

1.0 PURPOSE AND AUTHORITY

The purpose of this ordinance is to protect, maintain, and enhance the public health, safety and general welfare by establishing minimum requirements and procedures to control the adverse impacts associated with accelerated soil erosion and resultant sedimentation. Minimizing soil erosion and off-site sedimentation will minimize damage to public and private property, and assist in the attainment and maintenance of water quality standards.

The provisions of this Ordinance pursuant to Natural Resources Article Sections 8-1101 through 8-1108, Annotated Code of Maryland are adopted under the authority of the Board of County Commissioners of Washington County and shall apply to all grading occurring within the unincorporated area of Washington County. The application of this Ordinance and the provisions expressed herein shall be the minimum erosion and sediment control requirements and shall not be deemed a limitation or repeal of any other powers granted by State statute.

2.0 DEFINITIONS

1. "Adverse impact" means any deleterious effect on waters or wetlands including their quality, quantity, surface area, species composition, aesthetics or usefulness for human or natural uses. Such deleterious effect is or may potentially be harmful or injurious to human health, welfare, safety or property, to biological productivity, diversity, or stability or which unreasonably interfere with the enjoyment of life or property, including outdoor recreation.

2. "Agricultural land management practices" means those methods and procedures used in the cultivation of land in order to further crop and livestock production and conservation of related soil and water resources. Logging and timber removal operations may not be considered a part of this definition.

3. "Applicant" means any person who executes the necessary forms to procure official approval of a project or a permit to carry out construction of a project.

4. "Clear" means any activity which removes the vegetative ground cover.

5. "Department" means the Department of Natural Resources, Water Resources Administration.

6. "Developer" means a person undertaking, or for whose benefit any or all the activities covered by this ordinance are commenced or carried on. General contractors or subcontractors, or both, without a proprietary interest in a project are not included within this definition.

7. "Drainage area" means that area contributing runoff to a single point measured in a horizontal plane, which is enclosed by a ridge line.

8. "Erosion" means the process by which the land surface is worn away by the action of wind, water, ice, or gravity.

9. "Erosion and Sediment Control" means a system of structural and vegetative measures that minimize soil erosion and off-site sedimentation.

10. "Erosion and Sediment Control Plan" means an erosion and sediment control strategy or plan, to minimize erosion and prevent off-site sedimentation by containing sediment on-site or by passing sediment laden runoff through a sediment control measure, prepared and approved in accordance with the specific requirements of the Washington County Soil Conservation District and this Ordinance, and designed in accordance with the Standards and Specifications.

11. "Exemption" means those land development activities that are not subject to the erosion and sediment control requirements contained in this Ordinance.

12. "Grade" means to cause disturbance of the earth. This shall include but not be limited to any excavating, filling, stockpiling of earth materials, grubbing, root mat or topsoil disturbance, or any combination of them.

13. "Inspection Agency" means the State Water Resources Administration or if delegation of enforcement authority is granted to the County, then the appropriate local inspection agency.

14. "Permittee" means any person to whom a building or grading permit has been issued.

15. "Person" includes the federal government, the State, any county, municipal corporation, or other political subdivision of the State, or any of their units, or an individual, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind, or any partnership, firm, association, public or private corporation, or any of their affiliates, or any other entity.

16. "Responsible personnel" means any foreman, superintendent or project engineer who is in charge of on-site clearing and grading operations or sediment control associated with earth changes or disturbances.

17. "Sediment" means soils or surficial materials transported or deposited by the action of wind, water, ice, gravity, or other artificial means.

18. "Site" means any tract, lot or parcel of land or combination of tracts, lots or parcels of land which are in one ownership, or are contiguous and in diverse ownership where development is to be performed as part of a unit, subdivision, or project.

19. "Stabilization" means the prevention of soil movement by any of various vegetative and/or structural means.

20. "Standards and Specifications" means the "1983 Maryland Standards and Specifications for Soil Erosion and Sediment Control" or any subsequent revisions.

21. "Variance" means modification of the criteria set forth in the Standards and Specifications.

22. "Watershed" means the total drainage area contributing runoff to a single point.

3.0 APPLICABILITY

3.1 Scope

No person shall clear or grade land without implementing soil erosion and sediment controls in accordance with the requirements of this ordinance except as provided within this section.

3.2 Exemptions

a. Agricultural land management practices and construction of agricultural structures;

b. Single family residences or their accessory buildings on lots of 2 acres or more;

c. Clearing or grading activities that disturb less than 5000 square feet of land area and disturb less than 100 cubic yards of earth.

d. Clearing or grading activities that are subject exclusively to State approval and enforcement under State law and regulations.

