

Chapter 7

EROSION AND SEDIMENT CONTROL

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ARTICLE I. IN GENERAL

Sec. 7-1. Title of chapter.

This chapter shall be known as the "Erosion and Sediment Control Ordinance of Franklin County, Virginia."

(Ord. of 5-19-1998)

Sec. 7-2. Local control program established.

There is hereby established a local erosion and sediment control program for the effective control of soil erosion, sediment deposition and nonagricultural runoff which must be met to prevent the degradation of properties, stream channels, waters and other natural resources. Franklin County hereby adopts this chapter, regulations promulgated by the Virginia Soil and Water Conservation

Board pursuant to section 10.1-562 of the Code of Virginia, and the "Virginia Erosion and Sediment Control Handbook" as currently in effect and amended from time to time.
(Ord. of 5-19-1998)

Sec. 7-3. Definitions.

As used in this chapter, the following words and terms shall have the meanings ascribed to them in this section unless the context clearly indicates otherwise:

Administrator or program administrator. The representative of the board of supervisors (the program authority) who has been appointed to serve as the agent of the board in administering this chapter.

~~*Agreement in lieu of a plan.* A contract between the program administrator and the owner which specifies conservation measures which must be implemented in the construction or location of a single family residence, this contract may be executed by the program administrator, or designees, in lieu of a formal site plan. (See Sec. 7-17)~~

Applicant. Any person submitting an erosion and sediment control plan for approval or requesting the issuance of a permit, authorizing land-disturbing activities to commence.

Board. The Virginia Soil and Water Conservation Board.

Certified inspector. An employee or agent of Franklin County 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 year after enrollment.

Certified plan reviewer. An employee or agent of Franklin County who (i) holds a certificate of competence from the board in the area of plan review, (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.

Certified program administrator. An employee or agent of Franklin County 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.

Clearing. Any activity which removes the vegetative ground cover including, but not limited to, root mat removal and/or topsoil removal.

~~*Conservation plan, erosion and sediment control plan or plan.* A document containing material for the conservation of soil and water resources of a unit or units of land. It may include appropriate maps, and 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.~~

- ~~(1) A conservation plan, erosion and sediment control plan, or plan associated with the construction of a single family home must be prepared by a responsible land disturber, professional architect, profession engineer, certified landscape architect, or licensed surveyor.~~
- ~~(2) All other conservation plans, erosion and sediment control plans, or plans must be prepared by a professional engineer, certified landscape architect, or licensed surveyor.~~

County. The County of Franklin.

Denuded. A term applied to land that has been physically disturbed and no longer supports adequate vegetative cover.

Department. The department of conservation and recreation.

District or soil and water conservation district. The Blue Ridge Soil and Water Conservation District, a political subdivision of this Commonwealth organized in accordance with the provisions of Article 3 (§ 10.1-506 et seq.) of chapter 5 of title 10.1.

Erosion and sediment control plan. A document containing material for the conservation of soil and water resources of a unit or units of land. It may include appropriate maps, and 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. All erosion and sediment control plans must be prepared by a professional engineer, certified landscape architect, or licensed surveyor.

Erosion and sediment control agreement. A contract between the program administrator and the owner which specifies conservation measures which must be implemented in the construction or location of a single-family residence. (See Sec. 7-17 and Sec. 7-18)

Erosion impact area. 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 shorelines where the erosion results from wave action or other coastal processes.

Excavating. Any digging, scooping or other method of removing earth materials.

Filling. Any depositing or stockpiling of earth materials.

Grading. Any excavating or filling of earth materials or any combination thereof, including the land in its excavated or filled condition.

Land-disturbing activity. Any disturbance of land which may result in soil erosion from water or wind and the movement or sediment into water or onto land, including, but not limited to, clearing, grading, excavating, transporting and filling of land other than federal land, except that the term shall not include the following:

- (1) Minor activities such as home gardens and individual home landscaping, repairs and maintenance work.
- (2) Individual utility service connections.
- (3) Installation, repair and maintenance of any underground public utility lines when such activity occurs on an existing hard surfaced road, street or sidewalk provided the activity is confined to the area of the road, street or sidewalk which is hard surfaced.
- (4) Septic tank lines or drain 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.
- (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 agricultural engineering operations as follows; 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 this title, 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, or is converted to bona fide agricultural or improved pasture use.
- (8) Repair or rebuilding of the tracks, right-of-way, bridges, communication facilities and other related structures and facilities of a railroad company.
- ~~(9) Disturbed area ten thousand (10,000) square feet or less in size that is not within two hundred (200) feet of any surface water.~~
- ~~(10) Disturbed area three thousand (3,000) square feet or less in size that is within two hundred (200) feet of any surface water.~~
- ~~(11)~~(9) Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles.
- ~~(12)~~(10) _____ 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.

