

24-11-104

(Also see Zoning Ordinance Amendment ZO-11-430,
and Land Development Fee Schedule Amendment 25-11-Q,
adopted simultaneously on July 26, 2011.)

**ADOPTION OF AN AMENDMENT TO CHAPTER 104 (EROSION AND
SEDIMENTATION CONTROL)**

OF THE

1976 CODE OF THE COUNTY OF FAIRFAX, VIRGINIA

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium of the Government Center at Fairfax, Virginia, on Tuesday, July 26, 2011, the Board after having first given notice of its intention so to do, in the manner prescribed by law, adopted an amendment regarding Chapter 104 (Erosion and Sedimentation Control) of the 1976 Code of the County of Fairfax, Virginia, said amendment so adopted being in the words and figures following, to-wit:

**BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF FAIRFAX
COUNTY, VIRGINIA:**

Amend Chapter 104 (Erosion and Sedimentation Control), as follows:

Amend the Erosion and Sedimentation Control Ordinance, Section 104-1-2 (Applicability; regulated land-disturbing activities; submission and approval of a conservation plan), by revising the opening paragraph to read as follows:

Section 104-1-2. Applicability; regulated land-disturbing activities; submission and approval of a conservation plan.

Except as noted herein, no person may engage in any land-disturbing activity in Fairfax County until he has submitted to the County a conservation plan for the land-disturbing activity and the plan has been reviewed and approved by the Director. The conservation plan shall be included in the grading plan required under Paragraph 3 of Part 6 of Article 2 of the Zoning Ordinance unless the following applies. Where the land disturbing activity results from the demolition of a single family dwelling, demolition of an accessory structure to a single family dwelling, construction of an addition to a single family dwelling as defined in Chapter 61 of the Code, or construction of an accessory structure to a single family dwelling, that results in a disturbed area of 5,000 square feet or less and does not require the installation of water quality controls or other drainage improvements, the conservation plan may be included in a plat certified by a land surveyor, engineer, landscape architect or architect authorized by the State to practice as such meeting the requirements of Part 6 of Article 18 of the Zoning Ordinance in lieu of a grading plan. The standards in Section 104-1-8 are to be used by the applicant when making a submittal under the provisions of this Chapter and in the preparation of a conservation plan. The Director, in considering the adequacy of a submitted plan, shall be guided by these standards. In addition, as a prerequisite to engaging in the land-disturbing activities shown on the approved plan, the person responsible for carrying out the plan shall provide the name of an individual holding a certificate of competence to the Director, as provided in Section 10.1-561 of the *Code of Virginia*, who will be in charge of and responsible for carrying out the land-disturbing activity. Failure to provide the name of an individual holding a certificate of competence prior to engaging in land-disturbing activities may result in revocation of the approval of the plan and the person responsible for carrying out the plan shall be subject to the penalties provided in this Chapter. In order to prevent further erosion, the County may require approval of a conservation plan for any land identified as an erosion impact area. The provisions of this Article shall not limit the powers or duties presently exercised by the State Water Control Board or the Department of Mines, Minerals and Energy.

Amend the Erosion and Sedimentation Ordinance, Section 104-1-7 (Definitions), by revising paragraph (g) to read as follows:

(g) *Conservation plan or erosion and sediment control plan or plan* means a document containing methods for the conservation of soil and water and other natural resources of a unit or group of units of land, pursuant to the requirements of this Chapter. The plan shall contain all major conservation decisions to assure that the entire unit or units of land will be so treated to achieve the conservation objectives and demonstrate compliance with the standards of Section 104-1-8. The conservation plan shall contain the tree conservation requirements specified in *Chapter 122 of the Code* and in Chapter 12 of the *Public Facilities Manual*.

Amend the Erosion and Sedimentation Ordinance, Section 104-1-8 (Conservation Standards), by revising paragraph (a) to read as follows:

(a) *Conservation standards or standards* shall be the State Erosion and Sediment Control Regulations, ~~and the Standards & Specifications as contained in the current Virginia Erosion and Sediment Control Handbook~~ and the *Public Facilities Manual* with modifications as follows:

(1) *Standard & Specification #3.04 Straw Bale Barriers*--Rebars are not to be used to stake these barriers. Straw bales are to be used only for sheet flow application; they are not to be used for any drainageway, or channel flow applications or site development perimeter control.

(2) *Standard & Specification #3.06 Brush Barrier*--This practice is not to be used without the specific authorization of the Director.

(3) *Standard & Specification #3.07 Storm Drain Inlet Protection*--Any storm drain inlet protection measure which completely blocks the drain throat or entrance is not to be used. Straw bales and cinder block wrapped with filter fabric are not to be used for curb inlet protection.

