

At a meeting of the Spotsylvania County Board of Supervisors held on November 15, 2018 on a motion by_____, seconded by_____and passed_____, the Board adopts the following ordinance:

AN ORDINANCE No. 8-15

CA18-0004: Development Review Procedures

To amend County Code ("Code Amendment") Chapter 8, Erosion and Sedimentation Control Ordinance, Article I. – In General, Sec. 8-4. Definitions, to add exceptionally-large-scale land disturbance construction area defined as 400 acres or larger; amend Article II. – Local Erosion and Sedimentation Control Program, Division 3. – Special Requirements, Sec. 8-37. – Fees for inspection of corrections of violations of the provisions of this chapter, by adding provisions related to fees for exceptionally-large-scale land disturbance area; and to add those fees to the Fee Schedule as authorized under Sec. 8-31(c).

PUBLIC HEARING:

WHEREAS, staff has reviewed the Code Amendment and recommends approval as stated in the Executive Summary dated October 26, 2018; and

WHEREAS, the Spotsylvania County Planning Commission held a public hearing on this item on October 17, 2018 which was duly advertised in a local newspaper for a period of two weeks, and interested citizens were given an opportunity to be heard; and

WHEREAS, the Spotsylvania County Planning Commission recommended Approval of the Code Amendment with a vote of 6-0; and

WHEREAS, the Spotsylvania County Board of Supervisors held a public hearing on November 15, 2018, which was duly advertised in a local newspaper for a period of two weeks, and interested citizens were given an opportunity to be heard; and

WHEREAS, good erosion and sediment control practice and general welfare are served by approval of the Code Amendment.

NOW, THEREFORE, THE BOARD OF SUPERVISORS FOR THE COUNTY OF SPOTSYLVANIA HEREBY ORDAINS:

§ 1. That Chapter 8, Article I Sec. 8-4, Definitions, is hereby amended and reordained as follows:

Sec. 8-4. - Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them in this section, unless the context requires a different meaning:

Aggrieved landowner means any landowner whose property sustains pecuniary damage resulting from a violation of an approved plan or required permit or from the conduct of land-disturbing activities commenced without an approved plan or required permit.

Agreement in lieu of plan means a contract between the county, signed by the, program administrator and the owner which specifies conservation measures which must be implemented in the construction of a single family residence in lieu of a formal site plan. The program administrator executes said contract on behalf of the county if the contract meets the requirements of this chapter.

Applicant means the owner, or a person authorized by limited power of attorney or other acceptable document to sign on behalf of the owner, submitting an erosion and sediment control plan for approval or requesting, by written application, the issuance of a permit authorizing land-disturbing activities to commence.

Board means the Virginia Soil and Water Conservation Board, as described in Section 10.1-502 of the Code of Virginia.

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.

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, (ii) is enrolled in the board's training program for plan review and successfully completes such program within one year after enrollment, or (iii) is licensed as a professional engineer, architect, certified landscape architect or land surveyor pursuant to article 1 (section 54.1-400 et seq.) of Chapter 4 of Title 54.1.

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 year after enrollment.

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

Conservation plan, 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 maps, an appropriate soil and water plan inventory and management information with needed interpretations, and a record of decisions contributing to conservation treatment. The plan shall contain all major conservation decisions to assure that the entire unit or units of land will be so treated to achieve the conservation objectives.

DCR means Virginia Department of Conservation and Recreation.

Director means the Spotsylvania County erosion and sediment control director or any person designated by the director to act on his or her behalf.

District or soil and water conservation district means a political subdivision of the state organized in accordance with the provisions of Chapter 5, Article 3 of Title 10.1 of the Code of Virginia, as amended.

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

Excavating means any depositing or stockpiling of earth materials.

Exceptionally-large-scale land disturbance construction area means a land-disturbance activity area 400 acres or larger.

Governing body means the Spotsylvania County Board of Supervisors.

