

CHAPTER 1-10: GRADING, EROSION AND SEDIMENT CONTROL

Editor's note:

Ord. 85-17-349, adopted April 9, 1985 repealed Chapter 1-10 and reenacted a new Chapter 1 through 1-10. Formerly the chapter, consisting of Arts. I through IV, pertained to similar subject matter and was derived from Code 1959, §§ 34A-1 through 34A34, as amended by Ord. 76-1-61, adopted Jan. 12, 1976. The chapter was amended in its entirety by Ord. 91-08-008, adopted and effective April 16, 1991.

Ord. 12-27-622, adopted November 8, 2012 repealed Chapter 1-10 and reenacted a new Chapter 1-10 as herein set forth.

ARTICLE I: IN GENERAL

Section

- 1-10-1 Purpose and authority
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Storm water management, see Chapter 1-15.2;

Subdivisions, see Chapter 1-16;

Zoning, see Chapter 1-19

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Ord. 12-27-622, adopted November 8, 2012 repealed Chapter 1-10 and reenacted a new Chapter 1-10 as herein set forth.

Statutory reference:

Sediment control, see Md. Code Ann., Environment Article, §§ 4-101et seq., COMAR 26.09.01

§ 1-10-1. PURPOSE AND AUTHORITY.

(A) The purpose of this chapter 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 land disturbances. The goal is to minimize soil erosion and prevent off-site sedimentation by using soil erosion and sediment control practices designed in accordance with the Code of Maryland Regulations (COMAR) 26.17.01, the 2011 Maryland Standards and Specifications (Standards and Specifications) and the Stormwater Management Act of 2007 (Act).

Implementing this chapter will help reduce the negative impacts of land development on water resources, maintain the chemical, physical, and biological integrity of streams, and minimize damage to public and private property.

(B) The provisions of this chapter pursuant to Md. Code Ann., Title 4, Environment Article, Subtitle 1, are adopted under the authority of the Frederick County Code and shall apply to all land grading occurring within the incorporated Towns of Brunswick, Burkittsville, Emmitsburg, Middletown, Myersville, New Market, Rosemont, Thurmont, Walkersville, and Woodsboro, and the unincorporated area of Frederick County. The application of this chapter 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.

(Ord. 12-27-622, 11-8-2012; Ord. 14-23-678, 11-13-2014)

§ 1-10-2. DEFINITIONS.

ADMINISTRATION. The Maryland Department of the Environment (MDE) Water Management Administration (WMA).

ADVERSE IMPACT. Any deleterious effect on waters or wetlands, including their quality, quantity, surface area, species composition, aesthetics, or usefulness for human or natural uses, which are or may potentially be harmful or injurious to human health, welfare, safety or property, biological productivity, diversity, or stability or that unreasonably interfere with the enjoyment of life or property, including outdoor recreation.

AGRICULTURAL LAND MANAGEMENT PRACTICES. 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 are not to be considered a part of this definition.

APPLICANT. Any person, firm, or government agency that executes the necessary forms to apply for a permit or approval to carry out construction of a project.

APPROVAL AUTHORITY. The entity responsible for the review and approval of erosion and sediment control plans. For the purpose of this chapter, the **APPROVAL AUTHORITY** is the Frederick or Catoctin Soil Conservation District.

BEST MANAGEMENT PRACTICE (BMP). A structural device or nonstructural practice designed to temporarily store or treat stormwater runoff in order to mitigate flooding, reduce pollution, and provide other amenities.

CLEAR. To remove the vegetative ground cover while leaving the root mat intact.

CONCEPT PLAN. The first of three plans submitted under the comprehensive review and approval process required by the Act and described in COMAR 26.17.02 and shall include the information necessary to allow an initial evaluation of a proposed project.

COUNTY. Frederick County, Maryland.

DEPARTMENT. The Maryland Department of the Environment.

DRAINAGE AREA. That area contributing runoff to a single point measured in a horizontal plane that is enclosed by a ridge line.

