

CHAPTER 71

EROSION AND SEDIMENT CONTROL

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HISTORY: Adopted by the Board of Supervisors of Appomattox County 1-10-1992; amended 2-4-02. Amendments noted where applicable.] Amended May 5, 2008.

GENERAL REFERENCES

Subdivision of land — See Ch. 141.

§ 71-1 Purpose.¹

This ordinance shall be known as the “Erosion and Sediment Control Ordinance of Appomattox County”. The purpose of this Chapter is to prevent degradation of properties, stream channels, waters and other natural resources of the County of Appomattox by establishing requirements for the control of soil erosion, sediment deposition and nonagricultural runoff, sylvan and by establishing procedures whereby these requirements shall be administered and enforced.

§ 71-2 Authorization.

This Chapter is authorized by the Code of Virginia, Title 10.1, Chapter 5, Article 4, (Section 10.1-560 et seq.) known as the “Virginia Erosion and Sediment Control Law.” Such Article provides for a comprehensive statewide program with standards and guidelines to control soil erosion and sedimentation which is implemented on the local level.

¹ Editor’s note: For state law as to erosion control, see Code of Virginia §10.1-560 et seq.

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§ 71-3 Definitions.

As used in this Chapter, unless the context clearly requires a different meaning, the terms used shall have the meanings as set forth in §10.1-560 of the Code of Virginia.

- A. **Agreement in lieu of a plan** means a contract between the plan-approving 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 plan-approving authority in lieu of a formal site plan.
- B. **Applicant** means any person submitting an erosion and sediment control plan for approval or requesting the issuance of a permit, when required, authorizing land-disturbing activities to commence.
- C. **Board** means the Virginia Soil and Water Conservation Board.
- D. **Certified Inspector** means an employee or agent of a program authority who (i) holds a certificate of competence from the Board in the area of project inspection or (ii) is enrolled in the Board's training program for project inspection and successfully completes such program within one (1) year after enrollment.
- E. **Certified Plan Reviewer** means an employee or agent of a program authority who (i) holds a certificate of competence from the Board in the area of plan review or (ii) is enrolled in the Board's training program for plan review and successfully completes such program within one (1) year after enrollment, or (iii) is licensed 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 of the Code of Virginia.
- F. **Certified Program Administrator** means an employee or agent of a program authority who (i) holds a certificate of competence from the Board in the area of program administration or (ii) is enrolled in the Board's training program for program administration and successfully completes such program within one (1) year after enrollment.
- G. **Clearing** means any activity which removes the vegetative ground cover including, but not limited to, root mat removal or top soil removal.
- H. **County** means the County of Appomattox.
- I. **Department** means the Department of Conservation and Recreation.
- J. **Development** means a tract of land developed or to be developed as a single unit under single ownership or unified control which is to be used for any business or industrial purpose or is to contain three (3) or more residential units.
- K. **Director** means the Director of the Department of Conservation and Recreation.
- L. **District or Soil and Water Conservation District** refers to the Robert E. Lee Soil and Water Conservation District.
- M. **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

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information with needed interpretation and a record of decisions contributing to conservation treatment. The plan shall contain all major conservation decisions and all information deemed necessary by the plan approving authority to assure that the entire unit or units of land will be so treated to achieve the conservation objectives.

- N. **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 10,000 square feet or less used for residential purposes (or to shorelines where the erosion results from wave action or other coastal processes).
- O. **Excavating** means any digging, scooping, or other methods of removing earth materials.
- P. **Filling** means any depositing or stockpiling of earth material.
- Q. **Grading** means any excavating or filling of earth material or any combination thereof, including the land in its excavated or filled conditions.
- R. **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 those activities listed in §71-5 (B) of this ordinance.
- S. **Land Disturbing Permit** means a permit issued by Appomattox County for the clearing, filling, excavating, grading, transporting of land or for any combination thereof or for any purpose set forth herein.
- T. **Local Erosion and Sediment Control Program or Local Control Program** means an outline of the various methods employed by Appomattox 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.
- U. **Natural Channel Design Concepts** means the utilization of engineering analysis and fluvial geomorphic processes to create, rehabilitate, restore, or stabilize an open conveyance system for the purpose of creating or recreating a stream that conveys its bankfull storm event within its banks and allows larger flows to access its bankfull bench and its floodplain.
- V. **Owner** means the 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.
- W. **Peak Flow Rate** means the maximum instantaneous flow from a given storm condition at a particular location.
- X. **Permittee** means the person to whom the permit authorizing land disturbing activities is issued or the person who certifies that the approved erosion and sediment control plan will be followed.
- Y. **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, any interstate body, or any other legal entity.