Land-disturbing permit. A permit issued by the county authorizing the applicant to undertake a land-disturbing activity in accordance with the provisions of the county erosion and sediment control program.

Local erosion and sediment control program or local program. An outline or explanation of the various elements or methods employed by the county to regulate land-disturbing activities and thereby minimize erosion and sedimentation in compliance with the state program.

Owner. 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.

Permittee. The person to whom the permit authorizing the land-disturbing activities is issued or the person who certifies that the approved erosion and sediment control plan will be followed.

Person. 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.

Plan approving authority. The department of planning and community development of Franklin County.

Post-development. Conditions that may be reasonably expected or anticipated to exist after completion of the land development activity on a specific site or tract of land.

Predevelopment. Conditions at the time the erosion and sediment control plan is submitted to the plan approving authority. Where phased development or plan approval occurs (preliminary grading, roads and utilities, etc.), the existing conditions at the time the erosion and sediment control plan for the initial phase is submitted for approval shall establish pre-development conditions.

Program authority. Franklin County, Virginia.

Responsible land disturber. 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 erosion and sediment control plan or agreement in lieu of a plan an erosion and sediment control agreement, 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 (section 54.1-400 et seq.) of Chapter 4 of Title 54.1.

Single-family residence. A noncommercial dwelling unit that is occupied exclusively by one family.

Stabilized. An area that can be expected to withstand normal exposure to atmospheric conditions without incurring erosion damage.

State erosion and sediment control program or state program. The program administered by the Virginia Soil and Water Conservation Board pursuant to the state code including regulations designed to minimize erosion and sedimentation.

State waters. All waters on the surface and under the ground wholly or partially within or bordering the commonwealth or within its jurisdiction.

Surface water. All water at or above the land's surface including, but not limited to springs, streams, rivers, lakes, ponds, wetlands, and artificially created waterbodies.

Town. An incorporated town.

Transporting. Any movement of earth material from one place to another, when such movement results in destroying the vegetative cover, either by tracking or the buildup of earth materials, to the extent that erosion and sedimentation will result from the area over which such transporting occurs. (Ord. of 5-19-1998; Ord. of 9-26-2006)

Sec. 7-4. Purpose of chapter.

The purpose of this chapter is to conserve the land, water, air and other natural resources of Franklin County and the State of Virginia and to promote the health, welfare and convenience of county residents by establishing requirements for the control of erosion and sedimentation and by establishing procedures by which these requirements can be administered and enforced. (Ord. of 5-19-1998)

Sec. 7-5. Authority for chapter.

This chapter is authorized by the 1950 Code of Virginia, as amended, title 10.1, chapter 5, article 4 (section 10.1-560 et seq.), known as the "Erosion and Sediment Control Law." Such law provides for a comprehensive statewide program, with standards and guidelines to control erosion and sedimentation, which is implemented on a local level. (Ord. of 5-19-1998)

Sec. 7-6. Applicability to Boones Mill.

This chapter shall apply to any land-disturbing activity in the incorporated town of Boones Mill. (Ord. of 9-26-2006)

Sec. 7-7. Appeals from decisions under chapter.

(a) Final decisions of the program administrator under this chapter shall be subject to review by the Franklin County Board of Supervisors, provided an appeal is filed within thirty (30) days from any written decision by the program administrator which adversely affects the rights, duties or privileges of the person engaging in or proposing to engage in land-disturbing activities.

(b) Final decisions of the board of supervisors under this chapter shall be subject to review by Circuit Court of Franklin County, provided an appeal is filed within thirty (30) days from the date of any written decision by the Franklin County Board of Supervisors which adversely affects the rights, duties or privileges of the person engaging in or proposing to engage in land-disturbing activities.

(Ord. of 9-26-2006)

Sec. 7-8. Violations of chapter--Penalty, injunctive relief, civil relief.

(a) A violation of any provision of this chapter shall be deemed a Class 1 misdemeanor.

(b) The county, district, or board may apply to the Circuit Court of Franklin County for injunctive relief to enjoin a violation or a threatened violation of the chapter, without the necessity of showing that there does not exist an adequate remedy at law. 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 two thousand dollars (\$2,000.00) for each violation.

