



TOWN OF FARMVILLE

CODE OF ORDINANCES

CHAPTER 21 – SEDIMENTATION AND EROSION CONTROL

Section 1 **TITLE**

- 1.1 This ordinance may be cited as the Town of Farmville Soil Erosion and Sedimentation Control Ordinance.

Section 2 **PURPOSES**

- 2.1 This ordinance is adopted for the purposes of:
 - 2.1.1 Regulating certain land-disturbing activity to control accelerated erosion and sedimentation in order to prevent the pollution of water and other damage to lakes, watercourses, and other public and private property by sedimentation; and
 - 2.1.2 Establishing procedures through which these purposes can be fulfilled.

Section 3 **DEFINITIONS**

- 3.1 As used in this ordinance, unless the context clearly indicates otherwise, the following definitions apply:
 - 3.1.1 Accelerated Erosion - means any increase over the rate of natural erosion as a result of land-disturbing activity.
 - 3.1.2 Act - means the North Carolina Sedimentation Pollution Control Act of 1973 and all rule and orders adopted pursuant to it.
 - 3.1.3 Adequate Erosion Control Measure, Structure, or Device - means one which controls the soil materials within the land area under responsible control of the person conducting the land-disturbing activity.
 - 3.1.4 Being Conducted - means a land-disturbing activity has been initiated and permanent stabilization of the site has not been completed.
 - 3.1.5 Borrow - means fill material which is required for on-site

construction and is obtained from other locations.

- 3.1.6 Buffer Zone. means the strip of land adjacent to a lake or natural watercourse.
- 3.1.7 Coastal Counties - means the following counties: Beaufort, Bertie, Brunswick, Camden, Carteret, Chowan, Craven, Currituck, Dare, Gates, Hertford, Hyde, New Hanover, Onslow, Pamlico, Pasquotank, Pender, Perquimans, Tyrrell and Washington.
- 3.1.8 Commission - means the North Carolina Sedimentation Control Commission.
- 3.1.9 Completion of Construction or Development - means that no further land-disturbing activity is required on a phase of a project except that which is necessary for establishing a permanent ground cover.
- 3.1.10 Department - means the North Carolina Department of Environment, Health, and Natural Resources.
- 3.1.11 Director - means the Director of the Division of Land Resources of the Department of Environment, Health, and Natural Resources.
- 3.1.12 Discharge Point - means that point at which runoff leaves a tract of land.
- 3.1.13 District - means the County of Pitt Soil and Water Conservation District created pursuant to Chapter 139, North Carolina General Statutes.
- 3.1.14 Energy Dissipator - means a structure or a shaped channel section with mechanical armoring placed at the outlet of pipes or conduits to receive and break down the energy from high velocity flow.
- 3.1.15 Erosion - means the wearing away of land surface by the action of wind, water, gravity, or any combination thereof.
- 3.1.16 Ground cover - means any natural vegetative growth or other material which renders the soil surface stable against accelerated erosion.
- 3.1.17 High Quality Waters - means those classified as such in 15A NCAC 2B.0101(e) (5) - General Procedures, which is

incorporated herein by reference to include further amendments pursuant to G.G. 150B-14(c).

- 3.1.18 High Quality Water (HQW) zones - means areas in the Coastal Counties that are within 575 feet of High Quality Waters and for the remainder of the state areas that are within one mile and rain to HQW's.
- 3.1.19 Lake or Natural Watercourse - means any stream, river, brook, swamp, sound, bay, creek, run, branch, canal, waterway, estuary, and any reservoir, lake or pond, natural or impounded, in which sediment may be moved or carried in suspension, and which could be damaged by accumulation of sediment.
- 3.1.20 Land-disturbing Activity - means any use of the land by any person in residential, industrial, educational, institutional, or commercial development, highway and road construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation.
- 3.1.21 Local Government - means any county, incorporated village, town, or city, or any combination of counties, incorporated villages, towns, and cities, acting through a joint program pursuant to the provisions of the Act.
- 3.1.22 Natural Erosion - means the wearing away of the earth's surface by water, wind, or other natural agents under natural environmental conditions undisturbed by man.
- 3.1.23 Person - means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, or other legal entity.
- 3.1.24 Person Responsible for the Violation - used in this Ordinance, and G.S. 113A-64, means:
- (a) the developer or other person who has or holds himself out as having financial or operational control over the land-disturbing activity; or
 - (b) the landowner or person in possession or control of the land when he has directly or indirectly allowed the land-disturbing activity or has benefitted from it or he has failed to comply with any provision of this Ordinance, the Act, or any order adopted pursuant to this Ordinance or the Act as imposes a duty upon him.

