

Article II.

Erosion and Sedimentation Control Ordinance

SEC. 4-7. GENERALLY.

WHEREAS, for the purpose for alleviating harmful and/or damaging effects of on-site erosion and siltation of neighboring downstream properties during and after development;

WHEREAS, per Article 2.4. Virginia Erosion and Sediment Control Law ~~the General Assembly of the Commonwealth of Virginia, under Title 10.1 Chapter 5, Article 4 (Sec. 10.1-560 et seq.), of the Code of Virginia authorized localities to adopt an erosion and sedimentation control program;~~

NOW, THEREFORE, the County of Pittsylvania does hereby adopt the following Erosion and Sedimentation Control Ordinance.

This Ordinance shall not apply to any land disturbing activity in any Incorporated Towns within the boundaries of Pittsylvania County unless and until the governing body of such town shall by appropriate action indicate the intention to have the land disturbing activities within its boundaries covered by the terms and provisions of this Ordinance. Upon the taking of such action by the governing body of any of said Incorporated Towns the terms and provisions of this Ordinance shall apply fully to any land disturbing activity in said Incorporated Towns.

SEC. 4-8. PURPOSE.

An ordinance providing for the control of erosion and sedimentation prior to, during, and following development; and establishing procedures for the administration and enforcement of such controls.

SEC. 4-9. APPLICATION.

Except as provided for in Section 4 of this Ordinance, no person may engage in any land disturbing activity until such person has submitted to Pittsylvania County, has had reviewed and approved by the Plan Approving Authority for Pittsylvania County, an erosion and sediment control plan for such land disturbing activity.

It is the intent of this ordinance to be an adjunct to both of the County's Subdivision and Zoning Ordinance wherein such apply to the development and subdivision of land within the County of Pittsylvania or such apply to the development on previously subdivided land within the County of Pittsylvania.

SEC. 4-10. DEFINITIONS.

For the purpose of this ordinance, certain terms and words used herein shall be interpreted as follows:

1. “Governing Body” shall mean the Board of Supervisors of Pittsylvania County.

2. "Agreement in lieu of a plan" means a contract between the plan-approving authority and the owner that specifies conservation measures that must be implemented in the construction of a single-family residence; this contract may be executed by the plan-approving authority in lieu of a formal site plan.
3. "Applicant" means any person submitting an erosion and sediment control plan for approval or requesting the issuance of a permit, when required, authorizing land-disturbing activities to commence.
4. "Certified inspector" means an employee or agent of a VESCP 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.
5. "Certified plan reviewer" means an employee or agent of a VESCP 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, landscape architect, land surveyor pursuant to Article 1 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1, or professional soil scientist as defined in § 54.1-2200.
6. "Certified program administrator" means an employee or agent of a VESCP 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 and shall mean the official designated by the Governing Body to serve as its agent to administer this ordinance.
7. "Department" means the Department of Environmental Quality.
8. "Erosion and sediment control plan" or "plan" means a document drawn by a professional engineer containing material for the conservation of soil 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 to ensure that the entire unit or units of land will be so treated to achieve the conservation objectives.
9. "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 or to shorelines where the erosion results from wave action or other
10. "Permittee" means the person to whom the local permit authorizing land-disturbing activities is issued or the person who certifies that the approved erosion and sediment control plan will be followed.
11. "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, governmental body, including a federal or state entity as applicable, any interstate body, or any other legal entity.
12. Responsible land disturber or RLD means an individual holding a certificate issued by the department who is responsible for carrying out the land-disturbing activity in accordance with the approved ESC plan. In addition, the RLD may be a Virginia professional engineer, land surveyor, landscape architect, architect, or professional soil scientist, provided that it is the same licensed professional who sealed and signed the ESC plan. The RLD may be the owner, applicant, permittee, designer, superintendent, project manager, contractor, or any other project or development team member. The RLD must be designated on the ESC plan or permit as a prerequisite for engaging in land disturbance.

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

14. "Virginia Erosion and Sediment Control Program" or "VESCP" means a program approved by the Board that has been established by a VESCP 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 materials, and requirements for plan review, inspection, enforcement where authorized in this article, and evaluation consistent with the requirements of this article and its associated regulations.

15. "Virginia Erosion and Sediment Control Program authority" or "VESCP 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 § 15.2-5102.

16. "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.

~~1~~17. "Program Administrator" shall mean the official designated by the Governing Body to serve as its agent to administer this ordinance.

~~2~~18. "Building Official" shall mean the individual known as the Building Official appointed to enforce the requirements of Chapter 4 of the Pittsylvania County Code of 1975 as amended.

