

RICHMOND COUNTY EROSION AND SEDIMENT CONTROL ORDINANCE

SECTION 1 TITLE, PURPOSE AND AUTHORITY

This ordinance shall be known as the "Erosion and Sediment Control Ordinance of Richmond County." The purpose of this ordinance is to prevent degradation of properties, stream channels, waters and other natural resources of Richmond 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 Ordinance is authorized by the Code of Virginia, 1950, as amended, Title 10, Chapter 5, Article 4, (Section 10.1-560 et seq.), known as the "Erosion and Sediment Control Law". This article provides for a comprehensive statewide program, with standards and guidelines to control soil erosion and sedimentation, which is to be implemented on the local level.

SECTION 2 DEFINITIONS

For the purpose of this Ordinance, certain terms and words are hereby defined as follows:

- 2-1 **"Administrator"** means the representative of the Governing Body who has been appointed to serve as the agent of the Governing Body in administering this Ordinance. The Land Use Administrator is hereby designated as Administrator of this Ordinance.

- 2-2 **"Applicant"** means any person submitting an erosion and sediment control plan for approval and requesting the issuance of a permit, when required, authorizing land-disturbing activities to commence.

- 2-3 **"Board "** means the Virginia Soil and Water Conservation Board.

- 2-4 **"Chesapeake Bay Preservation Area"** means any land designated by a local government pursuant to Part III of the Chesapeake Bay Preservation Area Designation and Management Regulations and Section 10.1-2107 of the Chesapeake Bay Preservation Act. A Chesapeake Bay Preservation Area shall consist of a Resource Protection Area and a Resource Management Area.
 - a. **"Resource Management Area"** means that component of the Chesapeake Bay Preservation Area that is not classified as the Resource Protection Area as designated by the Governing Body.

- b. **"Resource Protection Area"** means that component of the Chesapeake Bay Preservation Area comprised of lands at or near the shoreline that have an 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.
 - c. **"Buffer Areas"** means an area of natural or established vegetation managed to protect other components of a Resource Protection Area and state waters from significant degradation due to land disturbances.
- 2-5 **"Clearing"** means any activity which includes, but is not limited to, removal of vegetative ground cover, root mat and/or top soil.
- 2-6 **"Department"** means the Department of Conservation and Recreation.
- 2-7 **"District"** or **"Soil and Water Conservation District"** means the Northern Neck Soil and Water Conservation District, a political subdivision of the Commonwealth organized in accordance with Title 21, Chapter 1, of the Code of Virginia.
- 2-8 **"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.
- 2-9 **"Erosion and sediment control plan"** or **"Plan"** means a document containing materials which describe proposed measures to be taken for the purpose of conserving soil and water resources of a unit or group of units of land. It may include appropriate maps, appropriate soil and water inventory, management information with needed interpretations, and a record of decisions contributing to conservation treatment. The plan shall contain all major conservation decisions so that the entire unit or units of land will be so treated to achieve the conservation objectives set forth in this Ordinance.
- 2-10 **"Excavating"** means any digging, scooping or other methods of removing earth materials.
- 2-11 **"Filling"** means any depositing or stockpiling of earth materials.
- 2-12 **"Governing Body"** means the Board of Supervisors of Richmond County, Virginia.
- 2-13 **"Grading"** means any excavating or filling of earth materials or any combination thereof, including the land in its excavated or filled condition.
- 2-14 **"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;
- (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 the 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/or 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 of the Code of Virginia, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; 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 (Sec. 10.1-1100 et seq.) of the Code of Virginia or is converted to bona fide agricultural or improved pasture use as described in Subsection B of Sec. 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; however, 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.

2-15 **"Land-disturbing permit"** means a permit issued by the County of Richmond for clearing, filling, excavation, grading or transporting, or any combination thereof.

2-16 **"Local erosion and sediment control program"** or **"local control program"** means an outline of the various methods employed by Richmond 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.

2-17 **"Natural channel design concepts"** means the utilization of engineering analysis and fluvial geomorphic processes to create, rehabilitate, restore, or stabilize an open conveyance system for the purpose of creating or recreating a stream that conveys its bankfull storm event within its banks and allows larger flows to access its bankfull bench and its floodplain.

2-18 **"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.

2-19 **"Peak flow rate"** means the maximum instantaneous flow from a given storm condition at a particular location.

