

GLADWIN COUNTY

SOIL EROSION AND SEDIMENT CONTROL ORDINANCE

WHEREAS, the State of Michigan has authorized counties to adopt a Soil Erosion and Sedimentation Ordinance pursuant to Part 91, Soil Erosion and Sedimentation Control ("Part 91"), of the 1994 P.A. 451, Natural Resources and Environmental Protection Act, as amended ("NREPA").

IT IS HEREBY RESOLVED AND ORDAINED:

- (A) The Gladwin County Soil Erosion and Sediment Control Agent is hereby appointed for the administration and enforcement of the Gladwin County Soil Erosion and Sedimentation Control Ordinance (SESC) and all rules promulgated under state statute and this Ordinance in the name of the County of Gladwin throughout the County of Gladwin except within a municipality that has assumed the responsibility for soil erosion and sedimentation control under MCL 324.9106 and with regard to earth changes by authorized public agencies ("County Enforcing Agency").
- (B) All persons filing an application for a SESC permit shall pay permit fees as determined by the Gladwin County Board of Commissioners.
- (C) That all provisions Part 91 and Part 17 of the Soil Erosion and Sedimentation Control Public Act 451 of 1994 Natural Resources , including all rules promulgated under Part 91 and Part 17, and the Gladwin County's Soil Erosion and Sedimentation Control Supplemental Rules and Conditions are adopted as the County Ordinance.
- (D) The County hereby adopts Part 91 and Part 17 of the Soil Erosion and Sedimentation Control of the Natural Resources and Environmental Protection Act 1994 PA 451, as amended and all rules currently promulgated under Part 91 and Part 17, and the County hereby adopts the same as its own.
- (E) The Gladwin County Soil Erosion and Sediment Control Agent and his designees(s) are authorized County Officials as defined by the Municipal Civil Infraction Ordinance, and are empowered to issue municipal civil infraction citations under this Ordinance.
- (F) The Ordinance shall be addressed at a "Public Ordinance Hearing" of Gladwin County. Upon the Commission approval, the Ordinance shall be sent to the Department of Environmental Quality for its implementation approval seven (7) days after receipt.

GLADWIN COUNTY
SOIL EROSION AND SEDIMENTATION CONTROL
SUPPLEMENTAL RULES AND CONDITIONS
(Pursuant to Part 91 of Act 451, Public Acts of 1994, as amended)

SECTION I Application for Soil Erosion and Sedimentation Control Permit (SESC)

A. All Persons proposing to maintain or undertake an earth change activity that meets any of the following criteria:

- a. Disturbs one (1) or more acres of land; or
- b. Is within 500 feet of a lake, river or stream

must make application to the County Enforcing Agency for a SESC permit. Exemptions are identified in Rule 323.1705 of the Michigan Administrative Code.

B. Application for a SESC permit must be made prior to the start of any work including, but not limited to, construction of access roads, driveways, land clearing and grubbing and grading.

C. Applications must be made on the prescribed application form, furnished by the County Enforcing Agency, and must be filled out completely. All incomplete application forms are subject to rejection.

D. The following information, plans and documents should accompany the application form:

1. A final design plan or development plan detailing all items of work.
2. A map or site plan, at a scale not more than 200 feet per inch, showing all predominant land features, and contour intervals, and proximity to lakes or streams.
3. The description and location of all existing and proposed drainage and dewatering facilities.
4. A soils description of the affected areas.
5. A legal description of the site indicating legal ownership.
6. A description and location of the physical limits of the proposed earth change.
7. A listed sequence of each proposed earth change and the estimated time required to complete each.
8. The location and description for installing and removing all proposed temporary soil erosion and sediment control measures.
9. A description and the location of all proposed permanent soil erosion and sediment measures.
10. 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.

SECTION II Definitions

As used in this part:

A. "Soil erosion" means the loss of the land surface that occurs as a result of human activities.

B. "Designated agent" means a person who has written authorization from the landowner to sign the application and secure a permit in the landowner's name.

C. "Lake" means the Great Lakes and all natural and artificial inland lakes or impounds that have definite banks, a bed, visible evidence of 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.

D. "Landowner" means the person who owns 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 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.

E. "Part 91" means Part 91 of Act No. 451 of the Public Acts of 1994, as amended, being §§324.9101 to 324.9123 of the Michigan Compiled Laws. The terms defined in Part 91 have the same meanings when used in these rules.

F. "Stabilization" means 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.

G. "Stream" means a river, creek, or other surface watercourse which may or may not be serving as a drain as defined in Act No. 40 of the Public Acts of 1956, as amended, being §281.1 et seq. of the Michigan Compiled Laws, and which has definite banks, a bed, and visible evidence of the continued flow or continued occurrence of water, including the connecting waters of the Great Lakes.

H. "Temporary soil erosion and sedimentation control measures" means interim control measures which are installed or constructed to control soil erosion and sedimentation and which are maintained after project completion. (m) "Permanent soil erosion and sedimentation control measures" means those control measures which are installed or constructed to control soil erosion and sedimentation and which are maintained after project completion.

I. "SESC" is an abbreviation for "Soil Erosion and Sedimentation Control."

SECTION III DESIGNATION OF COUNTY ENFORCING AGENCY (CEA)

Upon adoption of this Ordinance by the County Board of Commissioners, the Gladwin county Conservation District will be designated as the County enforcing agency responsible for administration and enforcement of this Ordinance.