~~3~~19. "Plan Approving Authority" shall mean the Pittsylvania County Erosion Control Specialist.

~~4~~20. "Clearing" shall mean any activity, which removes the vegetative ground cover, including but not limited to its removal, root mat removal and/or topsoil removal.

~~5~~21. "Grading" shall mean any excavating or filling of earth materials or combination thereof, including the land in its excavated or filled condition.

~~6~~22. "Excavating" shall mean any digging, scooping or other methods of removing earth materials.

~~7~~23. "Filling" shall mean any depositing or stockpiling of earth materials.

~~8~~24. "Transporting" shall mean 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.

~~9~~25. "Land Disturbing Activity" shall mean any land change which may result in soil erosion from water or wind and the movement of sediments into waters or onto lands, including, but not limited to, clearing, grading, excavating, transporting and filling of land. (See Sec. 4-13 for full definition).

~~10.26.~~ “Land Disturbing Permit” shall mean a permit issued by the County of Pittsylvania for clearing, filling, excavating, grading, or transporting, or any combination thereof.

~~11.~~ “Erosion and Sedimentation Control Plan” or “Plan” shall mean a document containing material for the conservation of soil 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 to assure that the entire units or units of land will be so treated to achieve the conservation objectives.

~~12.~~ “Person” shall mean any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative or any other legal entity.

SEC. 4-11. PURPOSE OF CHAPTER.

This chapter shall provide for, both during and following development, the effective control of erosion and sedimentation by the enforcement of the minimum standards promulgated by the Department/Erosion and Sediment Control Law Virginia Soil and Water Conservation Board and known as the Virginia Erosion & Sediment Control Regulations.

SEC. 4-12. REGULATIONS.

The erosion and sediment control program of Pittsylvania County shall consist of the state program and regulations for erosion and sediment control. Pittsylvania County shall exercise the responsibilities of the program authority, as provided by state law and by this chapter.

Pursuant to section 62.1-44.15:54 of the Code of Virginia, the county hereby establishes a VESCP program and adopts the regulations promulgated by the board; with the exception that the requirements contained in 9VAC25-840-40.19 do not apply to the regulated land-disturbing activities that meet the requirements of 8.1-7 of this chapter; (for the effective control of soil erosion and sediment deposition to prevent the unreasonable degradation of properties, stream channels, waters and other natural resources) and the Virginia Erosion and Sediment Control Handbook, as amended, and those more stringent local criteria which the county board of supervisors, may adopt by resolution and incorporate into the manual of regulations and policies entitled "Stormwater Management Design Manual" and "Design and Construction Standards Manual."

In accordance with § 62.1-44.15:52 of the Code of Virginia, 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 forty-eight (48) hours; (ii) detain and release over a 24-hour period the expected rainfall resulting from the one (1) year, 24-hour storm; and (iii) reduce the allowable peak flow rate resulting from the one and one half (1.5), two (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.

For plans approved on and after July 1, 2014, the flow rate capacity and velocity requirements for natural and man-made channels shall be satisfied by compliance with water quantity requirements specified in § 62.1-44.15:28 of the Stormwater Management Act and 9VAC25-870-66 of the Virginia Stormwater Management Program (VSMP) regulations, unless such land-disturbing activities are in accordance with the grandfathering provisions of the Virginia Stormwater Management Program (VSMP) Regulations.

Pursuant to section 62.1-44.15:53 of the Code of Virginia, an erosion and sediment 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 control program of the county shall contain a certified program administrator, a certified plan reviewer, and a certified inspector, who may be the same person.

SEC. 4-13. LAND DISTURBING ACTIVITIES.

This ordinance, and the applicable state law and regulations, address erosion and sedimentation associated with land-disturbing activities for the purpose of this ordinance the definition shall be as follows:

~~“**Land-disturbing activity**” means any land change which may result in 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 which is hard surfaced;~~
- ~~4. Septic tank lines or drainage field 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 or agricultural, horticultural, or forest crops, or livestock feedlot operations; including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (§ 10.1—1100 et seq.) of this title or is converted to bond fide agricultural or improved pasture use as described in subsection B of § 10.1—1163;~~

- ~~8. Repair or rebuilding of the tracks, right-of-way, bridges, communication facilities and other related structures, and facilities of a railroad company;~~
- ~~9. Agricultural engineering operations including but not limited to the construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the provisions of the Dam Safety Act, Article 2 (§ 10.1—604 et seq.) of Chapter 6 of this title, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage and land irrigation.~~
10. Disturbed land areas of less than ten thousand (10,000) square feet in size.
11. Installation of fence and sign posts or telephones and electric poles and other kinds of posts or poles;
12. Shore erosion control projects when approved by local wetlands boards, the Marine Resources Commission or the United States Army Corps of Engineers; and
13. Emergency work to protect life, limb or property, and emergency repairs; however, if the land-disturbing activity would have required an approved erosion and sediment control plan, if the activity were not an emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of the plan approving authority.

