

5-11-10 Public Hearing

5-11-10 Approved by Missaukee
County Commissioners

MISSAUKEE COUNTY

SOIL EROSION

AND

SEDIMENTATION CONTROL

ORDINANCE

REVISED: APRIL 13, 2010

**MISSAUKEE COUNTY
SOIL EROSION AND SEDIMENTATION CONTROL
ORDINANCE**

STATE OF MICHIGAN
COUNTY OF MISSAUKEE COUNTY
BOARD OF COMMISSIONERS

MAY 11, 2010

SECTION I NAME:

This ordinance shall be known and cited as the Missaukee County Soil Erosion and Sedimentation Control Ordinance.

SECTION II PURPOSE:

The purpose of this Ordinance is to prevent soil erosion and off-site sedimentation within the County of Missaukee by requiring proper provisions for water disposal and the protection of soil surfaces during and after earth change activities to protect adjacent properties and the waters of the State.

SECTION III AUTHORITY:

This Ordinance is passed by authority under Part 91, Soil Erosion and Sedimentation Control, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (Part 91). The Administrative Rules promulgated under the authority of Part 91 are hereby incorporated by reference.

SECTION IV VIOLATIONS AND PENALTIES:

- A. Violations: Any person, partnership, limited liability company, corporation or association who violates or fails to comply with any provision of this Ordinance shall be responsible for a municipal civil infraction or other remedies set forth in Part 91. Every day that such violation continues shall constitute a separate and distinct offense under the provisions of the Ordinance. Nothing in this section shall exempt the offender from compliance with the provisions of this ordinance. The Missaukee County Prosecutor or his appointed agent shall conduct prosecution for violations of the Ordinance.
- B. Penalty for violation of this ordinance:
1. A person responsible for a municipal civil infraction under this ordinance may be ordered to pay a civil fine of not more than \$2,500.
 2. A person who knowingly violates this ordinance or 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 more than \$10,000.00 for each day of violation.
 3. A person who knowingly violates this part after receiving a notice of determination under section 9112 or 9117 of Part 91 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 violation.
 4. Civil fines collected under this section shall be receipted and deposited with the Missaukee County Treasurer.

SECTION V ENFORCEMENT:

- A. Designation of Enforcing Agency: The Missaukee Conservation District, is hereby designated the Missaukee County enforcing agency responsible for the administration and enforcement of Part 91, within Missaukee County. The Soil Erosion and Sedimentation Control agent shall have jurisdiction throughout

Missaukee County in administration and enforcement of these regulations including all amendments hereafter adopted except for those earth change activities: 1) Exempted in Part 91 and the Rules Promulgated under Part 91; 2) Permitted by a county enforcing agency pursuant to Section 9106 of Part 91; or 3) undertaken by, an authorized public agency pursuant to Section 9110 of Part 91. The Missaukee Conservation District Executive Director is hereby authorized to issue municipal civil infraction citations directing alleged violators of this ordinance to appear in court.

- B. Stop Work Orders: The use of Stop Work Orders is expressly authorized under this ordinance.
- C. Right of entry and inspection: No person shall refuse to permit the Soil Erosion and Sedimentation agent to inspect any premises at any reasonable times, nor shall any person molest or resist the control agent in the discharge of his/her duties.

SECTION VI FEES, PERMITS, EXEMPTIONS AND WAIVERS:

Fees shall be established and periodically revised by resolution of the Missaukee County Board of Commissioners. Contractors or other individuals undertaking an earth change, as well as the landowner, may be liable for civil penalties in the event of a violation of this ordinance. There is a fine of \$50 for the first offense of failing to obtain a Soil Erosion and Sedimentation Control Permit, Part 91 of P.A. 451 before soil is disturbed and a \$100 fine for the second and subsequent failure to obtain an SESC Permit.

An application fee of \$15 is required. Permits are valid for one year. Permit fees are as follows:

\$75	Single residential or projects that alter less than 1 acre of land
\$295	Projects that alter 1 or more acres of land (excluding single residential)
TBD	Pits-sand, gravel, peat, clay, etc.