- 3.1.25 Person Conducting Land-Disturbing Activity - means any person who may be held responsible for a violation unless expressly provided otherwise by this Ordinance, the Act, or any order adopted pursuant to this Ordinance or the Act.
- 3.1.26 Phase of Grading - means one of two types of grading, rough or fine.
- 3.1.27 Plan - means an erosion and sedimentation control plan.
- 3.1.28 Sediment - means solid particulate matter, both mineral and organic, that has been or is being transported by water, air, gravity, or ice from its site of origin.
- 3.1.29 Sedimentation - means the process by which sediment resulting from accelerated erosion has been or is being transported off the site of the land-disturbing activity or into a lake or natural watercourse.
- 3.1.30 Siltation - mans sediment resulting from accelerated erosion which is settleable or removable by properly designed, constructed, and maintained control measures; and which has been transported from its point of origin within the site of a land-disturbing activity; and which has been deposited, or is in suspension in water.
- 3.1.31 Storm Drainage Facilities - means the system of inlets, conduits, channels, ditches and appurtenances which serve to collect and convey storm water through and from a given drainage area.
- 3.1.32 Storm Water Runoff - means the direct runoff of water resulting from precipitation in any form.
- 3.1.33 Ten-Year Storm - means the surface runoff resulting from a rainfall of an intensity expected to be equalled or exceeded, on the average, once in ten years, and of a duration which will produce the maximum peak rate of runoff, for the watershed of interest under average antecedent wetness conditions.
- 3.1.34 Tract - means all contiguous land and bodies of water being disturbed or to be disturbed as a unit, regardless of ownership.
- 3.1.35 Twenty-five Year Storm - means the surface runoff resulting from a rainfall of an intensity expected to be equalled or exceeded, on the average, once in 25 years, and of a duration which will produce the maximum peak rate of runoff, from the watershed of

interest under average antecedent wetness conditions.

- 3.1.36 Uncovered - means the removal of ground cover from, on, or above the soil surface.
- 3.1.37 Undertaken - means the initiating of any activity, or phase of activity, which results or will result in a change in the ground cover or topography of a tract of land.
- 3.1.38 Velocity - means the average velocity of flow through the cross section of the main channel at the peak flow of the storm of interest. The cross section of the main channel shall be that area defined by the geometry of the channel plus the area of flow below the flood height defined by vertical lines at the main channel banks. Overload flows are not to be included for the purpose of computing velocity of flow.
- 3.1.39 Waste - means surplus materials resulting from on-site construction and disposed of at other locations.
- 3.1.40 Working Days - means days exclusive of Saturday and Sunday during which weather conditions or soil conditions permit land-disturbing activity to be undertaken.

Section 4 SCOPE AND EXCLUSIONS

- 4.1 This ordinance shall apply to land-disturbing activities undertaken by any person, with the following exclusions:
 - 4.1.1 Those undertaken on agricultural land for the production of plants and animals useful to man, including but not limited to: forage and sod crops, grain and feed crops, tobacco, cotton and peanuts; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules or goats, including the breeding and grazing of any or all such animals; bees and apiary products; fur animals; and
 - 4.1.2 Those undertaken on forestland for the production and harvesting of timber and timber products and which are conducted in accordance with Forest Practice Guidelines Related to Water Quality (best management practices) as adopted by the Department. If land-disturbing activity undertaken on forestland for the production and harvesting of timber and timber products is not conducted in accordance with Forest Practice Guidelines Related to Water Quality, the provisions of this ordinance shall apply to such activity and any related land-disturbing activity on the tract; and

- 4.1.3 Activity undertaken by persons as defined in G.S. 113A-52(8) who are otherwise regulated by the provisions of The Mining Act of 191, G.S. 74-76 through G.S. 74-68; and
- 4.1.4 Land-disturbing activity over which the State has exclusive regulatory jurisdiction as provided in G.S. 113A-56(a).

Section 5 GENERAL REQUIREMENTS

5.1 Plan Required

No person shall initiate any land-disturbing activity which uncovers more than one acre without having an erosion control plan approved by the Town of Farmville.

5.2 Protection of Property

Persons conducting land-disturbing activity shall take all reasonable measures to protect all public and private property from damage caused by such activity.

5.3 More Restrictive Rules Shall Apply

Whenever conflicts exist between federal, state, or local laws, ordinances, or rules, the more restrictive provision shall apply.

Section 6 BASIC CONTROL OBJECTIVES

6.1 An erosion and sedimentation control plan may be disapproved pursuant to Section 17 of this ordinance if the plan fails to address the following control objectives:

- 6.1.1 Identify Critical Areas - On-site areas which are subject to severe erosion, and off-site areas which are especially vulnerable to damage from erosion and/or sedimentation, are to be identified and receive special attention.
- 6.1.2 Limit Time of Exposure - All land-disturbing activity is to be planned and conducted to limit exposure to the shortest feasible time.
- 6.1.3 Limit Exposed Areas - All land-disturbing activity is to be planned and conducted to minimize the size of the area to be exposed at any time.
- 6.1.4 Control Surface Water - Surface water runoff originating upgrade of exposed areas should be controlled to reduce erosion and

sediment loss during the period of exposure.

