

ADOPTED

ORDINANCE NO. 85A-4

DEC 2 1985

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 5A, EROSION AND SEDIMENTATION, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, SECTION 5A-3, DEFINITIONS; SECTION 5A-4, NONCONTROLLED ACTIVITIES; SECTION 5A-5, PROCEDURES FOR PLAN SUBMISSION AND REVIEW, INSPECTION AND ENFORCEMENT; SECTION 5A-7, ACTION ON PLANS; AND SECTION 5A-11, PENALTY.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 5A, Erosion and Sedimentation, is hereby amended and reordained by amending Section 5A-3, Definitions; Section 5A-4, Noncontrolled activities; Section 5A-5, Procedures for plan submission and review, inspection and enforcement; Section 5A-7, Action on plans; and Section 5A-11, Penalty.

Chapter 5A. Erosion and Sedimentation

Section 5A-3. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Administrator. The official designated by the governing body to serve as its agent to administer this chapter.

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

District or soil and water conservation district. A governmental subdivision of the state organized in accordance with the provisions of the Soil Conservation Districts Law, Title 21, chapter 1, Code of Virginia, 1950, as amended.

Erosion and sedimentation control plan or plan. A document containing material for the conservation of soil and water resources of a unit or a group of units of land. It may include appropriate maps, an appropriate soil and water plan inventory and management information with needed interpretations, and a record of decisions contributing to conservation treatment. The plan shall contain all major conservation decisions to assure that the entire unit of land will be so treated to achieve the conservation objectives.

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

Filling. Any depositing or stockpiling of earth materials.

Governing body. The board of supervisors of the county.

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 land change which may result in soil erosion from water and-or wind and the movement of sediments into waters or into lands, including, but not limited to, clearing, grading, excavating, transporting and filling of land.

Land disturbing permit. A permit issued by the county for clearing, filling, excavating, grading or transporting, or any combination thereof.

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

Plan approving authority. The department of public works.

Transporting. Any moving of earth materials from one place to another, other than such movement incidental to grading, when such movement results in destroying the vegetative ground cover, either by tracking or the buildup of earth materials, to the extent that erosion and sedimentation will result from the soil or earth materials over which such transporting occurs. (3-10-75)

Section 5A-4. Noncontrolled activities.

In no instance shall the provisions of this chapter be construed to apply to the following:

- (a) Such minor land disturbing activities as home gardens and individual home landscaping, repairs and maintenance work;
- (b) Individual service connections;
- (c) Construction, installation or maintenance of electric and telephone utility lines;

- (d) 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;
- (e) 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;
- (f) Surface or deep mining;
 - (1) exploration or drilling for soil and gas including the well site, roads and off-site disposal areas;
- (g) Tilling, planting or harvesting of agricultural, horticultural, or forest crops;
- (h) Construction, repair or rebuilding of the tracks, right-of-way bridges, communication facilities and other related structures and facilities of a railroad company;
- (i) Preparation for single-family residences separately built, unless in conjunction with multiple construction in subdivision development;
- (j) Disturbed land areas for commercial or noncommercial uses of less than ten thousand (10,000) square feet in size;
- (k) Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;
- (l) Shore erosion control projects on tidal waters recommended by the soil and water conservation districts in which the projects are located or approved by the marine resources commission;
- (m) Emergency work to protect life, limb or property, and emergency repairs; provided that 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 requirement of the local plan approving authority;
- (n) Agricultural, horticultural or forestry activities or such activities as are essentially related thereto when such operations are carried on as a part of a program of continuing such agricultural, horticultural or forestry operations or represent a conversion from one such activity to another specified in this subparagraph;

- (o) Engineering operations recommended or approved by the soil and water conservation districts on privately owned, occupied or operated agricultural, horticultural or forest lands such as the construction of terraces, terrace outlets, check dams, desilting basins, floodwater retarding structures, channel improvements, floodways, dikes, ponds, ditches and the like; the utilization of strip cropping, lister furrowing, contour cultivating, contour furrowing; land drainage; land irrigation; seeding and planting of waste, sloping, abandoned, or eroded land to water-conserving and erosion-preventing plants, trees and grasses; forestation and reforestation, rotation of crops, soil stabilization with trees, grasses, legumes, and other thick growing, soil holding crops; retardation of runoff by increasing absorption of rainfall; and retirement from cultivation of steep, highly erosive areas and areas now badly gulled or otherwise eroded. (3-10-75; Ord. No. 85A-1, 6-16-77)

Section 5A-5. Procedures for plan submission and review, inspection and enforcement.

