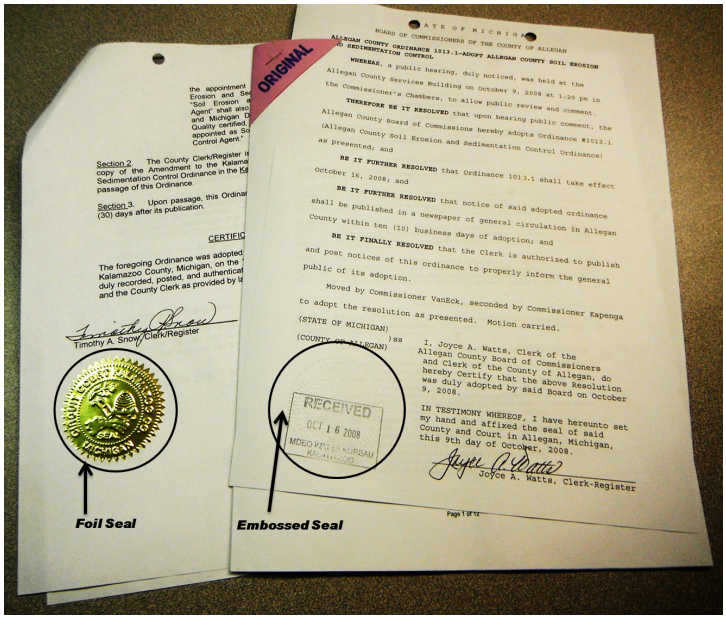
Water Resources Division

How to Update Your Ordinance Under Part 91

Process in accordance with, and consistent with, Section 324.9106 of Part 91

Background:
Counties by resolution or by ordinance must designate a county agency or conservation district, as the county enforcing agency responsible for administration and enforcement of Part 91, Soil Erosion and Sedimentation Control (SESC), and the rules promulgated thereunder, in the name of the County. Municipalities may elect to provide Soil Erosion and Sedimentation Control within their jurisdiction by adopting an approved ordinance and must also designate a municipal agency to implement the Part 91 program in the name of the municipality. From time to time Counties or Municipalities may determine that the ordinance used to adopt Part 91 requires revision. Reasons for revision may include, but are not limited to: changes to Part 91 or the administrative rule promulgated thereunder; fee schedule changes that are not covered under separate ordinance; enforcement process changes; and updates to make the ordinance more restrictive.

Process:

1. The County/Municipality, upon determining that the ordinance needs revision shall draft a revised ordinance for DEQ review.
2. The County/Municipality shall submit the draft ordinance to the appropriate DEQ Soil Erosion and Sedimentation Control Staff for review prior to adopting the revisions.
3. DEQ staff must provide copies of the draft ordinance/resolution to the Conservation District and the CEA (if the ordinance is associated with an MEA) for an opportunity to review and comment. DEQ shall provide 45 days for the comments to be returned. DEQ staff will review the draft ordinance to determine that it meets the minimum requirements of Part 91 and will approve or disapprove the ordinance within 90 days from receipt of the draft.
4. Once the County/Municipality receives draft ordinance/resolution approval from DEQ, the County or Municipality must formally adopt the ordinance/resolution and return a formal "sealed" copy of the ordinance to the DEQ along with a copy of the minutes of the meeting where the ordinance/resolution was adopted.
5. Once the official adopted ordinance/resolution is obtained, DEQ staff shall send a formal Ordinance/Resolution Approval acknowledging the new CEA/MEA designated agency to the County/Municipality.