2-20 **"Permit holder"** 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.

2-21 **"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.

2-22 **"Plan approving authority"** means the Land Use Administrator responsible for determining the adequacy of a conservation plan submitted for land-disturbing activities on a unit or units of lands for approving such plan if the plan is determined to be adequate;

The Administrator is designated as the plan approving authority and is responsible for the administration of the Erosion and Sediment Control Ordinance;

2-23 **"Program authority"** means Richmond County has adopted a soil erosion and sediment control program that has been approved by the Board.

- 2-24 **"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.
- 2-25 **"Runoff volume"** means the volume of water that runs off the land development project from a prescribed storm event.
- 2-26 **"State waters"** means all waters on the surface and under the ground wholly or partially within or bordering the Commonwealth or within its jurisdiction;
- 2-27 **"Subdivision"** means any subdivision of land as defined in the Richmond County Subdivision Ordinance.
- 2-28 **"Transporting"** means any moving of earth materials from one place to another, other than such movement incidental to grading, when such a movement results in destroying the vegetative ground cover either by tracking or the build-up of earth materials to the extent that erosion and sedimentation will result from the soil or earth materials over which such transporting occurs.
- 2-29 **"Water Quality Volume"** means the volume equal to the first one-half inch of runoff multiplied by the impervious surface of the land development project.

SECTION 3 LOCAL EROSION AND SEDIMENT CONTROL PROGRAM

- 3-1 The current edition of The Virginia Erosion and Sediment Control Handbook, and The Virginia Erosion and Sediment Control Regulations and all the related erosion and sediment control provisions of The Chesapeake Bay Preservation Area Designation and Management Regulations as amended are hereby adopted as an integral part of the Richmond County Erosion and Sediment Control Program for the effective control of soil erosion and sediment deposition to prevent the unreasonable degradation of properties, stream channels, waters and other natural resources.
- 3-2 Persons submitting plans under this Ordinance shall be governed by the criteria, standards and specifications established in Chapter 6, PREPARING an EROSION and SEDIMENT CONTROL PLAN, of The Virginia Erosion and Sediment Control Handbook and all related erosion and sediment control provisions of The Chesapeake Bay Preservation Area Designation and Management Regulations.

- 3-3 Persons submitting plans under this Ordinance shall follow the procedures set forth in a separate document which is attached hereto and made a part hereof entitled: "Procedures for Plan Submission and Review, On-site Inspection and Ordinance Enforcement".
- 3-4 Erosion and sediment control plans submitted under this Ordinance shall assure compliance with the buffer area requirements of The Chesapeake Bay Preservation Area Designation and Management Regulations.
- 3-5 Before adopting or revising regulations, Richmond County shall give due notice and conduct a public hearing on the proposed or revised regulations, except that a public hearing shall not be required when Richmond County is amending its program to conform to revisions in the state program. However, a public hearing shall be held if Richmond County proposes or revises regulations that are more stringent than the state program.

In addition, in accordance with §10.1-561 of the Code of Virginia, stream restoration and relocation projects that incorporate natural channel design concepts are not man-made channels and shall be exempt from any flow rate capacity and velocity requirements for natural or man-made channels.

In accordance with §10.1-561 of the Code of Virginia, any land-disturbing activity that provides for stormwater management intended to address any flow rate capacity and velocity requirements for natural or manmade channels shall satisfy the flow rate capacity and velocity requirements for natural or manmade channels if the practices are designed to (i) detain the water quality volume and to release it over 48 hours; (ii) detain and release over a 24-hour period the expected rainfall resulting from the one year, 24-hour storm; and (iii) reduce the allowable peak flow rate resulting from the 1.5, 2, and 10-year, 24-hour storms to a level that is less than or equal to the peak flow rate from the site assuming it was in a good forested condition, achieved through multiplication of the forested peak flow rate by a reduction factor that is equal to the runoff volume from the site when it was in a good forested condition divided by the runoff volume from the site in its proposed condition, and shall be exempt from any flow rate capacity and velocity requirements for natural or manmade channels.

- 3-6 Pursuant to Sec. 10.1-561.1 of the Code of Virginia, an erosion 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 Erosion Control Program of Richmond County shall contain a certified program administrator, a certified plan reviewer, and a certified inspector, who may be the same person.
- 3-7 Richmond County hereby designates the Land Use Administrator as the plan-approving authority.
- 3-8 The program and regulations provided for in this ordinance shall be made available for public inspection at the Richmond County Building and Zoning Office.

