

BOARD OF SUPERVISORS
COUNTY OF STAFFORD
STAFFORD, VIRGINIA

ORDINANCE

At a regular meeting of the Stafford County Board of Supervisors (the Board) held in the Board Chambers, George L. Gordon, Jr., Government Center, Stafford, Virginia, on the 13th day of December, 2022:

| <u>MEMBERS:</u> | <u>VOTE:</u> |
|--------------------------------|--------------|
| Crystal L. Vanuch, Chairman | Yes |
| R. Pamela Yeung, Vice Chairman | Yes |
| Tinesha O. Allen | Yes |
| Meg Bohmke | Yes |
| Thomas C. Coen | Yes |
| Darrell E. English | Yes |
| Monica L. Gary | Yes |

On motion of Ms. Bohmke, seconded by Ms. Allen, which carried by a vote of 7 to 0, the following was adopted:

AN ORDINANCE TO AMEND AND REORDAIN STAFFORD
COUNTY CODE CHAPTER 11 “EROSION AND SEDIMENT
CONTROL”

WHEREAS, Stafford County has experienced substantial growth over the past several decades, resulting in soil erosion and sediment deposits in streams and rivers; and

WHEREAS, the County’s existing ordinance for erosion and sediment control needs to be updated to comply with current standards and practices for the protection of streams and rivers; and

WHEREAS, the amendments are adapted from the Commonwealth of Virginia’s model ordinance for erosion and sediment control, while retaining portions of the County’s pre-2012 ordinance that contained more stringent provisions than are provided in Article 2.4 of Chapter 3.1, Title 62.1 of the Code of Virginia, as authorized by Virginia Code § 62.1-44.15:65 (B); and

WHEREAS, the amendments will bring the County’s Erosion and Sediment Control Ordinance into conformance with State regulations, as required by the 2021 Corrective Action Agreement between the County and the Virginia Department of Environmental Quality, and incorporate by reference, the current Virginia Erosion and Sediment Control and Virginia Stormwater Management Program regulations; and

WHEREAS, the amendments will also provide stronger enforcement mechanisms to discourage and stop land disturbance activities that occur without a permit; and

WHEREAS, the Board conducted a public hearing in accordance with Virginia Code § 15.2-1427, and carefully considered the recommendations of staff and the public testimony, if any, received at the public hearing;

NOW, THEREFORE, BE IT ORDAINED by the Stafford County Board of Supervisors on this the 13th day of December, 2022, that Stafford County Code Chapter 11, entitled “Erosion and Sediment Control,” be and it hereby is amended and reordained as follows, with all other portions remaining unchanged:

Chapter 11 EROSION AND SEDIMENT CONTROL

ARTICLE I. IN GENERAL

Sec. 11-1. - Chapter title; Incorporation of Future Amendments to Statutes and Regulations.

This chapter shall be known and may be cited as the Erosion and Sediment Control Ordinance of Stafford County, Virginia. Any reference in this chapter to provisions of the Code of Virginia or Virginia Administrative Code shall include any future amendments to or recodification of such provisions.

Sec. 11-2. - Definitions.

Unless the context clearly indicates otherwise, the following words, terms and phrases, when used in this chapter, whether capitalized or not, shall have the meanings ascribed to them in this section:

Agreement in lieu of a plan means a contract between the VESCP authority and the owner that specifies conservation measures that must be implemented in the construction of a single-family residence; this contract may be executed by the VESCP authority in lieu of an erosion and sediment control plan.

Board means the ~~Virginia Soil and Water Conservation Board~~ State Water Control Board.

Certified inspector means an employee or agent of a VESCP authority who (i) holds a certificate of competence from the department in the area of project inspector or (ii) is enrolled in the department’s training program for project inspection and successfully completes such program within one year after enrollment.

Certified plan reviewer means an employee or agent of a VESCP authority who (i) holds a certificate of competence from the department in the area of erosion and sediment control plan review, (ii) is enrolled in the department’s training program for erosion and sediment control plan review and successfully completes such program within one year after enrollment, or (iii) is licensed as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Article 1 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1 or a professional soil scientist as defined in § 54.1-2200 of the Code of Virginia.

Certified program administrator means an employee or agent of a VESCP authority who (i) holds a certificate of competence from the department in the area of program administration or (ii) is enrolled in the department's training program for program administration and successfully completes such program within one year after enrollment.

Clearing means any activity which removes the vegetative ground cover including, but not limited to, root mat removal; or topsoil ~~stripping~~ removal.

~~*Conservation plan, erosion and sediment control plan or plan* means a document containing material and information or drawings for the conservation of soil and water resources of a unit or group of units of land. It shall include appropriate maps, an appropriate soil and water plan, with timing of proposed sediment control measures, inventory and management information, with needed interpretations, and a record of decisions contributing to conservation treatment. The plan shall conform to the standards and specifications, stormwater management methods, calculations and criteria set forth in the Virginia Erosion and Sediment Control Handbook, the Virginia Erosion and Sediment Control Regulations, and this chapter.~~

Conservation standards means standards adopted by the County pursuant to this chapter. ~~or standards means standards adopted by the county pursuant to this chapter.~~

~~*Construction phasing, or "staging of construction," as the term is used in this chapter,* means a construction process to control erosion and sedimentation where only a specified portion of an entire construction site is disturbed at any one time for the construction of the required infrastructure within that portion, and no subsequent portion of the construction site is allowed to be disturbed until the previous portion of land has been stabilized. Construction phasing is not to be confused with the terms "phasing of development" or "construction sequencing."~~

County means the County of Stafford County, Virginia as referenced herein, acting through such officers as the county administrator may designate from time to time.

Department means the Virginia Department of Environmental Quality.

District or Soil and Water Conservation District refers to the Tri-County City Soil and Water Conservation District.

Erosion and Sediment Control Law means Article 2.4 of Chapter 3.1, Title 62.1 of the Code of Virginia (Virginia Code §§ 62.1-44.15:51 et seq.)

Erosion and sediment control plan or plan means a document containing material for the conservation of soil and water resources of a unit or group of units of land. It may include appropriate maps, ~~an appropriate soil and water plan inventory,~~ and management information with needed interpretations and a record of decisions contributing to conservation treatment. The plan shall contain all major conservation decisions to assure that the entire unit or units of land will be so treated to achieve the conservation objectives. The erosion and sediment control plan shall conform to the conservation standards and specifications, stormwater management methods, calculations and criteria set forth in the Virginia erosion and sediment control handbook, the Virginia Erosion and Sediment Control Regulations, and this chapter.

Erosion and sediment control regulations means Chapter 840 of 9VAC25 of the Virginia Administrative Code.

Erosion impact area means an area of land not associated with current land-disturbing activity but subject to persistent soil erosion resulting in the delivery of sediment onto neighboring properties or into state waters. This definition shall not apply to any lot or parcel of land of ten thousand (10,000) square feet or less used for residential purposes or to shorelines where the erosion results from wave action or other coastal processes.

Excavating means any digging, scooping or other methods of removing earth materials.

Filling means any depositing or stockpiling of earth materials.

