

ADOPTED BY THE COUNTY OF GREENE, VIRGINIA BOARD OF SUPERVISORS AUGUST 8, 2000,
THIS ARTICLE IS EFFECTIVE AUGUST 9, 2000, AND SUPERSEDES ANY AND ALL PREVIOUS VERSIONS OF
CHAPTER 38, ARTICLE III OF THE CODE OF THE COUNTY OF GREENE, VIRGINIA
REVISED ON MAY 13, 2014

ARTICLE III. EROSION & SEDIMENT CONTROL

Sec. 38-71. Title; Purpose; Authority.

- A. This article shall be known as the "Erosion & Sediment Control Ordinance of the County of Greene, Virginia." The purpose of this article is to conserve the land, water, air and other natural resources of the County of Greene, Virginia by establishing requirements for the control of erosion and sedimentation, and by establishing procedures whereby these requirements shall be administered and enforced.
- B. This article is authorized by the Code of Virginia, Title 62.1, Chapter 3.1, Article 2.4, known as the Virginia Erosion and Sediment Control Law.

Sec. 38-72. Definitions.

The following definitions are as used in the ordinance, unless the context clearly indicates otherwise. In addition, items not defined herein are defined in Section 62.1-44.15:51 of the Virginia Erosion and Sediment Control Law, and 9VAC25-840-10 of the Virginia Administrative Code.

"Act" means the Erosion and Sediment Control Law, Article 2.4 of Chapter 3.1 of Title 62.1 of the Code of Virginia.

"Adequate Channel" means a watercourse that will convey the designated frequency storm event without overtopping its banks or causing erosive damage to the bed, banks and overbank sections of the same.

"Agreement in lieu of a plan" means a contract between the VESCP 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 VESCP authority in lieu of an Erosion and Sediment Control plan.

"Applicant" means any person submitting an erosion & sediment control and stormwater management plan for approval or requesting the issuance of a permit, when required, authorizing land-disturbing activities to commence.

"Board" means the Virginia State Water Control Board.

"Causeway" means a temporary structural span constructed across a flowing watercourse or wetland to allow construction traffic to access the area without causing erosion damage.

"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 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 (Sec. 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.

"Channel" means a natural stream or manmade waterway.

"Clearing" means any activity which removes the vegetative ground cover including, but not limited to, root mat removal or top soil removal.

"Cofferdam" means a watertight temporary structure in a river, lake, etc. for keeping the water from an enclosed area that has been pumped dry so that bridge foundations, dams, etc. may be constructed.

"Conservation Plan," "Erosion & Sediment Control and/or Stormwater Management 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, and how existing runoff characteristics will be maintained by a land development project. The plan shall contain all major conservation and management decisions to assure that the entire unit or units of land will be so treated to achieve the conservation and management objectives.

"County" means the County of Greene, Virginia.

"Dam" means a barrier to confine or raise water for storage or diversion, to create a hydraulic head, to prevent gully erosion, or to retain soil, rock or other debris.

"Denuded" means a term applied to land that has been physically disturbed and no longer supports vegetative cover.

"Department" means the Department of Environmental Quality.

"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 or more residential dwelling units.

"Director" means the director of the Department.

"District" or "Soil and Water Conservation District" refers to the Culpeper Soil and Water Conservation District within which lies the County of Greene, Virginia.

"Diversion" means a channel with a supporting ridge on the lower side constructed across or at the bottom of a slope for the purpose of intercepting surface runoff.

"Dormant" means denuded land that is not actively being brought to a desired grade or condition.

"Energy Dissipator" means a nonerodible structure which reduces the velocity of concentrated flow to reduce its erosive effects.

"Erosion and Sediment Control Plan" or "Plan" means a document containing material for the conservation and water resources of a unit or group of units of land. It may include appropriate maps, an appropriate soil and water plan inventory and management information with needed interpretations and a record of decisions contributing to conservation treatment. The plan shall contain all major conservation decisions 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.

"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.

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

"Filling" means any depositing or stockpiling of earth materials.

"Flooding" means a volume of water which is too great to be confined within the banks or walls of the stream, water body or conveyance system and which overflows onto adjacent lands, causing or threatening damage.

"Flume" means a constructed device lined with erosion-resistant materials intended to convey water on steep grades.

"Grading" means any excavating or filling of earth material or any combination thereof, including the land in its excavated or filled conditions.

"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:

- (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, feeder lines, and off-site disposal areas;
- (7) Tilling, planting, or harvesting of agricultural, horticultural, or forest crops, or livestock feedlot operations; including engineering operations and 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, (Sec. 10.1-604 et seq.) of Chapter 6, 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 (Sec. 10.1-1100 et seq.) of this title or is converted to bona fide agricultural or improved pasture use as described in subsection B of Section 10.1-1163;
- (8) Repair or rebuilding of the tracks, rights-of-way, bridges, communication facilities and other related structures and facilities of a railroad company;
- (9) Disturbed land areas of less than 10,000 square feet in size;
- (10) Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;
- (11) Emergency work to protect life, limb or property, and emergency repairs; provided that if the land-disturbing activity would normally have required an approved erosion and sediment control plan, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of the plan-approving authority.