SECTION 4 REQUIREMENTS for APPROVAL of EROSION and SEDIMENT CONTROL PLAN

- 4-1 Except as provided for in subsection 4-2, no person shall engage in any land-disturbing activity in Richmond County until that person has submitted to the Administrator an erosion and sedimentation control plan for such land-disturbing activity and until that plan has been reviewed and approved by the Administrator. 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.
- 4-2 In the case of a land-disturbing activity for the construction of a single family dwelling, the Administrator may waive the requirement for a full erosion and sediment control plan as set forth in this Ordinance. In the case of granting of such a waiver by the Administrator, an Agreement in Lieu of an Erosion and Sediment Control Plan, which is signed by the applicant and approved by the Administrator, shall constitute authorization under this Ordinance to conduct land-disturbing activity allowed by that Agreement. Such agreement shall set forth all conservation measures to be carried out and maintained, shall grant right-of-entry to the Administrator and his designees, and shall make the project subject to all review, inspection, and enforcement provisions of this Ordinance which apply to approved erosion and sedimentation control plans.
- 4-3 The standards contained within the "Virginia Erosion and Sediment Control Regulations" and the Virginia Erosion and Sediment Control Handbook as amended, 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. The plan-approving authority, in considering the adequacy of a submitted plan, shall be guided by the same standards, regulations and guidelines. When the standards vary between the publications, the State regulations shall take precedence.

SECTION 5 ACTION on EROSION AND SEDIMENT CONTROL PLANS

- 5-1 The Administrator shall, within 45 days, approve in writing any erosion and sediment control plan submitted to him if he determines that the plan meets the conservation standards of the local control program and if the person responsible for carrying out the plan certifies that he will properly perform the erosion and sediment control measures included in the plan and will comply with the provisions of this Ordinance. 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 program authority, as provided by §10.1-561, of the Virginia Erosion and Sediment Control Law, 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 ordinance.
- 5-2 When a plan is determined to be inadequate, the Administrator, within 45 days from receipt, shall give written notice of disapproval stating the specific reasons for his disapproval. The

Administrator shall specify such modifications, terms and conditions as will permit approval of the plan and shall communicate these requirements to the applicant. If no action is taken by the Administrator within the time specified above, the plan shall be deemed approved and the person shall be authorized to proceed with the proposed activity.

5-3 An approved plan may be changed by the Administrator in the following cases:

- (1) Where inspection has revealed the inadequacy of the plan to accomplish the erosion and sediment control objectives of the Ordinance, plan changes can be required without approval of the person responsible for carrying out the plan: or
- (2) Where the person responsible for carrying out the approved 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 Ordinance, are agreed to by the Administrator and the person responsible for carrying out the plan.

5-4 Variances: The plan-approving authority may waive or modify any of the standards that are deemed to be too restrictive for site conditions, by granting a variance. A variance may be granted under these conditions:

- (1). At the time of plan submission, an applicant may request a variance to become part of the approved erosion and sediment control plan. The applicant shall explain the reasons for requesting variances in writing. Specific variances which are allowed by the plan-approving authority shall be documented in the plan.
- (2). During construction, the person responsible for implementing the approved plan may request a variance in writing from the plan-approving authority. The plan-approving authority shall respond in writing either approving or disapproving such a request. If the plan-approving authority does not approve a variance within 10 days of receipt of the request, the request shall be considered to be disapproved. Following disapproval, the applicant may resubmit a variance request with additional documentation.

5-5 When land-disturbing activity will be required of a contractor performing construction work pursuant to a construction contract, the preparation, submission, and approval of an erosion and sediment control plan shall be the responsibility of the owner.

5-6 In accordance with the procedure set forth by §10.1-563 (E) of the Code of Virginia, any person engaging in the creation and operation of wetland mitigation or stream restoration banks in multiple jurisdictions, which have been approved and are operated in accordance with applicable federal and state guidance, laws, or regulations for the establishment, use, and operation of wetlands mitigation or stream restoration banks, pursuant to a mitigation banking instrument signed by the Department of Environmental Quality, the Marine Resources Commission, or the U.S. Army Corps of Engineers, may, at the option of that person, file general erosion and sediment control specifications for wetland mitigation or

stream restoration banks annually with the Board for review and approval consistent with guidelines established by the Board.

