

45-1 TITLE, PURPOSE, AND AUTHORITY

This Article shall be known as the "Erosion and Sediment Control Ordinance of Caroline County." The purpose of this Article is to prevent degradation of properties, stream channels, waters and other natural resources of Caroline County by establishing requirements for the control of soil erosion, sediment deposition and nonagricultural runoff and by establishing procedures whereby these requirements shall be administered and enforced.

This Article is authorized by the Code of Virginia, Title 10.1, Chapter 5, Article 4 (10.1-560 et seq.), known as the Erosion and Sediment Control Law.

45-2 DEFINITIONS:

As used in the ordinance, unless the context requires a different meaning:

- A. **"Administrator"** means the Caroline County Planning Director , and/or his designated agent.
- B. **"Agent"** means an employee of the Caroline County Department of Planning and Community Development, who has been designated by the Administrator for inspection, plan review, and program administration of this article.
- C. **"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.
- D. **"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.
- E. **"Board"** means the Virginia Soil and Water Conservation Board.
- F. **"Certified inspector"** means an employee or agent of the Program 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.
- G. **"Certified plan reviewer"** means an employee or agent of the Program Authority who (i) holds a certificate of competence from the Board in the area of plan review, (ii) is enrolled in the Virginia Soil and Water Conservation (VSWC) 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, certified landscape architect or land surveyor pursuant to Article 1 (Sec. 54.1-400 et seq.) of Chapter 4 of Title 54.1.
- H. **"Certified program administrator"** means an employee or agent of the Department of Planning & Community Development who (i) holds a certificate of competence from the Virginia Soil and Water Conservation (VSWC) Board in the area of program administration or (ii) is enrolled in the

Virginia Soil and Water Conservation (VSWC) Board's training program for program administration and successfully completes such program within one year after enrollment.

- I. **"Chesapeake Bay Preservation Area or CBPA"** means any land designated by the Board of Supervisors of the County pursuant to Part III of the Chesapeake Bay Preservation Area designation and Management Regulations, VR 179-02-01, and Code of Virginia §10.1-2109. A Chesapeake Bay Preservation Area shall consist of a Resource Protection Area and a Resource Management Area.
- J. **"Clearing"** means any activity which removes the vegetative ground cover including, but not limited to, root mat removal and/or top soil removal.
- K. **"County"** means the County of Caroline, Virginia.
- L. **"Department"** means the Department of Conservation and Recreation.
- M. **"Development"** means a tract of land developed or to be developed as a single unit under single ownership or unified control which is to be used for any business or industrial purpose or is to contain three or more residential dwelling units.
- N. **"Director"** means the director of the Department.
- O. **"District"** or **"Soil and Water Conservation District"** means to the Hanover-Caroline Soil and Water Conservation District.
- P. **"Erosion and Sediment Control Plan"** or **"Plan"** means 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 unit or units of land will be so treated to achieve the conservation objectives.
- Q. **"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 coastal processes.]
- R. **"Excavating"** means any digging, scooping or other methods of removing earth materials.
- S. **"Filling"** means any depositing or stockpiling of earth materials.
- T. **"Grading"** means any excavating or filling of earth materials or any combination thereof, including the land in its excavated or filled conditions.
- U. **"Land-disturbing Activity"** means any land change which 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;

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- (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 such land-disturbing activity is confined to the area of the road, street or sidewalk which 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) 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 of agricultural, horticultural, or forest crops, or livestock feedlot operations; including engineering operations and agricultural engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the Dam Safety Act, Article 2, (Sec. 10.1-604 et seq.) of Chapter 6, Title 10.1 of the Code of Virginia, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation. However, 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 of the Code of Virginia or is converted to bona fide agricultural or improved pasture use as described in subsection B of Code of Virginia § 10.1-1163;
 - (8) Repair or rebuilding of the tracks, rights-of-way, bridges, communication facilities and other related structures and facilities of a railroad company;
 - (9) Disturbed land areas of less than 2,500 square feet in size;
 - (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 ordinance; and;
 - (12) Emergency work to protect life, limb or property, and emergency repairs; provided that 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.

V. **"Land-disturbing Permit"** means a permit issued by the Program Authority for the clearing, filling, excavating, grading, transporting of land or for any combination thereof or for any purpose set forth in this Article.