(c) 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 a land-disturbing activity without an approved land disturbing permit as provided in section 7-11 shall be up to one thousand dollars (\$1,000.00)/day.
- b. Failure to comply with the vegetative measures, structural measures, watercourse measures or underground utility measures of the minimum standards found in the Virginia Erosion and Sediment Control Handbook shall be up to one hundred dollars (\$100.00)/violation/day.
- c. Failure to obey a stop work order shall be up to one hundred dollars (\$100.00)/day.
- d. Failure to stop work when a permit is revoked shall be up to one thousand dollars(\$1,000.00)/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 three thousand dollars (\$3,000.00), except that a series of violations arising from commencement of land-disturbing activities without an approved erosion and sediment control plan or an approved erosion and sediment control agreement for any site shall not result in civil penalties which exceed a total of ten thousand dollars (\$10,000.00). The assessment of civil penalties according to this schedule shall be in lieu of criminal sanctions and shall preclude the prosecution of such violation as a misdemeanor under subsection (a) of this section.

(d) Any civil penalties assessed by the court shall be paid into the treasury of Franklin 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 order of the program administrator, or any condition of a permit or any provision of this chapter, the administrator may provide, in an order issued by the program administrator against such persons, for the payment of civil charges for violations in specific sums not to exceed the limit specified in subsection (e) of this section. Such civil charges shall be in lieu of any appropriate civil penalty which could be imposed under subsection (c) or (e).

(f) Except when land disturbance requiring a permit has begun without a permit, or when in the opinion of the administrator, conditions pose an imminent danger to life, limb, property or to the waters of the commonwealth, this article shall be enforced in the following steps:

- (1) Issue a field correction notice listing the violations noted during inspection and the required corrective action.
- (2) Send a correction letter when follow-up inspection reveals that the violations cited in the field correction notice have not been corrected.
- (3) Send a notice to comply by certified mail, return receipt required, identifying the violations noted in the correction letter which have not yet been corrected and allowing ten (10) days after the receipt of the notice for the implementation of the corrective actions.
- (4) Issue a stop work order by certified mail, return receipt required, requiring that all work on the site should be stopped until the corrective measures noted in the notice to comply are implemented. A maximum period of seven (7) days after the receipt of the order shall be allowed to correct the violations. In addition, the land-disturbing permit may be revoked during this period until the corrective actions are taken. Should this permit be revoked, all construction work on the site shall be stopped. Upon the completion of the corrective actions, the stop work order is rescinded and the permit is reinstated.
- (5) Imposition of criminal or civil penalties. Either, but not both, of these penalties may be imposed if the seven-day period in the stop work order passes without the implementation of necessary corrective actions. The time frame for computing the number of days in violation shall not begin until the seven (7) days allowed for corrective action has expired unless work was not stopped as ordered.
- (6) (Ord. of 5-19-1998)

Sec. 7-9. Enforcement of chapter by legal action.

The county attorney and/or commonwealth's attorney shall, upon request of the program authority, take legal actions to enforce the provisions of this chapter.
(Ord. of 5-19-1998)

Sec. 7-10. Effect of compliance with chapter in proceedings for damages.

Compliance with the provisions of this chapter shall be prima facie evidence, in any legal or equitable proceeding for damages caused by erosion, or sedimentation, that all requirements of law have been met and the complainant must show negligence in order to recover any damages.
(Ord. of 5-19-1998)

Sec. 7-11. Permit **required for land-disturbing activities.**

1. Except as otherwise provided in this chapter, no land-disturbing activity shall commence prior to the issuance of a land-disturbing permit by the program authority.

2. A land-disturbing permit is required if:
 - (a) The area of land disturbance is 10,000 square feet or greater; or
 - (b) The area of land disturbance is 3,000 square feet or greater, and the area of land disturbance is located within 200 feet of any surface water.
3. A land-disturbing permit is not required if:
 - (a) The area of land disturbance is less than 10,000 square feet, and such area is located more than 200 feet from any surface water; or
 - (b) The area of land disturbance is less than 3,000 square feet, and such area is located within 200 feet of any surface water.

(Ord. of 5-19-1998, Ord. of 5-18- 2010)

Sec. 7-12. Erosion impact areas.

In order to prevent further erosion, the program administrator may identify any land, whether or not disturbed by the building process, as an erosion impact area and require an approved erosion and sediment control plan.

(Ord. of 5-19-1998)

Sec. 7-13. Shoreline protection required.

Notwithstanding any other provision of this chapter, any person who conducts land-disturbing activities, any part of which is within two hundred (200) feet of frontage along state waters must obtain a land-disturbing permit and must, as a requirement of the land-disturbing permit, install and maintain appropriate shoreline protective measures which, as a minimum, shall protect the land area from erosion caused by wave action, water level fluctuation or other water movement, and shall also protect the water from siltation resulting from erosion of the shoreline, subject to the approval of American Electric Power and the U.S. Army Corps of Engineers.

