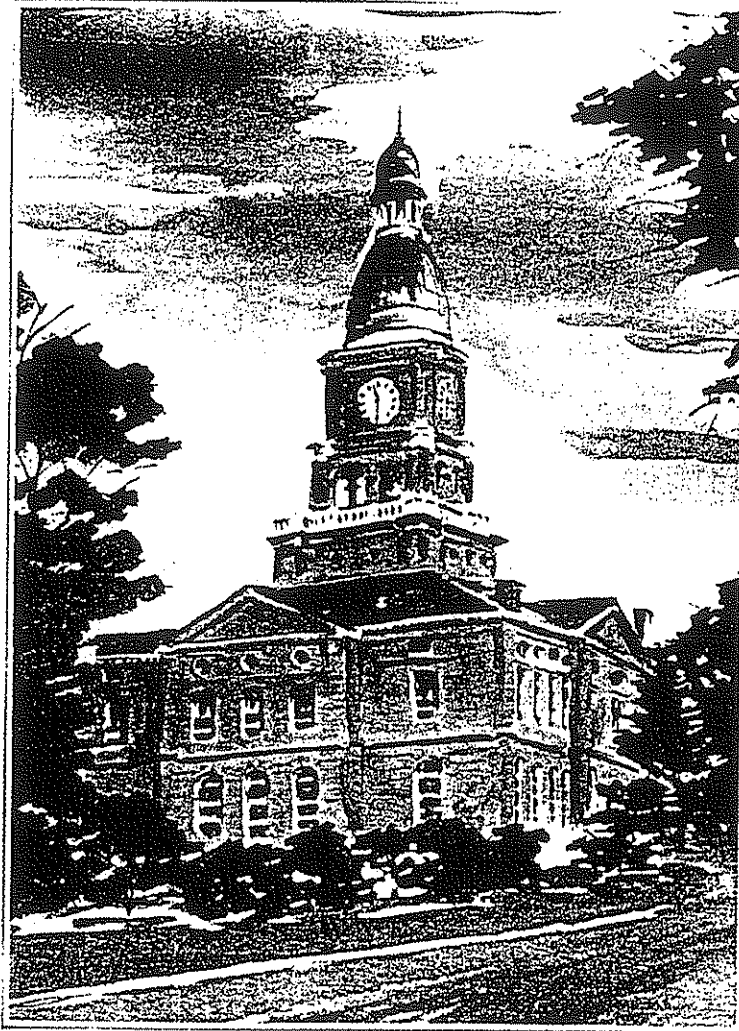


# HILLSDALE COUNTY

Department of Inspection & Environmental Services

Building Inspection/Soil Erosion Division



**GRADING/SOIL EROSION & SEDIMENTATION  
CONTROL ORDINANCE,  
as amended**

## TABLE OF CONTENTS

ARTICLE I.....	1
A. Purpose	1
B. Authority	1
C. Rules Adopted	1
D. Designation of the County Enforcing Agency	1
E. Objectives	1,2
ARTICLE II.....	2
A. Language	2
B. Definitions	2,3,4,5
ARTICLE III.....	6
A. Grading Permits	6
B. Grading Waivers	6,7
C. Exemptions	7
D. Approval from other Governmental Agencies	7
ARTICLE IV.....	7
A. Grading Permit Process	7
B. Permit Approval	8
C. Denial of Permit	8
D. Permit Expiration	8
E. Permit Revocation	9
ARTICLE V.....	9
A. Grading Plans	9,10,11
B. Plan Modification	11
C. Standards for Erosion & Sedimentation Control Measures	11
ARTICLE VI - Inspections.....	11
ARTICLE VII - Fees.....	12
ARTICLE VIII.....	12
A. Performance Guarantees	12
B. Resource Remediation Fees	13
C. Notice of Noncompliance	13
ARTICLE IX - Remedies & Penalties.....	13,14
ARTICLE X - Effective Date.....	15

## **ARTICLE I**

### **A. Purpose**

The Hillsdale County Board of Commissioners hereby adopts this ordinance which states the procedures, standards and enforcement that shall be used by the Soil Erosion & Sedimentation Control (SESC) 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 Hillsdale County and the State of Michigan.

### **B. 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, 1994 PA 451, as amended. Part 91 being Sections 324.9101 to 324.9123a of the Michigan Compiled Laws Annotated.