"Land Disturbance Permit" means a permit issued by the County of Greene, Virginia for the clearing, filling, excavating, grading, transporting of land or for any combination thereof or for any purpose set forth herein.

"Live Watercourse" means a definite channel with bed and banks within which concentrated water flows continuously.

"Local erosion and sediment control and/or stormwater management program" or "local control program" means an outline of the various methods employed by the County of Greene, Virginia to regulate land-disturbing activities and thereby minimize harmful runoff, 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.

"Locality" means a county, city or town.

"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.

"Natural stream" means nontidal waterways that are part of the natural topography. They usually maintain a continuous or seasonal flow during the year and are characterized as being irregular in cross-section with a meandering course. Constructed channels such as drainage ditches or swales shall not be considered natural streams.

"Nonerodible" means a material, e.g., riprap, concrete, plastic, etc., that will not experience surface wear due to Natural forces.

"Nonpoint source pollution" means pollution whose sources cannot be pinpointed, but which is rather carried from the land surface in a diffuse manner by stormwater runoff.

"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.

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

"Permittee" means the person to whom the permit authorizing land-disturbing activities is issued or the person who certifies that the approved 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 the commonwealth, any interstate body, or any other legal entity.

"Plan-approving authority" means the Program Administrator, who is the person responsible for determining the adequacy of a plan submitted for land-disturbing activities on a unit or units of lands and for approving plans.

"Post-development" means 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.

"Pre-development" means conditions at the time the erosion and sediment control plan is submitted to the VESCP authority for review. 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 administrator" means the person or persons responsible for administering and enforcing the erosion and sediment control program of a VESCP authority.

"Program authority" means the County of Greene, Virginia which has adopted a soil erosion and sediment control and stormwater management program approved by the Board.

"Runoff" means that portion of precipitation that is discharged across the land surface or through conveyances to one or more waterways.

"Responsible Land Disturber (RLD)" means an individual from the project or development team to include the owner, applicant, permittee, designer, superintendent, project manager, or contractor, 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 (§54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia.

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

"Sediment basin" means a temporary impoundment built to retain sediment and debris with a controlled Stormwater release structure.

"Sediment trap" means a temporary impoundment built to retain sediment and debris which is formed by constructing an earthen embankment with a stone outlet.

"Sheet flow" (also called overland flow) means shallow, unconcentrated and irregular flow down a slope. The length of strip for overland flow usually does not exceed 200 feet under natural conditions.

"Shore erosion control project" means an erosion control project approved by local wetlands boards, the Virginia Marine Resources Commission, the department, or the United States Army Corps of engineers and located on tidal waters and within nonvegetated or vegetated wetlands as defined in Title 28.2 of the Code of Virginia.

"Single-family residence" means a noncommercial dwelling that is occupied exclusively by one family.

"Slope drain" means tubing or conduit made of nonerosive material extending from the top to the bottom of a

cut or fill slope with an energy dissipator at the outlet end.

“Stabilized” means land that has been treated to withstand normal exposure to natural forces without incurring erosion damage.

"State Erosion and Sediment Control Program" or "State Program" means the program administered by the Virginia Water Control Board pursuant to the State Code including regulations designed to minimize erosion and sedimentation.

"State Waters" means all waters on the surface and under the ground wholly or partially within or bordering the Commonwealth or within its jurisdictions.

“Storm sewer inlet” means a structure through which stormwater is introduced into an underground conveyance system.

“Stormwater detention” means the process of temporarily impounding runoff and discharging it through a hydraulic outlet structure to a downstream conveyance system.

“Temporary vehicular stream crossing” means a temporary nonerodible structural span installed across a flowing watercourse for use by construction traffic. Structures may include bridges, round pipes or pipe arches constructed on or through nonerodible material.

“Ten-year storm” means a storm that is capable of producing rainfall expected to be equaled or exceeded on the average of once in 10 years. It may also be expressed as an exceedance probability with a 10% chance of being equaled or exceeded in any given year.

"Town" means any incorporated town.

"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 groundcover 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.

“Twenty-five-year storm” means a storm that is capable of producing rainfall expected to be equaled or exceeded on the average of once in 25 years. It may also be expressed as exceedance probability with a 4.0% chance of being equaled or exceeded in any given year.

“Two-year storm” means a storm that is capable of producing rainfall expected to be equaled or exceeded on the average of once in two years. It may also be expressed as an exceedance probability with a 50% chance of being equaled or exceeded in any given year.

“Virginia Erosion and Sediment Control Program (VЕСP)” means a program approved by the board that has been established by a VЕСP authority for the effective control of soil erosion, sediment deposition, and nonagricultural runoff associated with a land-disturbing activity to prevent the unreasonable degradation of properties, stream channels, waters, and other natural resources and shall include such items where applicable as local ordinances, rules, permit requirements, annual standards and specifications, policies and guidelines, technical material, and requirements for plan review, inspection, enforcement where authorized in this article, and evaluation consistent with the requirements of the Act and this chapter.