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- Z. **Plan Approving Authority** means the County Planner or agent, responsible for determining the adequacy of a plan submitted for land disturbing activities on a unit or units of lands and for approving plans.
- AA. **Program Authority** means the County of Appomattox which has adopted a soil erosion and sediment control program that has been approved by the Board.
- BB. **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 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 of the Code of Virginia.
- CC. **Runoff Volume** means the volume of water that runs off the land development project from a prescribed storm event.
- DD. **Single Family Residence** means a noncommercial dwelling that is occupied exclusively by one family.
- EE. **State Erosion and Sediment Control Program or State Program** means the program administered by the Virginia Soil and Water Conservation Board pursuant to the Code of Virginia including regulations designed to minimize erosion and sedimentation.
- FF. **State Waters** means all waters on the surface and under the ground wholly or partially within or bordering the Commonwealth or within its jurisdiction.
- GG. **Transporting** means any moving of earth materials from one place to another place other than such movement incidental to grading, when such movement results in destroying the vegetative ground cover either by tracking or the buildup of earth materials to the extent that erosion and sedimentation will result from the soil or earth materials over which such transporting occurs.
- HH. **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.

§ 71-4 Utility and railroad companies.

Construction, installation, or maintenance of electric and telephone utility lines and natural gas pipelines, and the tracks, rights-of-way, bridges, communication facilities, and other related structures and facilities of railroad companies must be conducted pursuant to Code of Virginia §10.1-563(D).

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§ 71-5 Standards; Activities not considered land-disturbance activities.

- A. Pursuant to Code of Virginia §10.1-562, the County hereby adopts the regulations, references, guidelines, standards, and specifications promulgated by the Virginia Soil and Water Conservation Board for the effective control of soil erosion and sedimentation deposition to prevent the unreasonable degradation of properties, stream channels, waters, and other natural resources. Said regulations, references, guidelines, standards, and specifications for erosion and sedimentation control are included in, but not limited to, the Virginia Erosion and Sediment Control Regulations, the Virginia Stormwater Management Handbook, and the Virginia Erosion and Sediment Control Handbook, as amended from time to time.
- B. Before adopting or revising regulations, the County of Appomattox shall give due notice and conduct a public hearing on the proposed or revised regulations, except that a public hearing shall not be required when the County of Appomattox is amending its program to conform to revisions in the state program. However, a public hearing shall be held if the County of Appomattox proposes or revises regulations that are more stringent than the state program.

In addition, in accordance with §10.1-561 of the Code of Virginia, stream restoration and relocation projects that incorporate natural channel design concepts are not man-made channels and shall be exempt from any flow rate capacity and velocity requirements for natural or man-made channels.

In accordance with §10.1-561 of the Code of Virginia, any land disturbing activity that provides for stormwater management intended to address 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 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 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 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 manmade channels.

- C. As provided by the Code of Virginia, §10.1-560, the following activities are not considered land disturbing activities for the purposes of this chapter:
 - 1. Minor land-disturbing activities such as home gardens and individual home landscaping, repairs, and maintenance work.

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2. Individual service connections.
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.
4. Septic tank lines or drainage fields unless included in an overall plan for land-disturbing activity relating to construction of the building to be served by the septic tank system.
5. Surface or deep mining activities authorized under a permit by the Virginia Department of Mines, Minerals, & Energy.
6. Exploration or drilling for oil and gas including the well site, roads, feeder lines and off-site disposal areas.
7. Tilling, planting, or harvesting of agricultural, horticultural, or forest crops, or livestock feedlot operations; including engineering operation 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 Code of Virginia §10.1-1100 et seq. or the area is converted to bona fide agricultural or improved pasture use. Evidence of intent of bona fide agricultural or improved pasture use shall require, as a minimum and within twelve months from the date of completion of commercial cutting, that the land intended for such use shall be cleared of all trees, snags, brush, tree tops, and debris by piling and burning or otherwise disposing of the same, or by enclosing the area with a well-constructed fence and planting grass seed thereon so as to make a bona fide improved pasture.
8. 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 provisions of the Dam Safety Act (Code of Virginia §10.1-604 et seq), ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage and land irrigation.
9. Repair or rebuilding of the tracks, right-of-way, bridges, communication facilities and other related structures and facilities of a railroad company.
10. Disturbed land areas of less than 10,000 square feet in size.

