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## **CHAPTER 34**

### **EROSION AND SEDIMENT CONTROL**

#### Article I      Definitions; General Provisions

##### § 34-1. Definitions.

In this chapter, the following words and phrases have the meanings indicated:

A. “Adverse Impact” means any deleterious effect on waters or wetlands, including an effect on their quality, quantity, surface area, species composition, aesthetics, or usefulness for human or natural purposes that:

1. Is or may potentially be harmful or injurious to human health, welfare, safety, or property, or to biological productivity, diversity, or stability; or
2. Unreasonably interferes with the enjoyment of life or property, including outdoor recreation.

B. “Agricultural Land Management Practices” means those methods and procedures used in cultivating land to further crop and livestock production and conservation of related soil and water resources but does not include logging and timber removal operations.

C. “Applicant” means any person who executes the necessary forms to procure official approval of a project or a permit to carry out construction of a project.

D. “Clear” means any activity that removes the vegetative ground cover.

E. “Developer” means a person, other than a general contractor or subcontractor, whether or not he has a proprietary interest in a project, (1) who undertakes any of the activities covered by this chapter or (2) for whose benefit any or all of the activities covered by this chapter are commenced or carried on.

F. “Drainage Area” means that area contributing runoff to a single point measured in a horizontal plane that is enclosed by a ridgeline.

G. “Erosion” means the process by which the land surface is worn away by the action of wind, water, ice, or gravity.

H. “Erosion and Sediment Control” means a system of structural and vegetative measures that minimizes soil erosion and off-site sedimentation.

I. “Erosion and Sediment Control Plan” means “an erosion and sediment control strategy or plan prepared and approved in accordance with the specific requirements of the Soil Conservation Service and this chapter and designed in accordance with the standards and specifications to minimize erosion and prevent off-site sedimentation by:

1. Containing sediment on-site; or
2. Passing sediment laden runoff through a sediment control measure.

J. “Grade” means to cause disturbance of the earth and includes but is not limited to any excavating, filling, stockpiling of earth materials, grubbing, root mat or topsoil disturbance, or any combination of these activities.

K. “Permit Holder” means any person to whom a building permit has been issued.

L. “Person “ means

1. The Federal Government;

2. The State;

3. Any County, Municipal Corporation, or other Political Subdivision of the State, or any of their units

4. An individual, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind.

5. Any partnership, firm, association, public or private corporation, or any of their affiliates; or

6. Any other entity.

M. “Responsible Personnel” means any foreperson, superintendent, or project engineer who is in charge of on-site clearing and grading operations or sediment control associated with earth changes or disturbances.

N. “Sediment” means soils or other surficial materials transported or deposited by the action of wind, water, ice, gravity, or other artificial means.

O. “Site” means any tract, lot, or parcel of land or combination of tracts, lots, or parcels of land that are in one ownership, or are contiguous and in diverse ownership and upon which development is to be performed as part of a unit, subdivision, or project.

P. “Soil Conservation Service” means the Queen Anne’s County Soil Conservation Service, sometimes known as the Queen Anne’s County Soil Conservation District.

Q. “Stabilization” means the prevention of soil movement by any of various vegetative or structural means.

R. “Standards and Specifications” means the 1991 Maryland Standards and Specifications for Soil Erosion and Sediment Control or any subsequent revisions.

S. “Variance” means a modification of the criteria set forth in the standards and specifications.

T. “Wetlands” means any area that has saturated soils or periodic high groundwater levels and vegetation adapted to wet conditions and periodic flooding.

§ 34-2. Purpose.

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 accelerated soil erosion and resulting sedimentation, in order to minimize soil erosion and off-site sedimentation and associated damage to public and private property; and assist in the attainment and maintenance of water quality standards.

§ 34-3. Application; Variances; Minimum Requirements.

A. Application.

This chapter applies to all clearing and grading activity in the Town except:

1. Agricultural land management practices and construction of agricultural structures;
2. Single-family residences or their accessory buildings on lots of two acres or more;
3. Clearing or grading activities that disturb less than 5,000 square feet of land area and disturb less than 100 cubic yards of earth; or
4. Clearing or grading activities that are subject exclusively to state approval and enforcement under state law and regulations.

B. Variances.

1. The Soil Conservation Service may grant a written variance from the requirements of the standards and specifications if strict adherence to the requirements will result in unnecessary hardship and not fulfill the intent of this chapter.
2. To obtain a variance, a developer shall submit a written request for a variance to the Soil Conservation Service and shall concurrently submit a copy to the Town Zoning Administrator, who shall consult with the Town Engineer and shall submit any comments or concerns relating to the request to the Soil Conservation District within fourteen days.
3. The request shall state the specific variance sought and reasons for requesting the variance.
4. The Soil Conservation Service may not grant a variance unless the developer provides sufficient specific reasons justifying the variance.