“Virginia Erosion and Sediment Control Program authority (VЕСP authority)” means an authority approved by the board to operate a Virginia Erosion and Sediment Control Program. An authority may include a state entity, including the department; a federal entity; a district, county, city, or town; or for linear projects subject to annual standards and specifications, electric, natural gas and telephone utility companies, interstate and intrastate natural gas pipeline companies, railroad companies, or authorities created pursuant to Section 15.2-5102 of the Code of Virginia.

"Watershed" means a defined land area drained by a river or stream or system of connecting rivers or streams, such that all surface water within the area flows through a single outlet.

“Water Quality Volume” means the volume equal to the first one-half inch of runoff multiplied by the

impervious surface of the land development project.

Sec. 38-73. Local Erosion & Sediment Control Program.

- A. Pursuant to section 62.1-44.15:54 of the Code of Virginia, the County of Greene, Virginia hereby adopts, as an integral part of this article, the regulations and guidelines of the Virginia Department of Environmental Quality for the management of soil erosion and sedimentation, as modified herein. Said regulations and guidelines are included in but not limited to the Virginia Erosion and Sediment Control Regulations, the Virginia Erosion and Sediment Control Handbook and this article, as amended from time to time. . The County of Greene VESCP shall work in conjunction with its VSMP as provided in the County of Greene Stormwater Management Ordinance to satisfy state required laws for the control of erosion and sedimentation, and for stormwater management. Both programs while separate, work side by side in protecting downstream properties and waterbodies from erosion, sedimentation, and pollution.
- B. Before adopting or revising regulations, the County of Greene, Virginia 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 Greene, Virginia is amending its program to conform to revisions in the state program. However, a public hearing shall be held if the County of Greene, Virginia proposes or revises regulations that are more stringent than the state program.

In addition, in accordance with section 62.1-44.15:52 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.

- C. Pursuant to section 62.1-44.15:53 of the Code of Virginia, an erosion control plan shall not be approved until it is reviewed by a certified plan reviewer. Inspections of land-disturbing activities shall be conducted by a certified inspector. The Erosion & Sediment Control Program (VESCP) of the County of Greene, Virginia shall contain a certified Program Administrator, a certified plan reviewer, and a certified inspector, who may be the same person.
- D. The County of Greene, Virginia hereby designates the Program Administrator as the plan-approving authority. The program and regulations provided for in this ordinance shall be made available for public inspection at the office of the Program Administrator.
- E. This article shall not apply to any town(s) within the County of Greene, Virginia, unless such town(s) specifically indicate the intention to be covered by this article.
- F. The County of Greene VESCP will undergo program review by the department to insure county compliance with state law. The department shall periodically conduct a comprehensive review and evaluation of local programs. The department will coordinate the review with its other program reviews for the same entity to avoid redundancy. The review and evaluation of a local program shall consist of the following:
- (i) consultation with the local program administrator or designee or designees;
 - (ii) review of the local ordinance and other applicable documents;
 - (iii) review of plans approved by the program;
 - (iv) inspection of regulated activities; and
 - (v) review of enforcement actions where authorized to do so. The department is also authorized to conduct a partial program compliance review.
1. Local programs shall be reviewed and evaluated for effectiveness in carrying out the Act and this chapter using the criteria in this section.
 2. If deficiencies noted in the review will cause the erosion and sediment control program to be inconsistent with the state program and this chapter, the board shall provide the VESCP authority with a copy of its decision that specifies the deficiencies, action needed to be taken, and an approved corrective action plan and schedule required to attain the minimum standard of effectiveness. If the VESCP authority has not implemented the necessary compliance actions identified by the board within the corrective action schedule, or such additional period as is granted to complete the implementation of the corrective action, then the board shall have the authority to (i) issue a special order to any VESCP imposing a civil penalty set out in § 62.1-44.15:54 F of the Act or (ii) revoke its approval of the VESCP. The Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) shall govern the review activities and proceedings of the board and the judicial review thereof. In lieu of issuing a special order or revoking the program, the board is authorized to take legal action against a VESCP to ensure compliance.
 3. Review and evaluation of VESCPs shall be conducted according to a schedule adopted by the department.

Sec. 38-74. Regulated Land-Disturbing Activities; Submission and Approval of Plans; Contents of Plans.