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11. Installation of fence and sign posts or telephone and electric poles and other kinds of poles.
12. Emergency work to protect life, limb, or property, and emergency repairs; however, if the land-disturbing activity would have required an approved erosion and sediment control plan, if the activity were not an emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of the plan approving authority.

§ 71-6 Program Administrator; Plan Approving Authority; Inspectors and Plan Reviewers

- A. The County Administrator shall appoint a Program Administrator to oversee the County's Erosion and Sediment Control Program. The Program Administrator shall be certified within one year of appointment in accordance with the Code of Virginia's Erosion and Sediment Control Law. The program administrator may serve as inspector and plan reviewer upon obtaining certification as a combined administrator.
- B. The Program Administrator shall serve as the County's Plan Approving Authority. In the event that the Program Administrator is not certified as a plan reviewer or combined administrator, he or she shall contract with an acceptable third party agency to conduct the plan review tasks. Acceptable third party agencies include, but are not limited to, the Robert E. Lee Soil & Water Conservation District.
- C. The County Administrator shall also appoint an inspector and plan reviewer unless the Program Administrator is also certified as an inspector or combined administrator. Upon recommendation by the Program Administrator, the County Administrator may appoint additional inspectors and plan reviewers as needed. All inspectors and plan reviewers shall be certified within one year of appointment in accordance with the Code of Virginia's Erosion and Sediment Control Law.
- D. The program and regulations provided for in this ordinance shall be made available for public inspection at the Appomattox County Department of Community and Economic Development located at 153A Morton Lane, Appomattox, Virginia.

§ 71-7 Submission and approval of plans for land-disturbing activities.

- A. Prior to any development and/or redevelopment exceeding 10,000 square feet of land disturbance including construction of single-family residences, no person shall engage in any land-disturbing activity until he or she has submitted one of the following documents:

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1. Erosion and Sediment Control Plan containing, at a minimum:
 - a. Project description. Describes the nature and purpose of the land-disturbing activity and the area (acres) to be disturbed.
 - b. Existing site conditions. Describes existing topography, drainage, and vegetation.
 - c. Adjacent areas. Describes neighboring areas such as streams, lakes, residential areas, roads, etc., which might be affected by the land disturbance.
 - d. Off-site areas. Describes any off-site land-disturbing activities that will occur, including borrow sites, waste, or surplus areas.
 - e. Soils. Describes on-site soils and delineation of soil boundaries including soil name, mapping unit, erodability, permeability, depth, texture, and soil structure.
 - f. Critical areas. Describes areas on the site which have potentially serious erosion problems (e.g., steep slopes, channels, wet weather, underground water courses, etc.)
 - g. Erosion and sediment control measures. Describes methods to be used to control erosion and sedimentation. Controls should satisfy Minimum Standards listed in the *Virginia Erosion and Sediment Control Regulation* and the *Virginia Erosion and Sediment Control Handbook*, as adopted by the County pursuant to §71.5.
 - h. Permanent stabilization. Describes how the site will be stabilized at project completion including specifications.
 - i. Stormwater runoff considerations. Describes whether the site will increase peak runoff rates and, if so, will the increase cause flooding or channel degradation downstream. Also describes strategy to control stormwater runoff.
 - j. Calculations. Detailed calculations for the design of temporary sediment basins, permanent stormwater detention basins, diversions, channels, etc. Includes calculations for pre and post-development runoff.
 - k. Vicinity map including directional indicator.
 - l. Description of limits of clearing and grading.
 - m. Description of existing contours.
 - n. Description of final contours. Indicates changes to existing contours including final drainage patterns.
 - o. Description of existing vegetation. Describes existing tree lines, grassy areas, or unique vegetation.
 - p. Description of existing drainage patterns. Describes the dividing lines and the direction of flow for the different drainage areas. Includes the size (acres) of each drainage area.
 - q. Description of critical erosion areas [erosion impact areas].
 - r. Site development. Describes/illustrates all improvements such as buildings, parking lots, access roads, utility construction, etc.