~~Flocculents (also known as polymers or polyacrylamide (PAM)) means natural materials or a class of chemicals that cause colloidal (clay) particles to coagulate and settle out in detained stormwater runoff.~~

~~Grading permit means the written approval by the county to commence and complete grading and the associated sediment control and stormwater management devices in accordance with the approved plan and this chapter. This permit shall be valid for one year and may be renewed upon payment of the required fees.~~

Land-disturbing activity means any land change which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands in the commonwealth, including, but not limited to, clearing, grading, excavating, transporting and filling of land, except that the term shall not include:

- (3) Installation, maintenance or repair of any underground public utility lines; when such activity occurs on an existing hard-surfaced road, street or sidewalk, provided the land-disturbing activity is confined to the area of the road, street or sidewalk which is hard-surfaced; ~~electric, natural gas and telephone utility companies, interstate and intrastate natural gas pipeline companies and railroad companies shall file general erosion and sediment control specifications annually with the board for review and written comments. The specifications shall apply to:-~~
 - a. ~~Construction, installation or maintenance of electric transmission, natural gas and telephone utility lines, and pipelines; and~~
 - b. ~~Construction of the tracks, rights of way, bridges, communication facilities and other related structures and facilities of the railroad company.~~

~~The board shall have sixty (60) days in which to approve the specifications. If no action is taken by the board within sixty (60) days, the specifications shall be deemed approved. Individual approval of separate projects within subdivisions a. and b. of this subsection is not necessary when approved specifications are followed. Projects not included in subdivisions a. and b. of this subsection shall comply with the requirements of the appropriate local erosion and sediment control program. The board shall have the authority to enforce approved specifications;~~

- (5) Permitted Ssurface or deep mining operations and projects, or oil and gas operations and projects conducted pursuant to Title 45.1 of the Code of Virginia;

- (6) ~~Exploration or drilling for oil and gas, including the well site, roads, feeder lines and off site disposal areas;~~
- (76) Tilling, planting or harvesting of agricultural, horticultural or forest crops or livestock feedlot operations, including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of chapter 11 (section 10.1-1100) et seq., Code of Virginia (1950), ~~as amended,~~ or is converted to bona fide agricultural or improved pasture use as described in subsection B of § 10.1-1163, Code of Virginia (1950), ~~as amended;~~);
- (87) Repairing or rebuilding of the tracks, right-of-way, bridges, communication facilities and other related structures and facilities of a railroad company;
- (98) Agricultural engineering operations including, but not limited to, the construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the Dam Safety Act, article 2 (section 10.1-604 et seq.) of chapter 6 of title 10.1 of the Code of Virginia (1950), as amended, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage and land irrigation;
- (409) Disturbed land areas of less than two thousand five hundred (2,500) square feet in size, providing land disturbing is not for the development of a residential lot(s) in a subdivision or no special site conditions or site development plans warrant conservation treatment and no erosion is evident during development;
- (4410) Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;
- (4211) ~~Shore~~ Shoreline erosion control projects on tidal waters when all of the ~~projects~~ land-disturbing activities are within the regulatory authority of and approved by local wetlands boards, the ~~m~~Marine ~~r~~Resources ~~e~~Commission, or the U.S. Army Corps of Engineers; however, any associated land that is disturbed outside of this exempted area shall remain subject to this chapter; and
- (4312) Emergency work to protect life, limb or property, and emergency repairs; ~~provided that~~ however, if the land-disturbing ~~activity~~ activity would have required an approved erosion and sediment control plan, if the ~~activity~~ land-disturbing were not an emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of ~~the plan approving authority~~ this chapter.

Land-disturbing permit means a permit or other form of approval issued by the county for the clearing, filling, excavating, grading, transporting of land or for any combination thereof or for any other land-disturbing activity.

Local erosion and sediment control program ~~or local control program~~ means an outline of the various methods employed by ~~Stafford County~~ the county to regulate land-disturbing activities and thereby minimize erosion and sedimentation in

compliance with the state program and may include such items as local ordinances, policies and guidelines, technical materials, inspection, enforcement and evaluation.

Operator has the meaning given in Virginia Stormwater Management Regulations at 9VAC25-870-10.

Owner means the legal owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, or other person ~~firm or corporation~~ in control of a property.

~~*Permit issuing agency* means the county department of code administration.~~

Peak flow rate means the maximum instantaneous flow from a given storm condition at a particular location.

Person means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town or other political subdivision of the commonwealth, governmental body, including a federal or state entity as applicable, any interstate body, or any other legal entity.

~~*Plan-approving authority* means the county department of planning and zoning, which, as the designated agent for the board of supervisors, shall be county designee responsible for determining the adequacy of the conservation plan submitted for land disturbing activities in accordance with this chapter~~ erosion and sediment control plans submitted for land disturbing activities on a unit or units of land and for approving erosion and sediment control plans in accordance with this chapter.

~~*Plan-review agency* means the department of planning and zoning, which is responsible for evaluating the adequacy of a conservation plan submitted for land disturbing activities on a unit or units of and which shall recommend approval or disapproval to the plan-approving authority.~~

Program administrator or VESCP administrator means the county administrator ~~or his designee~~ or individual(s) designated by the county administrator to perform inspections, issue notices to comply, issue orders under this chapter, and carry out such other duties as may be assigned by the county.

Renewal fee means the annual fee charged for a ~~grading~~ land-disturbing permit after the initial ~~grading~~ land-disturbing permit is obtained.

Responsible land disturber means an individual ~~from the project or development team who will be in charge of and responsible for carrying out a land-disturbing activity covered by an approved plan or agreement in lieu of a plan,~~ who (i) holds a responsible land disturber certificate of competence, (ii) holds a current certificate of competence from the Virginia Soil and Water Conservation Board in the areas of combined administration, program administration, inspection, or plan review, (iii) holds a current contractor certificate of competence for erosion and sediment control, or (iv) is licensed in Virginia as a professional engineer, architect, certified landscape architect or land surveyor pursuant to article 1 (sec. 54.1-400 et seq.) of chapter 4 of title 54.1 [Code of Virginia 1950] holding a certificate issued by the department who is responsible for carrying out the land-disturbing activity in accordance with the approved erosion and sediment control plan. The responsible land disturber may be the owner, applicant, permittee, designer, superintendent, project manager, contractor, or any other project or

development team member. The responsible land disturber must be designated on the erosion and sediment control plan or permit as a prerequisite for engaging in land disturbance.

Runoff volume means the volume of water that runs off the land development project from a prescribed storm event.

Single-family residence has the same meaning as is provided for that term in the zoning ordinance as amended from time to time.

Stabilized means the condition of an area of land that can be expected to withstand normal exposure to atmospheric conditions without incurring erosion and or sediment damage to it or to any abutting or adjacent land or water feature.

State permit means an approval to conduct a land-disturbing activity issued by the department in the form of a state stormwater individual permit or coverage used under a state general permit.

Virginia Erosion and Sediment Control Handbook means the third edition of the handbook under that name as published by the department.

VESCP authority means the county, which has adopted a soil erosion and sediment control program that has been approved by the department.

Virginia erosion and sediment control program or VESCP means a program approved by the department that has been established by a VESCP authority for the effective control of soil erosion, sediment deposition, and non-agricultural runoff associated with a land-disturbing activity to prevent the unreasonable degradation of properties, stream channels, waters, and other natural resources and shall include such items where applicable as local ordinances, rules, permit requirements, annual standards and specifications submitted to and approved by the department, policies and guidelines, technical materials, and requirements for plan review, inspection, enforcement where authorized in this chapter, and evaluation consistent with the requirements of this chapter and its associated regulations.

Virginia Stormwater Management Act means Article 2.3 of Chapter 3.1, Title 62.1 of the Code of Virginia (Virginia Code §§ 62.1-44.15:24 et seq.).

VSMP Regulations means Chapter 870 of the Virginia Administrative Code.

Water quality volume means the volume equal to the first one-half inch of runoff multiplied by the impervious surface of the land development project.

Sec. 11-3. - Purpose of chapter; administration and enforcement generally Local Sediment Control Program.

