

**ACTION ITEM
BOARD OF SUPERVISORS**

DATE: September 4, 2007

TO: Board of Supervisors
FROM: Barry P Fitz-James *Barry P. Fitz-James*
Assistant Director of Code Administration
ISSUE: Amend the Erosion and Sediment Control Ordinance

RECOMMENDATION: Approval

BUDGET IMPACT: N/A

ATTACHMENTS: (3)

- [1] Background Report
- [2] **Reso/Ord/Proc** # O07-65
- []
- [3] **Reso/Ord/Proc** # O07-67

REVIEW [X] County Administrator's Office *Steve Crosby*
 [X] Legal *Steve Crosby*
 [X] Planning *Jeffrey A. Hume*

- [] Consent Agenda
- [] Discussion Item
- [] New Business
- [] Other Business
- [] Presentation
- [X] Public Hearing
- [] Unfinished Business

PRESENTATION BY: Steven Hubble, Environmental Programs Manager

ELECTION DISTRICT: N/A

BACKGROUND REPORT

Ordinance O07-65

This ordinance would modify Section 11-7 "Violations of Chapter-Penalty" to increase the civil fine amount per day per violation from \$100 00 to \$1,000 00 and increase the maximum penalty for violations from \$3,000 to \$10,000

Also, this ordinance would modify Section 11-17(a)(4) "Inspections and Certifications of Land-Disturbing Activities" of the County's Erosion and Sediment Control Ordinance to add a requirement for a pre-winter stabilization meeting for construction projects that are scheduled to remain active through the winter months

Additionally, this ordinance would modify Section 11-17(a)(1) "Inspections and Certifications of Land-Disturbing Activities" to require that upon initial site clearing and erosion/sediment control installation, the County shall inspect the installation of the initial erosion/sediment controls before the developer or contractor is allowed to proceed with further site clearing and construction

Ordinance O07-67

This ordinance would modify Section 11-2 "Definitions" to add a definition for *flocculents* and to revise the definitions of *plan approving authority* and *plan review agency*. The reason for the change in definitions of *plan approving authority* and *plan review agency* is to note that the Department of Planning and Zoning now performs those functions instead of the Department of Code Administration

Also, this ordinance would modify Section 11-12 "General Standards" to require that slopes equal to or more steep than 3:1 shall be stabilized using erosion control blankets or mats in accordance with the Virginia Erosion Control Handbook. The use of erosion control blankets or mats should facilitate stabilization of these slopes that may be more difficult to stabilize by using traditional stabilization methods such as seeding and mulching

Additionally, this ordinance would modify Section 11-12 "General Standards" to allow the Erosion Control Program Administrator to require the use of flocculents to help clarify runoff from sediment basins or traps on a site specific basis. Flocculents help fine clay sediment particles to coagulate and settle out in sediment basins or traps, which in turn helps to reduce the turbidity of water that may be discharged from these facilities during heavy rain events or dewatering operations

Finally, this ordinance would modify Section 11-12 "General Standards" to allow the Erosion Control Program Administrator to require the use of turbidity curtains on a site specific basis below construction sites that discharge to lakes or reservoirs. Turbidity curtains are often used as a backup sediment control measure when standard sediment controls on the site may discharge turbid water in heavy storms.

Recommendations

Staff recommends that the Board approve the proposed revisions to the E&S Ordinance. Staff feels that increased civil penalties and additional inspection requirements will enhance enforcement of the County's Erosion and Sediment Control Ordinance. Additionally, staff feels that the requirement to stabilize slopes equal to or steeper than 3:1 with erosion control blankets or mats will significantly improve stabilization on these slopes. Also, staff feels that being able to require flocculents to clarify runoff and turbidity curtains in site specific situations will be beneficial. However, flocculents and turbidity curtains will be used on a limited basis when conventional erosion and sediment controls are not operating at their full efficiency.

PROPOSED

BOARD OF SUPERVISORS
COUNTY OF STAFFORD
STAFFORD, VIRGINIA

ORDINANCE

At a regular meeting of the Stafford County Board of Supervisors (the Board) held in the Board Chambers, Stafford County Administration Center, Stafford, Virginia, on the 4th day of September, 2007

MEMBERS

Jack R. Cavalier, Chairman
Mark Dudenhefer, Vice Chairman
M. S. "Joe" Brito
Peter J. Fields
Robert C. Gibbons
Paul V. Milde III
George H. Schwartz

VOTE

On motion of , seconded by , which carried by a vote of , the following was adopted

AN ORDINANCE TO AMEND AND REORDAIN COUNTY CODE
SECTIONS 11-7 AND 11-17 OF THE EROSION AND SEDIMENT
CONTROL ORDINANCE REGARDING CIVIL PENALTIES AND
INSPECTION REQUIREMENTS

WHEREAS, local Erosion and Sediment Control Programs are authorized by the Code of Virginia to have more stringent regulations, and

WHEREAS, the 2007 General Assembly increased the civil penalties localities could charge for violations of local erosion and sediment control ordinances, and

WHEREAS, the Board desires to amend the Erosion and Sediment Control Ordinance to increase performance standards and enforcement of these codes, and increase penalties for non-compliance,

NOW, THEREFORE, BE IT ORDAINED by the Stafford County Board of Supervisors on this the 4th day of September, 2007, that Sections 11-7 and 11-17 of the Erosion and Sediment Control Ordinance be and they hereby are amended and reordained as follows

Sec 11-7. Same--Penalty.