A landowner or designated agent who contracts for, allows, or engages in an earth change shall obtain a soil erosion and sedimentation control permit in the landowner's name, unless exempted or waived in subsections VI c or VI d, before commencing an earth change that:

- 1. Disturbs one or more acres; or
- 2. Is located within 500 feet of the water's edge of a lake or stream (by definition a lake is 1 acre or more of open water).

- A. A soil erosion and sedimentation control permit is not required for the following:
 - 1. Plowing and tilling of land for the purpose of crop production or harvesting of crops.
 - 2. Earth changes associated with the logging and mining industry. However, all earth changes associated with these activities shall conform to the same standards as if they required a permit under Part 91 or the rules. The exemption from obtaining a permit under this subsection DOES NOT apply to the following:
 - a. Access roads to and from the site where active logging and mining is taking place.
 - b. Ancillary activities associated with logging and mining.
 - c. The removal of clay, gravel, sand, peat, or topsoil.
 - 3. Earth changes associated with well locations, surface facilities, flow lines, or access roads relating to oil or gas exploration and development under part 615, supervisor of wells, of the NREPA provided the permit application to drill

and operate contains a soil erosion and sedimentation control plan that is approved by the department under part 615.

4. Normal road and driveway maintenance, such as grading or leveling that does not increase the width or length of the road or driveway and that will not contribute sediment to lakes or streams.
5. An earth change of minor nature that is stabilized within 24 hours of the initial disturbance and that will not contribute sediment to lakes or streams.
6. 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.

7. (v) Seawall maintenance located above the ordinary high water mark that does not exceed 100 square feet.
8. Any other earth change that is exempted by Part 91 or the rules.

Exemptions provided in this section shall not be construed as exemptions from enforcement procedures under this part or the rules promulgated under this part if the exempted activities cause or result in a violation of this part or the rules promulgated under this part.

- B. The Soil Erosion and Sedimentation Control agent may grant a permit waiver for an earth change located within 500 feet of the water's edge of a lake or stream after receiving a signed affidavit from the landowner stating that the earth change will disturb less than 225 square feet and the earth change will not contribute sediment to a lake or stream.

SECTION VII BOARD OF APPEALS:

A Board of Appeals shall be established and appointed by the Missaukee County Board of Commissioners. The appeal board shall consist of a representative of the Missaukee County Conservation District, Soil Erosion and Sedimentation Control agent and at least two other persons. The Board of Appeals has no authority to waive any requirement set forth in Part 91 of the rules promulgated under Part 91.

SECTION VIII SAVING CLAUSE:

If any section, subsection, clause, or phrase of these regulations is for any reason adjudged unconstitutional or invalid, it is hereby provided that the remaining portions of these regulations shall not be affected thereby.

SECTION IX AMENDMENT:

The County Board of Commissioners may from time to time amend, supplement, or change this ordinance.

SECTION X ADOPTION AND PUBLICATION:

This ordinance shall take effect immediately following approval of the ordinance by the Michigan Department of Environmental Quality and publication of a notice of the adoption in a newspaper of general circulation within the County.

Susan Rogers, Chair
Missaukee County Board of Commissioners

I, Carolyn Flore, Clerk of the County of Missaukee, do hereby certify that this is a true and correct copy of the Ordinance duly adopted by the Missaukee County Board of Commissioners on the 11th day of May, 2010.

Carolyn Flore, Clerk
Missaukee County Clerk

ORDINANCE

The Missaukee County Board of Commissioners will be having a public hearing on the following Ordinance at their May 11, 2010 Board meeting at 11:30 AM. Carolyn Flore, Missaukee County Clerk 839-4967 Ext 204

**MISSAUKEE COUNTY
SOIL EROSION AND
SEDIMENTATION
CONTROL ORDINANCE**

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B. Penalty for violation of this ordinance:

1. A person responsible for a municipal civil infraction under this ordinance may be ordered to pay a civil fine of not more than \$2,500.
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3. A person who knowingly violates this part after receiving a notice of determination under section 9112 or 9117 of Part 91 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 violation.
4. Civil fines collected under this section shall be receipted and deposited with the Missaukee County Treasurer.