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- W. **"Local erosion and sediment control program"** or **"local control program"** means an outline of the various methods employed by Caroline County to regulate land-disturbing activities and thereby minimize erosion and sedimentation in compliance with the state program and may include such items as local ordinances, policies and guidelines, technical materials, inspection, enforcement, and evaluation.
- X. **"Owner"** means the owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee or other person, firm or corporation in control of a property.
- Y. **"Permittee"** means the person to whom the permit authorizing land-disturbing activities is issued or the person who certifies that the approved erosion and sediment control plan will be followed.
- Z. **"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, any interstate body, or any other legal entity.
- AA. **"Plan-approving authority"** means the Caroline County Department of Planning & Community Development.
- BB. **"Program authority"** means Caroline County, Virginia, which has adopted a soil erosion and sediment control program approved by the Board.
- CC. **"Resource management area"** or **"RMA"** means that component of the Chesapeake Bay Preservation Area that is not classified as a resource protection area. RMAs include land types that, if improperly used or developed, have the potential for causing significant water quality degradation or for diminishing the functional value of the resource protection area.
- DD. **"Resource protection area"** or **"RPA"** means that component of the Chesapeake Bay Preservation Area comprised of lands at or near the shoreline that have intrinsic water quality value due to the ecological and biological processes they perform or are sensitive to impacts which may result in significant degradation to the quality of state waters.
- EE. **"Responsible Land Disturber"** means an individual from the project or development team, who will be in charge of and responsible for carrying out a land-disturbing activity covered by an approved plan or agreement in lieu of a plan, who (i) holds a Responsible Land Disturber certificate of competence, (ii) holds a current certificate of competence from the Board in the areas of Combined Administration, Program Administration, Inspection, or Plan Review, (iii) holds a current Contractor certificate of competence for erosion and sediment control, or (iv) is licensed in Virginia as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Article 1 (Sec. 54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia.
- FF. **"Single-family residence"** means a noncommercial dwelling that is occupied exclusively by one family.
- GG. **"State Erosion and Sediment Control Program"** or **"State Program"** means the program administered by the Virginia Soil and Water Conservation Board pursuant to the Code of Virginia, § 10.1-560, et seq., including regulations designed to minimize erosion and sedimentation.

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- HH. "State Waters" means all waters on the surface and under the ground wholly or partially within or bordering the Commonwealth or within its jurisdictions.
- II. "Transporting" means any moving of earth materials from one place to another place 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.
- JJ. "Wetlands" means those areas that are inundated or saturated by surface water or groundwater at a frequency or duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.

45-3 LOCAL EROSION AND SEDIMENT CONTROL PROGRAM

- A. Pursuant to section 10.1-562 of the Code of Virginia, Caroline County hereby adopts the regulations, references, guidelines, standards and specifications promulgated by the Board for the effective control of soil erosion and sediment deposition to prevent the unreasonable degradation of properties, stream channels, waters and other natural resources. Said regulations, references, guidelines, standards and specifications for erosion and sediment control are included in but not limited to 1.) the "Virginia Erosion and Sediment Control Regulations," 2.) the Virginia Stormwater Management Handbook, and 3.) the Virginia Erosion and Sediment Control Handbook, as amended.
- B. Before adopting or revising any regulation under this Chapter, including any regulation that is more stringent than the state program, as provided by Code of Virginia Sec. 10.1-570, Caroline County shall give proper notice as required by law
- C. Pursuant to Section 10.1-561.1 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 County's erosion and sediment control program shall contain a Certified Program Administrator, a Certified Plan Reviewer, and a Certified Inspector, who may be the same person.
- D. The Caroline County Board of Supervisors hereby designates the Department of Planning & Community Development as the Plan-Approving Authority.
- E. The program and regulations provided for in this Chapter shall be made available for public inspection at the office of the Caroline County Department of Planning & Community Development.

45-4 SUBMISSION AND APPROVAL OF PLANS; CONTENTS OF PLANS

- A. **Submission and Approval**

Except as provided herein, no person may engage in any land-disturbing activity until he has submitted to the Department of Planning & Community Development for Caroline County an Erosion and Sediment Control Plan for the land-disturbing activity and such Plan has been approved by the Plan-Approving Authority. Where land-disturbing activities involve lands under the jurisdiction of more than one local control program, an Erosion and Sediment Control Plan, at the option of the applicant, may be submitted to the Board for review and approval rather than to each jurisdiction concerned.