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

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 following activities shall not be considered land-disturbing activities for the purpose of this chapter:

- (1) Minor land-disturbing activities such as home gardens and individual home landscaping, repairs and maintenance work;
- (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, such 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;
- (6) Exploration or drilling for oil and gas including the well site, roads and off-site disposal areas;
- (7) Tilling, planting or harvesting of agricultural, horticultural or forest crops or livestock feedlot operations; including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 of this Title 10.1 of the Code of Virginia, as amended, or is converted to bona fide agricultural or improved pasture use as described in subsection B of section 10.1-1163 of the Code of Virginia, as amended;
- (8) Repair or rebuilding of the tracks, rights-of-way, bridges, communication facilities and other related structures and facilities of a railroad company;
- (9) Agricultural engineering operations including, but not limited to, the construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds (not required to comply with the Dam Safety Act, Chapter 6, Article 2, of Title 10.1 of the Code of Virginia, as amended), ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage and land irrigation;
- (10) Disturbed land areas of less than twenty-five hundred (2,500) square feet in size;
- (11) Installation of fence and signposts or telephone and electric poles and other kinds of posts or poles;
- (12) Shore erosion control projects on tidal waters when the projects are approved by local wetland boards, the Marine Resources Commission or the U.S. Army Corps of Engineers;
- (13) 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 local plan approving authority.

Land-disturbing permit means a permit issued by the county for land-disturbing activities regulated by this chapter.

Local erosion and sediment control program or *local control program* means 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 and may

include such items as a local ordinance, policies and guidelines, technical matters, inspection, enforcement and evaluation.

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 property.

Permit issuing authority means the erosion and sediment control program administrator.

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

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 this state, any interstate body or any other legal entity.

Plan approving authority means the erosion and sediment control program administrator.

Program authority means the locality which has adopted a soil erosion and sediment control program approved by the board.

Responsible land disturber means an individual from the project or development team, who will be in charge or responsible for carrying out a land-disturbing activity covered by an approved plan or agreement in lieu of 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 I (section 54.1-400 et seq.) of Chapter 4 of Title 54.1.

Single family residence/home/dwelling means a noncommercial dwelling that is occupied exclusively by one family.

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

Subdivision has the same meaning in this chapter as the definition set forth in the Spotsylvania County Subdivision Ordinance.

(Ord. No. 8-1, 11-28-89; Ord. No. 8-1, 7-27-93; Ord. No. 8-2, 7-12-94; Ord. No. 8-6, 2-11-03; Ord. No. 8-15, XX-XX-XX)

§ 2. That Chapter 8, Article II, Division 3, be and is hereby amended and reordained as follows:

Sec. 8-37. - Fees for inspection of corrections of violations of the provisions of this chapter.

(a) Fees for exceptionally- large-scale land disturbance construction area inspections shall be authorized by the Board of Supervisors from time to time to off-set Erosion and Sedimentation Control Departmental program administration and inspection costs and shall be designated in the Unified Fee Schedule.

(1) In accordance with the Unified Fee Schedule fee amount and determined by land disturbance acreage calculation on the approved site plan, the applicant shall be billed for the monthly inspection fee on the first day of each month during the period of validity of the construction site plan. Thereafter, the

applicant will continue to be billed for the required monthly fee on the first (1st) day of the month until the site receives a final bond release inspection approval. The applicant shall remit payment within fifteen (15) days of invoicing to the Zoning and Environmental Codes Department by check payable to the County Treasurer. Failure to stay current on construction fee billing shall be cause for issuance of a project stop work order until such fees are paid current.

- (2) If the monthly fee schedule amount received is more than the amount of billed third-party inspection costs required during any month, then the County collection overage amount will be discounted towards the next calculated County fee invoice to the applicant submitted on the subsequent first day of the next month's invoice equalized to the monthly fee per the fee schedule.
 - (3) If the monthly fee schedule amount invoice is insufficient to cover the billed third-party inspection cost for any particular monthly billing cycle, then the applicant shall be invoiced for the County's fee collection underage on the subsequent month's invoicing in an equal amount totaling third-party inspections billing for that current month plus the previous month's collection underage.
 - (4) At the closure of the land disturbance permit by a final bond release inspection, the applicant shall be due any County fee collection overage compared to the last month's third-party billing cycle up to final bond release inspection.
- (b) Where any violation of this chapter requires more than one (1) inspection to the site by the erosion and sediment control department, there will be imposed a reinspection fee for each additional inspection. No occupancy permit shall be issued until such fees are paid.

(Ord. No. 8-1, 7-27-93; Ord. No. 8-15, XX-XX-XX)

Pursuant to Sec. 8-31(c), the following new fees are added to the Fee Schedule for Land Use and Building:

Division	Name of Fee	Current Fee	Proposed Fee
E&S	Exceptionally-Large-Scale land disturbance area inspections	New Fee	400 to <1000 Acres \$7000 per Month 3rd party inspections
		New Fee	1000 to <2000 Acres \$11,000 per Month 3rd party inspections
		New Fee	2000 to <3000 Acres \$22,000 per Month 3rd party inspections
		New Fee	3000+ Acres \$44,000 per Month 3rd party inspections