- (a) The county hereby establishes a VESCP program and adopts the regulations promulgated by the Board for the effective control of soil and sediment deposition to prevent the unreasonable degradation of properties, stream channels, waters and other natural resources, and the Virginia Erosion and Sediment Control Handbook. The purpose of this chapter is to conserve the lands and waters comprising the watersheds of the county which are great natural resources. As a result of erosion of lands and sediment deposition in waters within the watersheds of the county, such waters are being polluted and despoiled to such a degree that they are being adversely affected, and the rapid shift in land use from agricultural to

~~nonagricultural uses has accelerated the process of soil erosion and sedimentation, as a result of which it is necessary for the county to establish and implement procedures with the technical assistance of the Virginia Department of Conservation and Recreation.~~

- (b) An erosion and sediment control plan shall not be approved until it is reviewed by a certified plan reviewer. Inspections of land-disturbing activities shall be conducted by a certified inspector. The erosion and sediment control program shall contain a certified program administrator, a certified plan reviewer, and a certified inspector (who may be the same individual). This chapter shall be administered and enforced as provided for by section 10.1-560 et seq., (1950), as amended, the criteria of the Virginia Erosion and Sediment Control Handbook and the Virginia Erosion and Sediment Control Regulations. This chapter provides for, both during and following land-disturbing activity, the control of soil erosion and sedimentation and stormwater management and establishes procedures for the administration and enforcement of such controls.
- (c) The program and regulations provided for in this chapter shall be made available for public inspection at the appropriate county office. No grading permits shall be issued pursuant to this chapter prior to either site plan or subdivision approval as required under chapters 22 and 28 of this Code (Effective date, March 1, 1990).
- (d) The department of code administration shall be responsible for enforcement of this chapter.

Sec. 11-4. - Authorization for chapter Submission and Approval of Plans; Contents of Plans.

- (a) Except as provided herein, no person may engage in any land-disturbing activity until he or she has submitted to the county an erosion and sediment control plan for the land-disturbing activity and such plan has been approved by the plan-approving authority. No approval to begin a land-disturbing activity will be issued unless evidence of state permit coverage is obtained where it is required. Where land-disturbing activities involve lands under the jurisdiction of more than one VESCP authority, an erosion and sediment control plan, at the option of the applicant, may be submitted to the county for review and approval rather than to each jurisdiction concerned. Where land-disturbing activity results from the construction of a single-family residence, an agreement in lieu of a plan may be substituted for an erosion and sediment control plan if executed by the plan-approving authority.
- (b) The standards contained within the Virginia Erosion and Sediment Control Regulations to include the Virginia Erosion and Sediment Control Handbook, as amended, and the Stafford County Stormwater Management Design Manual, as amended, are to be used by the applicant when making a submittal under the provisions of this chapter and in the preparation of an erosion and sediment control plan. The plan-approving authority, in considering the adequacy of a submitted plan, shall be guided by the same standards, regulations and guidelines. When the standards vary between the publications, the more stringent standard shall apply.
- (c) The plan-approving authority shall review erosion and sediment control plans submitted to it and grant written approval within sixty (60) days of the receipt of the plan if it determines that the plan meets the requirements of the Erosion and

Sediment Control Law and the board's regulations, and if the person responsible for carrying out the plan certifies that he will properly perform the measures included in the plan and will conform to the provisions of this chapter. In addition, as a prerequisite to engaging in the land-disturbing activities shown on the approved plan, the person responsible for carrying out the plan shall provide the name of the responsible land disturber to the plan-approving authority, who will be in charge of and responsible for carrying out the land-disturbing activity. Failure to provide the name of the responsible land disturber prior to engaging in land-disturbing activities may result in revocation of the approval of the plan and the person responsible for carrying out the plan shall be subject to the penalties provided in this chapter.

- (d) When the plan is determined to be inadequate, written notice of disapproval stating the specific reasons for disapproval shall be communicated to the applicant within forty-five (45) days. The notice shall specify such modifications, terms and conditions that will permit approval of the plan. If no action is taken within forty-five (45) days, the plan shall be deemed approved and the person authorized to proceed with the proposed activity.
- (e) The plan-approving authority shall act on any erosion and sediment control plan that has been previously disapproved within forty-five (45) days after the plan has been revised, resubmitted for approval, and deemed adequate.
- (f) The plan-approving authority may require changes to an approved plan when:

 - (1) The inspection reveals that the plan is inadequate to satisfy applicable regulations; or
 - (2) The person responsible for carrying out the plan finds that because of changed circumstances or for other reasons the approved plan cannot be effectively carried out, and proposed amendments to the plan, consistent with the requirements for this chapter, are agreed to by the plan-approving authority and the person responsible for carrying out the plan.
- (g) Variances: The plan-approving authority may waive or modify any of the conservation standards that are deemed to be inappropriate or too restrictive for site conditions, by granting a variance. A variance may be granted under these conditions:

 - (1) At the time of plan submission, an applicant may request a variance to become part of the approved erosion and sediment control plan. The applicant shall explain the reasons for the requested variance in writing. Specific variances which are allowed by the plan-approving authority shall be documented in the plan.
 - (2) During construction, the person responsible for implementing the approved plan may request a variance in writing from the plan-approving authority. The plan-approving authority shall respond in writing either approving or disapproving such a request. If the plan-approving authority does not approve a variance within ten (10) days of receipt of the request, the request shall be considered to be disapproved. Following disapproval, the applicant may resubmit a variance request with additional information.

- (3) The plan-approving authority shall consider variance requests judiciously, keeping in mind both the need of the applicant to maximize cost effectiveness and the need to protect off-site properties and resources from damage.
- (h) In order to prevent further erosion, the county may require approval of a plan for any land identified in the local program as an erosion impact area.
- (i) When a land-disturbing activity will be required of a contractor performing construction work pursuant to a construction contract, the preparation, submission, and approval of an erosion and sediment control plan shall be the responsibility of the owner.
- (j) Any person engaging, in more than one jurisdiction, in the creation and operation of wetland mitigation or stream restoration banks, which have been approved and are operated in accordance with applicable federal and state guidance, laws, or regulations for the establishment, use, and operations of wetland mitigation or stream restoration banks, pursuant to a mitigation banking instrument signed by the Department of Environmental Quality, the Marine Resources Commission, or the U.S. Army Corps of Engineers, may, at the option of that person, file general erosion and sediment control specifications for wetland mitigation or stream restoration banks annually with the board for review and approval consistent with guidelines established by the board. Approval of general erosion and sediment control specifications does not relieve the owner or operator from compliance with any other local ordinances and regulations including requirements to submit and obtain permits as may be required by such ordinances and regulations.
- (k) State agency projects are exempt from the provisions of this chapter except as provided for in the Erosion and Sediment Control Law.

~~This chapter implements the provisions of section 10.1-560 et seq., of the Code of Virginia, the criteria of the Virginia Erosion and Sedimentation Control Handbook and the Virginia Erosion and Sedimentation Control Regulations.~~

Sec. 11-5. - Reserved Permits; Fees; Security for Performance.

- (a) Agencies authorized under any other law to issue grading, building, or other permits for activities involving land-disturbing activities shall not issue any such permit unless the applicant submits with his application an approved erosion and sediment control plan, certification that the plan will be followed and evidence of State permit coverage where it is required.
- (b) No person may engage in any land-disturbing activity until he has acquired a land-disturbing permit (unless the proposed land-disturbing activity is specifically exempt from the provisions of this chapter), and has paid the fees and posted the required bond.
- (c) Administrative fees pursuant to the county's adopted fee schedule shall be paid at the time of application for a land-disturbing permit.
- (d) No land-disturbing permit shall be issued until the applicant submits with his application an approved erosion and sediment control plan or agreement in lieu of a plan of an approved erosion and sediment control plan and certification that the plan will be followed.