6.1.5 Control Sedimentation - All land-disturbing activity is to be planned and conducted so as to prevent off-site sedimentation damage.

6.1.6 Manage Storm Water Runoff - When the increase in the velocity of storm water runoff resulting from a land-disturbing activity is sufficient to cause accelerated erosion of the receiving watercourse, plans are to include measures to control the velocity to the point of discharge so as to minimize accelerated erosion of the site and increased sedimentation of the stream.

Section 7 MANDATORY STANDARDS FOR LAND-DISTURBING ACTIVITY

7.1 No land-disturbing activity subject to the control of this ordinance shall be undertaken except in accordance with the following mandatory standards:

7.2 Buffer Zone

7.2.1 No land-disturbing activity during periods of construction or improvement to land shall be permitted in proximity to a lake or natural watercourse unless a buffer zone is provided along the margin of the watercourse of sufficient width to confine visible siltation within the twenty-five percent (25%) of the buffer zone nearest the land-disturbing activity. Waters that have been classified as trout waters by the Environmental Management Commission shall have an undisturbed buffer zone 25 feet wide or of sufficient width to confine visible siltation within the twenty-five percent (25%) of the buffer zone nearest the land-disturbing activity, whichever is greater. Provided, however, that the Town of Farmville may approve plans which include land-disturbing activity along trout waters when the duration of said disturbance would be temporary and the extent of said disturbance would be minimal. The subdivision shall not apply to a land-disturbing activity in connection with the construction of facilities to be located on, over, or under a lake or natural watercourse.

7.2.2 Unless otherwise provided, the width of a buffer zone is measured from the edge of the water to the nearest edge of the disturbed area, with the 25 percent of the strip nearer the land-disturbing activity containing natural or artificial means of confining visible siltation.

7.2.3 The 25 foot minimum width for an undisturbed buffer zone

adjacent to designated trout waters shall be measured horizontally from the top of the bank.

7.2.4 Where a temporary and minimal disturbance is permitted as an exception by Section 7.2.1 of this ordinance, land-disturbing activities in the buffer zone adjacent to designated trout waters shall be limited to a maximum of 10% of the total length of the buffer zone within the tract to be distributed such that there is not more than 100 linear feet of disturbance in each 1000 linear feet of buffer zone. Larger areas may be disturbed with the written approval of the Director.

7.2.5 No land-disturbing activity shall be undertaken within a buffer zone adjacent to designated trout waters that will cause adverse temperature fluctuations, as set forth in 15 NCAC 2B.0211 "Fresh Surface Water Classification and Standards", in these waters.

7.3 Graded Slopes and Fills

The angle for graded slopes and fills shall be no greater than the angle which can be retained by vegetative cover or other adequate erosion control devices or structures. In any event, slopes left exposed, will, within 30 working days of completion of any phase of grading, be planted or otherwise provided with ground cover, devices, or structures sufficient to restrain erosion.

7.4 Ground Cover

Whenever land-disturbing activity is undertaken on a tract comprising more than one acre, if more than one acre is uncovered, the person conducting the land-disturbing activity shall install such sedimentation and erosion control devices and practices as are sufficient to retain the sediment generated by the land-disturbing activity within the boundaries of the tract during construction upon and development of said tract, and shall plant or otherwise provide a permanent ground cover sufficient to restrain erosion after completion of construction or development. Except as provided in Section 8.2.5 of this ordinance, provisions for a ground cover sufficient to restrain erosion must be accomplished within 30 working days or 120 calendar days following completion of construction or development, whichever period is shorter.

7.5 Prior Plan Approval

No person shall initiate any land-disturbing activity on a tract if more than one acre is to be uncovered unless, thirty or more days prior to initiating the activity, an erosion and sedimentation control plan for such activity is filed with and approved by the Town of Farmville.

