permittee fail to comply with the soil erosion permit and the approved soil erosion plan. This performance guarantee shall cover all expenses incurred by Washtenaw County, including administrative and legal costs and remediation required to implement and maintain soil erosion and sedimentation controls until the site is stabilized. If the performance guarantee does not cover the cost of remediating the site, the permit holder will be responsible for the additional costs. The performance guarantee may be used to pay outstanding permit/inspection fees. The performance guarantee shall be in a form acceptable to Washtenaw County, including but not limited to, cash, certified/personal check, or irrevocable bank letter of credit, and shall extend for the duration of the permit through project completion. The performance guarantee may be released to the applicant only upon the issuance of a Certificate of Completion, or, in the case of a transfer of permit, a new performance guarantee that meets all the requirements of this section. Performance guarantees may be required for single family residences at the discretion of the Washtenaw County Water Resources Commissioner.

C. Plan Review Process

Approval will be given to permit applications provided the Erosion Control plans meet the requirements of this Ordinance and Part 91 and the Rules promulgated under the part. If the plan does not comply with the Ordinance or are found to be inadequate to ensure minimization of erosion and sedimentation, additional information will be required or the request shall be modified.

The application and erosion control plan shall be acted upon within thirty (30) days following the receipt of the administratively complete application, application, designated agent letter (if applicable), plans and fees. Formal notice of approval is indicated by the issuance of a SESC Permit outlining the work approved and necessary control measures. If a permit or waiver application and/or erosion control plans are disapproved, then the SESC Program shall advise the applicant by first class mail indicating the reasons for disapproval and the conditions required for approval.

Erosion Control plan review shall be required and fee(s) paid as established by the Washtenaw County Board of Commissioners.

D. Transfer of Permit

Permit transfer shall occur when ownership of a property subject to a permit under this ordinance is transferred, in whole or in part. If the property is subject to a permit transfer the original permit holder and new permit holder must submit a completed Transfer Form Application to the SESC Program for review. The permit transfer form must be completed by the transferor and transferee then submitted to the SESC Program within 30 days from the date of the original signatures. Not less than 7 days prior to the property transfer, the SESC program must be contacted to arrange for a site compliance inspection

to determine what, if any violations exist on site so that the transferor and transferee can be aware of any noncompliance obligations that may be transferred.

The SESC Program will conduct a permit transfer inspection. The Water Resources Commissioner will leave notice on site of the results of the transfer inspection including any noncompliance observed and provide notice by mail to the transferor and proposed transferee. If the site is in noncompliance, the transferor is obligated to return the site to compliance and may be subject to fines and penalties for each violation for each day the violation continues to occur pursuant to Part 91 section 9121.

Should the transferee choose to move through with purchase of the property with identified noncompliance, the transferee assumes responsibility for all noncompliance that is occurring on the date of the property transfer and the transferee will be responsible for bringing the site into compliance and scheduling a reinspection with the SESC Program.

If weather conditions do not allow for an appropriate transfer inspection prior to the transfer of the property, the transferor shall retain all liabilities under the Ordinance and for all Part 91 violations, including past due fees, costs or fines that are in existence prior to the date of transfer as determined by the Office of the Washtenaw County Water Resources Commissioner, SESC Program.

E. Permit Expiration

Soil erosion and sedimentation control is most effective when the time of disturbance is limited. In effort to reduce SESC impact, Residential Soil Erosion Permits shall expire one year and six months (18 months) from the date of issuance. If a project requires a permit extension, the landowner and/or designated agent shall apply for permit renewal prior to expiration. If the landowner or designated agent does not apply to renew the permit before the expiration date and the site remains disturbed or the earth change continues, enforcement and fees shall be assessed as established by the Washtenaw County Board of Commissioners. Permits can be renewed once, for a period of six months. A second permit renewal will be at the Soil Erosion Officer's discretion. To be eligible, the site must be in compliance and all outstanding fees paid. If the landowner/designated agent fails to renew a permit a new application, plans and applicable fees will be required.

Commercial Soil Erosion Permits expire two years (24 months) from the date of issuance. If a project requires a permit extension, the landowner and/or designated agent shall apply for permit renewal prior to expiration. If the landowner or designated agent does not apply to renew the permit before the expiration date and the site remains unstabilized or the earth change continues, enforcement and fees shall be assessed as established by the Washtenaw County Board of Commissioners. Permits can be renewed once for a period of six months. To be eligible, the site must be in compliance and all outstanding fees paid. If the landowner/designated agent fails to renew a permit a new application, plans and applicable fees will be required.