- A. Except as provided herein, no person may engage in any land-disturbing activity until he has submitted to the Program Administrator for the County of Greene, Virginia an erosion & sediment control plan for the land-disturbing activity and such plan has been approved, a bond posted and a permit issued by the plan-approving authority.
- B. Exempt Activities:
Unless indicated as an exempt activity pursuant to Section 38-72 of this Ordinance, any land-disturbing activity that disturbs 10,000 square feet and greater must first obtain a Land Disturbance Permit from the county. The program administrator shall determine the validity of a claim of exempt status by a property owner who disturbs 10,000 square feet or more. As soon as a nonexempt status is determined, the requirements of the Act shall be immediately enforced.
- C. State agency and federal entity projects: A state agency shall not undertake a project involving a land-disturbing activity unless (i) the state agency has submitted annual standards and specifications for its conduct of land-disturbing activities that have been reviewed and approved by the Department as being consistent with this article and associated regulations
or (ii) the state agency has submitted an erosion and sediment control plan for the project that has been reviewed and approved by the Department. When a federal entity submits an erosion and sediment control plan for a project, land disturbance shall not commence until the Department has reviewed and approved the plan.
- D. Permit Duration:
Land Disturbing Permits issued for residential subdivisions, commercial, industrial, and all other non-single family residence construction activities, are valid for 18 (eighteen) months. Permitted projects that are not considered complete by that time by the Program Administrator must renew the Land Disturbance Permit for another 6 (six) months, and repeat renewals until the project is considered complete, and any bond monies posted released. Permits issued for single family residential construction projects are valid for 36 (thirty-six) months. These projects must also obtain 6-month renewals until a certificate of occupancy has been issued, or until the Program Administrator determines that the project is complete. Should a land-disturbing activity not begin during the 180-day period following plan approval or cease for more than 180 days, the VESCP authority may evaluate the existing approved erosion and sediment control plan to determine whether the plan still satisfies local and state erosion and sediment control criteria and to verify that all design factors are still valid. If the VESCP authority finds the previously filed plan to be inadequate, a modified plan shall be submitted and approved prior to the resumption of land-disturbing activity. based on the establishment of permanent vegetative cover on the entire parcel. Renewal fees shall be collected for any and all amounts of time in arrears. All fees are specified on the County of Greene Fee Schedule.
- E. Off-site locations:
Whenever land-disturbing activity involves activity at a separate location (including but not limited to borrow and disposal areas), the VESCP authority may either:
1. Consider the off-site activity as being part of the proposed land-disturbing activity; or
 2. If the off-site activity is already covered by an approved erosion and sediment control plan, the VESCP authority may require the applicant to provide proof of the approval and to certify that the plan will be implemented in accordance with a the Act and this chapter.
- F. "Agreement In Lieu of a Plan":
Where the land-disturbing activity results from the construction of a single-family residence, an "agreement in lieu plan" may be substituted for an erosion & sediment control plan if executed by the plan-approving authority. If individual lots or sections in a residential development are being developed by different property owners, all land-disturbing activities related to the building construction shall be covered by an erosion and sediment control plan or an "Agreement in Lieu of a Plan" signed by the property owner. Land-disturbing activity of less than 10,000 square feet on individual lots in a residential development shall not be considered exempt from the provisions of the Act and this chapter if the total land-disturbing activity in the development is equal to or greater than 10,000 square feet.
- G. The plan-approving authority shall review conservation plans submitted to it and grant written approval within 45 days of the receipt of the plan if it determines that the plan meets the requirements of the Board's regulations and if the person responsible for carrying out the plan certifies that he will properly perform the conservation measures included in the plan and will conform to the provisions of this article. In addition, as a prerequisite to

engaging in the land-disturbing activities shown on the approved plan, the person responsible for carrying out the plan shall provide the name of an individual holding a certificate of competence, to the program authority, as provided by section 62.1-44.14:52, of the Virginia Erosion and Sediment Control Law, who will be in charge of and responsible for carrying out the land-disturbing activity. Failure to provide the name of an individual holding a certificate of competence prior to engaging in land-disturbing activities may result in revocation of the approval of the plan and the person responsible for carrying out the plan shall be subject to the penalties provided in this ordinance.

- H. Where land-disturbing activities involve lands under the jurisdiction of more than one local control program, a plan, at the option of the applicant, may be submitted to the Board for review and approval rather than to each jurisdiction concerned.
- I. The standards and specifications contained within the Virginia Erosion and Sediment Control Handbook are to be used by the applicant, except as noted herein, when making a submittal under the provisions of this ordinance and in the preparation of a plan. The plan-approving authority, in considering the adequacy of a submitted plan, shall be guided by the same standards, regulations and guidelines. When the standards vary between the publications, the State regulations shall take precedence. The following nineteen "Minimum Standards" are required of all permitted land-disturbing activities:

Minimum Standards:

A VESCP must be consistent with the following criteria, techniques and methods:

1. Permanent or temporary soil stabilization shall be applied to denuded areas within seven days after final grade is reached on any portion of the site. Temporary soil stabilization shall be applied within seven days to denuded areas that may not be at final grade but will remain dormant for longer than 14 days. Permanent stabilization shall be applied to areas that are to be left dormant for more than one year.
2. During construction of the project, soil stock piles and borrow areas shall be stabilized or protected with sediment trapping measures. The applicant is responsible for the temporary protection and permanent stabilization of all soil stockpiles on site as well as borrow areas and soil intentionally transported from the project site.
3. A permanent vegetative cover shall be established on denuded areas not otherwise permanently stabilized. Permanent vegetation shall not be considered established until a ground cover is achieved that is uniform, mature enough to survive and will inhibit erosion.
4. Sediment basins and traps, perimeter dikes, sediment barriers and other measures intended to trap sediment shall be constructed as a first step in any land-disturbing activity and shall be made functional before upslope land disturbance takes place.
5. Stabilization measures shall be applied to earthen structures such as dams, dikes and diversions immediately after installation.
6. Sediment traps and sediment basins shall be designed and constructed based upon the total drainage area to be served by the trap or basin.
 - a. The minimum storage capacity of a sediment trap shall be 134 cubic yards per acre of drainage area and the trap shall only control drainage areas less than three acres.
 - b. Surface runoff from disturbed areas that is comprised of flow from drainage areas greater than or equal to three acres shall be controlled by a sediment basin. The minimum storage capacity of a sediment basin shall be 134 cubic yards per acre of drainage area. The outfall system shall, at a minimum, maintain the structural integrity of the basin during a 25-year storm of 24-hour duration. Runoff coefficients used in runoff calculations shall correspond to a bare earth condition or those conditions expected to exist while the sediment basin is utilized.
7. Cut and fill slopes shall be designed and constructed in a manner that will minimize erosion. Slopes that are found to be eroding excessively within one year of permanent stabilization shall be provided with additional slope stabilizing measures until the problem is corrected.
8. Concentrated runoff shall not flow down cut or fill slopes unless contained within an adequate temporary or permanent channel, flume or slope drain structure.
9. Whenever water seeps from a slope face, adequate drainage or other protection shall be provided.
10. All storm sewer inlets that are made operable during construction shall be protected so that sediment-laden water cannot enter the conveyance system without first being filtered or otherwise treated to remove sediment.
11. Before newly constructed stormwater conveyance channels or pipes are made operational, adequate outlet protection and any required temporary or permanent channel lining shall be installed in both the conveyance channel and receiving channel.
12. When work in a live watercourse is performed, precautions shall be taken to minimize encroachment, control sediment transport and stabilize the work area to the greatest extent possible during construction. Nonerodible material shall be used for the construction of causeways and cofferdams. Earthen fill may be used for these structures if armored by nonerodible cover materials.

13. When a live watercourse must be crossed by construction vehicles more than twice in any six-month period, a temporary vehicular stream crossing constructed of nonerodible material shall be provided.
14. All applicable federal, state and local requirements pertaining to working in or crossing live watercourses shall be met.
15. The bed and banks of a watercourse shall be stabilized immediately after work in the watercourse is completed.
16. Underground utility lines shall be installed in accordance with the following standards in addition to other applicable criteria:
 - a. No more than 500 linear feet of trench may be opened at one time.
 - b. Excavated material shall be placed on the uphill side of trenches.
 - c. Effluent from dewatering operations shall be filtered or passed through an approved sediment trapping device, or both, and discharged in a manner that does not adversely affect flowing streams or off-site property.
 - d. Material used for backfilling trenches shall be properly compacted in order to minimize erosion and promote stabilization.
 - e. Restabilization shall be accomplished in accordance with this chapter.
 - f. Applicable safety requirements shall be complied with.
17. Where construction vehicle access routes intersect paved or public roads, provisions shall be made to minimize the transport of sediment by vehicular tracking onto the paved surface. Where sediment is transported onto a paved or public road surface, the road surface shall be cleaned thoroughly at the end of each day. Sediment shall be removed from the roads by shoveling or sweeping and transported to a sediment control disposal area. Street washing shall be allowed only after sediment is removed in this manner. This provision shall apply to individual development lots as well as to larger land-disturbing activities.
18. All temporary erosion and sediment control measures shall be removed within 30 days after final site stabilization or after the temporary measures are no longer needed, unless otherwise authorized by the VESCP authority. Trapped sediment and the disturbed soil areas resulting from the disposition of temporary measures shall be permanently stabilized to prevent further erosion and sedimentation.
19. Properties and waterways downstream from development sites shall be protected from sediment deposition, erosion and damage due to increases in volume, velocity and peak flow rate of stormwater runoff for the stated frequency storm of 24-hour duration in accordance with the following standards and criteria. 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:
 - a. Concentrated stormwater runoff leaving a development site shall be discharged directly into an adequate natural or man-made receiving channel, pipe or storm sewer system. For those sites where runoff is discharged into a pipe or pipe system, downstream stability analyses at the outfall of the pipe or pipe system shall be performed.
 - b. Adequacy of all channels and pipes shall be verified in the following manner:
 - (1) The applicant shall demonstrate that the total drainage area to the point of analysis within the channel is one hundred times greater than the contributing drainage area of the project in question; or
 - (2) (a) Natural channels shall be analyzed by the use of a two-year storm to verify that stormwater will not overtop channel banks nor cause erosion of channel bed or banks.
 - (b) All previously constructed man-made channels shall be analyzed by the use of a ten-year storm to verify that stormwater will not overtop its banks and by the use of a two-year storm to demonstrate that stormwater will not cause erosion of channel bed or banks; and
 - (c) Pipes and storm sewer systems shall be analyzed by the use of a ten-year storm to verify that stormwater will be contained within the pipe or system.
 - c. If existing natural receiving channels or previously constructed man-made channels or pipes are not adequate, the applicant shall:
 - (1) Improve the channels to a condition where a ten-year storm will not overtop the banks and a two-year storm will not cause erosion to the channel, the bed, or the banks; or
 - (2) Improve the pipe or pipe system to a condition where the ten-year storm is contained within the appurtenances;
 - (3) Develop a site design that will not cause the pre-development peak runoff rate from a two-year storm to increase when runoff outfalls into a natural channel or will not cause the pre-development peak runoff rate from a ten-year storm to increase when runoff outfalls into a man-made channel; or