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- s. Location of practices. Describes locations of control measures using standard symbols and abbreviations in Chapter 3 of the Virginia Erosion and Sediment Control Handbook.
 - t. Maintenance. Describes a schedule of regular inspections and repair of erosion and sediment control structures.
 - u. Certified Responsible Land Disturber. Contains the name of the person holding a certificate of competence as provided by the Board including expiration dates of such certifications.
2. For construction of a single-family dwelling only, an agreement in lieu of an erosion and sediment control plan may be submitted. The agreement in lieu of a plan is a contract between the plan approving authority and the owner which specifies conservation measures which must be implemented in the construction of a single-family residence; this contract may be executed by the plan approving authority in lieu of a formal site plan. However, the plan approving authority may waive the certificate of competence requirement for an agreement in lieu of a plan for construction of a single family residence. If a violation occurs during the land-disturbing activity, then the person responsible for carrying out the agreement in lieu shall correct the violation and provide the name of an individual holding a certificate of competence, as provided by §10.1-561 of the Virginia Erosion and Sediment Control Law. Failure to provide the name of the individual holding a certificate of competence shall be a violation of this ordinance.
- B. The Program Administrator shall, within forty-five (45) days of the receipt of the plan, approve the plan if he determines that the plan meets the provisions this Chapter, and if the person named by the applicant as being responsible for carrying out the plan certifies that he will properly perform to the erosion and sediment control measures included in the plan and will conform to the provisions of this Chapter. In addition, as a prerequisite to approval of the plan, the person responsible for carrying out the plan shall provide the name of an individual holding a certificate of competence, as provided by the regulations of the Board, who will be in charge of and responsible for carrying out the land-disturbing activity. For purposes of this article, individuals holding a valid Virginia Professional Engineer, Land Surveyor, Landscape Architect, or Architect license, and such other individuals as determined by the regulations of the Board, shall be considered competent to be in charge of and responsible for carrying out the land-disturbing activity without further training, certification, or fees. In determining whether any plan meets the required conservation standards, the plan approving authority may seek the advice of the district.
- C. The plan approving authority shall act upon all plan submitted within forty-five (45) days from their receipt by either approving or disapproving the plan in writing and giving the specific reasons for its disapproval. When a plan submitted for approval under this article is found, upon review, to be inadequate, the plan approving authority shall specify

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such modifications, terms, and conditions as will permit approval of the plan and communicate those requirements to the applicant within 45 days. If no action is taken within forty-five (45) days by the Program Administrator, the plan shall be deemed approved and the person authorized to proceed with the proposed activity.

- D. An approved plan may be changed by the Program Administrator when:
1. An 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 of this Chapter, are agreed to by the Program Administrator and the person responsible for carrying out the plans.
- E. Variances: The plan-approving authority may waive or modify any of the standards that are deemed to be 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 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.
- F. In order to prevent further erosion, the Program Administrator may require approval of a conservation plan for any land identified as an Erosion Impact Area.
- G. When 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.
- H. In accordance with the procedure set forth by §10.1-563(E) of the Code of Virginia, any person engaging in the creation and operation of wetland mitigation banks in multiple jurisdictions, which have been approved and are operated in accordance with applicable federal and state guidance, laws, or regulations for the establishment, use, and operation of mitigation banks, pursuant to a permit issued by the Virginia Department of Environmental Quality (DEQ), the Virginia Marine Resources Commission (VMRC), or the United States Army Corps of Engineers, may, at the option of that person, file general

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erosion and sediment control specifications for wetland mitigation banks annually with the Board for review and approval consistent with guidelines established by the Board.

- I. State agency projects are exempt from the provisions of this ordinance except as provided for in the Code of Virginia, §10.1-564.