The definition of land-disturbing activity, for the purpose of this ordinance, may be amended as the Virginia Erosion and Sediment Control Law is amended.

"Land-disturbing activity" means any man-made change to the land surface that 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 the land-disturbing activity is confined to the area of the road, street, or sidewalk that 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. Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted pursuant to Title 45.1;
- 1-6. Tilling, planting, or harvesting of agricultural, horticultural, or forest crops, livestock feedlot operations, or as additionally set forth by the Board in regulation, including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions

of Chapter 11 (§ 10.1-1100 et seq.) of Title 10.1 or is converted to bona fide agricultural or improved pasture use as described in subsection B of § 10.1-1163;

7. Repair or rebuilding of the tracks, rights-of-way, bridges, communication facilities, and other related structures and facilities of a railroad company;
- 2-8. Agricultural engineering operations, including but not limited to the construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the provisions of the Dam Safety Act (§ 10.1-604 et seq.), ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation;
9. Disturbed land areas of less than 10,000 square feet in size or 2,500 square feet in all areas of the jurisdictions designated as subject to the Chesapeake Bay Preservation Area Designation and Management Regulations; however, the governing body of the program authority may reduce this exception to a smaller area of disturbed land or qualify the conditions under which this exception shall apply;
10. Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;
11. Shoreline erosion control projects on tidal waters when all of the land-disturbing activities are within the regulatory authority of and approved by local wetlands boards, the Marine Resources Commission, or the United States Army Corps of Engineers; however, any associated land that is disturbed outside of this exempted area shall remain subject to this article and the regulations adopted pursuant thereto; and
12. Emergency work to protect life, limb, or property, and emergency repairs; however, if the land-disturbing activity would have required an approved erosion and sediment control plan, if the activity were not an emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of the VESCP authority.

SEC. 4-14. PROGRAM ADMINISTRATOR.

For the purpose of this ordinance the following definition shall apply:

~~“Erosion Control Specialist”~~ Program Administrator shall mean the position designated by the Pittsylvania County Board of Supervisors as its agent to administer the erosion and sediment control program and certified by the ~~Virginia Soil and Water Conservation Board~~ Virginia Department of Environmental Quality as a Program Administrator.

SEC. 4-15. DESIGNATION OF PLAN APPROVING AUTHORITY.

The ~~Erosion Control Specialist~~ Program Administrator is designated as the erosion and sediment control plan-approving authority in Pittsylvania County and shall be certified by the Department. ~~Virginia Soil and Water Conservation Board~~ as a Plan Reviewer.

SEC. 4-16. DESIGNATION OF ENFORCEMENT AUTHORITY.

The ~~Erosion Control Specialist~~ Program Administrator is designated as the enforcement authority in Pittsylvania County and shall have the power and authority to inspect, monitor, report and ensure compliance with the erosion and sediment control program of the County. The enforcement authority is also referred to

as the designated enforcement officer, the inspector, the permit issuing authority, and the Program Administrator. In order to perform these duties, the ~~Erosion Control Specialist Program Administrator~~ shall be certified by the ~~Department Virginia Soil and Water Conservation Board as an Inspector and Program Administrator or may be certified as a Combined Administrator.~~

SEC. 4-17. APPROVAL OF PLANS AND ISSUANCE OF PERMITS.

Erosion and sediment control plans submitted to Pittsylvania County shall be reviewed and acted upon by the plan-approving authority ~~or his designee~~. Upon approval of such plan, the applicant may seek a Land Disturbing-Permit from the permit-issuing authority. Plans shall be approved and permits shall be issued pursuant to applicable regulations ~~of the Virginia Soil and Water Conservation Board or its successor board.~~

~~No grading, building or other permits for activities involving land-disturbing activities shall be issued unless the applicant submits with his application an approved erosion and sediment control plan and certification that the plan will be followed. Any required performance bond and permit fee must also be furnished prior to issuing building or other permits.~~

No land-disturbing permit shall be issued until the applicant submits with the application an approved erosion and sediment control plan or agreement in lieu of an approved erosion and sediment control plan and certification that the plan will be followed.