A method of shoreline protection shall be proposed by the property owner or agent of the owner and shall be approved by the county based upon factors such as location of the property (i.e., main channel vs. cove), topography, existing natural protection such as rock, stable vegetation, etc., and other factors as deemed pertinent. Installation of riprap shall be according to standards set out in this chapter in subsection 7-19(b) below.

It shall be the responsibility of the owner to consult with the U.S. Army Corps of Engineers for any requirements of that agency.

(Ord. of 5-19-1998)

~~Sec. 7-14. Bond or other security for land-disturbing activities.~~

~~Prior to the issuance of any land-disturbing permit, the program administrator shall require an applicant or owner to submit a reasonable performance bond to secure the required erosion and sediment control measures with surety, cash escrow, letter of credit, any combination thereof, or such legal arrangement acceptable to the program administrator to ensure that measures could be taken by the county at the applicant or owner's expense should he fail, after proper notice and within the time specified to initiate or maintain appropriate conservation action which may be required of him by the~~

~~approved plan. If the county takes such conservation action upon failure by the applicant or owner, the county may collect from the applicant or owner for the difference should the amount of the reasonable cost of such action exceed the amount of the security held. Within sixty (60) days of the achievement of adequate stabilization of the land disturbing activity, such bond, cash escrow, letter of credit or other legal arrangement or the unexpended or unobligated portion thereof, shall be refunded to the applicant or owner or terminated. These requirements are in addition to all other provisions of law relating to the issuance of such permits and are not intended to otherwise affect the requirements for such permits. Cash escrow agreements and letters of credit are the only acceptable forms of surety to ensure completion of required conservation actions. (Ord. of 5-19-1998; Res. No. 20-10-98, 10-20-1998)~~

Sec. 7-154. Inspection of land-disturbing activities.

(a) The program administrator shall provide for periodic inspections of land-disturbing activity either through the district or through county personnel. The district may inspect, monitor and make reports to the county, but enforcement shall be the responsibility of the program administrator. The program administrator may require monitoring and reports from the person responsible for carrying out the erosion and sediment control plan or erosion and sediment control agreement to insure compliance with the approved erosion and sediment control plan or erosion and sediment control agreement, and to determine whether the measures required in the erosion and sediment control plan or erosion and sediment control agreement are effective in controlling erosion and sediment. The owner, occupier or operator shall be given notice of the inspection and an opportunity to accompany the inspectors. Inspections shall be performed in accordance with the Virginia Soil and Water Conservation Board's approved Alternative Inspection Program (AIP) for Franklin County, approved February 1, 2008.

(b) If the program administrator determines that there is a failure to comply with the erosion and sediment plan or erosion and sediment control agreement, notice shall be served upon the permittee or person responsible for carrying out the erosion and sediment control plan or erosion and sediment control agreement by registered or certified mail to the address specified in the permit application or in the plan certification, or by delivery, to 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 erosion and sediment control plan or erosion and sediment control agreement and shall specify the time within which such measures shall be completed. Upon failure to comply within the time specified, the permit may be revoked and the permittee or person responsible for carrying out the erosion and sediment control plan or erosion and sediment control agreement shall be deemed to be in violation of this chapter, and upon conviction shall be subject to the penalties provided herein.

(c) Upon receipt of a sworn complaint of a substantial violation of this chapter from a designated inspector of the county or the district, the program administrator may, in conjunction with or subsequent to a notice to comply as specified in subsection (b) above, 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, or, if land-disturbing activities have commenced without an approved erosion and sediment control plan or erosion and sediment control agreement, requiring that all of the land-disturbing activities be stopped until an approved erosion and sediment control plan, erosion and sediment control agreement, or any required permits are obtained. 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, or where the land-

disturbing activities have commenced without an approved erosion and sediment control plan, -or any required permits, such an order may be issued whether or not the alleged violator has been issued a notice to comply order. The order shall be served in the same manner as a notice to comply and shall remain in effect for seven (7) days from the date of service, pending application by the enforcing authority or alleged violator for appropriate relief to the Circuit Court of Franklin County. Within seven (7) days from the service of the order, it shall be the responsibility of the owner to retain the services of a plan preparer to prepare and submit the required erosion and sediment control plan, and notify the program administrator that a plan preparer has been retained. Within this seven (7) day period temporary corrective measures shall be installed to prevent harmful erosion of lands or sediment deposition in waters within the watersheds of the commonwealth. Such temporary corrective measures shall be maintained until an approved erosion and sediment control plan and any required permits have been obtained. If the alleged violator has not obtained ~~an approved plan or any required permits~~ a plan preparer and/or installed the necessary temporary corrective measures within seven (7) days from the date of service of the order, the program administrator may issue an order to the owner requiring that all construction and other work on the site, other than corrective measures, be stopped until an approved erosion and sediment control plan and any required permits have been obtained. Such an order shall be served upon the owner by registered or certified mail to the address specified in the permit application or the land records of the locality in which the site is located. The owner may appeal the issuance of an order to the Circuit Court of Franklin County. Any person violating or failing, neglecting or refusing to obey an order issued by the program administrator may be compelled in a proceeding instituted in the Circuit Court of Franklin County to obey same and to comply therewith by injunction, mandamus or other appropriate remedy. Upon completion and approval of corrective action or obtaining an approved erosion and sediment control plan or any required permits, the order shall immediately be lifted. Nothing in this section shall prevent the program administrator from taking any other action specified in section 7-8.