1. Soil Erosion Permits for the removal of clay, gravel, sand, peat or topsoil and landfill operations are valid for two years. These permits will be inspected on a quarterly basis each year.

F. Permit Revocation

A Soil Erosion Permit may be revoked for any of the following reasons:

- Violation of Part 91, its administrative rules, this Ordinance, or of any condition of the permit; or
- Misrepresentation or failure to disclose relevant facts in the application or plans submitted; or
- The initial term of the permit has expired and no extension has been obtained; or
- Authorized work is abandoned or suspended for a period of six (6) months.

If the Water Resources Commissioner's Office determines that grounds for permit revocation exist, notice shall be sent to the permittee, by mail, with return receipt requested, of its determination. The notice shall contain a description of the grounds for revocation, what must be done to remedy the condition, and shall specify a time to comply.

If the permittee fails to correct the condition within the timeframe specified, the Water Resources Commissioner's Office, in its discretion, may send notice to the permittee that the permit will be revoked in five (5) calendar days if the violation is not corrected. Revocation of the permit shall affect other contingent permits.

If a permit has been revoked for any reason, the permit process will have to begin again and a new application, plans, and necessary fees shall be required for any further earth change activities at a particular site.

ARTICLE V. Erosion Control Plan Requirements

A. SESC Permit Requirements

An application and two (2) sets of plans prepared as described below will be required for each project requesting a Soil Erosion Permit. The SESC Program shall perform a review and the applicant shall be subject to fees as determined by the Washtenaw County Board of Commissioners. According to conditions set forth in Rule 1703.323, Part 91, as amended, the following information will be required:

1. Names, addresses, and telephone numbers of the landowner and designated agent, if applicable
2. Legal description of the affected parcel of land
3. Site location map showing the site and all adjacent properties and proximity to all surface water within 500 feet at a scale not more than 1 inch = 200 feet. If not within 500 feet of surface water, a statement of such must be provided.
4. Site plan at a scale of no more than 1 inch = 100 feet which includes:
 - a. Location of predominant features, including all proposed and existing structures and vegetation on-site and extending 50 feet beyond property lines
 - b. A soil Survey or a written description of the soil types of the exposed land areas contemplated for the earth change

- c. Existing and proposed topography at a minimum of two (2) foot contour intervals extending 50 feet beyond property lines for commercial projects. General slope information for residential projects.
- d. Details for the proposed earth changes, including all of the following:
 - (i) A description and the location of the physical limits of each proposed earth change
 - (ii) A description and location of all existing and proposed on-site drainage, including structure details rim elevations, and de-watering facilities, if applicable
- e. The timing and sequence of each proposed activity included but not limited to:
 - (i) Temporary control measures installed
 - (ii) Gravel construction access installed
 - (iii) Land clearing
 - (iv) Detention/retention/sediment pond installation and stabilization
 - (v) Road construction
 - (vi) Utility installation
 - (vii) Final grade/seed
 - (viii) Catch basin/ponds cleaned
 - (ix) Permanent control measures installed and functioning
 - (x) Remove temporary control measures
 - (xi) The location and description of procedures for installing, maintaining and removing all proposed temporary soil erosion and sediment control measures
 - (xii) A description and the location of all proposed permanent soil erosion and sediment control measures.
- f. A program proposal for the continued maintenance of all permanent soil erosion and sediment control measures that remain after project completion, including the designation of the person responsible for the maintenance. Maintenance responsibilities shall become a part of any sales or exchange agreement for the land on which the permanent soil erosion control measures are located.

B. SESC Waiver Requirements

An application and waiver erosion control plan prepared as described below will be required for each project requesting a SESC Waiver. The SESC Program shall perform a review and the applicant shall be subject to fees as determined by the Washtenaw County Board of Commissioners.

1. Waiver erosion control plan at a scale of no more than 1 inch = 100 feet which includes:
 - a. Names, addresses, and telephone numbers of the landowner
 - b. Location on the property where the activity is taking place, including the limits of disturbance and the distance to surface water, defined by this Ordinance

C. Plan Modification

Changes to a permitted site will require modification to the erosion control plans. Modified plans must be submitted for approval to the SESC Program a minimum of five (5) days prior to the modification.

The Soil Erosion Program shall perform another review and the applicant shall be subject to additional fees as determined by the Washtenaw County Board of Commissioners.