- (e) The applicant must pay renewal fees annually in accordance with the county's adopted fee schedule.

Sec. 11-6. - Violations of chapter—Generally Monitoring, Reports, Inspections and Stop-Work Orders.

- (a) The responsible land disturber shall be in charge of and responsible for carrying out the land-disturbing activity. The county may require the person responsible for carrying out the plan to monitor the land-disturbing activity. The person responsible for carrying out the plan will maintain records of these inspections and maintenance, to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation. If a violation of this chapter or a plan approved pursuant to this chapter is observed, a notice to comply shall be served upon the person who submitted the plan or his representative. Such notice shall set forth specifically the measures needed to come into compliance with this chapter and the plan and shall specify the time within which such measures shall be completed.

- (b) The county shall periodically inspect the land-disturbing activity in accordance with the Virginia Erosion and Sediment Control Regulations to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation. The owner, permittee, or person responsible for carrying out the plan shall be given notice of the inspection.

If the county determines that there is a failure to comply with the plan, notice shall be served upon the permittee or person responsible for carrying out the plan by mailing with confirmation of delivery to the address specified in the permit application or in the plan certification, or by delivery at the site of the land-disturbing activities to the agent or employee supervising such activities (such a notice is a "Notice to Comply").

The Notice to Comply shall specify the measures needed to comply with the plan and shall specify the time within which such measures shall be completed. Upon failure to comply within the specified time, the permit may be revoked and the permittee or person responsible for carrying out the plan shall be subject to the penalties provided by this chapter.

A violation consists of failure to comply with an approved plan or undertaking a land-disturbing activity without an approved plan or permit required by this chapter, or failing to observe any notice delivered to comply with the approved plan or this chapter. When a violation is noted, the following may be considered to secure compliance, in addition to any other remedy provided by law or this chapter:

- (1) On-site delivery of a written notice to comply.
- (2) Written notice to comply sent to the person who submitted the plan by registered return receipt requested, mail.
- (3) Utilization of the performance guarantee provided for in section 11-15.
- (4) Revocation of all grading, building or other permits relative to the site.
- (5) Cease building inspections.

- ~~(6) Issue a stop work order for all construction authorized by the approved building permit(s).~~
- (c) ~~Upon receipt of a sworn complaint of a substantial violation from the designated enforcement officer, the county administrator, or his designee, may, in conjunction with or subsequent to a notice to comply as specified in this section, issue an order requiring that all or part of the land-disturbing activities permitted on the site be stopped until the specified corrective measures have been taken. Where the alleged noncompliance is causing or is in imminent danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the commonwealth, such an order may be issued without regard to whether the permittee has been issued a notice to comply. Otherwise, such an order may be issued only after the permittee has failed to comply with such a notice to comply. The order shall be served in the same manner as a notice to comply, and shall remain in effect for a period of seven (7) days from the date of service pending application by the enforcing authority or permit holder for appropriate relief to the circuit court of the jurisdiction wherein the violation was alleged to have occurred. Upon completion of corrective action, the order shall immediately be lifted. Upon issuance of an inspection report denoting a violation of Virginia Code §§ 62.1-44.15:55 or 62.1-44.15:56, the county may, in conjunction with or subsequent to a Notice to Comply, issue an order requiring that all or part of the land-disturbing activities permitted on the site be stopped until the specified corrective measures have been taken (a "Stop Work Order").~~
- (1) If land-disturbing activities have commenced without an approved plan or land-disturbing permit, the county may issue an order that all of the land-disturbing activities be stopped until an approved plan or any requirements are obtained (a "Stop Work Order – No Permit"). A Stop Work Order – No Permit shall be served upon the owner by mailing with confirmation of delivery to the address specified in the land records, shall be posted on the site where the disturbance is occurring, and shall remain in effect until permits and plan approvals are secured, except in such situations where an agricultural exemption applies.
- (2) An order to stop land-disturbing activities that are not in compliance with an approved plan is a "Stop Work Order – Noncompliance." Where the alleged noncompliance is causing or is in imminent danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the commonwealth, the county may issue an order simultaneously with a Notice to Comply. Otherwise, a Stop Work Order - Noncompliance may be issued only after the alleged violator has failed to comply with a Notice to Comply. A Stop Work Order - Noncompliance shall be served in the same manner as a Notice to Comply and shall remain in effect for a period of seven (7) days from the date of service pending application by the County or alleged violator for appropriate relief to Stafford County Circuit Court.
- (3) If the alleged violator has not obtained an approved plan or any required permits within seven (7) days from the date of service of a Stop Work Order – No Permit or Stop Work Order - Noncompliance, the County may issue a Stop Work Order to the owner requiring that all construction and other work on the site, other than corrective measures, be stopped until an approved plan

and any required permits have been obtained (a "Stop All Work Order"). A Stop All Work Order shall be served upon the owner by mailing with confirmation of delivery to the address specified in the permit application or the land records of the county.

- (4) The owner may appeal the issuance of any Stop Work Order to the Stafford County Circuit Court within thirty (30) days of the date of such order.
- (5) Any person violating or failing, neglecting, or refusing to obey a Stop Work Order may be compelled in a proceeding instituted in the Stafford County Circuit Court to obey same and to comply therewith by injunction, mandamus or other appropriate remedy.
- (6) Upon completion and approval of corrective action or obtaining an approved plan or any required permits, the Stop Work Order shall immediately be lifted.
- (7) Nothing in this section shall prevent the county from taking any other action authorized by this chapter.

Sec. 11-7. - Same—Penalty Penalties, Injunctions, and Other Legal Actions.

- (a) ~~Enforcement.~~ The county attorney's office will assist with the enforcement of this chapter. Any person who violates any provision of Virginia Code §§ 62.1-44.15:55 or 62.1-44.15:56 shall, upon a finding of the Stafford County District Court, be assessed a civil penalty. The civil penalty for any one violation shall be not less than \$100 nor more than \$1,000, except that the civil penalty for commencement of land-disturbing activities without an approved plan shall be \$1,000. Each day during which the violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same operative set of facts result in civil penalties which exceed a total of \$10,000, except that a series of violations arising from the commencement of land-disturbing activities without an approved plan for any site shall not result in civil penalties which exceed a total of \$10,000. Any such civil penalties shall be in lieu of criminal sanctions and shall preclude the prosecution of such violation as a misdemeanor under Virginia Code § 62.1-44.15:63A.
- (b) ~~Civil penalties.~~
 - ~~(1) A civil penalty in the amount listed on the schedule below shall be assessed for each violation of the respective offenses:~~
 - a. ~~Commencement of land-disturbing activity without an approved plan as provided in subsection 11-14(a) shall be one thousand dollars (\$1,000.00) per day.~~
 - b. ~~Failure to comply with any of the minimum standards of the Virginia Erosion and Sediment Control Regulations shall be one thousand dollars (\$1,000.00) per violation per day.~~ Plan
 - c. ~~Failure to comply with any of the standards of section 11-12 shall be one thousand dollars (\$1,000.00) per violation per day.~~
 - d. ~~Failure to obey a stop-work order shall be one thousand dollars (\$1,000.00) per day.~~

- e. ~~Failure to stop work when permit is revoked shall be one thousand dollars (\$1,000.00) per day.~~
- (2) ~~Each day during which the violation is found to have existed shall constitute a separate offense. However, in no event shall a series of specified violations arising from the same operative set of facts result in civil penalties which exceed a total of ten thousand dollars (\$10,000.00).~~

The county, or the owner of the property which has sustained damage or which is in imminent danger of being damaged, may apply to the Stafford County Circuit Court to enjoin a violation or a threatened violation of Virginia Code §§62.1-44.15:55 or 62.1-44.15:56, without the necessity of showing that an adequate remedy at law does not exist. However, an owner of property shall not apply for injunctive relief unless (i) he has notified in writing the person who has violated the local program, and the VESCP authority that a violation of the local program has caused, or creates a probability of causing, damage to his property, and (ii) neither the person who has violated the local program nor the VESCP authority has taken corrective action within fifteen (15) days to eliminate the conditions which have caused, or create the probability of causing, damage to his property.