The required erosion and sediment control plan shall be submitted within (30) thirty days from the date of service of the order, unless otherwise agreed to by the program administrator. If the alleged violator has not submitted the required erosion and sediment control plan within the time period authorized by the program administrator, the program administrator may issue an order to the owner requiring that all construction and other work on the site, other than corrective measures, be stopped until an approved erosion and sediment control plan and any required permits have been obtained.

Such an order shall be served upon the owner by registered or certified mail to the address specified in the permit application or the land records of the locality in which the site is located. The owner may appeal the issuance of an order to the Circuit Court of Franklin County. Any person violating or failing, neglecting or refusing to obey an order issued by the program administrator may be compelled in a proceeding instituted in the Circuit Court of Franklin County to obey same and to comply therewith by injunction, mandamus or other appropriate remedy. Upon completion and approval of corrective action or obtaining an approved erosion and sediment control plan or any required permits, the order shall immediately be lifted. Nothing in this section shall prevent the program administrator from taking any other action specified in section 7-8.

(Ord. of 9-26-2006, **Ord. of 5-18-2010**)

Sec. 7-156. Severability.

If any section, subsection, sentence, clause or phrase of this chapter is for any reason held illegal, invalid, or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions hereto. The Franklin County Board of Supervisors

hereby declares that it would have enacted this chapter and each section, subsection, sentence, clause, and phrases hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared illegal, invalid, or unconstitutional.
(Ord. of 5-19-1998)

Sec. 7-16. Reserved

ARTICLE II. EROSION AND SEDIMENT CONTROL PLAN FOR A LAND-DISTURBING ACTIVITY

Sec. 7-17 Erosion and sediment control plan required.

1. Except as otherwise provided in this chapter, no permit for land disturbing activity shall be issued without an approved erosion and sediment control plan.
2. An erosion and sediment control agreement may be substituted for an erosion and sediment control plan, under the following conditions:
 - a) The land disturbing activity is associated with the construction or location of a single-family residence; and
 - b) The area of land disturbance is less than one (1) acre; and
 - c) The area of land disturbance is located more than 200 feet from the shoreline of Smith Mountain Lake.

Sec. 7-18 Performance bond for land disturbing activities.

1. ~~Except as otherwise provided in this chapter, no permit for land disturbing activity shall be issued without the submittal and acceptance of reasonable performance bond to secure the required erosion and sediment control measures. Such bond may take the form of surety, cash escrow, letter of credit, any combination thereof, or such legal arrangement acceptable to the program administrator. Such bond shall be held by the program authority to ensure that measures could be taken by the county at the applicant or owner's expense should he fail, after proper notice and within the time specified to initiate or maintain appropriate conservation action which may be required of him by the approved plan. If the county takes such conservation action upon failure by the applicant or owner, the county may collect from the applicant or owner for the difference should the amount of the reasonable cost of such action exceed the amount of the security held. Within sixty (60) days of the achievement of adequate stabilization of the land-disturbing activity, such bond, cash escrow, letter of credit or other legal arrangement or the unexpended or unobligated portion thereof, shall be refunded to the applicant or owner or terminated. These requirements are in addition to all other provisions of law relating to the issuance of such permits and are not intended to otherwise affect the requirements for such permits.~~

Except as otherwise provided in this chapter, no permit for land disturbing activity shall be issued without the submittal and acceptance of reasonable performance bond to secure the required erosion and sediment control measures. Such bond may take the form of surety, cash escrow, letter of credit, any combination thereof, or such legal arrangement acceptable to the program administrator. Such bond shall be held by the program authority. In the event that the applicant fails to initiate or maintain appropriate conservation actions which may be required of him by the approved erosion and sediment control plan, the county may utilize said bond to implement the appropriate conservation actions.