ENVIRONMENTAL SITE DESIGN (ESD). Using small-scale stormwater management practices, nonstructural techniques, and better site planning to mimic natural hydrologic runoff characteristics and minimize the impact of land development on water resources.

EROSION. The process by which the land surface is worn away by the action of wind, water, ice, or gravity.

EROSION AND SEDIMENT CONTROL. A system of structural and vegetative measures that minimizes soil erosion and off-site sedimentation.

EROSION AND SEDIMENT CONTROL PLAN. An erosion and sediment control strategy or plan designed to minimize erosion and prevent off-site sedimentation.

EXEMPTION. Those land development activities that are not subject to the erosion and sediment control requirements contained in this chapter.

FINAL EROSION AND SEDIMENT CONTROL PLAN. Along with the final stormwater management plan, the last of three plans submitted under the comprehensive review and approval process required by the Act and described in COMAR 26.17.02. Final erosion and sediment control plans shall be prepared and approved in accordance with the

specific requirements of the Frederick or Catoctin Soil Conservation Districts (SCD) and this chapter and designed in accordance with the Standards and Specifications.

GRADE. To disturb earth by, including but not limited to, excavating, filling, stockpiling, grubbing, removing root mat or topsoil, or any combination thereof.

GRADING UNIT. The maximum contiguous area allowed to be graded at a given time. For the purposes of this chapter, a grading unit is 20 acres or less.

HIGHLY ERODIBLE SOILS. Those soils with a slope greater than 15 percent or those soils with a soil erodability factor, K, greater than 0.35 and with slopes greater than 5 percent.

INSPECTION/ENFORCEMENT AUTHORITY. The Frederick County Department of Permits and Inspections.

MAXIMUM EXTENT PRACTICABLE (MEP). Designing stormwater management systems so that all reasonable opportunities for using ESD planning techniques and treatment practices are exhausted and only where absolutely necessary is a structural BMP implemented.

OWNER/DEVELOPER. A person undertaking, or for whose benefit, activities covered by this chapter are carried on. General contractors or subcontractors, or both, without a proprietary interest in a project are not included within this definition.

PERMITTEE. Any person to whom a building or grading permit has been issued.

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.

RESPONSIBLE PERSONNEL. Any foreman, superintendent, or project engineer who is in charge of on-site clearing and grading operations or the implementation and maintenance of an erosion and sediment control plan.

SEDIMENT. Soils or other surficial materials transported or deposited by the action of wind, water, ice, gravity, or artificial means.

SITE. Any tract, lot, or parcel of land, or combination of tracts, lots or parcels of land that are in 1 ownership, or are contiguous and in diverse ownership, where development is to be performed as part of a unit, subdivision, or project.

SITE DEVELOPMENT PLAN. The second of three plans submitted under the comprehensive review and approval process required by the Act and described in COMAR 26.17.02. A site development plan shall include the information necessary to allow a detailed evaluation of a proposed project.

STABILIZATION. The protection of exposed soils from erosion by the application of seed and mulch, seed and matting, sod, other vegetative measures, and/or structural means.

STANDARDS AND SPECIFICATIONS. The "2011 Maryland Standards and Specifications for Soil Erosion and Sediment Control" or any subsequent revisions.

STORMWATER. Water that originates from a precipitation event.

STORMWATER MANAGEMENT SYSTEM. Natural areas, ESD practices, stormwater management measures, and any other structure through which stormwater flows, infiltrates, or discharges from a site.

VARIANCE. The modification of the minimum erosion and sediment control requirements for exceptional circumstances such that strict adherence to the requirements would result in unnecessary hardship and not fulfill the intent of this chapter.

WATERSHED. The total drainage area contributing runoff to a single point.

(Ord. 12-27-622, 11-8-2012; Ord. 14-23-678, 11-13-2014)

§ 1-10-3. SCOPE.

No person shall disturb land without implementing soil erosion and sediment controls in accordance with the requirements of this chapter and the Standards and Specifications except as provided within this section.

(Ord. 12-27-622, 11-8-2012; Ord. 14-23-678, 11-13-2014)

§ 1-10-4. EXEMPTIONS.