(4) *Standard & Specification #3.13 Temporary Sediment Trap*--For land areas designated as Resource Protection Areas (RPAs), the storage volume shall be two hundred two (202) cubic yards per acre of disturbed area. Pipe outlet sediment traps shall be required for drainage areas of one (1) to three (3) acres. For land areas designated as RPAs, pipe outlet sediment traps may also be required for areas of less than one (1) acre where topographical and drainage conditions are favorable for field implementation (see Plate 2-11 of the current *Public Facilities Manual* for details). Stone outlets for temporary sediment traps under one (1) acre of drainage area outside of RPAs shall be constructed according to current Virginia Erosion and Sediment Control Handbook specifications.

(5) *Standard & Specification #3.14 Temporary Sediment Basin*--For land areas designated as RPAs, the storage volume shall be two hundred two (202) cubic yards per acre of disturbed area.

(6) *Standard & Specification #3.34 Bermuda Grass and Zoysia Grass Establishment*--This practice is not to be employed in Fairfax County.

(7) *Standard and Specification #3.38 Tree Preservation and Protection*--This section is not to be used in Fairfax County. In its place, Chapter 12, "Tree Conservation," of the *Public Facilities Manual* shall be used.

(8) *Standard & Specification #3.02 Temporary Stone Construction Entrance*--The minimum length for the temporary gravel construction entrance shall be seventy-five (75) feet and a woven filter fabric underliner is required. If the action of vehicles traveling over the gravel pad is not sufficient to remove the majority of the mud, then a wash rack shall be

required with an appropriate water source to wash the mud off the tires before entering the public road.

(9) *Standard & Specification #3.31 Temporary Seeding*--Temporary seeding and mulching shall be required once an area is denuded for a maximum of fourteen (14) days except for that portion of the site in which work will be continuous beyond fourteen (14) days. For winter stabilization, any area denuded for fourteen (14) days after November 1, shall be seeded and mulched with the appropriate seed mixture as specified in Chapter 3 of the current Virginia Erosion and Sediment Control Handbook.

(10) *Standard & Specification #3.05 Silt Fence*--Manufacturer's certification shall be required to meet the physical properties given for synthetic filter fabric per the construction specifications as specified in the current Fairfax County Checklist for Erosion and Sediment Control Manual. This certification shall be presented to the Fairfax County inspector prior to installation in the field.

When the standards vary between the publications, the most stringent standard shall apply.

Amend the Erosion and Sedimentation Control Ordinance, Section 104-1-12 (Penalties, injunctions and other legal actions, by revising paragraph (a) *Violations* to read as follows:

(a) *Violations*: Violators of ~~Section 104-1-2 or 104-1-5 of this Article~~ this Chapter shall be guilty of a Class 1 misdemeanor.

Amend the Erosion and Sedimentation Control Ordinance, Section 104-1-12 (Penalties, injunctions and other legal actions, by revising paragraph (c) *Stop-Work Order* to read as follows:

(c) *Stop-Work Order*: Upon receipt of a sworn complaint of a violation under ~~Section 104-1-2 or 104-1-5 of this Article~~ this Chapter, the Director may, in conjunction with or subsequent to a notice to comply as specified above, issue an order requiring that all or part of the land-disturbing activities permitted on the site be stopped until the specified corrective measures have been taken or, if land-disturbing activities have commenced without an approved plan as provided in Section 104-1-2, the Director may issue an order requiring that all of the land-disturbing activities be stopped until an approved plan or any required permits are obtained. 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 an order may be issued without regard to whether the permittee has been issued a notice to comply as specified in Sections 104-1-2 and 104-1-5. Otherwise, such an order may be issued only after the permittee has failed to comply with such a notice to comply. The order shall be served in the same manner as a notice to comply, and shall remain in effect for a period of seven (7) days from the date of service pending application by the Director or the permit holder for appropriate relief to the Circuit Court. 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 order, the Director may issue an 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 an order to the Circuit Court. Any person violating or failing, neglecting or refusing to obey an order issued by the Director may be compelled in a proceeding instituted in the Circuit Court to obey same and comply therewith by injunction, mandamus or other appropriate remedy. The order shall be lifted immediately following completion and approval of the corrective action or obtaining the approved plan or any required permits. Nothing in this section shall prevent the Director from taking any other action specified in ~~Section 104-1-2 or 104-1-5~~ this Chapter.

Amend the Erosion and Sedimentation Control Ordinance, Section 104-1-12 (Penalties, injunctions and other legal actions, by revising paragraph (d) *Injunctive Relief* to read as follows:

(d) *Injunctive Relief*: The County may apply to the Fairfax County Circuit Court for injunctive relief to enjoin a violation or a threatened violation under ~~Section 104-1-2 or 104-1-5 of this Article~~ this Chapter, without the necessity of showing that there does not exist an adequate remedy at law.

This amendment shall become effective on July 27, 2011 at 12:01 a.m.

GIVEN under my hand this 26th day of July, 2011.



NANCY VEHR

Clerk to the Board of Supervisors