1. Where the land-disturbing activity results from the construction of a single-family residence, an "agreement in lieu of a plan" may be substituted for an erosion and sediment control plan if executed by the plan-approving authority.
1. The standards contained within the "Virginia Erosion and Sediment Control Regulations", the Virginia Erosion and Sediment Control Handbook and the Virginia Stormwater Management Handbook [and the Chesapeake Bay Local Assistance Manual] are to be used by the applicant when making a submittal under the provisions of this ordinance and in the preparation of an Erosion and Sediment Control Plan.
2. A completed Plan shall be acted upon by the Plan-Approving Authority within 45 days from receipt thereof. The Plan-Approving Authority shall either approve the Plan in writing or disapprove the Plan in writing and giving specific reasons for its disapproval. If no action is taken within 45 days, the Plan shall be deemed approved and the person authorized to proceed with the proposed activity.
3. The Plan-Approving Authority shall approve a completed Plan, if it is determined that the Plan meets the requirements of the Board's regulations, and if the person responsible for carrying out the plan certifies that he or she will properly perform the erosion and sediment control measures included in the plan and will conform to the provisions of this Article. In addition, as a prerequisite to approval of the plan, the person responsible for carrying out the plan shall provide the name of a Responsible Land Disturber, who will be in charge of and responsible for carrying out the land-disturbing activity, in accordance with the approved plan.

When a Plan is determined to be inadequate, the Plan-Approving Authority shall specify such modifications, terms and conditions that will permit approval of the Plan.

5. An approved Plan may be changed by the Plan-Approving authority when:
 - (1) An inspection reveals that the Plan is inadequate to satisfy applicable regulations; or
 - (2) The person responsible for carrying out the plan finds that because of changed circumstances or for other reasons the approved Plan cannot be effectively carried out, and proposed amendments to the plan, consistent with the requirements of this Article and state law, are agreed to by the Plan-Approving Authority and the person responsible for carrying out the plans.
6. In order to prevent further erosion, Caroline County may require approval of a plan for any land identified as an Erosion Impact Area.
7. The preparation, submission, and approval of an Erosion and Sediment Control Plan shall be the responsibility of the Owner.

8. Electric, natural gas and telephone utility companies, interstate and intrastate natural gas pipeline companies and railroad companies shall file general erosion and sediment control specifications annually with the Board for review and written comments. The specifications shall apply to:

- (1) Construction, installation or maintenance of electric, natural gas and telephone utility lines, and pipelines; and;
- (2) Construction of the tracks, rights-of-way, bridges, communication facilities and other related structures and facilities of the railroad company.

Individual approval of separate projects within subdivisions 1 and 2 of this subsection is not necessary when Board approved specifications are followed, however, projects included in subdivisions 1 and 2 must comply with Board approved specifications. Projects not included in subdivisions 1 and 2 of this subsection shall comply with the requirements of Caroline County erosion and sediment control program.

9. State agency projects are exempt from the provisions of this ordinance except as provided for in the Code of Virginia, Section 10.1-564.

B. Contents of Plans

1. *Generally.* The Erosion and Sediment Control Plan shall detail the methods and techniques to be utilized in the control of erosion, sedimentation and stormwater. The Erosion and Sediment Control Plan shall contain the following components:

- (1) The name, address and phone number of the person preparing the Plan and a statement that the Plan was prepared by a licensed professional engineer, architect, certified landscape architect, or land surveyor registered in the state.
- (2) The name, address, and phone number of the Applicant.
- (3) The name, address and phone number of the landowner of record.
- (4) The name, address and phone number of the person that holds a certificate of competence, as provided for by the Code of Virginia § 10.1-563, who will be in charge of and responsible for carrying out the Land-Disturbing Activity
- (5) The location of the site including, but not limited to road number, tax map reference and lot number.
- (6) A site plan or map which conforms to any plan of development or subdivision plat.
- (7) The location of all buffers required by this Code or the Code of Virginia, including, but not limited to all buffers designated as Resource Protection Area buffers pursuant to Section 17, Article XV, of the Zoning Ordinance of Caroline County or any other buffer imposed or required pursuant to any other section of the Zoning Ordinance of Caroline County. The plan also shall contain a certification that prior to any land disturbing activity:

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- a. All buffer areas and wetlands shall be conspicuously flagged or otherwise identified and not disturbed unless authorized by law; and
 - b. The applicant shall notify the Administrator upon completion of flagging and before any land-disturbing activities commence.
- (8) Measures to control erosion and sediment.
 - (9) Measures to control and manage stormwater.
 - (10) A comprehensive drainage plan.
 - (11) Evidence that no more land than is necessary to provide for the desired use or development shall be disturbed.
 - (12) A statement by the Permittee that all erosion and sediment control measures shall be maintained and that the Permittee will inspect the erosion and sediment control measures at least once in every two-week period and within 48 hours following rain-storm events during construction to ensure continued compliance with the approved plan. Records of self-inspection shall be maintained on the site and available for review by county inspectors.
 - (13) A statement by the Permittee acknowledging that the U.S. Army Corps of Engineers may have additional jurisdiction over wetlands not regulated by the County.
 - (14) A statement by the Permittee acknowledging that a National Pollutant Discharge Elimination System permit application, if required, has been made for land disturbing activities of five acres or greater.
 - (15) A statement incorporating by reference the minimum standards (Section 1.5) of the Erosion and Sediment Control regulations of the Virginia Division of Soil and Water Conservation (VR625-02-00).
 - (16) Environmental site assessment information consisting of:
 - a. Base flood hazard areas (100-year floodplain).
 - b. Location of all tidal and nontidal wetlands, as defined in 9 VAC 10-20-40.
 - c. Location of all tidal shores, as defined in 9 VAC 10-20-40.
 - d. Location of all tributary and nontributary streams, as defined in 9 VAC 10-20-40.
 - e. Location of boundaries of all areas designated as RPAs or RMAs pursuant to Section 17.6, Article XV of the Caroline County Zoning Ordinance. .
 - f. Soils delineation.
 - (17) A statement that, prior to any land disturbing activity, all wetlands shall be conspicuously flagged or otherwise identified, and that the applicant shall notify the Administrator upon completion of flagging and before any land disturbing activities commence.
 - (18) Evidence that applicable U.S. Army Corps of Engineers and state permits necessary for activities in state waters and wetlands or appropriate waivers of jurisdiction have been obtained.

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- (19) Evidence that a water quality impact assessment, as required by Section 17.13, Article XV of the Caroline County Zoning Ordinance has been performed for any proposed development within an RPA, including any buffer area modification or reduction, and for any development in an RMA which, due to the unique characteristics of the site or intensity of the proposed development, is considered to be environmentally sensitive land.
- (20) Calculations or other evidence showing:
- a. Nonpoint source pollution loads of phosphorus and sediments to receiving surface waters during and after development will not be increased because of new development or redevelopment of any site currently served by water quality BMPs.
 - b. Nonpoint source pollution loads of phosphorus and sediments to receiving surface waters during and after development will be reduced by ten percent for redevelopment of any site not currently served by water quality BMPs.
 - c. The development will comply with the performance standard for nonpoint source pollution loads to receiving surface waters, as demonstrated by a stormwater management plan, which must contain the following:
 1. Location and design of all planned stormwater control devices.
 2. Procedures for implementing nonstructural stormwater control practices and techniques.
 3. Predevelopment and post development nonpoint source pollutant loadings with supporting documentation of all utilized coefficients and calculations.
 4. For facilities, verification of structural soundness, including a professional engineer or class IIIB surveyor certification.
 5. A long-term schedule for inspection and maintenance of stormwater management facilities that includes all maintenance requirements and persons responsible for performing maintenance.

45-5 PERMITS; FEES; SECURITY FOR PERFORMANCE;

- A. As provided by law, agencies authorized under any other law to issue grading, building, or other permits for activities involving land-disturbing activities may not issue any such permit unless the applicant submits with his application an approved Erosion and Sediment Control Plan and certification that the plan will be followed.
- B. No person may engage in any land-disturbing activity until he has acquired a land-disturbing permit, unless the proposed land-disturbing activity is specifically exempt from the provisions of this Article, and has paid the required fees have been paid and any required bond posted. 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 to the program authority the name of a Responsible Land Disturber, who will be in charge of and responsible for carrying out the land-disturbing activity, in accordance with the approved plan. Failure to provide the name of a Responsible Land Disturber prior to engaging in land-disturbing activities may result in revocation of plan approval and the Responsible Land Disturber shall be subject to the penalties provided in this ordinance.

A Responsible Land Disturber shall not be required for agreements in lieu of a plan. However, if a violation occurs during the land-disturbing activity, then the person responsible for carrying out the agreement in lieu of a plan shall be required to provide the name of a Responsible Land Disturber to the program authority. Failure to provide the name of a Responsible Land Disturber shall be a violation of this ordinance.

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- C. An administrative fee as set by the County shall be paid to the Caroline County Treasurer at the time of submission of the Erosion and Sediment Control Plan.
 - D. No Land-disturbing Permit shall be issued until the Applicant submits with his application an approved Erosion and Sediment Control Plan and certification that the plan will be followed.
 - E. All applicants for permits shall provide to Caroline County a performance bond, cash escrow, or an irrevocable letter of credit acceptable to the County Attorney, to ensure that measures could be taken by Caroline 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 and a reasonable allowance for estimated administrative costs and inflation which shall not exceed twenty-five percent of the cost of the conservation action. Should it be necessary for Caroline County to take such conservation action, Caroline County may collect from the applicant any costs in excess of the amount of the surety held.