§ 71-8 Land-Disturbance Permits; Fees; Issuance; Bonds

- A. No person shall engage in any land-disturbing activity until he has:
 - 1. Acquired a land-disturbance permit,
 - 2. Paid the appropriate fees and
 - 3. Posted any required bond.

- B. Fees. Plan Review and Inspection Fees will be assessed at the rate shown in Table 1 below. All fees shall be paid to the County of Appomattox at the time of filing erosion and sediment control plans or agreements in lieu of plans.

Land Disturbance (acres)	Fee
Less than one acre	\$50.00
One to five (1-5) acres	\$100.00
Six to twenty (6-20) acres	\$300.00
Twenty-one (21) acres or greater	\$600.00
Agreement in lieu of E&S plan	\$25.00

- C. No land disturbance permit shall be issued until the applicant submits with his application and approved erosion and sediment control plan or agreement in lieu of a plan, and certifies that the plan or agreement will be followed.

- D. Bonds. The Program Administrator, prior to issuing a permit, may require any applicant to submit a reasonable performance bond with surety, cash escrow, an irrevocable letter of credit, or any combination thereof, or such other legal arrangements acceptable to the Program Administrator to ensure that measures could be taken by the County at the applicant’s expense should he or she fail, after proper notice, within the time specified to initiate or maintain appropriate conservation action which may be required by the approved plan as a result of the land disturbing activity. If the County takes such conservation action upon failure by the permittee, the County may collect from the permittee for the difference should the amount of reasonable cost of such action exceed

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the amount of security held. Within sixty (60) days of the achievement of adequate stabilization of the land disturbing activity, the bond, cash escrow, irrevocable letter of credit or other legal arrangement or the unexpected or unobligated portion thereof shall be refunded to the applicant or terminated. These requirements are in addition to all other provisions relating to the issuance of permits and are not intended to otherwise affect the requirements for permits.

§ 71-9 **Inspections, monitoring, and reports; action upon determination of violation.**

- A. The Program Administrator and/or their agents shall provide for and/or conduct periodic on-site inspections of the land-disturbing activity as set forth in VESCR 4 VAC 40-30-60B and shall require that the Certified Responsible Land Disturber be in charge of implementing the plan to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sediment. The owner, occupier, or operator shall be given an opportunity to accompany the inspector during the inspection. Notice of the right of inspection shall be included in all land disturbance permits issued. The Program Administrator shall be responsible for developing and implementing a filing system for land disturbing projects. The individual holding a certificate of competence, as required under the State program, who will be in charge of and responsible for carrying out the land disturbing activity shall be required by the Program Administrator to periodically inspect the land disturbing activity.
- B. The County shall implement an Alternative Inspection Program. The alternative inspection program described herein for Appomattox County is designed to provide for oversight of urban land-disturbing activities by effectively utilizing local staff to meet specific urbanization trends while addressing specific environmental conditions within the locality.
- (1) Authorization for this Alternative Inspection Program is granted by §10.1-566 of Title 10.1 Chapter 5, Article 4 of the Code of Virginia and §4VAC50-30-60 of the Erosion and Sediment Control Regulations.
- (2) To most effectively utilize staff and protect the resources of Appomattox County and the Commonwealth of Virginia, Appomattox County will implement an alternative inspection program based on a system of priorities. The system of priorities will be based upon the amount of disturbed project area, site conditions, stages of construction, and site conditions noted on previous inspections.
- (3) Implementation
- i. The erosion and off-site environmental impact potential of regulated projects shall be determined by an evaluation of the topography, soil characteristics,

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acreage disturbed, proximity to water resources, and proximity to adjacent property lines.

- ii. After plan review and a site visit, the plan reviewer and the program administrator will assign a classification number to the project.
- iii. Classification numbers will be assigned to projects which address site specific erosion potential and off-site environmental impact. These classification numbers will be used to determine the frequency of inspections. The classification numbers will range from one (1) to three (3), one (1) requiring a less frequent inspection schedule and three (3) requiring a more frequent inspection schedule.
- iv. The classification of a project may be adjusted to a higher or lower classification by the program administrator based upon complaints, violations, inspections, and stages of construction.
- v. The classification number shall be included on the approved plan, written on the file folder, written on the building permit application, and made a part of the project database.