(c) ~~Civil violations, summons, generally.~~

- (1) ~~The program administrator shall prepare an appropriate "erosion and sediment control civil violations summons" for use in enforcing the provisions of this chapter.~~
- (2) ~~Any inspector of the plan approving authority charged with enforcing this chapter shall serve upon any owner or permittee in violation of this chapter a summons notifying the owner or permittee of said violation. If unable to serve the owner or permittee in person, the inspector may notify by summons an owner or permittee committing or suffering the existence of a violation by certified, return receipt requested mail, of the infraction. The Stafford County Sheriff's Office may also deliver the summons. The summons shall contain the following:~~
 - a. ~~The name and address of the person charged.~~
 - b. ~~The nature of the violation and ordinance provision(s) being violated.~~
 - c. ~~The location, date, and time that the violation occurred, or was observed.~~
 - d. ~~The amount of the civil penalty assessed for the violation.~~
 - e. ~~The manner, location, and time that the civil penalty may be paid to the County.~~
 - f. ~~The right of the recipient of the summons to elect to stand trial for the infraction and the date of such trial.~~
- (3) ~~The summons shall provide that any person summoned for a violation may within five (5) business days of actual receipt of the summons or, within ten (10) calendar days from the date of mailing of the summons, elect to pay the civil penalty by making an appearance in person, or in writing by mail to the Stafford County Treasurer's Office and, by such appearance, may enter a waiver of trial, admit liability, and pay the civil penalty established for the~~

~~violation charged and provide that a signature to an admission of liability shall have the same force and effect as a judgment in court; however, an admission shall not be deemed a criminal conviction for any purpose.~~

- ~~(4) If a person charged with a violation does not elect to enter a waiver of trial and admit liability, the county shall cause the Sheriff of Stafford County to serve the summons on the person charged in the manner prescribed by law. The violation shall be tried in the Stafford County General District Court in the same manner and with the same right of appeal as provided for in title 8.01, Code of Virginia. In any trial for a scheduled violation authorized by this section, it shall be the burden of the county to show the liability of the violator by the preponderance of the evidence. Any admission of liability, or finding of liability shall not be a criminal conviction for any purpose.~~
- ~~(5) The remedies provided for in this section are cumulative, and are not exclusive and, except as provided above, shall be in addition to any other remedies by law.~~
- ~~(6) The owner or permittee may pay the civil penalty to the treasurer prior to the trial date, provided he also pays necessary court costs in addition to the civil penalty.~~
- ~~(7) Within the time period prescribed in (3), above, the owner or permittee may contest the violation by presenting it to the program administrator, who shall certify the contest in writing, on an appropriate form, to the general district court.~~
- ~~(8) Failure to pay the civil penalty, or to contest the violation, within the time period prescribed in 3., above, shall result in the immediate issuance of a stop-work order and the revocation of the permit, if any.~~

In addition to any criminal or civil penalties provided under this chapter, any person who violates any provision of the Erosion and Sediment Control Law may be liable to the county in a civil action for damages.

- (d) Without limiting the remedies which may be obtained in this section, any person violating or failing, neglecting, or failing to obey any injunction, mandamus or other remedy obtained pursuant to this section shall be subject, in the discretion of the court, to a civil penalty not to exceed \$2,000 for each violation. A civil action for such violation or failure may be brought by the county. Any civil penalties shall be paid into the treasury of the county, except that where the violator is the county itself, or its agent, the court shall direct the penalty to be paid into the state treasury.
- (e) With the consent of any person who has violated or failed, neglected or refused to obey any regulation or condition of a permit or any provision of this Chapter, or order of the VESCP authority, the county may provide for the payment of civil charges for violations in specific sums, not to exceed the limit specified in County Code Sec. 11-7(a). Such civil charges shall be instead of any appropriate civil penalty which could be imposed under County Code Sec. 11-7(a).
- (f) The Commonwealth's Attorney shall, upon request of the county, take legal action to enforce the provisions of this chapter. Compliance with the provisions of this chapter shall be prima facie evidence in any legal or equitable proceeding

for damages caused by erosion, siltation or sedimentation that all requirements of law have been met, and the complaining party must show negligence in order to recover any damages.

Sec. 11-8. - Same—Injunctive relief [Reserved].

~~The county may apply to the circuit court of the county for injunctive relief to enjoin a violation or a threatened violation of this chapter, without the necessity of showing that there does not exist an adequate remedy at law.~~

~~(Ord. No. 082-09, § 31-11, 5-18-82; Ord. No. 091-48(R), 9-17-91)~~

State Law reference—~~Similar provisions, Code of Virginia, § 10.1-560 et seq.~~

Sec. 11-12. - General Conservation Standards.

- (a) The conservation standards adopted by the county are those criteria, standards and specifications contained in the Virginia Erosion and Sediment Control Handbook and the Virginia Erosion and Sediment Control Regulations.
- (b) The following criteria shall apply to all applications for permits under this chapter. These criteria are in addition to those conservation standards set forth in the handbook referred to in subsection (a) above:
 - (1) Concentrated stormwater runoff leaving a development site shall be discharged directly into a well-defined, natural or manmade off-site receiving channel, pipe or storm sewer system. If there is not a well-defined off-site receiving channel or pipe one must be constructed to convey stormwater to the nearest adequate channel. Newly constructed channels shall be designed as adequate channels.
 - (2) An adequate channel shall be defined as a natural or manmade channel with a defined bed and bank or pipe which is capable of conveying the runoff from a ten-year storm without overtopping its banks and from a two-year storm without eroding after development of the site in question. ~~A receiving channel may also be considered adequate at any point where the total contributing drainage area is at least one hundred (100) times greater than the drainage area of the development site in question or if it can be shown that the peak rate of runoff from the site for a two year storm and for a ten year storm will not be increased after development.~~
 - (3) Adequacy of all channels and pipes shall be verified in the following manner:
 - a. The applicant shall demonstrate that the total drainage area to the point of analysis within the channel is 100 times greater than the contributing drainage area of the project in question; or
 - b. Natural channels shall be analyzed by the use of the two-year storm to verify that stormwater runoff will not overtop channel banks nor cause erosion of channel bed or banks;
 - c. All previously constructed man-made channels shall be analyzed by the use of the 10-year storm to verify that stormwater runoff will not overtop