Surety. All applicants for permits shall provide to the county a performance bond, cash escrow, or an irrevocable letter of credit acceptable to ensure that measures could be taken by the county at the applicant's expense should the applicant fail, after proper notice, within the time specified to initiate or maintain appropriate conservation measures required of him as a result of his land-disturbing activity. The amount of the bond or other security for performance shall not exceed the total of the estimated cost to initiate and maintain appropriate conservation action based on unit price for new public or private sector construction in the locality plus a contingency for the county's administrative costs and inflation. The contingency shall be ten (10) percent of the total estimated cost to initiate and maintain the appropriate conservation action. Should it be necessary for the county to take such conservation action, the county may collect from the applicant any costs in excess of the amount of the surety held.

Within sixty (60) days of adequate stabilization and completion of all other site requirements, as determined such bond, cash escrow or letter of credit, or the unexpended or unobligated portion thereof shall be either refunded to the applicant or terminated.

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. 4-18. FEES REQUIRED.

Applicants shall pay to Pittsylvania County a fee to defray the cost of program administration, including costs associated with plan review, issuance of land disturbing permits, periodic inspection and enforcement. The fees associated with this Ordinance shall be set by the Board of Supervisors annually in the Budget Resolution.

~~The plan review fee. A inspection fee shall one hundred fifty (\$150.00) dollars twenty five (\$25.00) dollars for commercial projects involving on one (1) acre or less plus five (\$5.00) dollars per acre of land or part~~

~~thereof in excess of one (1) acre shall be paid at the time of final approval of the erosion and sediment control plan and prior to issuance of the Land Disturbing Permit. A single family residential in lieu of permit shall be ten \$10.00 dollars.~~

No total fee shall exceed applicable limits established by state law.

SEC. 4-19. MONITORING, REPORTS, AND INSPECTIONS

The responsible land disturber, as provided in § 62.1-44.15:52, shall be in charge of and responsible for carrying out the land-disturbing activity and provide for periodic inspections of the land-disturbing activity. The county may require the person responsible for carrying out the plan to monitor the land-disturbing activity. The person responsible for carrying out the plan will maintain records of these inspections and maintenance, to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation.

The Department of Community Development shall periodically inspect the land-disturbing activity in accordance with 9VAC25-840-60 of the Virginia Erosion and Sediment Control Regulations to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation. The owner, permittee, or person responsible for carrying out the plan shall be given notice of the inspection. If THE Program Administrator determines that there is a failure to comply with the plan or if the plan is determined to be inadequate, 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.

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 shall be deemed to be in violation of this chapter and, upon conviction, shall be subject to the penalties provided by this chapter.

Upon issuance of an inspection report denoting a violation of Va. Code §§ 62.1-44.15:55,-44.15:56, the Program Administrator may, in conjunction with or subsequent to a notice to comply as specified in this chapter, issue a stop work 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.

If land-disturbing activities have commenced without an approved plan or proper permits, the Program Administrator, in conjunction with or subsequent to a notice to comply as specified in this chapter, issue a stop work order requiring that all of the land-disturbing and/or construction activities be stopped until an approved plan or any required permits are obtained. Failure to comply will result in civil charges or penalties as outlined in-section 8.1-10-of this chapter.

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, or where the land-disturbing activities have commenced without an approved plan or any required permits, such a stop work order may be issued without regard to whether the permittee has been issued a notice to comply as specified in this chapter. Otherwise, such a stop work order may be issued only after the permittee has failed to comply with such a notice to comply.

The stop work order shall be served in the same manner as a notice to comply, and shall remain in effect for a period of seven (7) days from the date of service pending application by the county or permit holder for appropriate relief to the circuit court. The county shall serve such stop work order for disturbance without an approved plan or permits upon the owner by mailing with confirmation of delivery to the address specified in the land records. Said stop work order shall be posted on the site where the disturbance is occurring, and shall remain in effect until permits and plan approvals are secured, except in such situations where an agricultural exemption applies.

If the alleged violator has not obtained an approved plan or any required permits within seven (7) days from the date of service of the stop work order, the Program Administrator may issue a stop work order to the owner requiring that all construction and other work on the site, other than corrective measures, be stopped until an approved plan and any required permits have been obtained. Such an order shall be served upon the owner by registered or certified mail to the address specified in the permit application or the land records of the county.

The owner may appeal the issuance of a stop work order to the circuit court of the county. Any person violating or failing, neglecting or refusing to obey a stop work order issued by the Program Administrator may be compelled in a proceeding instituted in the circuit court of the county to obey same and to comply therewith by injunction, mandamus or other appropriate remedy. Upon completion and approval of corrective action or obtaining an approved plan or any required permits, the stop work order shall immediately be lifted. Nothing in this section shall prevent the Program Administrator from taking any other action authorized by this chapter.