Within sixty (60) days of adequate stabilization, as determined by the Administrator in any project or section of a project, such bond, cash escrow or letter of credit, or the unexpended or unobligated portion thereof shall be either refunded to the applicant or terminated, based upon the percentage of stabilization accomplished in the project or project section.

- F. 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.

45-6 MONITORING, REPORTS, AND INSPECTIONS

- A. Caroline County shall 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.
- B. The Administrator shall periodically inspect the land-disturbing activity in accordance with 4VAC50-30-60 of the 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 Administrator determines that there is a failure to comply with the plan, 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 or person responsible for carrying out the

plan shall be deemed to be in violation of this Chapter and shall be subject to the penalties provided herein.

- C. Upon determination of a violation of this Chapter, the Administrator may, in conjunction with or subsequent to a notice to comply as specified in this Chapter, 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.

If land-disturbing activities have commenced without an approved plan, the Administrator may, in conjunction with or subsequent to a notice to comply as specified in this Chapter, 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 this ordinance. 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 days from the date of service pending application by the enforcing authority or permit holder for appropriate relief to the Circuit Court of Caroline County.

If the alleged violator has not obtained an approved plan or any required permits within seven days from the date of service of the order, the Administrator 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 Caroline County.

The owner may appeal the issuance of an order to the Circuit Court of Caroline County.

Any person violating or failing, neglecting or refusing to obey an order issued by the Administrator may be compelled in a proceeding instituted in the Circuit Court of Caroline 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 order shall immediately be lifted.

Nothing in this section shall prevent the Administrator from taking any other action authorized by law.

45-8 PENALTIES, INJUNCTIONS, AND OTHER LEGAL ACTIONS

- A. Any person who violates any provision of this ordinance shall, upon a finding of the District Court of Caroline County, be assessed a civil penalty. The civil penalty for any one violation shall be \$100, except that the civil penalty for commencement of land-disturbing activities without an approved plan shall be \$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 which exceed a total of \$3,000, 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 which exceed a total of \$10,000.

- B. The Administrator or the owner of property which has sustained damage or which is in imminent danger of being damaged, may apply to the Circuit Court of Caroline County to enjoin a violation or a threatened violation of this ordinance, without the necessity of showing that an adequate remedy at law does not exist.

However, an owner of property shall not apply for injunctive relief unless (i) he has notified in writing the person who has violated the local program, and the program authority, that a violation of the local program has caused, or creates a probability of causing, damage to his property, and (ii) neither the person who has violated the local program nor the program authority has taken corrective action within fifteen days to eliminate the conditions which have caused, or created the probability of causing damage to his property.

- C. Any person who violates any provision of this Chapter may be liable to Caroline County in a civil action for damages.
- D. Without limiting the remedies which may be obtained in this section, any person violating or failing, neglecting, or refusing to obey any injunction, mandamus or other remedy obtained pursuant to this section shall be subject, in the discretion of the court, to a civil penalty not to exceed \$2,000 for each violation. A civil action for such violation or failure may be brought by Caroline County.

Any civil penalties assessed by a court shall be paid into the treasury of Caroline County, except that where the violator is the locality itself, or its agent, the court shall direct the penalty to be paid into the state treasury.

- E. With the consent of any person who has violated or failed, neglected or refused to obey any regulation or condition of a permit or any provision of this ordinance, Caroline County may provide for the payment of civil charges for violations in specific sums, not to exceed the limit specified in Subsection D of this section. Such civil charges shall be instead of any appropriate civil penalty which could be imposed under Subsection D.
- F. The County Attorney shall, upon request of Caroline County or the permit issuing authority, take legal action to enforce the provisions of this ordinance.
- G. Compliance with the provisions of this Chapter shall be prima facie evidence in any legal or equitable proceeding for damages caused by erosion, siltation or sedimentation that all requirements of law have been met, and the complaining party must show negligence in order to recover any damages.

45-9 APPEALS AND JUDICIAL REVIEW

Final decisions of the Administrator or the Plan Approving Authority under this article shall be subject to review by the Caroline County Circuit Court, provided an appeal is filed within 30 days from the date of any written decision adversely affecting the rights, duties, or privileges of the person engaging in or proposing to engage in land-disturbing activities.