- 5-7 State agency projects are exempt from the provisions of this ordinance except as provided for in the Code of Virginia, Sec. 10.1-564.

SECTION 6 APPROVED PLAN REQUIRED, PERMITS, FEES, SECURITY FOR PERFORMMANCE

- 6-1 The County may charge applicants a reasonable fee to defray the cost of program administration, including costs associated with the issuance of grading or land-disturbing permits, plan review, and periodic inspection for compliance with erosion and sediment control plans if charges for such costs are not made under any other law, ordinance or program. The fee shall not exceed any amount commensurate with the services rendered, taking into consideration the time, skill, and Administrator's expense involved.
- 6-2 The Building Official, or any agent of Richmond County , shall not issue any building or other permits for activities which involve land-disturbing activities unless the applicant submits with his application an approved erosion and sediment control plan or certification of such approved plan from the Administrator, certification that such plan will be followed, and written permission for the Administrator (or his agent) to conduct on-site inspections of the land-disturbing activity and of the conservation practices set forth in the plan.
- 6-3 The Administrator, prior to the approval of any erosion and sediment control plan, may require of the applicant a reasonable performance bond (except for single family dwellings constructed with an approved plan), with surety, cash escrow, letter of credit, or combination thereof, or such other legal arrangement as is acceptable to the administrator, to insure that measures could be taken by Richmond County at the expense of the person conducting the land-disturbing activity should he fail, after proper notice within the time specified, to initiate or maintain appropriate conservation action which may be required of him in order to be in compliance with this Ordinance.

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 Richmond County to take such conservation action, Richmond County may collect from the applicant any costs in excess of the amount of the surety held.

- 6-4 If the Administrator or Governing Body takes such measures upon such failure by the person conducting the land-disturbing activity, the Administrator may collect from such person for the difference should the amount of the cost of such action exceed the amount of the security held.
- 6-5 Within sixty (60) days of the adequate stabilization of the land-disturbing activity, as determined by the Administrator, such bond, cash escrow, letter of credit or other legal

arrangement, or the unexpended or unobligated portion thereof, shall be refunded to the applicant or terminated, as the case may be. 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.

SECTION 7 MONITORING, REPORTS, AND INSPECTIONS

7-1 The Administrator shall inspect the land-disturbing activity to insure compliance with the approved plan and to determine whether the measures required in that plan are effective in controlling erosion and sediment resulting from the land-disturbing activity. The Administrator may require monitoring and reports from the person responsible for carrying out the plan. Furthermore, the District may inspect, monitor and make reports for the Administrator, upon request. The right-of-entry to conduct such inspections shall be expressly reserved in the permit. The person responsible for carrying out the plan, or his duly designated representative, shall be afforded the opportunity to accompany the inspectors.

At such time that the person responsible for carrying out the plan feels that the land-disturbing activity is complete, a formal written request shall be made to the Administrator for a final inspection.

If, after completing the final inspection the Administrator determines that the person responsible for carrying out the plan has met all requirements of the Erosion and Sediment Control Ordinance, such bond, cash escrow, letter of credit or other legal arrangement, or the unexpended or unobligated portion thereof shall be refunded to the applicant or terminated, as stipulated within the bonding arrangement.

7-2 If the Administrator determines that the person responsible for carrying out the plan has failed to do so, the Administrator shall immediately serve such person a Notice to Comply by registered or certified mail to the address specified in his permit application or by delivery at the site of the land-disturbing activity to the agent or employee supervising such activities. Such notice shall set forth specifically the measures needed to come into compliance with such plan and shall specify the time within which such measures shall be completed. If such person fails to comply within the time specified, the permit may be revoked and the permittee or the person responsible for carrying out the plan shall be deemed to be in violation of this Ordinance and upon conviction shall be subject to the penalties provided by Section 12 of this Ordinance.

7-3 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 ordinance, issue an order requiring that all of the land-disturbing activities be stopped until an approved plan or any required permits are obtained.

