

ADOPTED

ORDINANCE NO. 85A-5

JUL 7 1986

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 5A, EROSION AND SEDIMENTATION CONTROL, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, SECTION 5A-3, DEFINITIONS; SECTION 5A-5, PROCEDURES FOR PLAN SUBMISSION AND REVIEW, INSPECTION AND ENFORCEMENT; 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 Control, is hereby amended and reordained by amending Section 5A-3, Definitions; Section 5A-5, Procedures for plan submission and review, inspection and enforcement; and Section 5A-11, Penalty.

Chapter 5A. Erosion and Sedimentation Control

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.

Commission. The Virginia Soil and Water Conservation Commission.

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.

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-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)

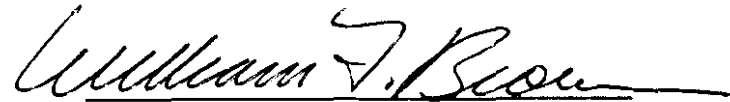
(c) Land disturbing activities where permit is issued. With respect to

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, or by delivery at the site of the permitted activities to the agent or employee of the permittee supervising such activities, 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, or by delivery at the site of the permitted activities to the agent or employee of the permittee supervising such activities. 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.

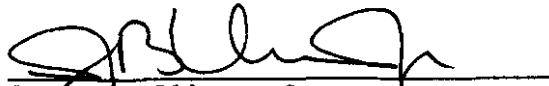
under Section 5A-5 or Section 5A-9 of this Chapter, without the necessity of showing that there does not exist an adequate remedy at law.

- (c) Upon receipt of a sworn complaint of a substantial violation of either Section 5A-5 or Section 5A-9 of this Chapter from the department of public works, the chief administrative officer of the County or the Commission may, in conjunction with or subsequent to a notice to comply, issue an order requiring that all or part of the land disturbing activities permitted on the site be stopped until the specified corrective measures have been taken. Where the alleged noncompliance is causing or is in imminent danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the commonwealth, such an order may be issued without regard to whether the permittee has been issued a notice to comply. Otherwise, such an order may be issued only after the permittee has failed to comply with such a notice to comply. The order shall be served in the same manner as a notice to comply, and shall remain in effect for a period of seven days from the date of service pending application by the enforcing authority or permit holder for appropriate relief to the circuit court of the jurisdiction wherein the violation was alleged to have occurred. Upon completion of corrective action, the order shall immediately be lifted. Nothing in this section shall prevent the chief administrative officer from taking any other action specified in Section 5A-11.



William F. Brown, 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 7th day of July, 1986.

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<u>SUPERVISOR</u>	<u>VOTE</u>
BROWN	AYE
DEPUE	AYE
MAHONE	AYE
TAYLOR	AYE
Edwards	Absent