

**ARENAC COUNTY
ORDINANCE 2017-01
SOIL EROSION AND SEDIMENTATION CONTROL**

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

IT IS HEREBY RESOLVED AND ORDAINED:

(A) The Arenac County Soil Erosion and Sediment Control Agent is hereby appointed for the administration and enforcement of the Arenac County Soil Erosion and Sedimentation Control Ordinance and all rules promulgated under state statute and this Ordinance in the name of the County of Arenac throughout the County of Arenac except within a municipality that has assumed the responsibility for Part 91, 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 Arenac County Board of Commissioners.

(C) That all provisions of Part 91 and Part 17, including all rules promulgated under Part 91 and Part 17, and Arenac County’s Soil Erosion and Sedimentation Control Supplemental Rules and Conditions are adopted as the County Ordinance.

(D) Refer to 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 Arenac County Soil Erosion and Sediment Control Agent and his designee(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) This Ordinance shall be addressed at a “Public Ordinance Hearing” of Arenac 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.

ARENAC 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) Permit

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

1. Disturbs one (1) or more acres of land; or
2. 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. Application 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 of 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, if so requested by the County Enforcing Agency.
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 off all proposed permanent soil erosion and sediment control 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 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.

SECTION III Fee Schedule

- A. All persons filing an application for a SESC permit shall submit the appropriate fee as determined by the Arenac 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 Arenac 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. 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 IV 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 V Extension of Time

- A. Requests for extension of time for SESC permits must be received by the County Enforcing Agency at least ten (10) days prior to the expiration date.
- B. Requests for extensions must be in writing and set for the reasons for such requests.

SECTION VI Violations

- 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. 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 Arenac County Soil Erosion & Sedimentation Control Ordinance 2017-01. 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.

SECTION VII 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 VIII 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: Arenac 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 IX 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 X Revisions

The Board of Commissioners may, from time to time, revise these Supplemental Rules and Conditions as deemed necessary for the effective enforcement and administration of Part 91 and the General Rules, effective after review and approval from the Michigan Department of Environmental Quality.

SECTION XI Enforcement Assignments

- A. Upon approval of the County Board of Commissioners, the County Enforcing Agency may secure, pursuant to properly executed agreements approved by the Board of Commissioners, services for enforcing Part 91, the General Rules, and these Supplemental Rules and Conditions, on behalf of the Commissioner, from private contractors or vendors. Enforcement responsibilities that may be included in said agreement are receipt of applications, collection of permit fees, setting and receiving bond amounts and appropriate recordkeeping. All fees charged shall be in accordance with these Supplemental Rules and Conditions and shall be turned over to the Commissioner.

**STATEMENT OF POLICY FOR ENFORCEMENT OF
Part 91 of Act 451, Public Acts of 1994, as amended**

The Arenac County Soil Erosion & Sediment Control Agent, acting on behalf of the Arenac County Board of Commissioners, as County Enforcing Agency for Part 91, does hereby issue the following statement of policy and interpretation regarding the enforcement of Part 91. These statements are not intended to be inclusive, but are made in an effort to improve clarity of existing rules and to provide educational information.

1. A one-year permit renewal will be required when the excavation, grading, or hauling operations are not yet complete.
2. A four month permit extension may be requested when only minor alterations, final cleanup or reseeding operations remain to be completed.
3. The decision as to whether a permit renewal or an extension is necessary shall be the decision of the County Enforcing Agency.
4. For both a permit renewal and an extension, the bond requirements shall be the same as in the original permit. That is, a Surety Bond for the same amount shall be extended, or in the case of a Cash Bond, the original amount will be retained until completion. No additional bond will be required.
5. It is required that the permit be in the name of the owner of the property.
6. Only two consecutive permit extensions will be granted per project. If the project is not yet complete after the expiration of the second extension, a permit renewal will be required.
7. If the applicant anticipates a project to be longer than three (3) years in duration, he or she should consider separating the project into several distinct phases.
8. For applications received from municipalities, the bond may be waived at the discretion of the County Enforcing Agency.
9. The minimum rate for establishment of the bond amount shall be ten (10) times the per acre site inspection fee rate.
10. Minor use permits will be issued at the discretion of the County Enforcing Agency.