D. Standards & Requirements for Erosion and Sedimentation Control Measures for Earth Changes

All earth changes shall be designed, constructed and completed in a manner that limits exposed areas to the shortest possible time. A person shall install temporary soil erosion and sedimentation control measures before or upon commencement of the earth change activity and shall maintain the measures on a daily basis. Stabilization of detention/retention ponds will be needed before October 15th of each year or temporary stabilization of the site will need to be approved by the SESC Program.

A person shall remove temporary soil erosion and sedimentation control measures after permanent soil erosion measures are in place and the area is stabilized. All disturbed areas shall be stabilized within five (5) days of final grading.

All SESC erosion control plans shall include provisions for temporary and permanent erosion and sedimentation control measures and shall be implemented and maintained in accordance with the standards and specifications of the product manufacturer or those in accordance with, but not limited to, the minimum control measures contained in the most recent versions of the State of Michigan’s “Guidebook of Best Management Practices for Michigan Watersheds”, Oakland County’s “Erosion Control Manual”, “Field Manual on Sedimentation and Erosion Control Best Management Practices for Contractors and Inspectors” or referenced by the Office of the Washtenaw County Water Resources Commissioner.

ARTICLE VI. Inspections

The County reserves the right to conduct compliance inspections on all sites requiring a soil erosion permit or waiver. At any reasonable time, representatives from the Office of the Water Resources Commissioner may enter upon any private or public property for the purpose of inspection and investigating conditions or practices that may be in violation of Part 91 and this Ordinance. However, investigation or inspection under section 324.9113 of Part 9, shall comply with the United States constitution and the state constitution of 1963. Appropriate fees will be assessed according to the fee schedule approved by the Washtenaw County Board of Commissioners. At minimum the following inspections may be performed;

A. Preliminary Inspections

Prior to permit issuance it may be deemed necessary, based on known site characteristics and erosion control plans submitted, to conduct an on-site inspection on any property for which a Soil Erosion Permit or SESC Waiver is applied for. Upon inspection the program staff will verify the overall anticipated effectiveness of the proposed erosion control plan and may require modifications before issuing the permit. If the preliminary site inspection finds additional information is needed for plan review and approval, the SESC Program will notify the applicant of such matters and require modification. If it is deemed not necessary to conduct this inspection prior to permit issuance an

inspection will be conducted two weeks after permit issuance to ensure SESC measures are installed per the approved erosion control plan.

B. Site Inspections

Authorized representatives of the SESC Program may conduct on-site inspections on any property for which a Soil Erosion Permit or Waiver is currently active or any property suspected to be in violation of this Ordinance and Part 91 and the Part 91 Rules. Such inspections may take place before, during and/or after any earth change activity. If upon inspection, existing site conditions are found to be in conflict with Part 91, the Rules, this Ordinance or an approved Soil Erosion Permit or plan, enforcement of this Ordinance will occur. No earth moving shall be done, unless it is required to address identified violations and as directed by the SESC program, until all violations have been addressed, and/or until revised plans have been submitted, reviewed, approved, and the Soil Erosion Permit or plan modified. At a minimum site inspections will be conducted once (1) a month for commercial project and every two (2) months for residential projects.

C. Transfer Inspections

Authorized representatives of the SESC Program will conduct on-site inspections on any property for which a Soil Erosion Permit transfer form is submitted. All fees associated with the soil erosion permit shall be paid before a transfer occurs. The site shall be in compliance with all permit conditions. An updated permit will be issued to the new permit holder after the transfer has been completed.

D. Re-Inspections

Authorized representatives of the SESC Program will conduct re-inspections if a site is found to be in non-compliance. The SESC Program will notify the permit holder by way of notice on site or by mail if re-inspection is needed. The notice will include all items on site that need to be fixed for compliance and the date by which all corrections shall be completed. Additional fees as determined by the Washtenaw County Board of Commissioners will apply.

E. Final Inspections

The following requirements must be met for closure of the soil erosion permit, unless otherwise indicated;

1. All disturbed areas are permanently stabilized in a manner to prevent soil movement or loss from erosive forces such as rain, ice, gravity or wind;
2. Any temporary SESC controls have been removed; and
3. All permanent erosion control measures are in place and maintained and the site has been established per the approved soil erosion and sedimentation control plan.
4. Additionally, commercial permits shall schedule a final site inspection with the SESC Program. The inspection will consist of a walk through to insure the site has met the permit requirements.

If the site is found to be in need of further work the permit holder shall be notified and a re-inspection of the site shall be required. All applicable and outstanding fees set by the Washtenaw County Board of Commissioners shall be paid for the permit process to be completed.