The following activities are exempt from the provisions of this chapter:

- (A) Agricultural land management practices, construction of agricultural structures and agricultural BMPs; in certain instances, the use of this exemption may require written confirmation from the Approval Authority.
- (B) Clearing or grading activities that disturb less than 5,000 square feet of land area and disturb less than 100 cubic yards of earth; and
- (C) Clearing or grading activities that are subject exclusively to state approval and enforcement under state law and regulations.

(Ord. 12-27-622, 11-8-2012; Ord. 14-23-678, 11-13-2014)

§ 1-10-5. VARIANCES.

The Frederick or Catoclin SCD may only grant a variance from the requirements of the Standards and Specifications when strict adherence will result in exceptional hardship and not fulfill the intent of this chapter. The owner/developer shall submit a written request for a variance to the Frederick or Catoclin SCD. The request must state the specific variance sought and the reasons for the request. The Frederick or Catoclin SCD shall not grant a variance unless and until sufficient information is provided describing the unique circumstances of the site to justify the variance.

(Ord. 12-27-622, 11-8-2012; Ord. 14-23-678, 11-13-2014)

§ 1-10-6. SEVERABILITY.

If any portion, section, subsection, sentence, clause, or phrase of this chapter 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 chapter, it being the intent of the county that this chapter shall stand, notwithstanding the invalidity of any portion, section, subsection, sentence, clause, or phrase, hereof.

(Ord. 12-27-622, 11-8-2012; Ord. 14-23-678, 11-13-2014)

§§ 1-10-7 - 1-10-15. RESERVED.

ARTICLE II: EROSION AND SEDIMENT CONTROL PLANS

Section	
	1-10-16 Review and approval of erosion and sediment control plans
	1-10-17 Contents of erosion and sediment control plans
	1-10-18 Modifications to erosion and sediment control plans
	1-10-19 Standard erosion and sediment control plan

§ 1-10-16. REVIEW AND APPROVAL OF EROSION AND SEDIMENT CONTROL PLANS.

- (A) A person may not grade land without an erosion and sediment control plan approved by the Frederick or Catoclin SCD.
- (B) The Frederick or Catoclin SCD shall review erosion and sediment control plans to determine compliance with this

chapter and the Standards and Specifications prior to approval. In approving the plan, the Frederick or Catoclin SCD may impose such conditions that may be deemed necessary to ensure compliance with the provisions of this chapter, COMAR 26.17.01, the Standards and Specifications, and the preservation of public health and safety.

(C) The review and approval process shall be in accordance with the comprehensive and integrated plan approval process described in the Standards and Specifications, Frederick County's Stormwater chapter, and the Act.

(D) At a minimum, a concept plan must include the mapping of natural resources and sensitive areas including highly erodible soils and slopes greater than 15 percent as well as information required under Frederick County's Stormwater chapter. These areas are to remain undisturbed or an explanation must be included with either the concept or site development plan describing enhanced protection strategies for these areas during construction.

(E) A site development plan submittal must include all concept plan information and indicate how proposed erosion and sediment control practices will be integrated with proposed stormwater management practices. The latter is to be done through a narrative and an overlay plan showing both ESD and erosion and sediment control practices. An initial sequence of construction and proposed project phasing to achieve the grading unit restriction should be submitted at this time.

(F) An applicant shall submit a final erosion and sediment control plan to the Frederick or Catoclin SCD for review and approval. The plan must include all of the information required by the concept and site development plans as well as any information in § 1-10-17 not already submitted.

(G) A final erosion and sediment control plan shall not be considered approved without the inclusion of the signature and date of signature of the Frederick or Catoclin SCD on the plan.

(H) Approved plans remain valid for 2 years from the date of approval unless extended or renewed by the Frederick or Catoclin SCD.

(I) Grandfathering of Approved Plans:

(1) Any plans that receive final approval after January 9, 2013 must be in compliance with the requirements of this chapter and the Standards and Specifications.

(2) A plan that receives final approval by January 9, 2013 may be reapproved under its existing conditions if grading activities have begun on the site by January 9, 2015, with the exception of stabilization requirements.