SEC. 4-19. REVIEW BY THE BOARD OF SUPERVISORS.

- A. Any person aggrieved by any action of the plan-approving authority or the enforcement authority shall have the right to apply for and receive a review of such action by the Pittsylvania County Board of Supervisors provided an appeal is filed within thirty (30) days from the date of any written decision by the plan-approving or enforcement authority.
- B. In reviewing the action of the plan-approving authority or the enforcement authority, the Board shall consider evidence and opinion presented by the aggrieved person, the plan approving authority or the enforcement authority, and such other persons, as shall be deemed by the Board necessary for a complete review of the matter.
- C. The Board may affirm, reverse or modify the action of the plan-approving authority or the enforcement authority, and the Board's decision shall be final, subject only to review by the Circuit Court of Pittsylvania County by appeal taken pursuant to applicable law, provided an appeal is filed within thirty (30) days from the date of the final written decision.
- D. For purpose of this section, the term "person aggrieved" shall be limited to the applicant or permit holder, owners of adjacent and downstream property and any interested government agency or officer thereof.

SEC. 4-20. ENFORCEMENT AND PENALTIES.

Pittsylvania County shall exercise the enforcement and penalty provisions authorized for a program authority in the Virginia Erosion and Sediment Control Law.

This ordinance was amended at an adjourned meeting of the Pittsylvania County Board of Supervisors on Tuesday, March 20, 2001 and became effective immediately upon its passage.

Any person who has violated or failed, neglected, or refused to obey any regulation or order of the Board, any order, notice, or requirement of the Department or VESCP authority, any condition of a permit, or any provision of this article or associated regulation shall be subject to civil penalties allowed under Article 2.4 of the Code of Virginia as amended. The civil penalty for any one violation shall be not less than \$100 nor more than \$1,000. Each day during which the violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same operative set of facts result in civil penalties that exceed a total of \$10,000, 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 that exceed a total of \$10,000.

The Director of Community Development, or his/her assignee, shall prepare an appropriate erosion and sediment control civil violation summons for use in enforcing the provisions of this chapter.

Any person of the VESCP plan approving authority charged with enforcing this chapter shall serve upon any owner or permittee in violation of this chapter, a summons notifying the owner or permittee of said violation. If unable to serve the owner or permittee in person, the county may notify by summons an owner or permittee committing or suffering the existence of a violation by certified, return receipt requested mail, of the infraction. The county sheriff's office may also deliver the summons. The summons shall contain the following information:

The name and address of the person charged.

The nature of the violation and chapter provision(s) being violated.

The location, date, and time that the violation occurred, or was observed. §

The amount of the civil penalty assessed for the violation.

The manner, location, and time that the civil penalty may be paid to the county.

The right of the recipient of the summons to elect to stand trial for the infraction and the date of such trial.

The summons shall provide that any person summoned for a violation may, within five (5) days of actual receipt of the summons or, within ten (10) days from the date of mailing of the summons, elect to pay the civil penalty by making an appearance in person, or in writing by mail to the county treasurer's office and, by such appearance, may enter a waiver of trial, admit liability, and pay the civil penalty established for the violation charged and provide that a signature to an admission of liability shall have the same force and effect as a judgment in court; however, an admission shall not be deemed a criminal conviction for any purpose.

If a person charged with a violation does not elect to enter a waiver of trial and admit liability, the county shall cause the sheriff of the county to serve the summons on the person charged in the manner prescribed by law. The violation shall be tried in general district court in the same manner and with the same right of appeal as provided for in Title 8.01 of the Code of Virginia. In any trial for a scheduled violation authorized by this section, it shall be the burden of the county to show the liability of the violator by the

preponderance of the evidence. Any admission of liability, or finding of liability shall not be a criminal conviction for any purpose.

The remedies provided for in this section are cumulative, and are not exclusive and, except as provided above, shall be in addition to any other remedies by law.

The owner or permittee may pay the civil penalty to the treasurer prior to the trial date, provided he also pays necessary court costs in addition to the civil penalty.

Within the time period prescribed in (c), above, the owner or permittee, may contest the violation by presenting it to the director of community development, who shall certify the contest in writing, on an appropriate form, to the general district court.

Failure to pay the civil penalty, or to contest the violation, within the time period prescribed in (c), above, shall result in the immediate issuance of a stop work order and the revocation of the permit, if any.