(b) *Civil penalties*

(1) A civil penalty in the amount listed on the schedule below shall be assessed for each violation of the respective offenses

a Commencement of land-disturbing activity without an approved plan as provided in subsection 11-14(a) shall be one thousand dollars (\$1,000 00) per day

b Failure to comply with any of the minimum standards of the Virginia Erosion and Sediment Control Regulations shall be one ~~hundred~~ hundred thousand dollars (~~\$100-00~~) (\$1,000 00) per violation per day

c Failure to comply with any of the standards of section 11-12 of this chapter shall be one ~~hundred~~ hundred thousand dollars (~~\$100-00~~) (\$1,000 00) per violation per day

d Failure to obey a stop work order shall be one ~~hundred~~ hundred thousand dollars (~~\$100-00~~) (\$1,000 00) per day

e Failure to stop work when permit is revoked shall be one ~~hundred~~ hundred thousand dollars (~~\$100-00~~) (\$1,000 00) per day

(2) Each day during which the violation is found to have existed shall constitute a separate offense. However, 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 ~~three ten~~ ten thousand dollars (~~\$3,000 00~~) (\$10,000 00) ~~except that a series of violations arising from the commencement of land-disturbing activities without an approved plan for any site shall result in civil penalties not to exceed a total of ten thousand dollars (\$10,000 00)~~

Sec. 11-17 Inspections and certifications of land-disturbing activities

(a) Regular and thorough on-site inspections of land disturbing activities shall be conducted by the permit issuing agency. Essential elements of such inspections shall include

(1) Inspection during or immediately following initial installation of sediment controls, in particular, basins, traps, diversions and dikes. Upon installation of sediment controls, the permittee shall schedule an installation inspection with the permit-issuing agency. The

permittee must obtain approval of the sediment controls from the permit-issuing agency before proceeding with further grading or site development

- (4) Inspection prior to and immediately after seeding, particularly in the fall If the development project is active, or is planned to remain active through the winter months, the permittee shall schedule a pre-winter stabilization meeting with the permit-issuing agency. The meeting will be held before October 1st. Disturbed areas that will be idle over the winter shall be stabilized prior to November 1st.

PROPOSED

BOARD OF SUPERVISORS
COUNTY OF STAFFORD
STAFFORD, VIRGINIA

ORDINANCE

At a regular meeting of the Stafford County Board of Supervisors (the Board) held in the Board Chambers, Stafford County Administration Center, Stafford, Virginia, on the 4th day of September, 2007

MEMBERS

VOTE

Jack R. Cavalier, Chairman
Mark Dudenhefer, Vice Chairman
M. S. "Joe" Brito
Peter J. Fields
Robert C. Gibbons
Paul V. Milde III
George H. Schwartz

On motion of _____, seconded by _____, which carried by a vote of _____, the following was adopted

AN ORDINANCE TO AMEND AND REORDAIN SECTIONS 11-2 AND 11-12 OF THE EROSION AND SEDIMENT CONTROL ORDINANCE REGARDING DEFINITIONS AND GENERAL STANDARDS

WHEREAS, local Erosion and Sediment Control Programs are authorized by the Code of Virginia to have more stringent regulations, and

WHEREAS, the Board desires to amend the Erosion and Sediment Control Ordinance to increase performance standards,

NOW, THEREFORE, BE IT ORDAINED by the Stafford County Board of Supervisors on this the 4th day of September, 2007, that the Stafford County Code Sections 11-2 and 11-12 of the Erosion and Sediment Control Ordinance be and they hereby are amended and reordained as follows

Sec 11-2. Definitions

Flocculents (also known as polymers or polyacrylamide (PAM)) means natural materials or a class of chemicals that cause colloidal (clay) particles to coagulate and settle out in detained stormwater runoff

Plan-approving authority means the County Department of ~~Code Administration~~ Planning and Zoning, which, as the designated agent for the Board of Supervisors, shall be responsible for determining the adequacy of the conservation plan submitted for land disturbing activities in accordance with this chapter

Plan-review agency means the Department of ~~Code Administration~~ Planning and Zoning, which is responsible for evaluating the adequacy of a conservation plan submitted for land disturbing activities on a unit or units of land and which shall recommend approval or disapproval to the plan-approving authority

Sec 11-12. General Standards

(b) The following criteria shall apply to all applications for permits under this chapter. These criteria are in addition to those standards set forth in the handbook referred to in subsection (a) above

(8) In addition to the standards and specifications in the Virginia Erosion and Sediment Control Handbook, the following standards shall be indicated on the plan, installed and maintained until permanent stabilization is achieved

d. Soil stabilization blankets or matting, in accordance with the standards and specifications of the Virginia Erosion and Sediment Control Handbook, shall be installed to provide temporary or permanent stabilization on all slopes equal to or steeper than 3:1.

e. The Plan Approving Authority or Program Administrator may require the use of turbidity curtains on a site specific basis for development projects that drain to a lake or reservoir during plan review or inspection. If a turbidity curtain is required, it shall be installed in accordance with the standards and specifications of the Virginia Erosion and Sediment Control Handbook.

(9) The Program Administrator may require the use of flocculents to clarify runoff on a site specific basis to supplement the erosion and

sediment controls on the approved erosion and sediment control plan. If required, the engineer or surveyor who prepared the erosion and sediment control plan shall provide specific guidance to facilitate the application of flocculents on the site.

SC BFJ