(3) Stabilization practices on all sites must be in compliance with the requirements of this chapter and the Standards and Specifications by January 9, 2013, regardless of when an approved erosion and sediment control plan was approved.

(Ord. 12-27-622, 11-8-2012; Ord. 14-23-678, 11-13-2014)

§ 1-10-17. CONTENTS OF EROSION AND SEDIMENT CONTROL PLANS.

(A) An applicant is responsible for submitting erosion and sediment control plans that meet the requirements of the Frederick or Catoclin SCD, this chapter, Frederick County's Stormwater chapter, the Standards and Specifications, and the Act. The plans 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.

(B) At a minimum, applicants shall submit the following information:

(1) A letter of transmittal and/or application;

(2) Name, address, and telephone number of:

(a) The owner of the property where the grading is proposed;

(b) The developer; and

(c) The applicant;

(3) A vicinity map indicating north arrow, scale, site location, and other information necessary to easily locate the property;

(4) Drainage area map(s) at a 1" = 200' minimum scale showing existing, interim, and proposed topography, proposed improvements, standard symbols for proposed sediment control features, and pertinent drainage information

including provisions to protect downstream areas from erosion for a minimum of 200 feet downstream or to the next conveyance system;

(5) The location of natural resources, wetlands, floodplains, highly erodible soils, slopes 15 percent and steeper, and any other sensitive areas;

(6) A general description of the predominant soil types on the site, as described by the appropriate soil survey information available through the local soil conservation district or the USDA Natural Resources Soil Conservation Service;

(7) Proposed stormwater management practices;

(8) Erosion and sediment control plans including:

(a) The existing topography and improvements as well as proposed topography and improvements at a scale between 1" = 10' and 1" = 50' with 2 foot contours or other approved contour interval. For projects with more than minor grading, interim contours may also be required;

(b) Scale, project and sheet title, and north arrow on each plan sheet;

(c) The limit of disturbance (LOD) including:

(i) Limit of grading (grading units, if applicable); and

(ii) Initial, interim, and final phases;

(d) The proposed grading and earth disturbance including:

(i) Total disturbed area;

(ii) Volume of cut and fill quantities; and

(iii) Volume of borrow and spoil quantities;

(e) Storm drainage features, including:

(i) Existing and proposed bridges, storm drains, culverts, outfalls, etc.;

(ii) Velocities and peak flow rates at outfalls for the 2-year and 10-year frequency storm events; and

(iii) Site conditions around points of all surface water discharge from the site;

(f) Erosion and sediment control practices to minimize on-site erosion and prevent off-site sedimentation including:

(i) The salvage and reuse of topsoil;

(ii) Phased construction and implementation of grading unit(s) to minimize disturbances, both in extent and duration;

(iii) Location and type of all proposed sediment control practices;

(iv) Design details and data for all erosion and sediment control practices; and

(v) Specifications for temporary and permanent stabilization measures including, at a minimum:

1. The "Standard Stabilization Note" on the plan stating: "Following initial soil disturbance or re-disturbance, permanent or temporary stabilization must be completed within:

a. Three (3) calendar days as to the surface of all perimeter dikes, swales, ditches, perimeter slopes, and all slopes steeper than 3 horizontal to 1 vertical (3:1); and

b. Seven (7) calendar days as to all other disturbed or graded areas on the project site not under active grading."

2. Details for areas requiring accelerated stabilization; and

3. Maintenance requirements as defined in the Standards and Specifications;

(g) A 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. Any changes or revisions to the sequence of construction must be approved by the Frederick or Catoclin SCD prior to proceeding with construction. The sequence of construction, at a minimum, must include the following:

- (i) Request for a pre-construction meeting with the appropriate inspection/enforcement authority;
- (ii) Clearing and grubbing as necessary for the installation of perimeter controls;
- (iii) Construction and stabilization of perimeter controls;
- (iv) Remaining clearing and grubbing within installed perimeter controls;
- (v) Road grading;
- (vi) Grading for the remainder of the site;
- (vii) Utility installation and connections to existing structures;
- (viii) Construction of buildings, roads, and other construction;
- (ix) Final grading, landscaping, and stabilization;
- (x) Installation of stormwater management measures;
- (xi) Approval of the appropriate inspection/enforcement authority prior to removal of sediment controls; and
- (xii) Removal of controls and stabilization of areas that are disturbed by removal of sediment controls.