A Certificate of Completion will be issued by the SESC Program when a site is permanently stabilized and all applicable fees have been paid. Failure to complete final inspection requirements shall lead to further enforcement set forth within Part 91, the Rules and this Ordinance.

ARTICLE VII. SESC Program Fund

The Soil Erosion and Sedimentation Control (SESC) Fund is created within the County Treasury. The County Treasurer may receive money or other funds from any source for deposit into the SESC Fund. The County Treasurer shall direct the investment of the SESC Fund assets. The County Treasurer shall credit to the SESC Fund interest and earnings from fund investments. All fees and reimbursements for expenses incurred by the County Enforcing Agency shall be made payable to the County with regard to Part 91, the Rules or this Ordinance and shall be deposited by the County Treasurer into the SESC Fund.

All fines, costs, or damages received as a result of a violation of Part 91, the Rules or this Ordinance, or settlement or agreement arising from a claim therefrom, shall be deposited by the County Treasurer into the SESC Fund.

Money in the SESC Fund at the close of the fiscal year shall remain in the fund and shall not lapse to the County General Fund; provided however, the County Treasury may transfer money from the SESC Fund to the General Fund by resolution of the County Board of Commissioners.

ARTICLE VIII. Fees

Fees shall be considered and established by the Washtenaw County Board of Commissioners as necessary to assure that adequate revenues are generated to operate the program. All fees shall be paid in accordance with the current fee schedule approved by the Washtenaw County Board of Commissioners.

ARTICLE IX. Enforcement

A. Notice of Violation

If the County's SESC Program determines that soil erosion or sedimentation of adjacent properties or waters of the State has or will reasonably occur from land in violation of this Ordinance or Part 91 or the rules promulgated under this Part, the County's SESC Program shall enforce a violation of this part by notifying the person who owns the land, by on site posting and by mail, with return receipt requested, of its determination. The notice shall contain a description of the violation and what must be done to remedy the violation. The landowner shall have five (5) calendar days from the receipt of the notice in which to implement and maintain soil erosion and sedimentation control measures in conformance with

this Ordinance and Part 91. All fees shall be paid in accordance with the current fee schedule approved by the Washtenaw County Board of Commissioners.

B. Cease and Desist Order

Upon a finding that there is a violation of Part 91, the Rules, or this Ordinance, the County's SESC Program may issue a Cease and Desist Order to be posted on site that all work causing a violation under this section must cease until said violation is corrected. All fees shall be paid in accordance with the current fee schedule approved by the Washtenaw County Board of Commissioners.

C. Stop Work Order

Upon a finding that there is a violation of Part 91, the Rules, or this Ordinance, the County's SESC Program may issue a Stop Work Order to be posted on site. All work on site must cease until the temporary and/or permanent soil erosion permits requirements are in place per the permitted SESC approved plan. All fees shall be paid in accordance with the current fee schedule approved by the Washtenaw County Board of Commissioners.

D. Civil Infraction

A person who violates this ordinance is responsible for a municipal civil infraction and may be ordered to pay a civil fine.

E. Site Remediation

If the landowner does not abate, correct or remove a violation of this Ordinance, the SESC Program may enter upon the land and construct, implement and maintain SESC measures in conformance with this Ordinance and Part 91 and the Rules promulgated under the Part. If a violation of this Ordinance has created an impact that extends beyond the property where the violation occurred, remediation of the impact may be required. All costs and fees associated with these actions, including attorney's fees related to enforcing this Ordinance or otherwise related to correcting, removing or abating the violation or remediating impacts of a violation, may be charged to the landowner. The SESC Program shall not expend more than \$10,000.00 for the cost of the work, materials, labor and administration without prior written notice as provided in section 9117 of Part 91, to the person who owns the land that the expenditure of more than \$10,000.00 may be made.

The SESC Program may establish a revolving fund that can be used to enforce this Section and construct, implement, maintain or remediate impacts as identified above. The initial capitalization of the revolving fund shall be from remaining funds in the Resource Remediation Program Fund. All costs and fees collected as a result of this Section shall be directed to the revolving fund.

F. Liens

The SESC program may establish a lien for the expenses incurred under Article IX, Section E of this Ordinance and section 9119 of Part 91 and the Rules promulgated under the Part. With respect to single-family or multifamily residential property, the lien for such expense shall have priority over all

liens and encumbrances filed or recorded after the date of such expenditure. With respect to all other property, the lien for such expenses shall be collected and treated in the same manner as provided for property tax liens under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

ARTICLE X. Adoption of a Schedule of Fines for Violations

A. Fines to be established by County Board Resolution

The County Board of Commissioners shall by Resolution adopt a schedule of fines for violations of the Act, the Rules and this Ordinance, which may be amended by subsequent Resolution. The initial schedule of fines is set forth in Sections B - E, below for both municipal civil infraction citations and municipal civil infraction violation notices.