If the county takes such conservation action upon failure by the applicant or owner, the county may collect from the applicant or owner for the difference should the amount of the reasonable cost of such action exceed the amount of the security held. Within sixty (60) days of the achievement of adequate stabilization of the land-disturbing activity, such bond, cash escrow, letter of credit or other legal arrangement or the unexpended or unobligated portion thereof, shall be refunded to the applicant or owner or terminated. These requirements are in addition to all other provisions of law relating to the issuance of such permits and are not intended to otherwise affect the requirements for such permits.

2. For land disturbing activities that are associated with the construction or location of a single-family residence, an erosion and sediment control agreement may be substituted for a performance bond to secure the required erosion and sediment control measures. In cases where an erosion and sediment control plan is required, the erosion and sediment control agreement shall include the following:
 - a) The title of the erosion and sediment control plan;
 - b) The name of the plan preparer;
 - c) The date the plan was prepared;
 - d) The name and license number of the responsible land disturber; and
 - e) The signature of the property owner.

(Ord. of 5-18-2010)

Sec. 7-19. Submission and approval requirements.

(a) Except as otherwise specifically provided, no person shall engage in any land-disturbing activity until an erosion and sediment control plan has been submitted and approved by the county, and a permit has been issued by the program administrator.

(b) Any person whose land-disturbing activity involves lands which extend into the jurisdiction of another local erosion and sediment control program may submit an erosion and sediment control plan to the board for review and approval, rather than submission to each jurisdiction concerned. Such person shall comply with section 7-12 of this chapter. In such events, the applicant shall obtain permits for the land-disturbing activity from each jurisdiction.

(c) No grading, land-disturbing activity, building or other permit shall be issued by the county for any work which involves land-disturbing activity for which permit is required unless the applicant submits with his application an erosion and sediment control plan for approval, and certifies, after approval, that the erosion and sediment control plan will be followed.

(d) Where the land-disturbing activity results from the construction or location of a single-family residence, an ~~agreement in lieu of a plan~~erosion and sediment control agreement may be substituted for an erosion and sediment control plan if executed by the plan approving authority.

(e) Prior to the issuance of any permit for land disturbing activity, the person responsible for carrying out the erosion and sediment control plan shall provide the name of the responsible land disturber who will be in charge of and responsible for the projects land disturbance.

(f) 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:

- (1) Construction, installation or maintenance of electric, natural gas and telephone utility lines and pipelines; and;
- (2) Construction of the tracks, rights of way, bridges, communication facilities and other related structures and facilities of the railroad company.

(g) State agency projects are exempt from the provisions of this chapter.
(Ord. of 5-19-1998; Ord. of 7-18-2006)

Sec. 7-20. Standards to be used in preparation and consideration.

- (a) The Virginia Erosion and Sediment Control Handbook and Virginia Erosion and Sediment Control Regulations shall be available at the program administrators office and shall be used in preparing the erosion and sediment control plan required by this article. The county, in considering the adequacy of such erosion and sediment control plan, shall be guided by the standards set out in the handbook and regulations.
- (b) Shoreline rip-rap shall be installed according to the following specifications, subject to approval under American Electric Power's Smith Mountain Lake Shoreline Management Plan:
 - (1) Materials and design as part of an engineered plan, based on standards in the handbook and VDOT manual and approved by the county; or,
 - (2) In the case of separate individual residential lots involving five hundred (500) feet or less of shoreline, the following minimum materials and design standards may be used:
 - a. Stone--Class B erosion stone, VDOT Class I, or equivalent
 - b. Plastic filter cloth--Exxon GTF-400 Geotextile or equivalent.
 - c. Temporary and permanent seeding, fertilization, and mulching rates as specified by the Virginia Erosion and Sediment Control Handbook.
 - d. Maximum slope ratio for riprap area--2.5 to 1.

- e. Minimum vertical face height--Thirty-six (36) inches above full pond level (795-foot contour) or to the prevailing cut line.
- f. Terrace width (if needed at top of rip rap slope) shall have a minimum width of twelve (12) feet.
- g. Terrace back slope ratio--Maximum 2:1.
- h. Minimum thickness of rip rap layer--Twelve (12) inches.

(3) All installation of materials shall be according to the VESC Handbook and manufacturers specifications.

(Ord. of 5-19-1998)

Sec. 7-21. Responsibility of property owner when work to be done by a contractor.

Whenever a land-disturbing activity is proposed to be conducted by a contractor performing construction work pursuant to a construction contract, the preparation, submission and approval of the required erosion and sediment control plan shall be the responsibility of the owner of the land.

(Ord. of 5-19-1998)

Sec. 7-22. Approval or disapproval.