C. Minimum Requirements.

The requirements of this chapter are the minimum erosion and sediment control requirements and may not be deemed a limitation or repeal of any other powers granted by State statute.

§ 34-4 (Reserved)

§ 34-5 (Reserved)

Article II Erosion And Sediment Control Plans

§ 34-6. Approved Plan Required; Maintenance

A. In general.

1. A person may not clear or grade land without first obtaining an Erosion and Sediment Control Plan approved by the Soil Conservation Service.
2. A person may not clear or grade land except in accordance with an Erosion and Sediment Control Plan obtained pursuant to this chapter if one is required.

3. Every person clearing or grading land within the Town shall perform maintenance as necessary to ensure that the stabilized areas continuously meet the appropriate requirements of the standards and specifications.

**B. Plan Requirements.**

The Erosion and Sediment Control Plan shall meet the requirements of the Soil Conservation Service, this chapter, the State Sediment Control Regulations, COMAR 26.09.01 and the Standards and Specifications.

§ 34-7. Submission Of Plan To Soil Conservation Service.

**A. Submission required.**

An applicant shall submit an Erosion and Sediment Control Plan and any supporting computations to the Soil Conservation Service for review and approval. Within two business days of such submission, the applicant shall submit a copy of the proposed plan to the Town Zoning Administrator for comment.

**B. Required information. Applicants shall submit the following information:**

1. A letter of transmittal;
2. A vicinity sketch indicating north arrow, scale, and other information necessary to easily locate the property; and
3. A plan at an appropriate scale.

**C. Sufficiency of information.**

The Erosion and Sediment Control Plan shall contain sufficient information, drawings, and notes to:

1. Describe how soil erosion and off-site sedimentation will be minimized; and
2. 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. Certification.**

The applicant shall certify on the drawings that all clearing, grading, drainage, construction, and development shall be conducted in strict accordance with the plan.

§ 34-8. Contents Of Plan.

The Erosion and Sediment Control Plan shall include:

- A. The name, address, and telephone number of the owner of the property where the grading is proposed, the developer; and the applicant;
- B. The existing and proposed topography;
- C. The proposed grading and earth disturbance including:

1. The surface area involved;
2. The volume of spoil material;
3. The volume of borrow material; and
4. The limits of grading, including limitation of mass clearing and grading whenever possible.

D. Storm drainage provisions, including:

1. Velocities and quantities of flow at outfalls; and
2. Site conditions around points of all surface water discharge from the site.

E. Except as to areas that are shown on the plan and are currently being used for material storage, areas on which actual construction activities are currently being performed, or interior areas of a surface mine site where the stabilization material would contaminate the recoverable resource, erosion and sediment control provisions to minimize on-site erosion and prevent off-site sedimentation, including:

1. Provisions to preserve topsoil and limit disturbance;
2. Details of grading practices;
3. Design details for structural controls; and
4. Details of temporary and permanent stabilization measures, including placement of the following statement on the plan: "Following initial soil disturbance or redisturbance, permanent or temporary stabilization shall be completed within: seven calendar days as to the surface of all perimeter dikes, swales, ditches, perimeter slopes, and all slopes greater than three horizontal to one vertical (3:1); and fourteen days as to all other disturbed or graded areas on the project site."

F. The 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, including, at a minimum,

1. A schedule and time frame for the following activities:
  - (a) clearing and grubbing for those areas necessary for installation of perimeter controls;
  - (b) construction of perimeter controls;
  - (c) remaining clearing and grubbing;
  - (d) road grading;
  - (e) grading for the remainder of the site;
  - (f) utility installation and whether storm drains will be used or blocked after construction;
  - (g) final grading, landscaping, or stabilization; and
  - (h) removal of controls.
2. A statement indicating that the developer shall request that the Town's Zoning Administrator approve work completed in accordance with the approved Erosion and Sediment Control Plan, the building permit, and this chapter.
3. Certification by the owner or developer that any clearing, grading, construction, or development, or all of these, will be done pursuant to this plan and that responsible personnel involved in the construction project will, prior to the beginning the project, have a Certification of Training at a training program approved by the Maryland Department of the Environment for the Control of Sediment and Erosion, provided that the certification of training for responsible personnel requirement may be waived by the Soil Conservation Service on any project involving four or fewer residential units.