7-4 Upon receipt of a sworn complaint of a substantial violation of this Ordinance from the designated enforcement officer, the Administrator may, in conjunction with or subsequent to

a Notice to Comply as specified in subsection 7-2 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. 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, such an order may be issued whether or not the alleged violator has been issued a Notice to Comply as specified in subsection 7-2 above. Otherwise, such an order may be issued only after the alleged violator has failed to comply with a notice to comply. The order shall be served in the same manner as a Notice to Comply, and shall remain in effect for seven (7) days from the date of service pending application by the enforcement authority or alleged violator for appropriate relief to the circuit court of the jurisdiction wherein the violation was alleged to have occurred.

- 7-5 The owner may appeal the issuance of an order to the Circuit Court of Richmond County.
- 7-6 Upon completion of corrective action, the order shall immediately be lifted. Nothing in this section shall prevent the chief administrative officer from taking any other action specified in Section 10 of this Ordinance.

SECTION 8 EROSION IMPACT AREAS

- 8-1 The Governing Body may designate areas in the County which shall be classified as Erosion Impact Areas. Any such designation and classification shall be deemed to be a component of the local control program.

Consistent with this Ordinance, and in order to prevent further erosion, the Administrator may require the approval of a conservation plan for any Erosion Impact Area. Such plan shall be subject to all review, bonding, inspection and enforcement provisions of this Ordinance which apply to approved land-disturbing permits. The plan must be submitted by the property owner.

SECTION 9 ADMINISTRATIVE APPEAL: JUDICIAL REVIEW

- 9-1 Final decisions of the Administrator under this Ordinance shall be subject to review by the Richmond County Board of Supervisors provided an appeal is filed within thirty (30) days from the date of any written decision of the Administrator which adversely affects the rights, duties or privileges of the persons engaging in or proposing to engage in land-disturbing activities.
- 9-2 Final decisions of the Board of Supervisors under this Ordinance shall be subject to review by the Circuit Court of Richmond County provided an appeal is filed within thirty (30) days from the date of the final written decision which adversely affects the rights, duties or privileges of the persons engaging in or proposing to engage in land-disturbing activities.

SECTION 10 PENALTIES, INJUNCTIONS, and OTHER LEGAL ACTION

- 10-1 A violation of this Ordinance shall be deemed a Class 1 misdemeanor.

10-2 Any person who violates any provision of this ordinance shall, upon a finding of the District Court of Richmond County, be assessed a civil penalty. The civil penalty for any one violation shall be not less than \$100 nor more than \$1,000, 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 \$10,000, 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.

Note: The adoption of civil penalties according to this schedule shall be in lieu of criminal sanctions and shall preclude the prosecution of such violation as a misdemeanor under subsection A of this section. Refer to Code of Virginia, Sec. 10.1-562 J.

10-3 The Administrator may apply to the Circuit Court of Richmond County for injunction relief to enjoin a violation or a threatened violation of this Ordinance without the necessity of showing that there does not exist an adequate remedy at law.

10-4 In addition to any criminal penalties provided under this Ordinance, any person who violates any provision of this Ordinance may be liable to Richmond County in a civil action for damages.

10-5 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 two thousand (\$2,000.00) dollars for each violation.

10-6 With the consent of any person who has violated or failed, neglected or refused to obey any regulation or order of the Board, or any condition of a permit or any provision of this article, the Board, or Administrator may provide an order issued by the Board or the Administrator against such person, for the payment of civil charges for violations in specific sums, not to exceed the limit specified in subsection 12-4 of the Section. Such civil charges shall be instead of any appropriate civil penalty, which could be imposed under subsection 12-4.

10-7 The Commonwealth's Attorney shall, upon request of the Administrator, take legal action to enforce the provisions of this Ordinance.

10-8 Compliance with the provisions of this Ordinance shall be prima facie evidence in any legal or equitable proceeding for damages caused by erosion or sedimentation that all requirements of law have been met and the complaining party must show negligence in order to recover any damages.

SECTION 11 SEVERABILITY

11-1 If any provision of this Ordinance is held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the remaining provisions.

SECTION 12 EFFECTIVE DATE

12-1 This Ordinance was duly considered on June 12, 2008, and was adopted by a unanimous vote of the Board of Supervisors of Richmond County, Virginia at its regular meeting held on June 12, 2008.

This Ordinance shall be effective on and after 12:01 a.m. on July 1, 2008.

SECTION 13 REPEAL OF CONFLICTING ORDINANCES

13-1 All ordinances or portions of ordinance in conflict with this ordinance are hereby repealed to the extent necessary to give this ordinance full force and effect.