- (4) Provide a combination of channel improvement, stormwater detention or other measures which is satisfactory to the VESCP authority to prevent downstream erosion.
 - d. The applicant shall provide evidence of permission to make the improvements.
 - e. All hydrologic analyses shall be based on the existing watershed characteristics and the ultimate development condition of the subject project.
 - f. If the applicant chooses an option that includes stormwater detention, he shall obtain approval from the VESCP of a plan for maintenance of the detention facilities. The plan shall set forth the maintenance requirements of the facility and the person responsible for performing the maintenance.
 - g. Outfall from a detention facility shall be discharged to a receiving channel, and energy dissipators shall be placed at the outfall of all detention facilities as necessary to provide a stabilized transition from the facility to the receiving channel.
 - h. All on-site channels must be verified to be adequate.
 - i. Increased volumes of sheet flows that may cause erosion or sedimentation on adjacent property shall be diverted to a stable outlet, adequate channel, pipe or pipe system, or to a detention facility.
 - j. In applying these stormwater management criteria, individual lots or parcels in a residential, commercial or industrial development shall not be considered to be separate development projects. Instead, the development, as a whole, shall be considered to be a single development project. Hydrologic parameters that reflect the ultimate development condition shall be used in all engineering calculations.
 - k. All measures used to protect properties and waterways shall be employed in a manner which minimizes impacts on the physical, chemical and biological integrity of rivers, streams and other waters of the state.
 - l. Any plan approved prior to July 1, 2014, that provides for stormwater management that addresses any flow rate capacity and velocity requirements for natural or man-made channels shall satisfy the flow rate capacity and velocity requirements for natural or man-made channels if the practices are designed to (i) detain the water quality volume and to release it over 48 hours; (ii) detain and release over a 24-hour period the expected rainfall resulting from the one year, 24-hour storm; and (iii) reduce the allowable peak flow rate resulting from the 1.5, 2, and 10-year, 24-hour storms to a level that is less than or equal to the peak flow rate from the site assuming it was in a good forested condition, achieved through multiplication of the forested peak flow rate by a reduction factor that is equal to the runoff volume from the site when it was in a good forested condition divided by the runoff volume from the site in its proposed condition, and shall be exempt from any flow rate capacity and velocity requirements for natural or man-made channels as defined in any regulations promulgated pursuant to § 62.1-44.15:54 or 62.1-44.15:65 of the Act.
 - m. For plans approved on and after July 1, 2014, the flow rate capacity and velocity requirements of § 62.1-44.15:52 A of the Act and this subsection shall be satisfied by compliance with water quantity requirements in the Stormwater Management Act (§ 62.1-44.15:24 et seq. of the Code of Virginia) and attendant regulations, unless such land-disturbing activities are in accordance with 9VAC25-870-48 of the Virginia Stormwater Management Program (VSMP) Regulations.
 - n. Compliance with the water quantity minimum standards set out in 9VAC25-870-66 of the Virginia Stormwater Management Program (VSMP) Regulations shall be deemed to satisfy the requirements of subdivision 19 of this subsection.
- J. The plan shall be acted upon within 45 days from receipt thereof by either approving or disapproving said plan in writing. If disapproved, the plan-approving authority shall specify such modifications, terms and conditions that will permit approval of the plan. If no action is taken within 45 days, the plan shall be deemed approved and the applicant authorized to proceed with the proposed activity.
- K. An approved plan may be changed by the plan-approving authority when:
- 1. The inspection reveals that the plan is inadequate to satisfy applicable regulations; or
 - 2. The person responsible for carrying out the plan finds that because of changed circumstances or for other reasons the approved plan cannot be effectively carried out, and amendments to the plan in accordance with this ordinance are agreed to by the plan-approving authority and the person responsible for carrying out the plan.
- L. 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 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. (Ord. of 1-9-2007)
- M. In order to prevent further erosion, the County of Greene, Virginia may require approval of a conservation plan for any land identified in the local program as an erosion impact area.
- N. When land-disturbing activity will be required of a contractor performing construction work pursuant to a construction contract, the preparation, submission and obtaining approval of an erosion & sediment control and stormwater management plan shall remain the responsibility of the owner.
- O. Electric, natural gas and telephone utility companies, interstate and intrastate natural gas pipeline companies or 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 and 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.
- P. The Board shall have sixty days in which to approve the utility company specifications. If no action is taken by the Board within sixty days, the specifications shall be deemed approved. Individual approval of separate projects within subdivisions 1 and 2 of paragraph J of this section is not necessary when approved specifications are followed. Projects not included in subdivisions 1 and 2 of paragraph J shall comply with the requirements of the appropriate local erosion and sediment control program. The Board shall have the authority to enforce approved specifications.
- Q. In accordance with the procedure set forth by section 62.1-44.15:55 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 Department of Environmental Quality, the Marine Resources Commission, or the U.S. Army Corps of Engineers, may, at the option of that person, file general erosion and sediment control specifications for wetland mitigation banks annually with the Board for review and approval consistent with guidelines established by the Board.
- R. State agency projects are exempt from the provisions of this ordinance except as provided for in Code of Virginia, section 62.1-44.15:56.
- S. All final plans shall be sealed and signed by the design professional responsible for preparing the plans, and shall contain a signed owners' certification stating that all measures shown on the approved plan will be installed and maintained in accordance with this ordinance, prior to issuance of a land disturbing permit.