SECTION IV SESC Permit

A. SESC Permits will be issued only to the landowner upon proper filing of applications and only after all documents and plans have been reviewed, fees paid, and approved by the County Enforcing Agency. A designated agent on behalf of the landowner is authorized to make application only.

B. SESC Permits shall contain limitations and conditions of issuance and shall be prominently displayed on the site at all times.

C. SESC Permits shall contain an expiration date prior to which time the applicant must apply for a renewal or extension to all the provisions of these Supplement Rules and Conditions, if the project is not completed. The expiration date will be established by the County Enforcing Agency to reflect the normal time required to complete the proposed construction or development but, in no case, shall exceed three (3) years.

D. Fees or fines need to be addressed to the landowner not the individual or contractor as stated in Part 91.

SECTION V Fees

A. All persons filing an application for a SESC permit shall submit the appropriate fee as determined by the Gladwin County Board of Commissioners. Fees may be periodically revised as necessary by formal action of the County Board.

B. The fee schedule issued by the Gladwin County Board of Commissioners shall apply to permits issued for a period not exceeding one (1) year. Permits issued for a period of greater than one year but not exceeding two (2) years shall pay a fee equal to one and one-half (1 ½) times the applicable fee. Permits issued for a period greater than two years but not exceeding three (3) years shall pay a fee equal to twice the applicable fee.

C. All fees are to be payable to the County Enforcing Agency prior to issuance of a SESC permit.

D. Any landowner who begins work requiring a SESC permit without first securing a permit shall pay a fee equal to double the original fee as set by the Gladwin County Board of Commissioners.

E. All sites will be inspected prior to permit issuance and prior to permit termination or expiration. Inspections must also be conducted throughout the duration of the earth change, on an average of one inspection per month per site or follow a site prioritization matrix (approved by the DEQ) which bases inspection frequencies on site factors that affect control mechanisms and potential problems on site.

SECTION VI Bond Requirements

A. Prior to the issuance of a SESC permit, the applicant may be required to post a Surety Bond executed by the owner and corporate surety with authority to do business in the State of Michigan as a surety. The bond shall be in a form approved by the County Enforcing Agency. Said bond shall be in the amount of the cost of all temporary or permanent soil erosion and sedimentation control measures as estimated by the County Enforcing Agency.

B. In lieu of a Surety Bond, the applicant may file a cash deposit with the County Enforcing Agency in the amount equal to that which would be required for a Surety Bond.

SECTION VII Violations and Enforcement

A. Whenever, by the provisions of Part 91, the General Rules or these Supplemental Rules and Conditions, the performance of any act is required or the performance of any act is prohibited, a failure to comply with such provisions shall constitute a violation of law.

B. 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. All violations shall be corrected within five (5) days following issuance of a written notice to correct. Said notice shall include a description of the violation, the remedy and specify the time span in which to comply with Part 91, the rules promulgated under Part 91 and the Gladwin County Soil Erosion & Sedimentation Control Ordinance. Notice shall be mailed by certified mail or, in the alternative, may be hand delivered to the person charged with said violation. Failure to incorporate corrections shall cause the SESC permit to be voided and shall cause legal action to be initiated.

C. 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.

D. 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 permit requirements are in place per the permitted SESC approved plan.

E. Civil Infraction

1. A person who violates this ordinance is responsible for a civil infraction and may be ordered to pay a civil fine of \$250.00. 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 Accts 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. The landowner that is issued a second or subsequent civil infraction citation and is found responsible at the District Court for a municipal civil infraction citation, shall pay a civil fine of \$1000.00. In addition to such fines, the Landowner/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.
3. As used in this section, "second or subsequent civil infraction" means a second violation of the same requirement or provision, on any site (1) committed by the Defendant within any one (1) year period, and (ii) for which the Defendant admits responsibility or is determined to be responsible.
4. The landowner who knowingly makes a false statement in an application for a permit or in a soil erosion and sedimentation control plan is responsible for the payment of a civil fine of not less than \$1,000.00 or more than \$10,000.00 for each day of violation.
5. The landowner who knowingly violates Part 91, the Rules, or this Ordinance after receiving notice to cease and desist all activities 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.

F. Damages. In addition to a fine assessed under this ordinance, a person who violates this Ordinance is 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.

G. 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.

H. Liens. The SESC Program shall have a lien for the expenses incurred in bringing land into conformance under Section 9119 of Part 91 and the Rules promulgated under the Act.

SECTION VIII Maintenance

All persons carrying out soil erosion and sedimentation measures under Part 91, the General Rules or these Supplemental Rules and Conditions, and all subsequent owners of properties on which such measures have been installed shall adequately maintain permanent erosion control measures, devices and plants in effective working conditions.

SECTION IX Standards and Specifications

All soil erosion and sedimentation control measures, both temporary and permanent, shall be designed, constructed and maintained in accordance with current standards and specifications. Sources of these standards and specifications include, but are not limited to: Gladwin Conservation District, Michigan Department of Environmental Quality Guidebook of Best Management Practices for Michigan Watersheds, and the Michigan Department of Transportation Soil Erosion and Sedimentation Control Measures, as approved by the County Enforcing Agency.

SECTION X Interpretation

The County Enforcing Agency shall have the responsibility to administer Part 91, the General Rules, and these Supplemental Rules and Conditions and shall base decisions on Part 91, The General Rules, and these Supplemental Rules and Conditions.

SECTION XI 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.