SECTION V ENFORCEMENT:

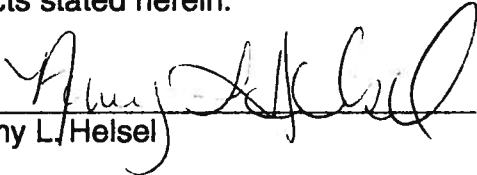
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**AFFIDAVIT OF PUBLICATION
The Missaukee Sentinel**

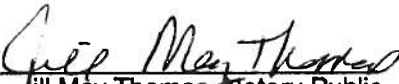
IN THE MATTER OF

MISSAUKEE COUNTY
Soil Erosion and Sedimentation Control Ordinance

Amy L. Helsel, being duly sworn deposes and says that a notice, a true copy of which is annexed hereto, was published in *The Missaukee Sentinel* newspaper, a publication of Missaukee Review, Inc., of which she is a corporate officer, published in Lake City, Michigan and in the County of Missaukee in said state and circulating in said County, on: April 16 and 23, 2010, A.D. and that she is the publisher of said newspaper and knows the facts stated herein.


Amy L. Helsel

Subscribed and sworn to me this 23rd day of April, A.D., 2010.


Jill May Thomas, Notary Public
Missaukee County, Michigan
My Commission Expires: May 28, 2011
Acting in Missaukee County

The Missaukee Sentinel
P.O. Drawer O, 130 N. Main St.
Lake City, MI 49651
(231) 839-5400 • Fax: (231) 839-5500
e-mail: sentinelads@charterinternet.com

pal civil infraction citations directing alleged violators of this ordinance to appear in court.

B. Stop Work Orders: The use of Stop Work Orders is expressly authorized under this ordinance.

C. Right of entry and inspection: No person shall refuse to permit the Soil Erosion and Sedimentation agent to inspect any premises at any reasonable times, nor shall any person molest or resist the control agent in the discharge of his/her duties.

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An application fee of \$15 is required. Permits are valid for one year. Permit fees are as follows:

\$75 – Single residential or projects that alter less than 1 acre of land

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**** – Pits-sand, gravel, peat, clay, etc.

In the event it is determined a SESC permit is not needed the permit fee will be refunded.

A landowner or designated agent who contracts for, allows, or engages in an earth change shall obtain a soil erosion and sedimentation control permit in the landowner's name, unless exempted or waived in subsections VI c or VI d, before commencing an earth change that:

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JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF NATURAL RESOURCES & ENVIRONMENT
LANSING



REBECCA A. HUMPHRIES
DIRECTOR

November 15, 2010

Ms. Carolyn Flore, Clerk
Missaukee County
P.O. Box 800
Lake City, Michigan 49651-0800

Dear Ms. Flore:

The Soil Erosion and Sedimentation Control (SESC) Ordinance (Ordinance) adopted by Missaukee County on May 11, 2010, has been reviewed by the Department of Natural Resources and Environment (DNRE), Water Resources Division (WRD). The Ordinance meets the minimum requirements of Part 91, SESC, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, and is hereby approved.

Past and current efforts by the County to improve and strengthen their SESC Program are commendable. Adopting the Ordinance should result in more consistent and effective protection of our natural resources.

Should you require further information, please contact me by telephone at 231-876-4476; by e-mail at johnstonem1@michigan.gov; or by writing to me at the Department of Natural Resources and Environment, 120 W. Chapin Street, Cadillac, Michigan, 49601.

Sincerely,

Matt Johnstone
Cadillac District Office
Water Resources Division
231-876-4476

cc: Ms. Sherry Blaszak, Missaukee Conservation District
Mr. Dick Mikula, DNRE
Mr. Mike Stifler, DNRE