

A RESOLUTION ADOPTING THE GRADING/SOIL EROSION AND SEDIMENTATION CONTROL ORDINANCE FOR WASHTENAW COUNTY

WASHTENAW COUNTY BOARD OF COMMISSIONERS

September 3, 1997

WHEREAS, the State of Michigan adopted Act 347 (now Part 91 of Act 451), known as the Soil Erosion and Sedimentation Control Act in 1972; and

WHEREAS, the services outlined in this Ordinance are mandated by the State of Michigan; and

WHEREAS, sediment is the primary pollutant by volume in the watersheds within Washtenaw County and the State of Michigan; and

WHEREAS, the benefits of controlling soil erosion and sedimentation are economic, social, and environmental; and

WHEREAS, sedimentation may increase costs for treating and cleaning drinking water, reduce pollutant levels, raise water temperature, increase the chance for flooding, reduce light penetration, and make it difficult for fish to live or reproduce; and

WHEREAS, adoption of this Ordinance will result in more consistent, efficient and effective enforcement of Act 451 Part 91 and support the Administrator's Guiding Principles of Customer Service and Mandated Services; and

WHEREAS, a public hearing was held on August 6, 1997 to receive public comment on the Grading/Soil Erosion and Sedimentation Control Ordinance; and

WHEREAS, this matter has been reviewed by Corporation Counsel, the Finance Department, Human Resources, the County Administrator's Office and the Ways & Means Committee

NOW THEREFORE BE IT RESOLVED that the Washtenaw County Board of Commissioners hereby adopts the Grading/Soil Erosion and Sedimentation Control Ordinance in compliance with the authority of the laws of the State of Michigan, as attached hereto and made a part hereof

COMMISSIONER	Y	N	A	COMMISSIONER	Y	N	A	COMMISSIONER	Y	N	A
Acevedo	x			DeLong			x	Montague	x		
Armentrout	x			DuRussel	x			Robinson	x		
Bergman	x			Gunn	x			Schultz	x		
Chockley	x			Kern	x			Shaw	x		
Craiger			x	Monforton	x			Yekulis	x		

CLERK/REGISTER'S CERTIFICATE - CERTIFIED COPY ROLL CALL VOTE: TOTALS 13 0 2

STATE OF MICHIGAN)
COUNTY OF WASHTENAW)SS.

I, Peggy M. Haines, Clerk/Register of said County of Washtenaw and Clerk of Circuit Court for said County, do hereby certify that the foregoing is a true and accurate copy of a resolution adopted by the Washtenaw County Board of Commissioners at a session held at the County Administration Building in the City of Ann Arbor, Michigan, on September 3, 1997, as appears of record in my office.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of said Court at Ann Arbor, this _____ day of _____, 19____.

PEGGY M. HAINES, Clerk/Register

BY: _____

Deputy Clerk



Res . No. 97-0158

WASHTENAW COUNTY
GRADING/SOIL EROSION AND SEDIMENTATION CONTROL
ORDINANCE

Date of Adoption by Board of Commissioners

The State adopts ordinance on the date the BOC sends in proof of passage
Draft dated 10/20/15

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ARTICLE I

A. Purpose

The Washtenaw County Board of Commissioners hereby adopts this ordinance which states the procedures, standards and enforcement that shall be used by the Soil Erosion and Sedimentation Control Program to manage soil erosion and subsequent sedimentation in order to promote the safety, public health, and general welfare of the community through effectively sustaining the goal of clean water in Washtenaw County and the State of Michigan.

B. Rules Adopted

Part 91, of Part 451 is hereby adopted by reference and made a part of this Ordinance as if fully setforth herein.

C. Authority

This ordinance is adopted under the authority granted by Part 91, Soil Erosion and Sedimentation Control of the Natural Resources and Environmental Protection Act, Act 451 of the Public Acts of 1994, being Sections 324.9101 to 324.9123 of the Michigan Compiled Laws Annotated. (Formerly Section 6 of Michigan's Soil Erosion and Sedimentation Control Act, Public Act 347 of 1972, as amended [MCL 282.101 et seq; MSA 13.1820 (1) et seq.]

D. Objectives

- To prevent soil erosion resulting from earth changes by requiring proper provisions for drainage and the protection of soil surfaces during and after construction
- To prevent unnecessary stripping of vegetation and loss of soils, especially adjacent to surface water
- To ensure that soil erosion and sediment control practices are incorporated into site development in the planning and design process
- To ensure that all drainage, 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
- To eliminate the need for costly remediation projects as a result of accelerated soil erosion and sedimentation
- To provide for enforcement of this Ordinance and establish penalties for violations

ARTICLE II

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—exempt pursuant to Act 451, Part 91 Soil Erosion & Sedimentation Control, 1994 (formally known as Act 347).