- its banks and by use of the two-year storm to demonstrate that stormwater runoff will not cause erosion of channel bed or banks; and
- d. Pipes and storm sewer systems shall be analyzed by the use of the 10-year storm to verify that stormwater runoff will be contained within the pipe or system.
- (4) If an existing off site receiving channel is not an adequate channel, the applicant must choose one (1) of the following options. If existing natural receiving channels or previously constructed man-made channels or pipes are not adequate, the applicant shall:
- a. Obtain permission from downstream property owners to improve the receiving channel to an adequate condition. Such improvements shall extend downstream until an adequate channel section is reached; or Improve the channels to a condition where a 10-year storm will not overtop banks and a two-year storm will not cause erosion to the channel, the bed, or the banks;
- b. Develop a site design that will satisfy the stormwater technical criteria for stream channel erosion and flooding as defined in chapter 21.5 (stormwater management ordinance) of this Code; or Improve the pipe or pipe system to a condition where the 10-year storm is contained within the appurtenances;
- c. Provide a combination of channel improvement, stormwater detention or other measures which is satisfactory to the plan approving authority to prevent downstream channel erosion. Develop a site design that will not cause the pre-development peak runoff rate from a two-year storm to increase when runoff discharges into a natural channel or will not cause the pre-development peak runoff rate from a 10-year storm to increase when runoff discharges into a man-made channel; or
- d. Provide a combination of channel improvement, stormwater detention or other measures which is satisfactory to the plan-approving authority to prevent downstream erosion.
- e. The applicant shall provide evidence of permission to make the improvements.
- f. All hydrologic analyses shall be based on the existing watershed characteristics and the ultimate development condition of the subject land-disturbing activity.
- (5) If the applicant chooses an option that includes stormwater detention, he shall obtain approval from the plan-approving authority of a plan for maintenance of the detention facilities. The plan shall set forth the maintenance requirements of the facility and the person responsible for performing the maintenance. All on-site stormwater conveyance channels shall be designed and constructed to withstand the expected velocity of flow from a two-year frequency storm without erosion. Stabilization adequate to prevent erosion must also be provided at the outlets of all pipes and paved channels.

- (6) Outfall from a detention facility shall be discharges to a receiving channel, and energy dissipators shall be placed at the outfall of all detention facilities as necessary to provide a stabilized transition from the facility to the receiving channel.
- (7) All on-site channels must be verified to be adequate.
- (8) Increased volumes of sheet flows that may cause erosion or sedimentation on adjacent property shall be diverted to a stable outlet, adequate channel, pipe or pipe system, or to a detention facility.
- (9) In applying these stormwater management criteria, individual lots or parcels in a residential, commercial, or industrial development shall not be considered to be separate land-disturbing activities. Instead, the development, as a whole, shall be considered to be a single land-disturbing activity. Hydrologic parameters that reflect the ultimate development condition shall be used in all engineering calculations. The program administrator may require the use of flocculents to clarify runoff on a site specific basis to supplement the erosion and sediment controls on the approved erosion and sediment control plan. If required, the engineer or surveyor who prepared the erosion and sediment control plan shall provide specific guidance to facilitate the application of flocculents on the site.
- (10) All measures used to protect properties and waterways shall be employed in a manner which minimizes impacts on the physical, chemical and biological integrity of rivers, streams and other waters of the state.
- (11) Any plan approved prior to July 1, 2014, that provides for stormwater management that addresses any flow rate capacity and velocity requirements for natural or man-made channels shall satisfy the flow rate capacity and velocity requirements for natural or man-made channels if the practices are designed to (i) detain the water quality volume and to release it over 48 hours; (ii) detain and release over a 24-hour period the expected rainfall resulting from the one year, 24-hour storm; and (iii) reduce the allowable peak flow rate resulting from the 1.5, 2, and 10-year, 24-hour storms to a level that is less than or equal to the peak flow rate from the site assuming it was in a good forested condition, achieved through multiplication of the forested peak flow rate by a reduction factor that is equal to the runoff volume from the site when it was in a good forested condition divided by the runoff volume from the site in its proposed condition, and shall be exempt from any flow rate capacity and velocity requirements for natural or man-made channels as defined in any regulations promulgated pursuant to Virginia Code §§ 62.1-44.15:54 or 62.1-44.15:65.
- (12) For plans approved on and after July 1, 2014, the flow rate capacity and velocity requirements of Virginia Code§62.1-44.15:52 A and this subsection shall be satisfied by compliance with water quantity requirements in the Stormwater Management Act (Virginia Code§ 62.1-44.15:24 et seq.) and attendant regulations, unless such land-disturbing activities (i) are in accordance with provisions for time limits on applicability of approved design criteria in 9VAC25-870-47 or grandfathering in 9VAC25-870-48 of the Virginia Stormwater Management Program (VSMP) Regulations, in which

case the flow rate capacity and velocity requirements of Virginia Code § 62.1-44.15:52 A shall apply, or (ii) are exempt pursuant to Virginia Code § 62.1-44.15:34 C 7.

- (313) Runoff rate and channel adequacy must be verified with engineering calculations in accordance with the procedures outlined in ~~of~~ the Virginia Erosion and Sediment Control Handbook or other methods acceptable to the plan-approving authority.
 - a. Determine the impact, elevation, of the one-hundred-year storm on all existing or proposed stormwater conveyance systems (culverts, storm sewer, ditches, and streams) within or adjacent to the proposed development.
 - b. Proposed lowest floor elevations shall be no less than one foot above the one-hundred-year flood elevation. Wall penetrations shall be no less than one foot above the one-hundred-year flood elevation.
 - c. Prior to beginning framing of a structure, the applicant shall provide verifications sealed by a licensed professional engineer or land surveyor that the lowest floor is no less than one foot above the one-hundred-year flood elevation prescribed in subsection (b)(13)a.
- (614) Except for the months of December through February, all temporary seeding shall conform to the standard and specification for permanent seeding in the Virginia Erosion and Sediment Control Handbook. If field conditions warrant, the inspector may order that the seeding schedule be adjusted to meet the intent of the Virginia Erosion and Sediment Control Handbook.
- (715) Sod shall be installed to provide vegetation stabilization of residential building lots in which lot size is less than thirty thousand (30,000) square feet. Such sod shall be installed in accordance with the Standard and Specification for Sodding in the Virginia Erosion and Sediment Control Handbook.
- (816) In addition to the standards and specifications in the Virginia Erosion and Sediment Control Handbook, the following conservation standards shall be indicated on the plan, installed and maintained until permanent stabilization is achieved.
 - a. Super silt fence (standard silt fence supported by chain link fencing) shall be installed adjacent to critical areas (~~wet lands, wetlands and streams, stabilized residential lots~~).
 - b. ~~[Reserved] Earth berms shall be used in lieu of a silt fence as a perimeter measure on all non-residential sites and on the perimeter of all subdivision development. This shall not apply to individual single family home permits.~~
 - c. ~~[Reserved] Sediment trapping measures shall provide two hundred sixty-eight (268) cubic yards of storage per acre of total contributing drainage area.~~
 - d. Soil stabilization-blankets or matting, in accordance with the standards and specifications of the Virginia Erosion and Sediment Control

Handbook, shall be installed to provide temporary or permanent stabilization on all slopes equal to or steeper than 3:1.

- e. The plan-approving authority ~~or program administrator~~ may require the use of turbidity curtains on a site-specific basis for development projects that drain to a lake or reservoir during plan review or inspection. If a turbidity curtain is required, it shall be installed in accordance with the standards and specifications of the Virginia Erosion and Sediment Control Handbook.
- (4017) Construction phasing is encouraged for all land development projects and shall be required in all plans for those projects that will disturb more than forty (40) acres of land, except for commercial, industrial, institutional, school board, and county development projects. Additionally, the construction of roads and utilities for residential projects in accordance with approved plans shall also be exempt from the construction phasing requirement. The size of the separate construction phases on a project and the elements of the construction phasing plan shall be established during plan review and are subject to approval by the ~~plan-approving~~ plan-approving authority. The phasing plan shall address, but not be limited to, the following factors:
- a. The size of the land disturbance.
 - b. The presence of steep slopes greater than twenty-five (25) percent.
 - c. The presence of highly erodible soils.
 - d. The proximity of the site to perennial or intermittent streams located either on the development-site or located on an abutting or adjacent property.
 - e. The ability of traditional/conventional erosion and sediment controls to provide adequate control of sediment and erosion for the land-disturbing activity.
 - f. The proposed use or type of development occurring on the property and the anticipated duration of the land disturbing activity.
 - g. The ability to balance cuts and fills on the site within each phase of the development.