(h) A statement requiring the owner/developer or representative to contact the Frederick County Department of Permits and Inspections or its agent at the following stages of the project or in accordance with the approved erosion and sediment control plan, grading permit, or building permit:

- (i) Prior to the start of earth disturbance;
- (ii) Upon completion of the installation of perimeter erosion and sediment controls, but before proceeding with any other earth disturbance or grading;
- (iii) Prior to the start of another phase of construction or opening of another grading unit; and
- (iv) Prior to the removal of sediment control practices;

(i) Certification by the owner/developer that any clearing, grading, construction, or development will be done pursuant to the approved erosion and sediment control plan. The certification must also require that the responsible personnel involved in the construction project have a Certificate of Training at an MDE approved training program for the control of erosion and sediment prior to beginning the project. The Certificate of Training for Responsible Personnel may be waived by the Frederick or Catoclin SCD on any project involving four or fewer residential lots. Additionally, the owner/developer shall allow right of entry for periodic on-site evaluation by the Frederick or Catoclin SCD, Frederick County Department of Permits and Inspections, and/or MDE; and

(j) Certification by a professional engineer, land surveyor, landscape architect, architect, or forester (for forest harvest operations only) registered in the State that the plans have been designed in accordance with erosion and sediment control laws, regulations, and standards, if required by the Frederick or Catoclin SCD or the Administration.

(9) Any additional information or data deemed appropriate by the Frederick or Catoclin SCD.

(Ord. 12-27-622, 11-8-2012; Ord. 14-23-678, 11-13-2014)

§ 1-10-18. MODIFICATIONS TO EROSION AND SEDIMENT CONTROL PLANS.

(A) The Frederick or Catoclin SCD may revise approved plans as necessary. Modifications may be requested by the owner/developer, the inspection/enforcement authority, or the Frederick County Department of Permits and Inspections in accordance with COMAR 26.17.01.09(H) Plan Modifications.

(B) The Frederick or Catoclin SCD may develop a list of minor modifications that may be approved as field revisions by the inspection/enforcement authority. The Administration must approve any list of minor modifications prior to its implementation.

(Ord. 12-27-622, 11-8-2012; Ord. 14-23-678, 11-13-2014)

§ 1-10-19. STANDARD EROSION AND SEDIMENT CONTROL PLAN.

(A) The Frederick or Catoclin SCD may adopt a standard erosion and sediment control plan for activities with minor earth disturbances, such as single-family residences, small commercial and other similar building sites, minor maintenance grading, and minor utility construction.

(B) A standard erosion and sediment control plan must meet the requirements of this chapter and the Standards and Specifications.

(C) MDE shall review and approve a standard plan prior to its adoption.

(D) The standard erosion and sediment control plan for minor earth disturbances may be applied for at the Frederick County Department of Permits and Inspections.

(Ord. 12-27-622, 11-8-2012; Ord. 14-23-678, 11-13-2014)

§§ 1-10-20 - 1-10-25. RESERVED.

ARTICLE III: PERMITS

Section

- 1-10-26 Permit requirements
- 1-10-27 Permit fees
- 1-10-28 Permit expiration and renewal
- 1-10-29 Permit suspension and revocation
- 1-10-30 Permit conditions
- 1-10-31 Right of entry
- 1-10-32 Performance Agreements and secured funds

§ 1-10-26. PERMIT REQUIREMENTS.

Before a grading or building permit for any site is issued Frederick County Department of Permits and Inspections, the Frederick or Catoclin SCD must review and approve an erosion and sediment control plan for the site.

(Ord. 12-27-622, 11-8-2012; Ord. 14-23-678, 11-13-2014)

§ 1-10-27. PERMIT FEES.