(a) Upon receipt of an erosion and sediment control plan submitted under this chapter, together with the required fees, the program administrator shall act on such erosion and sediment control plan within forty-five (45) days, by either approving the erosion and sediment control plan in writing or by disapproving the erosion and sediment control plan in writing and giving specific reasons for disapproval. The program administrator shall approve the erosion and sediment control plan if the erosion and sediment control plan meets the conservation standards of the county E&S program and if the person responsible for carrying out the erosion and sediment control plan certifies that he will properly perform the erosion and sediment control measures included in the erosion and sediment control plan and will comply with all provisions of this chapter. If a temporary sediment basin, a permanent stormwater detention basin or any other permanent feature is a part of the approved erosion and sediment control plan, this same person must designate, in writing the person who will be liable for necessary long-term maintenance on these structures.

(b) If a erosion and sediment control plan is disapproved, the program administrator shall specify such modifications, terms and conditions as will permit approval of the erosion and sediment control plan and shall communicate such requirements to the permit issuing authority.

(c) If no action is taken by the plan approving authority within the time specified in subsection (a) above, the erosion and sediment control plan shall be deemed approved and the program administrator shall issue the land-disturbing permit.

(d) If action is taken by the plan approving authority within the time specified in subsection (a) above, and the erosion and sediment control plan is deemed disapproved, the applicant must resubmit within six (6) months following the date of disapproval, or the erosion and sediment control plan shall be deemed abandoned. If an erosion and sediment control plan is deemed abandoned, the applicant may resubmit the erosion and sediment control plan after the six (6) month period, however, the following shall apply:

(1) The erosion and sediment control plan will be subject to a new review and all applicable fees must be paid.

(2) The erosion and sediment control plan will be reviewed under the current Department of Conservation and Recreation regulations in place at the time of resubmittal.

(e) Should a land disturbing activity not begin within eighteen (18) months following erosion and sediment control plan approval, or after the erosion and sediment control plan is ready for approval but the plan approval authority has not received the required performance bond, the plan approval authority may evaluate the existing approved erosion and sediment control plan to determine whether the erosion and sediment control plan still satisfies local and state erosion and sediment control criteria and to verify that all design factors are still valid. Should the plan approval authority determine the erosion and sediment control plan is no longer valid, the erosion and sediment control plan shall be deemed abandoned. If an erosion and sediment control plan is deemed abandoned, the following shall apply:

(1) The erosion and sediment control plan will be subject to a new review and all applicable fees must be paid.

(2) The erosion and sediment control plan will be reviewed under the current Department of Conservation and Recreation regulations in place at the time of resubmittal.

(f) Should a land disturbing activity cease for more than 180 days, the plan approval authority may evaluate the existing approved erosion and sediment control plan to determine whether the erosion and sediment control plan still satisfies local and state erosion and sediment control criteria and to verify that all design factors are still valid. Should the plan approval authority determine the erosion and sediment control plan is no longer valid, the erosion and sediment control plan shall be deemed abandoned. If an erosion and sediment control plan is deemed abandoned, the following shall apply:

(1) The erosion and sediment control plan will be subject to a new review and all applicable fees must be paid.

(2) The erosion and sediment control plan will be reviewed under the current Department of Conservation and Recreation regulations in place at the time of resubmittal.

(Ord. of 5-19-1998, Ord. of 5-18-2010)

Sec. 7-23. Changing an approved erosion and sediment control plan.

An erosion and sediment control plan that has been approved under this article may be changed by the program administrator in the following cases:

(1) Where inspection has revealed that the erosion and sediment control plan is inadequate to satisfy applicable regulations.

(2) Where the person responsible for carrying out the approved erosion and sediment control plan finds that because of changed circumstances or for other reasons the erosion and sediment control plan cannot be —effectively carried out, and proposed amendments, consistent with the requirements of this chapter, are agreed to by the program administrator and the person responsible for carrying out the plan.

(Ord. of 5-19-1998)

Sec. 7-24. Review fee.

A plan review fee shall be paid to the county at the time of filing an erosion and sediment control plan under this article and prior to issuance of a land-disturbing permit or agreement in lieu of a plan~~erosion and sediment control agreement~~. The maximum fee for any land-disturbing permit, regardless of acreage, shall be three thousand dollars (\$3,000.00). The fee shall be payable to the Treasurer of Franklin County in the amount required by a fee schedule adopted by the board of supervisors.

(Ord. of 5-19-1998; Ord. of 7-18-2006)

Cross references: Section 27-1, Fee Schedule.

ARTICLE III. ALTERNATIVE INSPECTION PROGRAM

PURPOSE: The alternative inspection program described herein for the County of Franklin is designed to provide the oversight of urban land-disturbing activities by effectively utilizing local staff to meet specific urbanization trends while addressing specific environmental conditions within the locality.