Authorized Public Agency—State, local, or county agency designated in Section 9110 of Part 91 of Act 451 of 1994 for the purpose of enforcing soil erosion control requirements with regard to earth changes undertaken by that agency.

Best Management Practices (BMP)—Structural, vegetative or managerial measures, activities, which help to achieve soil erosion and sedimentation control objectives.

Board of Commissioners—Washtenaw County Board of Commissioners.

County Drain—Drains established and/or constructed pursuant to the Michigan Drain Code (Act 40, P.A. 1956 as amended).

Disturbed Area—An area of land subject to erosion due to the removal of vegetative cover and/or earth moving activities, including filling.

Drain—a drain will be considered a County Drain (as defined) or a storm drain (as defined).

Drain Commissioner—Washtenaw County Drain Commissioner or authorized representative of the Drain Commissioner’s Office.

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

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

Fill—Non-polluting material placed on-site which raises an existing elevation.

Grading—Any stripping, excavating, filling, stockpiling or combination thereof, including the land in its excavated or filled condition.

Grading Permit—A permit issued to authorize work to be performed under this Ordinance.

Grading Waiver—A waiver issued to forgo the need for a permit for earth changes over 500 feet from surface water and earth changes (including spoils from those grading activities) that disturb less than one (1) acre in size.

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. This does not include sediment basins and lakes constructed for the sole purpose of cooling water or for treating polluted water.

Local Agency—City, Village, or Charter Township.

Local Enforcing Agency—An agency designated by a city, village, or charter township to enforce Section 9106 of Part 91 of Act 451 of 1994.

Normal Maintenance—Lawn maintenance, road and driveway leveling, and miscellaneous property repairs at a developed site, or other activities determined to be exempt from permit requirements, provided that such activities do not violate the standards of Part 91 or this Ordinance.

Major Project—Earth changes that meet or exceed one (1) acre.

Mineral—Coal, gypsum, stone, metallic, or material mined for its metallic content and other similar solid material or substance to be excavated from natural deposits or in the earth for commercial, industrial, or construction uses. Mineral does not include clay, gravel, marl, peat, or sand.

Mining—The process or business of extracting ore or minerals from a mine.

Minor Project—Earth changes that are less than one (1) acre and are within 500 feet of surface water.

Permanent Soil Erosion and Sediment Control Measures—Control measures installed or constructed to control erosion and sedimentation and maintained after project completion.

Person—An individual, firm, partnership, corporation, association, organization, or legal entity of any kind including governmental entities.

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

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.

Sediment—Any solid material, mineral, or organic, that has been deposited in water, is in suspension in water, is being transported or has been removed from its site of origin by wind, water, or gravity as a result of soil erosion.

Site—Lot or parcel of land or combination of contiguous lots or parcels proposed for development or activity undergoing earth moving.

Soil—All earth material of whatever origin, which can be readily excavated by mechanical equipment.

Stabilization—The proper covering of soil to ensure its resistance to erosion, sliding or other earth movement, can be temporary or permanent.

Storm Drain—A conduit, pipe, natural 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, lakes, streams, rivers, drains (as defined) and wetlands.

Temporary Soil Erosion and Sediment Control Measures—Interim control measures which are installed or constructed to control soil erosion or sedimentation until permanent soil erosion control measures are established.

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

Wetland—This term is used as defined in the Goemaere–Anderson Wetland Protection Act, Part 303, Wetlands Protection, Act 451 of 1994 (formerly Public Act 203, 1979).

ARTICLE III

A. Regulated Earth Changes

Earth changes requiring a Grading permit include the following except as exempted by Part 91:

- Earth changes within 500 feet of surface water's edge
- Earth changes (including spoils from grading activities) that disturb one (1) or more acres
- Access roads to logging and mining operations
- All ponds regardless of size or proximity to surface water
- Transportation facilities, including streets, highways, railroads, airports, common carrier pipelines and mass transit facilities

B. Grading Waivers

A Grading Waiver will be required for:

- Earth changes over 500 feet from surface water **and** that measure under one (1) acre
- Well replacements on lake lots
- Earth changes for clean up of emergency environmental incidents as defined by Washtenaw County Emergency Management Director or representative

An application shall be required and fee(s) paid as established by the Washtenaw County Board of Commissioners, as attached. Upon issuance of a Grading Waiver, the Contractor/Owner shall remain responsible for controlling erosion and sedimentation. These permit exemptions shall not be construed as exemptions from enforcement procedures pursuant to Part 91 or this Ordinance, if the activity caused or resulted in a violation of Part 91 or this Ordinance.