The fees to be collected for grading permit processing, inspection, and enforcement, shall be adopted by ordinance or resolution of the county governing body.

(Ord. 12-27-622, 11-8-2012; Ord. 14-23-678, 11-13-2014)

§ 1-10-28. PERMIT EXPIRATION AND RENEWAL.

(A) *Permit renewal requirements.* The grading permit shall expire 1 year from the date of issuance. All permits with an outstanding surety balance at that time must be renewed in accordance with the following provisions.

(B) *Permit renewal process.*

(1) The permittee must submit a written request to renew their grading permit at least 60 days prior to permit expiration for any grading permit requiring renewal. All current permit processing, inspection and enforcement fees must accompany this request.

(2) For projects that are not actively involved in grading or that will be inactive for a 12 month renewal period, the permittee may submit a written request to have their permit placed in an "inactive" status. If approved, only the permit processing fee needs to be paid.

(a) The permittee must submit a written request to return their permit to "active" status prior to conducting any grading activity. All current inspection and enforcement fees are due prior to approval of the return to active status.

(b) A revised Sediment and Erosion Control Plan may be required during the permit renewal process if deemed necessary by the County.

(Ord. 12-27-622, 11-8-2012; Ord. 14-23-678, 11-13-2014)

§ 1-10-29. PERMIT SUSPENSION AND REVOCATION.

Frederick County may suspend or revoke any grading or building permit after providing written notification to the permittee based on any of the following reasons:

- (A) Any violation(s) of the terms or conditions of the approved erosion and sediment control plan or permit;
- (B) Noncompliance with violation notice(s) or stop-work order(s) issued;
- (C) Changes in site characteristics upon which plan approval and permit issuance was based;
- (D) Failure to renew a grading permit and pay all applicable fees as required under § 1-10-28;
- (E) Any violation(s) of this chapter or any rules and regulations adopted under it.

(Ord. 12-27-622, 11-8-2012; Ord. 14-23-678, 11-13-2014)

§ 1-10-30. PERMIT CONDITIONS.

In issuing a grading or building permit, the Frederick County Department of Permits and Inspections may impose such conditions that may be deemed necessary to ensure compliance with the provisions of this chapter or the preservation of the public health and safety.

No clearing or grading permit shall be issued without a certificate from the Zoning Administrator that the use for which clearing or grading is to be done is consistent with the zoning of the property.

(Ord. 12-27-622, 11-8-2012; Ord. 14-23-678, 11-13-2014)

§ 1-10-31. 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 the approved plan and this chapter.

(Ord. 12-27-622, 11-8-2012; Ord. 14-23-678, 11-13-2014)

§ 1-10-32. PERFORMANCE AGREEMENTS AND SECURED FUNDS.

(A) *Generally.*

(1) Performance Agreements and secured funds shall be required to ensure the proper installation, maintenance, and removal of sediment control devices. Approved unit prices shall reflect current standard industry pricing and are available from the Frederick County Department of Permits and Inspections.

(2) Secured funds so required in this article shall be in a form acceptable to the County Attorney and shall be subject

to forfeiture for failure of the owner or developer to:

(a) Complete work specified in the performance agreement(s) with the county; or

(b) Comply with all provisions of this chapter and other applicable laws and regulations. The secured funds shall remain in effect until work is completed according to specifications.

(3) A partial release of the secured funds may be approved based on the amount of acceptable work completed as specifically delineated, described and scheduled on the required plans and specifications.

(4) Any required Performance Agreements and secured funds are to be posted prior to final grading permit approval.

(B) *Liability insurance.* In the event that the proposed work may create a hazard to human life or property, the County may require a certificate of insurance for not less than \$25,000 to cover claims against personal injury and/or property damage. If required, this insurance must be obtained prior to issuance of the grading permit. Failure to maintain the insurance will result in temporary revocation of all permits issued to that person or entity by Frederick County. Under no circumstances shall any liability be imposed upon the county for damages to persons or property.

(Ord. 12-27-622, 11-8-2012; Ord. 14-23-678, 11-13-2014)

§§ 1-10-33 - 1-10-35. RESERVED.