Where construction phasing is required, no additional portions of the development site shall be disturbed until it has been determined by inspection and approval, that the initial or previous phasing area has been stabilized. The permit holder shall be required to mark the limits of clearing allowable for any construction phasing area as established by the approved plan either with temporary fencing, reflective tape, signs or such other acceptable methods clearly delineating for workers on the site the limits of clearing allowed in any single approved construction phase. No applicant shall be permitted to circumvent the requirement for phasing by applying for separate permits for adjoining portions of lands smaller in size than the threshold size requirement for construction phasing provided above when it is clear from other documents and/or plats or plans that the intended development of the land, as a whole, is for a single connected project. The requirements for construction

phasing in this section shall apply to erosion and sediment control plans submitted on or after July 2, 2008.

**Sec. 11-14. - ~~Grading permit for land-disturbing activities—Required; application~~.
[Reserved].**

- (a) ~~No person shall engage in any land-disturbing activity without first having obtained a grading permit.~~
- (b) ~~Application for a grading permit shall be made on forms supplied by the permit-issuing agency and shall be accompanied by two (2) sets of the plan approved by the plan-approving authority, together with written, notarized certification that the applicant will be responsible for faithful performance of all components of such plan and intends to comply fully with the provisions of this chapter. Such permit shall grant the right of entry onto the property for inspection and monitoring of compliance with the provisions of the Stafford County Code. The granting of the permit vests with the county all authority to take corrective action as necessary to ensure compliance with the provisions of the Stafford County Code.~~

(Ord. No. 082-09, §§ 31-7, 31-7-8A, C, 5-18-82; Ord. No. 091-48(R), 9-17-91)

State Law reference—Similar provisions, Code of Virginia, § 10.1-560 et seq.

Sec. 11-15. - ~~Same—Applicant's performance guarantee~~ [Reserved].

- (a) ~~No grading, building or other permit for activities involving land-disturbing activities shall be issued unless the applicant submits with his application an approved erosion and sediment control plan and certification that the plan will be followed.~~
- (b) ~~No grading permit shall be issued unless the permittee furnishes a performance guarantee, in accordance with the current county security policy, equal to one-hundred twenty-five (125) percent of the estimated costs of installation, maintenance and completion of the control measures required by this approved plan, to ensure that action can be taken by the county, at the applicant's expense, should he fail, after proper notice and within the time specified, to initiate or maintain such measures. If the county takes such conservation action upon such failure by the permittee, the county shall collect from the permittee for the difference should the amount of reasonable cost of such action exceed the amount of the security held.~~

~~Security for erosion and sediment control measures on individual residential building lots shall be furnished prior to issuance of a building permit. The security shall be provided in conformance with the Stafford County Security Policy.~~

- (c) ~~A certified estimate of costs by the design engineer or land surveyor, subject to approval by the plan-approving authority, shall be used to verify costs for the purpose of determining the amount of the performance guarantee required by this section.~~
- (d) ~~The performance guarantee furnished pursuant to this section, or the unexpended or unobligated portion thereof, shall be returned to the applicant within sixty (60) days of the achievement of adequate stabilization of the land-disturbing activity. Adequate stabilization of the land-disturbing activity means the achievement of the~~

~~final stabilization of the land and final installation of stormwater management features, as contemplated by the approved plan. This means after ground cover has been established, not just after seeding, which may or may not be successful.~~

~~(Ord. No. 082-09, § 31-7, 5-18-82; Ord. No. 089-80, 8-1-89; Ord. No. 089-95, 9-5-89; Ord. No. 089-117, 12-5-89; Ord. No. 092-59, 9-8-92; Ord. No. 093-27, 6-15-93; Ord. No. 095-18(R-1), 6-6-95; Ord. No. 097-53, 9-9-97; Ord. No. 097-80, 12-16-97; Ord. No. 000-88, 10-17-00)~~

State Law reference—~~Similar provisions, Code of Virginia, § 10.1-560 et seq.~~

Sec. 11-15.1. - Erosion impact area.

The county ~~board of supervisors~~ may require approval of an erosion and sediment control plan or conservation plan for any land identified by the county administrator, or his designee, as being an erosion impact area. Such erosion and sediment control plan ~~or conservation plan~~ shall meet those criteria, standards and specifications contained in the Virginia Erosion and Sediment Control Handbook and the Virginia Erosion and Sediment Control Regulations.

Sec. 11-16. - ~~Same~~—Fees [Reserved].

- ~~(a) The fee for a grading permit shall be in accordance with the fee schedule established by the board of supervisors. An annual renewal fee in accordance with such fee schedule will be charged for those projects extending for more than one year.~~
- ~~(b) The fees imposed by this section is for the purpose of defraying the costs of reviewing plans and specifications and costs of inspections and administering the provisions of this chapter.~~

~~(Ord. No. 082-09, § 31-10, 5-18-82; Ord. No. 087-07, 1-6-87; Ord. No. 089-75, 7-5-89; Ord. No. 091-48(R), 9-17-91; Ord. No. 095-18(R-1), 6-6-95; Ord. No. 099-39, 7-13-99)~~

State Law reference—~~Authority for above fee, Code of Virginia, § 10.1-562.~~

Sec. 11-17. - ~~Inspections and certifications of land-disturbing activities~~ [Reserved].

- ~~(a) Regular and thorough on-site inspections of land-disturbing activities shall be conducted by the permit-issuing agency. Essential elements of such inspections shall include:

 - ~~(1) Inspection during or immediately following initial installation of sediment controls; in particular, basins, traps, diversions and dikes. Upon installation of sediment controls, the permittee shall schedule an installation inspection with the permit-issuing agency. The permittee must obtain approval of the sediment controls from the permit-issuing agency before proceeding with further grading or site development.~~
 - ~~(2) Inspection at least once in every two-week period.~~
 - ~~(3) Inspection within forty-eight (48) hours following any runoff producing storm event.~~
 - ~~(4) Inspection prior to and immediately after seeding, particularly in the fall. If the development project is active, or is planned to remain active through the~~~~

~~winter months, the permittee shall schedule a pre-winter stabilization meeting with the permit-issuing agency. The meeting will be held before October 1st. Disturbed areas that will be idle over the winter shall be stabilized prior to November 1.~~

- (5) ~~Final inspection of terminating projects to ensure that temporary controls have been removed, stabilization growth is complete, drainageways are in proper condition and final contours agree with the approved plan. This inspection shall be made prior to the release of any performance guarantee furnished pursuant to section 11-15.~~
 - (b) ~~All inspections pursuant to this section shall be documented by a written report or log containing dates and times of inspections and comments concerning verbal communications relating to the project.~~
 - (c) ~~The county administrator, or his designee, may require the permittee to provide a certification by a licensed professional engineer or land surveyor within seventy-two (72) hours of requests for a project sediment basin or sediment trap at any time prior to final inspection. Such certification shall state that the basin or trap has sufficient storage capacity and is functioning properly.~~
- ~~(Ord. No. 082-09, § 31-9, 5-18-82; Ord. No. 097-24, 3-18-97; Ord. No. 097-24(R), 8-19-97; Ord. No. 097-60, 11-18-97; Ord. No. 005-63, 12-13-05; Ord. No. 007-65, 9-4-07)~~

State Law reference — ~~Inspecting and monitoring land-disturbing activities, Code of Virginia, § 10.1-560 et seq.~~

ARTICLE II. CONTROL PLAN FOR LAND-DISTURBING ACTIVITIES

Sec. 11-31. - Submission and approval required; exceptions.