### **C. RULES ADOPTED**

The rules promulgated under Part 91, Soil Erosion & Sedimentation Control, 1994 PA 451, as amended, are hereby incorporated by reference and made a part of this Ordinance as if fully set forth herein.

### **D. DESIGNATION OF THE COUNTY ENFORCING AGENCY**

The Hillsdale County Inspection & Environmental Services Department shall be the county enforcing agency responsible for the administration and enforcement of Part 91, Soil Erosion and Sedimentation Control, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (Part 91), within Hillsdale County. The Administrative Rules promulgated under the authority of Part 91 are hereby incorporated by reference.

### **E. 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.

To provide education and assistance to the community regarding soil erosion.

## 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** - all land farming operations except the plowing or tilling of land for the purpose of crop production or the harvesting of crops.

**Authorized Public Agency** - a state, municipality, or county agency authorized under Section 9110 of Part 91 to implement SESC procedures with regard to earth changes undertaken by it.

**Board of Commissioners** - Hillsdale County Board of Commissioners.

**County Drain** - drains established and/or constructed pursuant to the Michigan Drain Code (1956 PA 40, 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** - Hillsdale 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. "Earth change" shall not apply to the practice of plowing and tilling soil for the purpose of crop production.

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

**Fill** - 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 foregoing the need for a Grading Permit, issued after the receipt of signed affidavit from the landowner, stating that the earth change will: 1.) Occur farther than 500 feet from 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 any surface water.

**Lake** - all natural and artificial inland lakes and or impoundment's 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.

**Major 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.

**Minor Project** - earth changes undertaken for a proposed or already existing private residence, landscaping activities that require a grading permit, or agricultural practices other than the plowing and tilling of fields for crop production.

**Municipality** - City, Village, Charter Township, or General Law Township that is located in a county with a population of 200,000 or more.

**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, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended.

**Permanent Soil Erosion & 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 particulate matter, mineral, or organic that is in suspension in water, is being transported or has been removed from its site of origin by wind, water, or gravity, and has been deposited elsewhere.

**Site** - lot or parcel of land or combination of contiguous lots or parcels proposed for development or activity undergoing earth moving.

**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, or the Public Acts of 1956, as amended, which has definite banks, a bed, and visible evidence of continued flow or continued occurrence of water.

**Surface Water** - any water including ponds, lakes, streams, rivers, drains (as defined), and wetlands, which holds or conveys water continually or seasonally.

**Temporary Soil Erosion & 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 holds and stabilizes soils.

**Wetland** - 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.

## ARTICLE III

### **A. Grading Permits**

Earth changes requiring a Grading Permit include the following except as exempted by Part 91 Section 9115 and Rule 323.1705:

- 1) Earth changes within 500 feet of surface water's edge and disturbing more than 225 square feet.
- 2) Earth changes (including spoils from grading activities) that disturb one (1) or more acres.
- 3) Access roads to logging and mining operations.
- 4) Installation of new ponds or alterations to existing ponds, regardless of size or proximity to surface water.

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

### **B. Grading Waivers**

A Grading Waiver will be required for:

- 1) Earth changes over 500 feet from surface water and disturb less than one (1) acre.
- 2) Earth changes within 500 feet of surface water, disturbing less than 225 square feet, and not contributing sediment to surface water.

A Grading Waiver will be issued upon receipt of a signed affidavit from the landowner that the proposed project meets the above criteria. Issuance of a Grading Waiver shall not be construed as an exemption from enforcement procedures pursuant to Part 91 or this Ordinance.

### **C. Exemptions**

The following activities are exempt from Grading Permits and Grading Waivers:

- 1) Earth changes disturbing less than 225 square feet and stabilized with 24 hours.



- 2) Plowing and tilling of fields for the purpose of crop production.
- 3) Work performed by an Authorized Public Agency (as defined)
- 4) Work performed under permit from a Municipal Enforcing Agency.
- 5) Grading and leveling of existing roads that does not increase the width or length of the road and will not contribute sediment to lakes or streams.
- 6) All activities identified in Part 91 Section 9115 and Rule 323.1705.

Exemptions from Grading Permits and Waivers shall not be construed as exemptions from enforcement procedures if the activity results in a violation of Part 91 or this ordinance.