ARTICLE IV: INSPECTIONS

Section

1-10-36 Inspection frequency and reports

1-10-37 Complaints

As a condition of a National Pollutant Discharge Elimination System (NDPES) municipal separate storm sewer system permit, Frederick County is the delegated inspection and enforcement authority.

Frederick County Department of Permits and Inspections is responsible for the inspection and enforcement of all land disturbing activities, including those sites requiring an erosion and sediment control plan as specified by this chapter.

(Ord. 14-23-678, 11-13-2014)

§ 1-10-36. INSPECTION FREQUENCY AND REPORTS.

(A) The owner/developer shall maintain a copy of the approved erosion and sediment control plan on site.

(B) Every active site having a designed erosion and sediment control plan should be inspected for compliance with the plan on average once every 2 weeks.

(C) A written report shall be prepared by the inspection/enforcement authority after every inspection. The report shall describe:

- (1) The date and location of the site inspection;
- (2) Whether the approved plan has been properly implemented and maintained;
- (3) Practice deficiencies or erosion and sediment control plan deficiencies;
- (4) If a violation exists, the type of enforcement action taken; and
- (5) If applicable, a description of any modifications to the plan.

(D) The inspection/enforcement authority 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.

(Ord. 12-27-622, 11-8-2012; Ord. 14-23-678, 11-13-2014)

§ 1-10-37. COMPLAINTS.

The inspection/enforcement authority shall accept and investigate complaints regarding erosion and sediment control concerns from any interested parties and routinely:

- (A) Conduct an initial investigation within 3 working days from receipt of the complaint;
- (B) Notify the complainant of the initial investigation and findings within 7 days from receipt of the complaint; and
- (C) Take appropriate action when violations are discovered during the course of the complaint investigation.

(Ord. 12-27-622, 11-8-2012; Ord. 14-23-678, 11-13-2014)

§§ 1-10-38 - 1-10-45. RESERVED.

ARTICLE V: ENFORCEMENT

Section

1-10-46 Enforcement procedures

1-10-47 Penalties

1-10-48 Civil infractions

§ 1-10-46. ENFORCEMENT PROCEDURES.

(A) When the inspection/enforcement authority 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/enforcement authority shall:

(1) Stop work on that site. The inspection/enforcement authority 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, and/or,

(2) Issue a penalty and/or civil infraction as described in § 1-10-47 and § 1-10-48.

(C) If reasonable efforts to correct the violation are not undertaken by the permittee, the inspection/enforcement authority shall refer the violation for legal action.

(D) The inspection/enforcement authority may deny the issuance of any permits to an application 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/enforcement authority shall stop work on the site except activity necessary to provide erosion and sediment control.

(Ord. 12-27-622, 11-8-2012; Ord. 14-23-678, 11-13-2014)

§ 1-10-47. PENALTIES.

(A) Any person who violates any provision of this chapter is guilty of a misdemeanor, and upon conviction in a court of competent jurisdiction, is subject to a fine not exceeding \$10,000 or imprisonment not exceeding 1 year 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 chapter or any interested person may seek an injunction against any person who violates or threatens to violate any provision of this chapter.

(C) In addition to any other sanction under this chapter, the appropriate state, county or municipal agency may bring a civil action against a person for violation of this chapter.

(1) The action may seek imposition of a civil penalty up to \$10,000.00 for each violation.

(2) In imposing a penalty, the court may consider the cost of restoring the area unlawfully disturbed.

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

(1) Correcting to the extent possible, the failure to implement or maintain erosion and sediment controls; and

(2) Administration of the sediment control program.

(Ord. 12-27-622, 11-8-2012; Ord. 14-23-678, 11-13-2014)

§ 1-10-48. CIVIL INFRACTIONS.

(A) Pursuant to the authority provided in § 2-2-29, any violation of any of the provisions of this entire chapter, which is Chapter 1-10, entitled "Grading, Erosion and Sediment Control," is a civil offense, and shall be called a civil infraction. If, after investigation, a civil infraction is believed to exist, the inspection agency shall deliver a citation or a warning to the property owner and other person or persons responsible for the infraction. If the person is unable to be located personally, the inspection agency may post the citation or warning in a conspicuous place on the property and mail a copy of same by registered mail to the person, which shall be sufficient for delivery under this section.