C. Approval from Other Governmental Agencies

Grading 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, and/or county agencies. If requirements vary, the most stringent requirements shall be followed.

ARTICLE IV

A. Grading Permit Process

The Grading plans shall be designed to reduce soil erosion and sedimentation.

Applications are made through:

WASHTENAW COUNTY
Soil Erosion and Sedimentation Control (SESC) Program
P.O. Box 8645
Ann Arbor, MI 48107-8645

A Grading Permit or Grading 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. This permit or waiver must be posted on-site and clearly visible from the road. Any unauthorized work shall be considered a violation of these procedures regardless of any later actions taken toward compliance. Borings, percolation tests and normal maintenance shall not be considered a start of work under these regulations. The review period begins upon the receipt of a completed application, plans, and fees.

B. Permit Approval

Approval will be given to permit applications provided the Grading plans meet the requirements of this Ordinance and Part 91. If the plan does not comply with the Ordinance, additional information may be required or the request shall be modified.

The application and site plan shall be acted upon within thirty (30) days. Formal notice of approval is indicated by the issuance of a Grading Permit outlining the work approved and necessary control measures.

C. Denial of Permit

Grading Permits shall not be issued where:

- The proposed grading would cause hazards to the public safety and welfare; or
- The work as proposed by the applicant will damage any public or private property or interfere with any existing stream in such a manner as to cause damage to any adjacent property or result in the deposition of debris or sediment on any public way or into any stream or create an unreasonable hazard to persons or property; or

The land area for which grading is proposed is subject to geological hazard to the extent that no reasonable amount of corrective work can eliminate or sufficiently reduce settlement, slope instability or any other such hazards to persons or property

D. Permit Expiration

Grading permits shall expire automatically upon the project completion date provided by the applicant on the application, not to exceed one (1) year. A permit may be extended for six (6) months upon approval.

E. Permit Revocation

Grading permits may be revoked for any of the following reasons:

- Violation of the condition of the permit
- Misrepresentation or failure to disclose relevant facts in the application or plans submitted
- Authorized work is abandoned or suspended for a period of six (6) months

If a permit has been revoked for any reason, the permit process will have to begin again and an application, plans and necessary fees will have to be submitted.

ARTICLE V

A. Grading Plans

An application and two (2) sets of plans completed as described below will be required for each project requesting a Grading permit. According to conditions set forth in Rule 1703, Part 91 the following information will be required:

Major Projects

- Names, addresses, and telephone numbers of the owner, developer, and petitioner
- Legal description of the affected parcel of land
- 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.
- Site plan at a scale of no more than 1 inch = 100 feet which includes:
 - Location of predominant features, including structures and vegetation on-site and extending 50 feet beyond property lines
 - Location and written description of soil types

- Existing and proposed topography at a minimum of two (2) foot contour intervals extending 50 feet beyond property lines
- All areas delineated on the plans that are to be disturbed
- A description and location of all existing and proposed on-site drainage, including structure details and rim elevations
- Type and location of proposed temporary and permanent soil erosion and sediment control measures and details
- Statement of continued maintenance of all permanent erosion and sediment control facilities including designation of party responsible for maintenance
- Timing and sequence schedule indicating dates for the following:
 - Temporary measures installed
 - Gravel entrance installed
 - Land clearing
 - Detention/retention/sediment pond installation
 - Road construction
 - Utility installation
 - Final grade/seed
 - Catch basin/ponds cleaned
 - Permanent measures functioning
 - Remove temporary measures

Other information may be required to review the impact of the earth change in relation to the specifications of this Ordinance.

Minor Projects

- Site location map showing the site and all adjacent properties and proximity to all surface water within 500 feet at a scale no more than 1 inch = 200 feet. If not within 500 feet of surface water, a statement of such must be provided.
 - Location of predominate features which include structures and vegetation on-site and extending 50 feet beyond property lines
 - Soil information of site
 - Grade/slope information of site
 - Areas delineated on plan that are to be disturbed
 - On-site drainage facilities
 - Location and types of temporary and permanent erosion and sediment control measures
- Statement of continued maintenance of all permanent erosion and sediment control facilities including designation of party responsible for maintenance
- Timing and sequence schedule indicating dates for the following:
 - Temporary measures installed
 - Gravel drive installed
 - Land clearing
 - Final grade/seed
 - Permanent measures functioning
 - Temporary measures removed

Other information may be required to review the impact of the earth change in relation to the specifications of this Ordinance.