4. Any additional information or data considered appropriate by the Soil Conservation Service.

§ 34-9. Review Of Plan.

A. Review.

Before approval, the Soil Conservation Service shall review the plan to determine compliance with this chapter and the standards and specifications.

B. Imposing conditions.

In approving the plan, the Soil Conservation Service may impose conditions as may be considered necessary to ensure compliance with the provisions of this chapter, the State Sediment Control Regulations, COMAR 26.09.01, the Standards and Specifications, or the Preservation of Public Health and Safety.

C. Notice.

The Soil Conservation Service shall notify the applicant of approval or reasons for any disapproval of or modification within 30 days after submission of the proposed plan or modification. If a decision is not made within 30 days, the Soil Conservation Service shall inform the applicant and the Town of the status of the review process and the anticipated completion date

D. Signature.

The Erosion and Sediment Control Plan may not be considered approved without the inclusion on the plan of the signature and date of signature of the Soil Conservation Service on the plan.

E. Duration of approval.

Approved plans may remain valid for two years from the date of approval unless renewed by the Soil Conservation Service.

F. Use of plan.

The plan shall serve as a basis for all subsequent grading and stabilization and shall be the basis for the issuance of a grading permit by the Zoning Administrator.

§ 34-10 Modification Of Plan.

A. By Soil Conservation Service.

The Soil Conservation Service may revise approved plans as necessary.

B. Request For Modification.

The permit holder and the town may request modification of a plan.

§ 34-11 (Reserved)

§ 34-12 (Reserved)

Article III Permits And Performance Bond

§ 34-13 Approval Of Plan Required For Permit.

The Zoning Administrator may not issue a building permit for any lot or parcel, unless such lot or parcel is exempted from the requirements of this chapter pursuant to § 34-3 hereof, until the Soil Conservation Service has reviewed and approved an erosion and sediment control plan for the site.

§ 34-14 Permit Expiration And Renewal.

A. Expiration.

A building permit shall expire two years from the date of issuance unless extended or renewed by the Town Zoning Administrator.

B. Renewal.

Application for permit renewal shall be made at least two months before the permit expiration date.

§ 34-15 Permit Fee.

A. Fee schedule.

The Town Commissioners may establish a permit fee schedule for the administration and management of the Erosion and Sediment Control Program.

B. Exemption.

Capital improvement projects and public works projects are exempt from the permit fee.

§ 34-16 Permit Conditions.

In issuing a grading permit, the Town Zoning Administrator may impose any conditions on the permit as may be considered necessary to ensure compliance with the provisions of this chapter or the preservation of the public health and safety.

§ 34-17 Performance Bond.

When considered necessary by the Town Zoning Administrator, a developer shall furnish a surety or cash bond, irrevocable letter of credit, or other means of security acceptable to the Town.

§ 34-18 Suspension Or Revocation Of Permit.

The Town Zoning Administrator may suspend or revoke any building permit after providing written notification to the permit holder based on any of the following reasons:

- A. Any violation of the terms or conditions of the approved Erosion and Sediment Control Plan or permit;
- B. Noncompliance with a violation notice or stop-work order;
- C. Changes in site characteristics on which plan approval and permit issuance was based; or

D. Any violation of this chapter or any rules and regulations adopted under it.

§ 34-19 (Reserved)

§ 34-20 (Reserved)

Article IV Administration And Enforcement

§ 34-21 Responsibility.

The Town Zoning Administrator shall coordinate and enforce this chapter.

§ 34-22 Maintenance Of Plan On Site.

The permit holder shall maintain a copy of the approved Erosion and Sediment Control Plan on site.

§ 34-23 Right Of Entry.

As a condition of every building permit, the Town Engineer may enter property periodically to inspect for compliance with this chapter.

§ 34-24 Inspections.

A. Inspections required.

On all sites subject to this chapter pursuant to section 34-3(a), the permit holder shall request that the Town Engineer inspect work completed at the stages of construction specified below to ensure compliance with the approved Erosion and Sediment Control Plan, the building permit, and this chapter:

1. On completion of installation of perimeter erosion and sediment controls, before proceeding with any other earth disturbance or grading; and
2. On final stabilization before the removal of sediment controls.

B. In addition to the inspections required under Subsection (A) of this section, the Town Engineer shall have the right to inspect the work at any time he deems necessary to ensure compliance with the terms of this chapter and any approved Erosion and Sediment Control Plan applicable to the property.

C. Prerequisite To Other Approvals.

Other building approvals may not be authorized until initial approval by the inspection agency is made.