3.3 Variances

The Washington County Soil Conservation District may grant a written variance from the requirements of the Standards and Specifications if strict adherence to the specifications will result in unnecessary hardship and not fulfill the intent of this Ordinance. The developer shall submit a written request for a variance to the Washington County Soil Conservation District. The request shall state the specific variances sought and reasons for requesting the variance. The Washington County Soil Conservation District shall not grant a variance unless and until sufficient specific reasons justifying the variance are provided by the developer.

4.0 EROSION AND SEDIMENT CONTROL PLANS

4.1 Review and Approval of Erosion and Sediment Control Plans

a. A person may not clear or grade land without first obtaining an erosion and sediment control plan approved by the Washington County Soil Conservation District.

b. The applicant shall submit an erosion and sediment control plan and any supporting computations to the Soil Conservation District for review and approval. The erosion and sediment control plan shall contain sufficient information and notes to describe how soil erosion and off-site sedimentation will be minimized. The Soil Conservation District shall review the plan to determine compliance with this Ordinance and the Standards and Specifications prior to approval. The plan shall serve as a basis for all subsequent grading and stabilization.

c. In approving the plan, the Soil Conservation District may impose such conditions thereto as may be deemed necessary to ensure compliance with the provisions of this Ordinance, the State Sediment Control Regulations, COMAR 08.05.01, the Standards and Specifications, or the preservation of public health and safety.

d. The Soil Conservation District shall notify the applicant of approval or reasons for the disapproval or modification within 30 days after submission of the completed erosion and sediment control plan. The erosion and sediment control plan shall not be considered approved without the inclusion of the signature and date of signature of the Washington County Soil Conservation District on the plan.

e. Approved plans may remain valid for 2 years from the date of approval unless renewed by the Soil Conservation District.

4.2 Contents of the Erosion and Sediment Control Plan

The applicant is responsible for submitting an erosion and sediment control plan which meets the requirements of the Soil Conservation District, this Ordinance, the State Sediment Control Regulations, COMAR 08.05.01 and the Standards and Specifications. The plan shall include sufficient information to evaluate the environmental characteristics of the affected areas, the potential impacts of the proposed grading on water resources, and the effectiveness and acceptability of measures proposed to minimize soil erosion and off-site sedimentation. The applicant shall certify on the drawings that all clearing, grading, drainage, construction, and development shall be conducted in strict accordance with the plan.

Applicants shall submit the following information:

1. A letter of transmittal;
2. A vicinity sketch indicating north arrow, scale, and other information necessary to easily locate the property;
3. A plan at an appropriate scale indicating at least:
 - a. Name, address, and telephone number of:
 1. The owner of the property where the grading is proposed;
 2. The developer;

3. The applicant.
- b. The existing and proposed topography.
- c. The proposed grading and earth disturbance including:
 1. Surface area involved;
 2. Limits of grading including limitation of mass clearing and grading whenever possible.
- d. Storm drainage provisions, including:
 1. Velocities and quantities of Q10 flow at outfalls; and
 2. Site conditions around points of all surface water discharge from the site;
- e. Erosion and sediment control provisions to minimize erosion and prevent off-site sedimentation including:
 1. Provisions to preserve topsoil and limit disturbance;
 2. Details of grading practices;
 3. Design details for structural controls; and
 4. Details of temporary and permanent stabilization measures including placement of the following statement on the plan. Following initial soil disturbance or redisturbance, permanent or temporary stabilization shall be completed within:
 - a. Seven calendar days as to the surface of all perimeter dikes, swales, ditches, perimeter slopes, and all slopes greater than 3 horizontal to 1 vertical (3:1); and
 - b. Fourteen days as to all other disturbed or graded areas on the project site.

The requirements of sections 3.e.4.a. and 3.e.4.b. do not apply to those areas which are shown on the plan are currently being used for material storage or for those areas on which actual construction activities are currently being performed or to interior areas of a surface mine site where the stabilization material would contaminate the recoverable resource. Maintenance shall be performed as necessary to ensure that the stabilized areas continuously meet the appropriate requirements of the "1983 Maryland Standards and Specifications for Soil Erosion and Sediment Control."

The requirements of sections 3.e.4.a. and 3.e.4.b. may be extended as deemed necessary by the Inspection Agency in the event that adverse conditions prevent compliance with the stated time limitations for the completion of permanent or temporary stabilization.