- (a) No person shall engage in any land-disturbing activity until he has submitted to the plan-approving authority an erosion and sediment control ~~and stormwater-management~~ plan for such land-disturbing activity and until such erosion and sediment control plan has been reviewed and approved by the plan-approving authority. It shall be the responsibility of the owner ~~or lessee~~ of the land or his duly authorized agent to prepare and submit such erosion and sediment control plan to the plan-approving authority.
- (b) There shall be no issuance of approval or permits for any land-disturbing activity, such as subdivision plat approval or issuance of building permits, until the required erosion and sediment control plan has been approved pursuant to this ~~article~~ chapter.
- (c) ~~This section shall not apply to any person whose land-disturbing activities involve lands which extend into the jurisdiction of another local erosion and sediment-control program, provided such person has a plan approved by the state soil and water conservation board. Such person shall comply with the requirements of section 11-15.~~
- (d) ~~This section shall not apply to any state agency that undertakes a project involving a land-disturbing activity pursuant to § 10.1-563 of the Code of Virginia.~~

Sec. 11-32. - Additional Requirements for preparation and review.

In addition to the express requirements of this chapter, the plan-approving authority may require additional information or erosion and sediment control plans where the plan-approving authority finds such information or erosion and sediment control plans are necessary to carry out the intent of this chapter.

- ~~(a) A person preparing a plan required by this article shall follow the guidelines outlined in the Virginia Erosion and Sediment Control Handbook. Officials of the county and the Tri-County/City Soil and Water Conservation District, in their consideration of the adequacy of such a plan, shall be guided by the same requirements and standards.~~
- ~~(b) The erosion and sediment control plan shall be prepared as a two-phased plan. The Phase One plan shall address the controls needed prior to clearing and rough-grading of the area to be disturbed. The Phase Two plan shall address the controls needed after the utilities and curb and gutter, as appropriate, are installed and roads are rough graded. The requirement for a two-phased plan may be waived by the plan-approving authority if a single plan can clearly explain and illustrate the measures that will be taken to control erosion and sedimentation and it can be shown that a single plan will adequately control conditions from the beginning of the project until it is completed.~~
- ~~(c) The erosion and sediment control plan shall contain a construction phasing plan in accordance with section 11-12 of this chapter.~~
- ~~(d) In addition to subsections (a), (b) and (c) above, the plan-approving authority may require additional information or plans where deemed necessary to carry out the intent of this chapter.~~

Sec. 11-33. - Forms to be used.

Applications for erosion and sediment control plan approval under this ~~article~~ chapter and three (3) copies of all erosion and sediment control plans and specifications shall be submitted on forms provided for by the plan-approving authority.

Sec. 11-34. - Technical review.

All erosion and sediment control plans submitted for approval pursuant to this ~~article~~ chapter may be referred to the Tri-County/City Soil and Water Conservation District for technical review. The district must comment on all submitted erosion and sediment control plans within thirty (30) days. When a an erosion and sediment control plan is found upon review by district officials to be inadequate, such agency shall specify such modifications, terms and conditions as will permit approval of the erosion and sediment control plan review and communicate these findings to the plan-approving authority.

Sec. 11-35. - Approval or disapproval.

- (a) In the event the plan shows any land-disturbing activity in the area of a proposed public road for which the Virginia Department of Transportation (VDOT) has not approved the site or construction plan, the applicant shall provide the plan-approving authority, prior to approval of the erosion and sediment control plan, a letter stating the understanding that such land-disturbing activity will proceed

before VDOT approval of the road design and associated drainage and that VDOT may require subsequent changes or modifications to the grading or its appurtenant structures.

- (b) ~~If the plan approving authority fails to approve or disapprove a plan or to require additions or revisions thereto within forty five (45) days after the same has been submitted to the plan approving authority by the applicant, the plan shall be deemed to be approved and the applicant may lawfully proceed to obtain a grading permit with the plans and specifications submitted. At the time of resubmission, another forty five day period shall begin. However, when a plan is determined to be inadequate, written notice of disapproval stating the specific reasons for disapproval shall be communicated to the applicant within forty five (45) days. The notice shall specify the modifications, terms and conditions that will permit approval of the plan.~~
- (c) ~~The person responsible for carrying out the plan shall provide the name of a responsible land disturber who will be in charge of and responsible for carrying out the land disturbing activity in accordance with the approved plan. In addition, as a prerequisite to engaging in the land disturbing activities shown on the approved plan, the person responsible for carrying out the plan shall provide the name of an individual holding a certificate of competence, as provided by § 10.1-561, Code of Virginia (1950) as amended, who will be in charge of and responsible for carrying out the land disturbing activity.~~

Sec. 11-36. - Modification of approved plan and granting of a variance [Reserved].

- (a) ~~An approved plan may be changed or amended by the plan approving authority in the following cases:-~~
 - (1) ~~Where inspection has revealed the inadequacy of the plan to satisfy applicable regulations; or~~
 - (2) ~~Where the person responsible for carrying out the approved plan finds that because of changed circumstances or for other reasons the approved plan cannot be effectively carried out, and proposed amendments to the plan, consistent with the requirements of this chapter, are agreed to by the plan approving authority and the person responsible for carrying out the plan;~~
 - (3) ~~Minor changes on a plan may be approved by the appropriate county inspector provided the intent of the plan and this chapter is met.~~
- (b) ~~The plan approving authority may waive or modify any of the regulations that are deemed inappropriate or too restrictive for site conditions, by granting a variance.~~
 - (1) ~~At the time of plan submission, an applicant may request a variance to become part of the approved erosion and sediment control plan. The applicant shall explain the reasons for requesting variances in writing. Specific variances which are allowed by the plan approving authority shall be documented in the plan.~~
 - (2) ~~During construction, the person responsible for implementing the approved plan may request a variance in writing from the plan approving authority. The plan approving authority shall respond in writing either approving or disapproving such a request. If the plan approving authority does not approve~~

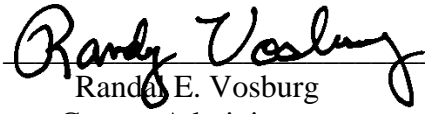
~~a variance within ten (10) days of receipt of the request, the request shall be considered to be disapproved. Following disapproval, the applicant may resubmit a variance request with additional documentation.~~

- (3) ~~The plan approving authority shall consider variance requests judiciously, keeping in mind both the need of the applicant to maximize cost effectiveness and the need to protect off site properties and resources from damage.~~

Sec. 11-37. - Authority of inspector to require practice not provided for in approved erosion and sediment control plan.

The "Minimum Standards" established in the Virginia Erosion and Sediment Control Handbook and section 11-12(b) herein shall apply to all approved erosion and sediment control plans for land-disturbing activities. ~~An inspector, acting pursuant to section 11-17 of this chapter, may require additional conservation practices not specified on the approved plan. If the change is permanent in nature, the permittee shall be required to meet the requirements of section 11-36 of this chapter.~~

A Copy, teste:


Randy E. Vosburg
County Administrator

REV:BHC:js