(4) Basis for Classification

The following classifications shall be assigned to projects based on a preliminary site visit and plan review:

CLASS I Total acres disturbed under two (2) acres; greater than 150 foot Buffer between disturbed area and any property lines, water Resources, or public streets; slopes are 0-7 percent and greater than or equal to 300 feet; weighted soil K-factor is less than .23.

CLASS II Total acres disturbed under two (2) acres; disturbed area is 50 feet To 150 feet from any property lines, water resources, or public Streets; slopes are 7-15 percent and greater than or equal to 150 Feet; weighted soil K-factor is between .23 and .36.

CLASS III Total acres disturbed over two (2) acres, disturbed area is less than 50 feet from any property lines, water resources, or public Streets; slopes are greater than 15 percent and greater than or equal to 75 feet; weighted soil K-factor is greater than .36.

(5) Frequency of Inspections

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- i. All permitted land-disturbing activities will be inspected at a minimum frequency according to the following schedule:
 1. Class I At the beginning and completion of the project and every eight (8) weeks.
 2. Class II At the beginning and completion of the project and at least every five (5) weeks.
 3. Class III At the beginning and completion of the project and at least every two (2) weeks.
 - ii. All inspections will be documented on an inspection log maintained as part of each file. Project owners will receive copies of inspection reports with noted violations.
 - iii. Inspection return frequency is not limited to the above schedule and will increase in frequency due to runoff producing storm events or documented violations.
- C. If the Program Administrator determines that a violation exists or that there is a failure to comply with the plan, notice shall be served upon the permittee or Certified Responsible Land Disturber by registered or certified mail to the address specified in the permit application or in the plan certification. Notice may also be given by delivery at the site of the land-disturbing activities to the agent or employee supervising such activities. The notice 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 frame, the permit may be revoked and the permittee or Certified Responsible Land Disturber shall be deemed to be in violation of this Chapter and, upon conviction, shall be subject to the penalties provided by this Chapter.
- D. Upon determination of substantial violation of this Chapter, the Program Administrator may, either in conjunction with or subsequent to a notice to comply as specified in this chapter, 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 watershed of the Commonwealth, such an order may be issued without regard to whether the permittee has been issued a notice to comply as specified in Section A above. 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

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permit holder for appropriate relief to the Circuit Court of Appomattox County. Upon completion of corrective action, the order shall immediately be lifted. Nothing in this section shall prevent the Program Administrator from taking any other action authorized by this Chapter.

§ 71-10 Violations and penalties; additional remedies.

- A. Any violations of any regulation or order of the Program Administrator, any provision of the program, any condition of a permit or any provision of this Chapter shall upon a finding of an appropriate general district court be subject to a civil penalty. The civil penalty for any one violation shall be \$100, 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 exist shall constitute a separate offense. In no even shall a series of specified violations arising from the same operative set of facts result in civil penalties which exceed a total of \$3,000, 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 \$10,000.
- B. Nothing in this section shall be deemed to limit the authority of the County to apply to the County Circuit Court for injunctive relief to enjoin a violation or threatened violation of this Chapter, or to seek damages in a civil action.
- C. Without limiting the remedies which may be obtained in this section, any person violating or failing, neglecting, or refusing 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 locality wherein the land lies. Any civil penalties assessed by a court shall be paid into the treasury of the locality wherein the land lies, except that where the violator is the locality itself, or its agent, the court shall direct the penalty to be paid into the state treasury.
- D. With the consent of any person who has violated or failed, neglected, or refused to obey any regulation or order of the Program Administrator, or any condition of a permit or any provision of this ordinance, the Board, the Director, or plan-approving or permit-issuing authority may provide, in an order issued by the Board or plan-approving or permit-issuing authority against such person, for the payment of civil charges for violations in specific sums, not to exceed the limit specified in Subsection C of this section. Such civil charges shall be instead of any appropriate civil penalty which could be imposed under Subsection A or C.

§ 71-11 Appeals and judicial review.

APPOMATTOX COUNTY CODE

Final decision of Appomattox County under this Chapter shall be subject to review by the Circuit Court of Appomattox County, provided that an appeal is filed within thirty (30) days from the date of any written decision adversely affecting the rights, duties, or privileges of the person engaging in or proposing to engage in land disturbing activities.