**D. Approval from Other Governmental Agencies**

If a Grading Permit is required, an agency shall not issue a building permit without the applicant first obtaining a Grading Permit. 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**

All applications for Grading Permits and Waivers are made through:

HILLSDALE COUNTY  
Office of Inspection and Environmental Services  
Building Inspection/Soil Erosion Division  
Soil Erosion and Sedimentation Control (SESC) Program  
61 McCollum Street  
Hillsdale, MI 49242

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. The 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. 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 (including Rule 323.1703). If the plan does not comply with the Ordinance, additional information may be required or the request shall be modified.

The application and grading 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:

- 1) The proposed grading would cause hazards to the public safety and welfare; or
- 2) 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
- 3) 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 sediment, slope instability or any other such hazards to person 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:

- 1) Violation of any condition of the permit.
- 2) Misrepresentation or failure to disclose relevant facts in the application or plans submitted.
- 3) 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 sets of plans completed as described below will be required for each project requiring a Grading Permit. According to conditions set forth in Rule 1703, Part 91 the following information will be required:

**Major Projects**

- 1) Names, addresses, and telephone numbers of the owner or designated agent
- 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 one (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) Location and written description of soil types
  - c) Existing and proposed topography at a minimum of two (2) foot contour intervals extending 50 feet beyond property lines
  - d) All areas delineated on the plans that are to be disturbed (physical limits of the earth change)
  - e) A description and location of all existing and proposed on-site drainage, including structure details rim elevations, and de-watering facilities, if applicable

- f) Location and description for installing and removing all proposed temporary Soil Erosion and Sedimentation Control measures
  - g) Location and description of proposed permanent soil erosion and sediment control measures and details
- 5) Statement of continued maintenance of all permanent erosion and sediment control facilities including designation of party responsible for maintenance.
- 6) Timing and sequence schedule indicating dates for the following:
- a) Temporary measures installed
  - b) Gravel construction access installed
  - c) Land clearing
  - d) Detention/retention/sediment pond installation and stabilization
  - e) Road construction
  - f) Utility installation
  - g) Final grade/seed
  - h) Catch basin/ponds cleaned
  - i) Permanent measures functioning
  - j) 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**

- 1) Names, addresses, and telephone numbers of the owner or designated agent
- 2) Address 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 one (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) Location and written description of soil types
  - c) Existing and proposed topography of site extending 50 feet beyond property lines
  - d) All areas delineated on the plans that are to be disturbed (physical limits of the earth change)
  - e) A description and location of all existing and proposed on-site drainage

- f) Location and description for installing and removing all proposed temporary Soil Erosion and Sedimentation Control measures
  - g) Location and description of proposed permanent soil erosion and sediment control measures and details
- 5) Statement of continued maintenance of all permanent erosion and sediment control facilities including designation of party responsible for maintenance.
- 6) Timing and sequence schedule indicating dates for the following:
- a) Temporary measures installed
  - b) Gravel construction access installed
  - c) Land clearing
  - d) Detention/retention/sediment pond installation and stabilization (if applicable)
  - e) Final grade/seed
  - f) Catch basin/ponds cleaned (if applicable)
  - g) Permanent measures functioning
  - h) Remove temporary measures

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 an approved plan 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 Hillsdale County Board of Commissioners.

**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", and " Hillsdale County Soil Erosion & Sedimentation Control Program Guide". In the event of conflict, the most stringent guidelines will be applied. All earth changes shall limit exposed areas of any disturbed land for the shortest possible time as determined by the Hillsdale County Soil Erosion and Sedimentation Control Program. All disturbed areas shall be stabilized within five (5) days of final grading.

## ARTICLE VI

### INSPECTIONS

Authorized representatives of the SESC Program may conduct on-site inspection on any property for which a Grading Permit is applied for, currently active, or any property suspected to be in violation of this ordinance and Part 91. 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 until all violations have been addressed, and/or until revised plans have been submitted, reviewed, approved, and the Grading Permit or plan modified.

## ARTICLE VII

### Fees

All fees shall be paid to Hillsdale County at the time of application, in accordance with the current fee schedule approved by the Hillsdale County Board of Commissioners.

## ARTICLE VIII

### A. Performance Guarantees

A performance guarantee is required for all major projects (as defined). The performance guarantee provides an assurance that all exposed soil surfaces will be stabilized should development discontinue or proper control measures are not installed and/or maintained. This performance guarantee shall cover all anticipated expenses incurred by Hillsdale County, including administrative and legal costs, required to implement and maintain soil erosion and sedimentation controls until the site is stabilized. The performance guarantee shall be in the form of cash, check, or letter of credit and shall extend for the duration of the permit (until project completion) with the option of renewal for an amount to be determined by the Hillsdale 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.

