

DEQ Water Resources Division

Questions and Answers on 2012 Public Act 297

Amending Part 353, Sand Dunes Protection & Management



Did PA 297 change the status of historically-protected dunes in Michigan?

No. The areas of protected dunes in Michigan remain the same and are mapped in the [Atlas of Critical Dunes](#), dated February 1989. Although [PA 297](#) authorizes the DEQ to review the atlas there are no plans to conduct a review at this time.

How does a person learn whether their property is in a Critical Dune Area (CDA)?

The law states that any property that falls within the areas mapped in the [Atlas of Critical Dunes](#) is regulated. Local township or city offices will have copies of these maps. Property owners may also visit the [DEQ – Sand Dune Protection](#) website and use the [interactive map](#) or [contact DEQ staff](#) if they have a question on whether or not their property is regulated.

What has changed regarding permits under the revised law?

The revisions to [Part 353](#) changed the review criteria for several uses:

- The maintenance, repair, or replacement of existing utility lines, pipelines, or other utility facilities may, under certain conditions, no longer require a permit, Section 35306(4).
- Structures proposed lakeward of the crest may be permitted, under certain conditions, Section 35304(3).
- A driveway on steep slopes may be permitted without a special exception (variance), if the proposed driveway meets the criteria found in the revised law, Section 35311(a).

- Permits will be issued for temporary construction access for which a driveway is not already installed by the owner; the access may not involve a contour change or increase erosion and will be restabilized upon completion of the construction, Section 35311(a)(2).
- Permits for accessibility measures, including those on steep slopes, will be issued without a special exception if they meet specific conditions, Section 35311(b).

Is the pre-application meeting service still available?

Yes. Property owners who wish to learn more about the permitting process as it relates to their project, and before applying for a permit, may request a pre-application meeting with local DEQ staff. The meeting may be held in the DEQ office or at the project site. Please read the [FAQs of a Pre-application Meeting](#) for more information.

Has the information needed for a complete permit application changed?

Yes. The services of a registered professional architect or licensed professional engineer may be required for some additional types of projects. Also the requirement for an assurance that cutting and removing of trees and other vegetation will be performed according to the instructions or plans of the local conservation district has been removed. There is now a requirement for an assurance that cutting and removing of trees and other vegetation will be performed according to the [“forestry management guidelines for Michigan”](#) prepared by the society of American foresters in 1987 as revised in 2010 and may include a program to provide mitigation for the removal of trees or vegetation by providing assurances that the applicant will plant on the site more trees and other vegetation than were removed by the proposed use. The DEQ is working on guidance to help the applicant comply with the new provisions.

A complete [permit application](#) includes the completed application form, the attachments requested on the form and the application fee. Payment of the application fee does not guarantee a permit.

- Complete sections 1 through 9 and section 20 of the application form.
- A letter of authorization from the property owner if someone other than the property owner signs the application, application section 2.
- A legible map to the project site, application section 5.
- A site plan with dimensions, depicting the proposed project and the limits of disturbance, application section 20. If the proposed project is within 100 feet of the dune crest the plan must be prepared by a registered professional architect or a licensed professional engineer and must meet other criteria of the law. See Section 35304(4) (a-d) for more information.
- A cross section depicting the areas of contour change, application section 20.
- A soil erosion permit or waiver of need for permit if the project is within 1000 feet of a great lake or within 500 feet of any inland lake or stream, application section 20.

- A permit from the local health department if a septic system or well is part of the proposed project, application section 20.
- Assurance that the cutting and removing of trees and other vegetation will be performed according to the [“forestry management guidelines for Michigan”](#). See Section 35313(1)(c) and application section 20.
- The appropriate [application fee](#).
- Additional information may be required to complete the application review. Please contact your [local DEQ staff](#) with questions.

Can members of the public participate in the permit application review process?

Yes, members of the public have the right to send letters or emails regarding proposed projects. The public may also call [DEQ staff](#); however, Part 353 specifically references written comments so it really is best to submit comments through email or regular mail. Comments sent via email will be printed by DEQ staff and placed in the project file. The DEQ is limited in considering comments on a project to criteria within Part 353.

The revisions to [Part 353](#) made some changes to who can request a public hearing. The law now states that to obtain a public hearing, two people who own property within two miles of the project must make a written request for a public hearing. If a hearing is requested, notification will be published in a local newspaper indicating the time and place of the hearing. See section 35304(1)(c) for more details.

Once a decision is made on a permit application the public has another opportunity for input through the administrative review process. An aggrieved party may request a contested case hearing if they own property immediately adjacent to the proposed project.

Can local ordinances protect dunes?

Yes, local units of government have the right to submit a model zoning ordinance to the DEQ for review and approval. Once approved by the DEQ, the local unit of government may administer Part 353 within their area. The revision to Part 353 now requires that local Critical Dune ordinances may not be more restrictive than State law. If local units of government are interested in learning more about adopting the Critical Dune law in their area they should contact [DEQ staff](#).

Who can answer questions about the CDA permitting process?

The DEQ has a comprehensive website, [DEQ – Sand Dune Protection](#), which may answer many of your questions. If you need further information please contact your local [DEQ staff](#) by email or phone.