D. Average Frequency Of Inspections.

Every active site having a designed Erosion and Sediment Control Plan should be inspected for compliance with the plan on the average of once every two weeks.

§ 34-25 Inspection Reports.

A. Required.

Inspectors shall prepare written reports after every inspection.

B. Contents.

The inspection report shall describe:

1. The date and location of the site inspection;
2. Whether or not the approved plan has been properly implemented and maintained;
3. Any practice deficiencies or erosion and sediment control plan deficiencies; and
4. If a violation exists, the type of enforcement action taken.

C. Copy To Zoning Administrator.

The inspector shall provide a copy of the report to the Town Zoning Administrator.

§ 34-26 Notice Of Violation.

The Town Zoning Administrator shall notify the on-site personnel or the owner or developer in writing when violations are observed as a result of an inspection conducted pursuant to § 34-24 of this chapter, describing:

- A. The nature of the violation;
- B. The required corrective action; and
- C. The time period in which the violation must be corrected.

§ 34-27 Modifications To Plans.

A. In general.

When inspection of the site indicates the approved Erosion and Sediment Control Plan needs modification, the modification shall be made in compliance with the erosion and sediment control criteria contained in the standards and specifications in accordance with this section.

B. Major modifications.

1. The permit holder shall submit requests for major modifications, which include the addition or deletion of a sediment basin and modifications due to plan inadequacies at controlling erosion and sediment as revealed through inspection, to approved Erosion and Sediment Control Plans to the Soil Conservation District to be processed appropriately.

C. Minor modifications.

The Town Engineer may approve minor modifications to approved Erosion and Sediment Control Plans in the field if documented on a field inspection report. The Soil Conservation District shall, in conjunction with the Town Engineer, develop a list of allowable field modifications for use by the inspector.

§ 34-28 Complaints.

A. Receipt.

Complaints regarding non-compliance with the provisions of this chapter shall be made in writing to the Town Zoning Administrator who shall initiate enforcement proceedings when violations are confirmed.

B. Action on complaint.

Any complaint received shall be acted on routinely within three days, and the complainant shall be notified of any action or proposed action routinely within seven days of receipt of the complaint.

§ 34-29 Enforcement Procedures.

A. Notice of violation.

When an inspector, including the Town Engineer, determines that a violation of an approved Erosion and Sediment Control Plan has occurred, the inspector shall:

1. Notify the Town Zoning Administrator who shall notify the on-site personnel or the permit holder in writing of the violation; and
2. Describe the required corrective action and the time period in which to have the violation corrected.

B. Failure to correct violation; stoppage of work.

1. If the violation persists after the date specified for corrective action in the Notice of Violation, the Town Zoning Administrator shall order work on the site stopped.
2. The Town Zoning Administrator shall determine the extent to which work is stopped, which may include all work on the site except the work necessary to correct the violation.

C. Referral for legal action.

If reasonable efforts to correct the violation are not undertaken by the permit holder, the Town shall refer the violation for legal action.

D. Denial of permits.

The Zoning Administrator may deny the issuance of any permits to an applicant when it determines that the applicant is not in compliance with the provisions of a building permit or approved Erosion and Sediment Control Plan.

E. Timing of enforcement.

Any step in the enforcement process may be taken at any time, depending on the severity of the violation.

F. Working without permit; stoppage of work.

If a person is working without a permit, the Town Zoning Administrator shall order work on the site stopped, except activity necessary to provide erosion and sediment control.

§ 34-30 (Reserved)

§ 34-31 (Reserved)

Article V      Violations And Penalties

§ 34-32            Misdemeanor.

A person who violates any provision of this chapter is guilty of a misdemeanor and, upon conviction, is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 90 days, or both for each violation. Each day on which the violation occurs is a separate offense.

§ 34-33            Injunction.

The Soil Conservation Service or the Zoning Administrator or any interested person may seek an injunction against any person who violates or threatens to violate any provision of this chapter.

§ 34-34            Civil Damages.

A.      In general.

In addition to any other sanction under this chapter, a person who fails to install or to maintain erosion and sediment controls in accordance with an approved plan shall be liable to the Town or the State in a civil action, for damages in an amount equal to double the cost of installing or maintaining the controls.

B.      Disposition of damages collected.

Any governing authority that recovers damages in accordance with this section 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 control; and
2.            administration of the Sediment Control Program.

*Adopted March 1, 2010 as Ordinance No. 128-10. The date of any amendment will appear below the amended paragraph in brackets ( [ ] ).*