5. Temporary and permanent seeding specifications, including:

- a. Type of seed (mixture) and application rate;
- b. Type of lime and fertilizer and the associated application rates;
- c. Type of mulching, application rate and type of anchoring.
- f. Sequence of construction describing the relationship between the implementation and maintenance of controls, including permanent and temporary stabilization and the various stages or phases of earth disturbance and construction. The sequence of construction shall, as a minimum, include a schedule and timeframe for the following activities.
 1. Clearing and grubbing for those areas necessary for installation of perimeter controls;
 2. Construction of perimeter controls;
 3. Remaining clearing and grubbing;
 4. Road grading;
 5. Grading for the remainder of the site;
 6. Final grading, landscaping or stabilization; and
 7. Removal of controls.
- g. A statement placed on the plan indicating that the developer shall request that the Inspection Agency approve work completed in accordance with the approved erosion and sediment control plan, the grading or building permit, and this ordinance.
 1. On all sites with disturbed areas in excess of 2 acres, approval of the inspection agency shall be requested upon completion of installation of perimeter erosion and sediment controls, but before proceeding with any other earth disturbance or grading.
 2. Approval shall be requested upon final stabilization of all sites with disturbed areas in excess of 2 acres before removal of controls.
- h. Certification by the owner or developer that any clearing, grading, construction, or development, or all of these, will be done pursuant to this plan and that responsible personnel involved in the construction project will have a Certification of Training at a Department of Natural Resources approved training program for the control of sediment and erosion beginning the project. The Certification of Training for Responsible Personnel requirement may be waived by the Soil Conservation District on any project involving four or fewer residential units.

i. Any additional information or data deemed appropriate by the Soil Conservation District.

j. The Standard Sediment Control Plan, as adopted by the Soil Conservation District, a certified copy of which has been filed with the County Commissioners, may be used in lieu of conventional grading plans for minor grading operations, such as a single-family residence on lots less than 2 acres, small commercial and other similar building sites, minor maintenance grading, and minor utility construction.

k. The Soil Conservation District may waive the inclusion of any specific information required by this Section that is considered by the District to be not required or not applicable for the affected site.

4.3 Modifications to Erosion and Sediment Control Plans

The Soil Conservation District may revise approved plans as necessary. Modifications may be requested by a permittee and/or the Inspection Agency.

5.0 PERMITS

5.1 Permit Requirements

Before a grading or building permit for any lot or parcel is issued by the Washington County Permits and Inspection Department, the Soil Conservation District must review and approve an erosion and sediment control plan for the site.

5.2 Permit Expiration and Renewal

The building or grading permit shall expire 2 years from the date of issuance unless extended or renewed by the Washington County Permits and Inspection Department. Application for permit renewal shall be made at least 2 months prior to the permit expiration date.

5.3 Permit Fee

A permit fee schedule may be established by the Washington County Commissioners for the administration and management of the erosion and sediment control program. Capital improvement projects, refuse disposal areas, sanitary landfills, and public works projects shall be exempt from the permit fee.

5.4 Permit Suspension and Revocation

The Inspection Agency may suspend or revoke any grading or related building permit after providing written notification to the permittee based on any of the following reasons:

1. Any violation(s) of the terms or conditions of the approved erosion and sediment control plan or permit;

2. Noncompliance with violation notice(s) or stop work order(s) issued; or
3. Changes in site characteristics upon which plan approval and permit issuance was based.
4. Any violation(s) of this ordinance or any rules and regulations adopted under it.

6.0 INSPECTION

6.1 Inspection Frequency and Reports

- a. The permittee shall maintain a copy of the approved erosion and sediment control plan on site.
- b. On all sites with disturbed areas in excess of 2 acres, the permittee shall request that the Inspection Agency inspect work completed at the stages of construction specified below to ensure accordance with the approved erosion and sediment control plan, the grading or building permit, and this Ordinance:
 1. Upon completion of installation of perimeter erosion and sediment controls, prior to proceeding with any other earth disturbance or grading.
 2. Upon final stabilization before to removal of sediment controls.
- c. Every active site having a designed erosion and sediment control plan should be inspected for compliance with the plan on the average once every 2 weeks.
- d. Inspectors shall prepare written reports after every inspection. The inspection report shall describe:
 1. The date and location of the site inspection;
 2. Whether or not the approved plan has been properly implemented and maintained;
 3. Any practice deficiencies or erosion and sediment control plan deficiencies; and
 4. If a violation exists, the type of enforcement action taken.
- e. The Inspection Agency shall notify the on-site personnel or the owner/developer in writing when violations are observed, describing:
 1. The nature of the violation;
 2. The required corrective action; and

3. The time period in which to have the violation corrected.

6.2 Right of Entry

It shall be a condition of every grading or building permit that the Inspection Agency has the right to enter property periodically to inspect for compliance with this ordinance.