B. Fines for Municipal Civil Infraction Violation Notices

The landowner or designated agent, who as a result of violating any provision of Part 91, the Rules or this Ordinance, except as otherwise provided in this Ordinance, receives a municipal civil infraction violation notice, and who accepts admission of responsibility, shall pay an initial civil fine at the Municipal Civil Infractions Bureau of \$250.00.

1. In the case that this responsible party commits another offense, on any site, within one (1) year of the date of the initial infraction, the civil fine at the Municipal Civil Infractions Bureau shall be \$500.00.
2. In the case that this responsible party commits another offense within one year of the date of the second offense, the civil fine at the Municipal Civil Infractions Bureau shall be \$1,000.00. This shall be known as the third offense. All subsequent offenses shall be subject to a civil fine of \$1,000.00.
3. If an admission of responsibility is not made and the civil fine prescribed by this Ordinance for the violation is not paid at the Municipal Civil Infractions Bureau, a municipal civil infraction citation may be filed with the District Court in accordance with State law.

C. Fines for Municipal Civil Infraction Citations

1. The, landowner or designated agent, who fails to make an admission of responsibility and pay the civil fine as defined above, is issued a municipal civil infraction citation and is found responsible at the district court for a municipal civil infraction citation, shall pay a civil fine as provided by law. In addition to such fines, the Defendant shall pay such costs and damages and expenses as may be set by the District Court, as authorized by Section 8727 of Act No. 236 of the Public Acts of 1961, as amended, and shall be liable to the State for damages for injury to, destruction of, or loss of natural resources resulting from the violation. The District Court may order a person who violates Part 91, the Rules and the Ordinance to restore the area or areas affected by the violation to their condition as existing immediately prior to the violation.

2. For repeat citations issued to a Defendant who admits or is found by the District Court to have committed repeated violations of Part 91, the Rules and this Ordinance, except as otherwise provided in this Ordinance, the civil infraction fine shall be \$1,750.00 for each repeat violation. As used in this section, “repeat violations” means a second violation of the same requirement or provision, on any site, (i) committed by the Defendant within any one (1) year period, and (ii) for which the Defendant admits responsibility or is determined to be responsible. In addition to such fines, the Defendant shall pay such costs and damages and expenses as may be set by the District Court, as authorized by Section 8727 of Act No. 236 of the Public Acts of 1961, as amended, and shall be liable to the State for damages for injury to, destruction of, or loss of natural resources resulting from the violation. The District Court may order a person who violates the Act, the Rules and this Ordinance to restore the area or areas affected by the violation to their condition as existing immediately prior to the violation.

D. Fines for False Statements in an Application for a Permit or Soil Erosion and Sedimentation Control Plan

The landowner or designated agent who knowingly makes a false statement in an application for a permit or in a soil erosion and sedimentation control plan, as set forth in Article V, is responsible for the payment of a civil fine of not less than \$1,000.00 or more than \$10,000.00.

E. Fines for Violations of Notice of Soil Erosion and Sedimentation Control Violations

The landowner or designated agent who knowingly violates Part 91, the Rules or this Ordinance after receiving notice to cease and desist all activities, as set forth in Article IX, is responsible for the payment of a civil fine of not less than \$2,500.00 or more than \$25,000.00 for each day of the violation.

Article XI. Establishment of Municipal Civil Infractions Violations Bureau for Disposition of Violations of the Act, the Rules or this Ordinance

The Municipal Civil Infractions Violations Bureau, for disposition of violation notices issued under Part 91, the Rules, and this Ordinance, shall be located at the Washtenaw County Water Resources Commissioner’s Office, 705 N. Zeeb Rd., Ann Arbor, MI 48107.

ARTICLE XII. Right of Appeals

The right of an appeal or the authority to interpret this Ordinance shall be provided to the Washtenaw County Water Resources Commissioner. All requests for an appeal of any action related to this Ordinance must be filed within fourteen (14) days of that action. All requests shall be made in writing and include the article number of this Ordinance and reason for the appeal.

ARTICLE XIII. Effective Date

This revised ordinance shall take effect when notice of adoption is published in a newspaper of general circulation within the County. All permits issued prior to adoption of revisions of said ordinance and bonds shall remain in effect and shall be subject to provisions of this Ordinance.