Sec. 38-75. Permits; Fees; Performance Surety; Etc.

- A. No person may engage in any land-disturbing activity until he has obtained a land-disturbing permit, unless the activity is specifically exempt from the provisions of this ordinance. The permit shall indicate an expiration date, and shall require renewal if the land-disturbing activity has not been completed and stabilized before that date. In addition, as a prerequisite to engaging in the land-disturbing activities shown on the approved plan, the person responsible for carrying out the plan shall provide the name of an individual holding a certificate of competence, as provided by section 62.1-44.15:52 who will be in charge of and responsible for carrying out the land-disturbing activity. 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 of a plan shall correct the violation and provide the name of an individual holding a certificate of competence, as provided by section 62.1-44.15:52 of the Virginia Erosion and Sediment Control Law. Failure to provide the name of an individual holding a certificate of competence shall be a violation of this ordinance.

- B. No land-disturbing permit shall be issued until required fees have been paid, an erosion & sediment control -plan has been approved, a preconstruction conference held with the Program Administrator or designee, and the required performance surety has been provided for the land disturbing activity. If the owner is required to obtain approval of a site plan or subdivision plat, the Program Administrator shall not approve an Erosion and Sediment Control Plan unless and until the site plan or subdivision plat is approved.
- C. Agencies authorized under any other law to issue grading, building, or other permits for activities involving land-disturbing activities may not issue any such permit unless the applicant submits with his application an approved erosion & sediment control plan and certification that the plan will be followed.
- D. Fees: administrative fees, as set by the Board of Supervisors, shall be paid to the County of Greene, Virginia with the first submission of the erosion & sediment control and stormwater management plan for review, and prior to the permit expiration date if renewal is required.
- E. Surety: All applicants for permits shall provide to the County of Greene, Virginia a performance bond, cash escrow, irrevocable letter of credit or other security acceptable to the Program Administrator, with an executed agreement stating that measures may be taken by the County of Greene, Virginia at the applicant's expense, should the applicant fail after proper notice and within the time specified, to initiate or maintain appropriate measures required of him as a result of his land-disturbing activity.
- F. The amount of the bond or other security for performance shall not exceed the total estimated cost to initiate and maintain all conservation and management measures, based on the cost of new construction in the locality, plus an allowance for administrative costs and inflation not to exceed twenty-five percent of the cost of the measures. Should it be necessary for the County of Greene, Virginia to install and/or maintain such measures, the County of Greene, Virginia may use all security funds available as needed, as well as collect from the permittee any costs in excess of the amount of the security available.
- G. Within sixty (60) days of adequate final stabilization as determined by the Program Administrator, in any project or section of a project such bond or other security, held for such project or section of a project, shall be either refunded to the applicant or terminated as appropriate for the surety document.
- H. 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 such permits.

Sec. 38-76 Monitoring; Reports; Inspections.

- A. All erosion and sediment control structures and systems shall be maintained, inspected and repaired as needed to insure continued performance of their intended function in accordance with section 62.1-44.15:58 of the Code of Virginia. A statement describing the maintenance responsibilities of the permittee shall be included in the approved erosion and sediment control plan. These responsibilities generally require on-site inspections by the permittee, or designee, and hold such parties accountable to the standards and specifications of good operating conditions pursuant to the Virginia Erosion and Sediment Control Regulations and Handbook. If required, the person responsible for carrying out the plan, or his agent, will keep records of inspections and maintenance, to ensure compliance with the approved plan and to determine whether the measures on the plan are effective, and shall submit copies of these records to the Program Administrator at his/her request.
- B. Periodic inspections are required on all projects by the VESCP authority. The VESCP authority shall either:
 1. Provide for an inspection during or immediately following initial installation of erosion and sediment controls, at least once in every two-week period, within 48 hours following any runoff producing storm event, and at the completion of the project prior to the release of any performance bonds; or
 2. Establish an alternative inspection program which ensures compliance with the approved erosion and sediment control plan. Any alternative inspection program shall be:
 - a. Approved by the board prior to implementation;
 - b. Established in writing;
 - c. Based on a system of priorities that, at a minimum, address the amount of disturbed project area, site conditions and stage of construction; and
 - d. Documented by inspection records.
- C. The Program Administrator shall report to the department using an on-line reporting system, and at an interval to be determined by the department, a listing of each land-disturbing activity for which a plan has been approved under the Act of this chapter.