**B. Resource Remediation Fees**

The Hillsdale County SESC Program may accept a resource remediation fee in lieu of a performance guarantee. The Resource Remediation Fee gives applicants for major grading permits the opportunity to contribute to a fund to be used for remediation of abandoned and badly polluted sites. This contribution is usually far less than the cost of obtaining a performance guarantee. Applicants who are eligible to participate are assessed an amount determined by the Hillsdale County Board of Commissioners. The Resource Remediation Fee satisfies the applicant's requirement for posting a performance guarantee.

**C. Notice of Noncompliance**

If the County SESC Program determines that a violation of this Ordinance or Part 91 is occurring, or will reasonably occur, it may seek to enforce compliance by notifying the person who owns the land by way of mail or a Stop Work Order. The notification shall contain a description of the violation and what must be done to remedy the violation and shall specify a time to comply with this part. The control measures listed in the notification shall be implemented within 5 calendar days from the date mailed.

**ARTICLE IX**

**Remedies and Penalties**

- 1) Any violation of Part 91, Administrative rules, or this ordinance is considered a civil infraction that may be remedied by the following civil penalties:
  - a) A person who violates this part is subject to a municipal or state civil infraction and may be ordered to pay a civil fine of not more than \$2500.
  - b) A person who knowingly violates this part or knowingly makes a false statement in the application is responsible for the payment of a civil fine of not more than \$10,000 for each day of violation.
  - c) A person who knowingly violates this part after receiving a notice of determination under Section 9112 or 9117 is responsible for the payment of a civil fine of not less than \$2500 or more than \$25,000 for each day of violation.
  - d) Default in the payment of a civil fine or costs ordered under this section may be remedied by any means authorized under the revised judicature act (1961 PA 236, as amended)

- e) In addition to fines, a person who violates this part is liable for damages to the natural resources and the court may order the person to restore the area(s) affected by the violation.

Assessment of Municipal civil infraction citations shall be ordered under the authority of the Hillsdale County Building Official.

- 2) Upon five (5) days after giving written notice to the property owner, if the violation has not been corrected, the SESC Program may enter upon the land and construct, implement and maintain soil erosion and sedimentation control measures without expending more than \$10,000. If more than \$10,000 will be expended, then work shall not begin until 10 days after the notice has been mailed. 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.
- 3) 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**

**Effective Date**

This ordinance shall take effect thirty (30) days following the adoption and publication in a newspaper of general circulation within the County. This ordinance replaces all previous ordinances or resolutions adopted by Hillsdale County for enforcement for Soil Erosion and Sedimentation Control

Date of Adoption: December 19, 2002

Date of Publication: December 27, 2002

Effective Date: January 27, 2003

Authority - Resolution of the Board of Commissioners - # 02-110

STATE OF MICHIGAN)  
COUNTY OF HILLSDALE)ss

Attest: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



STATE OF MICHIGAN  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
LANSING



JENNIFER M. GRANHOLM  
GOVERNOR

STEVEN E. CHESTER  
DIRECTOR

March 5, 2003

Mr. Thomas C. Mohr, Clerk  
Hillsdale County  
61 McCollum Street  
Hillsdale, Michigan 49242

Dear Mr. Mohr:

The Grading/Soil Erosion and Sedimentation Control Ordinance (Ordinance) adopted by the Hillsdale County Board of Commissioners on December 19, 2002, has been reviewed by the Department of Environmental Quality's (DEQ's) Water Division (WD) Soil Erosion and Sedimentation Control (SESC) staff. 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 Hillsdale County to improve and strengthen their SESC Program are commendable. Adopting the Ordinance should result in more consistent and effective protection of the county and state natural resources.

If you have any questions, please contact Mr. Ned Rathbun, Jackson District Office, WD, at 517-780-7693.

Sincerely,

Richard A. Powers, Chief  
Water Division  
517-335-4176

rap:rm:rm

cc: Mr. Martin Taylor, Hillsdale County Inspection Department  
Mr. Ned Rathbun, DEQ  
Mr. Richard Mikula, DEQ

03 MAR 12 PM 12:05  
THOMAS C. MOHR  
COUNTY CLERK