AUTHORIZATION: 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.

POLICY: To most effectively utilize local staff and protect the resources of the County of Franklin and the Commonwealth, the County of Franklin 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.

IMPLEMENTATION:

1. The erosion and offsite environmental impact potential of regulated projects shall be determined by an evaluation of the topography soil characteristics, acreage disturbed, proximity to water resources, and proximity to adjacent property lines.
2. After plan review and a site visit, the plan reviewer and the program administrator will assign a classification number to the project.
3. Classification numbers will be assigned to projects which address site specific erosion potential and offsite environmental impact. These classification numbers will be used to determine the frequency of inspections. The classification numbers will range from one to three, one (1) requiring a less frequent inspection schedule and three (3) requiring a more frequent inspection schedule.
4. 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.
5. 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.

BASIS FOR CLASSIFICATION: ~~The following~~Project classifications shall be assigned to projects based on a preliminary site visit, ~~and~~ plan review, and utilizing the Tabular Rating System:

CLASS 1 (LOW) Projects typically with Ttotal acres disturbed under two acres; greater than 150 foot buffer between disturbed area and any property lines, water resources, or public streets; slopes are 0-7 percent and less than or equal to 300 feet; weighted soil K-factor is less than .23 within the limits of disturbance.

CLASS 2 (MED) Projects typically with Ttotal acres disturbed under two acres; disturbed area is 50 feet to 150 feet from any property lines, water resources, or public streets; slopes are 7-15 percent and less than or equal to 150 feet; weighted soil K-factor is between .23 and .36 within the limits of disturbance.

CLASS 3 (HIGH) Projects typically with Ttotal acres disturbed over two acres; disturbed area is less than 50 feet from any property lines, water resources, or public streets; slopes are greater than 15 percent and less than or equal to 75 feet; weighted soil K-factor is greater than .36 within the limits of disturbance.

FREQUENCY OF INSPECTIONS:

1. All permitted land-disturbing activities will be inspected at a minimum frequency according to the following schedule:

CLASS 1 At the beginning and completion of the project and every eight weeks.
CLASS 2 At the beginning and completion of the project and at least every five weeks.
CLASS 3 At the beginning and completion of the project and at least every two weeks.

2. All inspections will be documented on an inspection log maintained as a part of each project file. Project owners will receive copies of inspection reports with noted violations.
3. Inspection return frequency is not limited to the above schedule and will increase in frequency due to runoff producing storm events or documented violations.

(Ord. of 5-18-2010)

TABULAR RATING SYSTEM – EROSION AND SEDIMENT CONTROL

FRANKLIN COUNTY, VIRGINIA

TOTAL DISTURBED ACREAGE	CHECK	RATING	DISTANCE TO WATERCOURSE	CHECK	RATING
Less than ½ acre		0	0-50 feet		5
½ acre to one acre		3	50-100 feet		3
1 to 2 acres		5	150-300 feet		1
>2 acres- Must inspect every two weeks (High Priority)			Greater than 300 feet		0
Soil Erodibility (base on K-Factor)			Distance—Downstream Adjacent Property		
Low (0.23 and lower)		1	Less than 50 feet		5
Moderate (0.24 - .036)		3	50 feet to 150 feet		3
High (.037 and higher)		5	Greater than 150 feet		1
Buffer Vegetation Condition			Length-Width of Buffer		
Very Good (Dense, grass, hayfield)		0	0-50 feet		5
Good (Avg. grass, forest good pasture)		1	50-150 feet		3
Fair (poor grass, fair pasture)		3	150-300 feet		1
Poor (Bare soil, pavement)		5	Greater than 300 feet		0
Critical Slope			Crossing Water Course		
Does the slope meet or exceed the following criteria			Yes—inspect every two weeks (High Priority)		
Grade of slope—0-7%, slope length>300 feet OR			No		0
Grade of slope—7-15%, slope length>150 feet OR					
Grade of slope—15%, slope length>75 feet					
If yes to any of these slope conditions — Rating <u>3</u> If no, rating 0					

OVERALL RATING
(TOTAL OF THE ABOVE CATEGORIES)

INSPECTION RETURN FREQUENCY

If _____ is 26-33 then

_____ Once every two (2) weeks

If _____ is 20-26 then

_____ Once every five (5) weeks

If _____ is 13-19 then

_____ Once every eight (8) weeks

If _____ is 12 or less then

_____ Frequency based on criteria below

Note: Inspection return frequency is not limited to the above schedule and will increase in frequency due to run-off producing storm events or documented violations. Also, an inspection will be performed at the beginning and completion of all projects, regardless of rating.

ProjectName: _____ ApprovedBy: _____ Date: _____