Those procedures for plan submission and review, inspection and enforcement are set forth in a separate document which is made a part hereof entitled, "State Minimum Criteria, Standards and Specifications," Chapter 3, and "Stormwater Management," Chapter 4, adopted from the Virginia Erosion and Sedimentation Control Handbook, February, 1980. (3-10-75; Ord. No. 85A-3, 5-11-81)

- (a) Land-disturbing activities where permit is issued. With respect to approved plans for erosion and sediment control in connection with land-disturbing activities which involve the issuance of a grading, building, or other permit, either the permit-issuing authority or plan-approving authority shall provide for periodic inspections of the land-disturbing activity to ensure compliance with the approved plan, and to determine whether the measures required in the plan are effective in controlling erosion and sediment resulting from the land-disturbing activities. Notice of such right of inspection shall be included in the permit. The owner, occupier or operator shall be given an opportunity to accompany the inspectors. If the permit-issuing authority or plan-approving authority determines that the permittee has failed to comply with the plan, the authority shall immediately serve upon the permittee by registered or certified mail to the address specified by the permittee in his permit application a notice to comply. Where the plan-approving authority serves notice, a copy of each notice shall also be sent to the issuer of the permit. Such notice shall set forth specifically the measures needed to come into compliance with such plan and shall specify the time within which such measures shall be completed. If the permittee fails to comply within the time specified, he may be subject to

revocation of the permit; furthermore, he shall be deemed to be in violation of this article and upon conviction shall be subject to the penalties provided by the article.

- (b) Other regulated land-disturbing activities. With respect to approved plans for erosion and sediment control in connection with all other regulated land-disturbing activities, the plan-approving authority may require of the person responsible for carrying out the plan such monitoring and reports, and may make such on-site inspections after notice to the resident owner, occupier or operator as are deemed necessary to determine whether the soil erosion and sediment control measures required by the approved plan are being properly performed, and whether such measures are effective in controlling soil erosion and sediment resulting from the land-disturbing activity. Such resident owner, occupier or operator shall be given an opportunity to accompany the inspectors. If it is determined that there is failure to comply with the approved plan, the plan-approving authority shall serve notice upon the person who is responsible for carrying out the plan at the address specified by him in his certification at the time of obtaining his approved plan. Such notice shall set forth the measures needed for compliance and the time within which such measures shall be completed. Upon failure of such person to comply within the specified period, he will be deemed to be in violation of the article and upon conviction shall be subject to the penalties provided by the article.

Section 5A-7. Action on plans.*

Upon submission of an erosion and sediment control plan to the plan-approving authority:

- (1) The plan-approving authority shall, within forty-five days, approve any such plan if it determines that the plan meets the conservation standards of the local control program and if the person responsible for carrying out the plan certifies that he will properly perform the erosion and sediment control measures included in the plan and will conform to the provisions of this article;
- (2) The plan-approving authority must act on all plans submitted within forty-five days from receipt thereof by either approving said plan in writing or by disapproving said plan in writing and giving the specific reasons for its disapproval. When a plan submitted for approval under this section is found, upon review by the agency, to be inadequate, the agency shall specify such modifications, terms, and conditions as will permit approval of the plan and communicate these requirements to the applicant as herein required. If no action

is taken by the plan-approving authority within the time specified above, the plan shall be deemed approved and the person authorized to proceed with the proposed activity.

* State Law Reference - Code of Virginia, Section 21-89.6(b)

Section 5A-11. Penalty.

- (a) A violation of this chapter shall be deemed a misdemeanor and upon conviction shall be subject to a fine not exceeding one thousand dollars (\$1,000.00) or thirty (30) days imprisonment, or both, for each violation. (3-10-75).
- (b) The County or the Commission may apply to the court of record in the jurisdiction wherein the land lies, or to the Circuit Court of the City of Richmond should the land lie in more than one jurisdiction, for injunctive relief to enjoin a violation or a threatened violation under Section 5A-5 or Section 5A-9 of this Chapter, without the necessity of showing that there does not exist an adequate remedy at law.



Jack D. Edwards, Chairman
Board of Supervisors

ATTEST:



James B. Oliver, Jr.
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia,
this 2nd day of December, 1985.

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<u>SUPERVISOR</u>	<u>VOTE</u>
BROWN	AYE
DEPUE	AYE
EDWARDS	AYE
MAHONE	AYE
TAYLOR	AYE