(B) The citation or warning, as provided for in this section, shall be in writing and shall contain the following:

(1) The name and address of the person charged (or warned);

(2) The nature of the violation;

(3) The location of the violation;

(4) The date(s) of the violation;

(5) The amount of the fine assessed (or possibility of assessment);

(6) The manner, location and time in which the fine may be paid (or violation corrected, if applicable);

(7) The person's right to stand trial for the violation (if applicable); and

(8) A certification by the inspection agency attesting to the truth of the matters set forth.

(C) Whenever an alleged or possible civil infraction comes to the attention of the inspection agency, the procedure to be followed is:

(1) The inspection/enforcement authority will investigate whether an infraction has occurred;

(2) If the inspection/enforcement authority reasonably finds that an infraction has occurred, they will issue a warning to the person or persons responsible in the form and manner as outlined in this section, with a time stated of no more than 10 days to correct the infraction and to prevent future infractions;

(3) That, if the infraction continues or is allowed to occur after the time stated, the inspection/enforcement authority will issue a citation to the person or persons responsible in the form and manner as outlined in this section. Notwithstanding the provision of step (2) above, the inspection agency may issue a citation at step (2) without the prior issuance of a warning.

(D) A present fine of \$1,000 is hereby imposed upon any person responsible for a civil infraction for each violation.

Each day such violation is permitted to exist shall be considered a separate infraction. All fines shall be payable within 20 days to the county, in the Frederick County Department of Permits and Inspections, which shall remit same on a daily basis to the County Treasurer.

(E) A person who receives a citation may elect to stand trial for the offense by filing with the Director of Frederick County Department of Permits and Inspections a notice of intention to stand trial. The notice shall be given at least 5 days before the date of payment as set forth in the citation. Upon receipt of the notice of intention to stand trial, the Director of Frederick County Department of Permits and Inspections shall forward to the District Court for Frederick County, Maryland, a copy of the citation and the notice of intention to stand trial. On receipt of the citation, the District Court will schedule the case for trial and notify the defendant of the trial date. All fines, penalties, or forfeitures collected by the District Court for civil infractions shall be remitted to the county, through the County Treasurer.

(F) If a person who receives a citation for an infraction fails to pay the fine by the date of payment set forth on the citation and fails to file a notice of intention to stand trial, a formal notice of the infraction shall be sent to the person's last known address. If the citation is not satisfied within 15 days from the date of the notice, the person is liable for a fine of \$2,000 for each infraction. If after 35 days, the citation is not satisfied, the Director of Frederick County Department of Permits and Inspections may request adjudication of the case through the District Court. The District Court shall schedule the case for trial and summon the defendant to appear.

(G) Adjudication of an infraction under this subsection is not a criminal conviction, nor does it impose any of the civil disabilities ordinarily imposed by a criminal conviction.

(H) In a proceeding before the District Court, the violation shall be prosecuted in the same manner and to the same extent as set forth for municipal infractions in Md. Ann. Code, Local Government Article, Title 6. However, the County Attorney is hereby authorized to prosecute all civil infractions under this section.

(I) If a person is found by the District Court to have committed a civil infraction, he shall be liable for the costs of the proceedings in the District Court; and the court may permit the county to abate any such condition at the person's expense, the same as provided in Md. Ann. Code, Local Government Article, Title 6.

(J) Depending on the circumstances of each case and after consultation with the County Attorney, the Director of Frederick County Department of Permits and Inspections has the discretionary authority to reduce or suspend all or a portion of the fine payable through his office.

(K) Nothing contained in this section shall prohibit or prevent the Director of Frederick County Department of Permits and Inspections or anyone else from seeking other legal remedies, such as injunctions or criminal prosecution.

(Ord. 12-27-622, 11-8-2012; Ord. 14-23-678, 11-13-2014)