B. Plan Modification

Changes to a permitted site will require modification to the plans. The SESC Program shall perform another review and the applicant shall be subject to additional fees as determined by the Washtenaw County Board of Commissioners as attached.

C. Standards for Erosion and Sedimentation Control Measures

All grading 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" and "Washtenaw County Conservation District Standards and Specifications for Soil Erosion and

Sedimentation Control”.

ARTICLE VI

A. Inspections

Authorized representatives of the SESC Program may conduct on–site inspections on any property. 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 an approved Grading permit or plan, a stop work order may be issued. No earth moving shall be done unless authorized for the purpose of protection until revised plans have been submitted, reviewed, approved, and the Grading permit or plan modified.

ARTICLE VII

A. Fees

All fees shall be paid to Washtenaw County in accordance with the current fee schedule approved by the Washtenaw County Board of Commissioners as attached.

ARTICLE VIII

A. Performance Guarantees

The Washtenaw County SESC Agent is authorized to require or waive a performance guarantee for Grading permits. The performance guarantee protects all exposed soil surfaces from erosion should development discontinue or proper control measures are not installed and/or maintained. This would entitle Washtenaw County to implement and maintain soil erosion and sedimentation controls authorized by the permit until the site is properly stabilized. All necessary costs and expenses incurred, including the incidental administrative and legal costs, shall be covered through this performance guarantee. This performance guarantee shall be in the form of cash, check, or letter of credit and shall extend for the duration of the permit with the option of renewal for an amount to be determined by the Washtenaw County Board of Commissioners. The performance guarantee will be returned to the applicant when the site is completely (permanently) stabilized and has met all requirements set forth by this Ordinance and Part 91.

The Washtenaw County SESC Program may accept a resource remediation fee in lieu of a performance guarantee. This fee shall be determined by the Washtenaw County Board of Commissioners, as attached.

B. Notice of Noncompliance

If the County SESC Program determines that a violation of this Ordinance and Part 91 is occurring, it may seek to enforce compliance by notifying the person who owns the land by way of a stop work order and by mail, with return receipt requested, outlining the

violations. The notifications shall contain a description of specific control measures which would bring the landowner into compliance. The control measures listed in the notification shall be implemented within 10 calendar days from the dated mailed.

ARTICLE IX

A. Remedies and Penalties

Any person who undertakes an earth change without obtaining the necessary permits violates MCLA 3224.9101 et seq. ("Act") as well as this Ordinance. Such violations are considered criminal misdemeanors and civil infractions that may be remedied by the following criminal and/or civil penalties:

- Upon conviction, ninety (90) days in jail and/or a one hundred (\$100.00) dollar fine.
- A five hundred (\$500.00) dollar civil fine if the person fails, after proper notice, to comply with the Act and Rules promulgated in conjunction with the Act or this Ordinance.
- Upon ten (10) days written notice to the property owner, if the violations have not been corrected, the SESC Program may enter upon the land and construct, implement and maintain soil erosion and sedimentation control measures which comply with this Ordinance and the Act, provided, however, that such remedial measures may not exceed five hundred (\$500.00) dollars. Upon twenty (20) days after written notice to the property owner, however, if the violations have not been corrected, the SESC Program may enter upon the land and construct, implement, and maintain soil erosion and sedimentation control measures in any amount necessary to correct the violation. The County shall have a lien for any work completed by the County or its contractor to bring a violator's property into compliance with this Ordinance. With respect to single-family or multi-family residential property, such a lien shall have priority over all liens and encumbrances filed or recorded after the date the County SESC Program expends money to correct the violation. For all other property, the lien to collect money expended by the County to correct the violations shall be collected and treated in the same manner as property taxes under the General Property Tax Act. MCLA 211.1 to 211.157.
- Notwithstanding any other remedy, the County may seek injunctive relief against the violator to restrain or prevent violations of the Act and Rules promulgated in conjunction with the Act, or this Ordinance.

ARTICLE X

A. Appeals

The right of an appeal or the authority to interpret this Ordinance shall be provided by the Washtenaw County Soil Erosion and Sedimentation Control Board of Appeals. 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 and reason for overturning the action.

The Washtenaw County Board of Commissioners shall appoint members of the Washtenaw County Soil Erosion and Sedimentation Control Board of Appeals.

ARTICLE XI

A. Effective Date

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

In Witness Whereof, this Ordinance is hereby executed this 3rd day of September, 1997.

ATTESTED TO:

COUNTY OF WASHTENAW

Peggy M. Haines
County Clerk/Register of Deeds
Commissioners

Suzanne Shaw, Chair
Washtenaw County Board of