- D. If the Program Administrator determines that there is a failure to comply with the plan, notice shall be served upon the permittee or person responsible for carrying out the plan by registered or certified mail to the address specified in the permit application or in the plan certification, or by delivery at the site of the land-disturbing activities to the agent or employee supervising such activities.
- E. 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, the permit may be revoked and the permittee or person responsible for carrying out the plan shall be deemed to be in violation of this ordinance and shall be subject to the penalties provided by this ordinance.
- F. Upon determination of a violation of this ordinance, the Program Administrator may, in conjunction with or subsequent to a notice to comply as specified in this ordinance, issue an order, served in the same manner as a notice to comply, requiring that all or part of the activities permitted on the site be stopped until the specified corrective measures have been performed and approved.
- G. Where the alleged violation is causing or is in imminent danger of causing harmful runoff, 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 plan or any required permits, such an order may be issued without regard to whether the permittee has been issued a notice to comply as specified in this ordinance. Otherwise, such an order may be issued only after the permittee has failed to comply with such a notice to comply.
- H. The owner may appeal the issuance of an order to the Circuit Court of the County of Greene, Virginia.
- I. 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 the County of Greene, Virginia to obey same and to comply therewith by injunction, mandamus or other appropriate remedy. Upon completion and approval of corrective action, satisfying any penalties imposed and obtaining any required permits, the order shall be lifted immediately.
- J. Nothing in this section shall prevent the Program Administrator from taking any other action authorized by this ordinance.

Sec. 38-77 Penalties; Injunctions; Other Legal Actions.

- A. Any person who violates any provision of this ordinance shall, upon a finding of the District Court of the County of Greene, Virginia, be guilty of a Class I Misdemeanor and/or be assessed 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 have existed shall constitute a separate offense.
- B. 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 \$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 a total of \$10,000.
- C. The Program Administrator, or the owner or property which has sustained damage or which is in imminent danger of being damaged, may apply to the Circuit Court of the County of Greene, Virginia to enjoin a violation or a threatened violation of this ordinance, without the necessity of showing that an adequate remedy at law does not exist.
- D. However, an owner of property shall not apply for injunctive relief unless (i) he has notified in writing the person who has violated the local program, and the program authority, that a violation of the local program has caused, or creates a probability of causing, damage to his property, and (ii) neither the person who has violated the local program nor the program authority has taken corrective action within fifteen days to eliminate the conditions which have caused, or create the probability of causing, damage to his property.
- E. 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 County of Greene, Virginia.

- F. Any civil penalties assessed by a court shall be paid into the treasury of the County of Greene, Virginia, 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.
- G. With the consent of any person who has violated or failed, neglected or refused to obey any regulation or condition of a permit or any provision of this ordinance, the County of Greene, Virginia may provide for the payment of civil charges for violations in specific sums, not to exceed the limit specified in this section. Such civil charges shall be instead of any appropriate civil penalty which could be imposed under this section.
- H. The Commonwealth's Attorney shall, upon request of the County of Greene, Virginia or the permit issuing authority, take legal action to enforce the provisions of this ordinance.
- I. Compliance with the provisions of this ordinance shall be prima facie evidence in any legal or equitable proceeding for damages caused by runoff, erosion or sedimentation that all requirements of law have been met, and the complaining party must show negligence in order to recover any damages.

Sec. 38-.78 Appeals; Judicial Review.

- A. Any applicant who is aggrieved by the County of Greene, Virginia or its agent in disapproving plans submitted pursuant to this ordinance shall have the right to a review of such action by the Greene County Board of Supervisors provided an appeal is filed within 30 days from the date of the action. Any applicant who seeks an appeal hearing before the Board of Supervisors shall be heard at the next regularly scheduled Board of Supervisors public hearing, provided that the Board of Supervisors and other involved parties have at least 30 days prior notice.
- B. In reviewing the agent's actions, the Board of Supervisors shall consider evidence and opinions presented by the aggrieved applicant and agent, and may affirm, reverse or modify the action. The Board of Supervisor's decision shall be final, subject only to review by the Circuit Court of the County of Greene, Virginia.
- C. Final decisions of the County of Greene, Virginia under this ordinance shall be subject to review by the County of Greene, Virginia Circuit Court, provided an appeal is filed within 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.

END OF ARTICLE III