6.3 Modifications to Erosion and Sediment Control Plans

When inspection of the site indicates the approved erosion and sediment control plan needs modification, the modification shall be made in compliance with the erosion and sediment control criteria contained in the Standards and Specifications as follows:

- a. The permittee shall submit requests for major modifications to approved erosion and sediment control plans, such as the addition or deletion of a sediment basin, to the plan approval agency to due to plan inadequacies at controlling erosion and sediment as revealed through inspection; and
- b. The inspector may approve minor modifications to approved erosion and sediment control plans in the field if documented on a field inspection report. The plan approval agency shall, in conjunction with the inspection agency, develop a list of allowable field modifications for use by the inspector.

6.4 Complaints

The Inspection Agency shall receive complaints and initiate enforcement procedures when violations are confirmed. Any complaint received shall be investigated, routinely within 3 working days and the complainant shall be notified of any action or proposed action routinely within 7 working days of receipt of the complaint.

7.0 ENFORCEMENT

7.1 Enforcement Procedures

- a. When the Inspection Agency or an inspector determines that a violation of the approved erosion and sediment control plan has occurred, the inspector shall notify the on-site personnel or the permittee in writing of the violation, describe the required corrective action and the time period in which to have the violation corrected.
- b. If the violation persists after the date specified for corrective action in the notice of violation, the Inspection Agency shall stop work on the site. The Inspection Agency shall determine the extent to which work is stopped, which may include all work on the site except that work necessary to correct the violation.

c. If reasonable efforts to correct the violation are not undertaken by the permittee, the Inspection Agency shall refer the violation for legal action.

d. Upon approval by the Board of County Commissioners, the Washington County Permits and Inspections Department may deny the issuance of any permits to an applicant when it determines that the applicant is not in compliance with the provisions of a building or grading permit or approved erosion and sediment control plan.

e. Any step in the enforcement process may be taken at any time, depending upon the severity of the violation.

f. If a person is working without a permit, the Inspection Agency shall stop work on the site except activity necessary to provide erosion and sediment control.

g. The Inspection Agency shall inform the applicant in writing when all matters relating to the violation have been satisfactorily resolved and when any previously imposed suspensions have been withdrawn.

8.0 APPEALS

Any applicant who shall feel aggrieved by any action, or inaction of the Soil Conservation District or the Inspection Agency, or by any action of the Board of County Commissioners of Washington County, may appeal to the Circuit Court of Washington County, which shall hear the same de novo. Such appeal shall be filed within thirty (30) days of the action complained of and within a reasonable time after inaction complained of.

9.0 SEVERABILITY

If any portion, section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion of this Ordinance, it being the intent of the Board of County Commissioners of Washington County that this Ordinance shall stand, notwithstanding the invalidity of any portion, section, subsection, sentence, clause or phrase, hereof.

10.0 PENALTIES

a. Any person who violates any provision of this Ordinance is guilty of a misdemeanor, and upon conviction in a court of competent jurisdiction is subject to a fine not exceeding five hundred (\$500) dollars or imprisonment not exceeding thirty (30) days or both for each violation with costs imposed in the discretion of the court. Each day upon which the violation occurs constitutes a separate offense.

b. Any agency whose approval is required under this Ordinance or any interested person may seek an injunction against any person who violates or threatens to violate any provision of this Ordinance.

c. 1. In addition to any other sanction under this Ordinance, a person who fails to install or to maintain erosion and sediment controls in accordance with an approved plan shall be liable to the Board of County Commissioners of Washington County or the State in a civil action, for damages in an amount equal to double the post of installing or maintaining the controls.

2. Any governing authority that recovers damages in accordance with this subsection shall deposit them in a special fund, to be used solely for:

I. Correcting to the extent possible the failure to implement or maintain erosion and sediment controls; and

II. Administration of the sediment control program.

11.0 EFFECTIVE DATE

The Washington County Erosion and Sediment Control Ordinance, as amended, is hereby adopted on this 29th day of October 1985, and becomes effective this 29th day of October 1985.

I, Ronald L. Bowers, President of the Board of County Commissioners of Washington County, do hereby certify that the within Erosion and Sediment Control Ordinance, as amended, was unanimously adopted by the County Commissioners of Washington County, Maryland on October 29, 1985.

Ronald L. Bowers President

BOARD OF COUNTY COMMISSIONERS
OF WASHINGTON COUNTY, MARYLAND

ATTEST:

Kathryn F. Short, Clerk

BOARD OF COUNTY COMMISSIONERS
OF WASHINGTON COUNTY, MARYLAND