Section 8 DESIGN AND PERFORMANCE STANDARDS

- 8.1 Except as provided in Section 8.2.2 of this ordinance, erosion and sedimentation control measures, structures, and devices shall be so planned, designed, and constructed as to provide protection from the calculated maximum peak of runoff from the 10-year storm. Runoff rates shall be calculated using the procedures in the USDA, Soil Conservation Service's "National Engineering Field Manual for Conservation Practices", or other acceptable calculation procedures.
- 8.2 In High Quality Water (HQW) zones the following design standards shall apply:
- 8.2.1 Uncovered areas in HQW zones shall be limited at any time to a maximum total area within the boundaries of the tract of 20 acres. Only the portion of the land-disturbing activity within a HQW zone shall be governed by this section. Larger areas may be uncovered within the boundaries of the tract with the written approval of the Director.
 - 8.2.2 Erosion and sedimentation control measures, structures, and devices within HQW zones shall be so planned, designed and constructed to provide protection from the runoff of the 25-year storm which produces the maximum peak rate of runoff as calculated according to procedures in the United States Department of Agriculture Soil Conservation Service's "National Engineering Field Manual for Conservation Practices" or according to procedures adopted by any other agency of this state or the United States or any generally recognized organization or association.
 - 8.2.3 Sediment basins within HQW zones shall be designed and constructed such that the basin will have a settling efficiency of at least 70% for the 40 micron (0.04 mm) size soil particle transported into the basin by the runoff of that 2-year storm which produces the maximum peak rate of runoff as calculated according to procedures in the United States Department of Agriculture Soil Conservation Services "National Engineering Filed Manual for Conservation Practices" or according to procedures adopted by any other agency of this state or the United States or any generally recognized organization or association.
 - 8.2.4 Newly constructed open channels in HQW zones shall be designed and constructed with side slopes no steeper than 2 horizontal to 1 vertical if a vegetative cover is used for stabilization unless soil conditions permit a steeper slope or where the slopes are stabilized by using mechanical devices, structural devices or other acceptable ditch liners. In any event, the angle for side slopes shall be sufficient to restrain accelerated erosion.

- 8.2.5 Ground cover sufficient to restrain erosion must be provided for any portion of a land-disturbing activity in a HQW zone within 15 working days or 60 calendar days following completion of construction or development, whichever period is shorter.

Section 9 STORM WATER OUTLET PROTECTION

- 9.1 Persons shall conduct land-disturbing activity so that the post-construction velocity of the 10-year storm runoff in the receiving watercourse to the discharge point does not exceed the greater of:

- 9.1.1 the velocity established by the table in 9.4; or
- 9.1.2 the velocity of the 10-year storm runoff in the receiving watercourse prior to development.
- 9.1.3 If conditions in 9.1.1 or 9.1.2 of this Section cannot be met, then the receiving watercourse to and including the discharge point shall be designed and constructed to withstand the expected velocity anywhere the velocity exceeds the "prior to development" velocity by 10%.

9.2 Acceptable Management Measures

Measures applied alone or in combination to satisfy the intent of this section are acceptable if there are no objectionable secondary consequences. The Commission recognizes that the management of stormwater runoff to minimize or control downstream channel and bank erosion is a developing technology. Innovative techniques and ideas will be considered and may be used when shown to have the potential to produce successful results. Some alternatives are to:

- 9.2.1 avoid increases in surface runoff volume and velocity by including measures to promote infiltration to compensate for increase runoff from areas rendered impervious,
- 9.2.2 avoid increases in storm water discharge velocities by using vegetated or roughened swales and waterways in lieu of closed drains and high velocity paved sections,
- 9.2.3 provide energy dissipators at outlets of storm drainage facilities to reduce flow velocities to the point of discharge. These may range from simple rip-rapped sections to complex structures.
- 9.2.4 protect watercourses subject to accelerated erosion by improving cross sections and/or providing erosion-resistant lining.

9.3 Exceptions

This rule shall not apply where it can be demonstrated that storm water discharge velocities will not create an erosion problem in the receiving watercourse.

9.4 Maximum Permissible Velocities

The following is a table for maximum permissible velocity for storm water discharges:

Material	Maximum Permissible Velocities	
	F.P.S.	M.P.S.
Fine sand (noncolloidal)	2.5	.8
Sandy loam (noncolloidal)	2.5	.8
Silt loam (noncolloidal)	3.0	.9
Ordinary firm loam	3.5	1.1
Fine gravel	5.0	1.5
Stiff clay (very colloidal)	5.0	1.5
Graded, loam to cobbles (noncolloidal)	5.0	1.5
Graded, silt to cobbles (colloidal)	5.5	1.7
Alluvial silts (noncolloidal)	3.5	1.1
Alluvial silts (colloidal)	5.0	1.5
Coarse gravel (noncolloidal)	6.0	1.8
Cobbles and shingles	5.5	1.7
Shales and hard pans	6.0	1.8

Source - Adapted from recommendations by Special Committee on Irrigation Research, American Society of Civil Engineers, 1926, for channels with straight alignment. For sinuous channels, multiply allowable velocity by 0.95 for slightly sinuous, by 0.9 for moderately sinuous channels, and by 0.8 for highly sinuous channels.

Section 10 BORROW AND WASTE AREAS

When the person conducting the land-disturbing activity is also the person conducting the borrow or waste disposal activity, areas from which borrow is obtained and which are not regulated by the provisions of the Mining Act of 1971, and waste areas for surplus materials other than landfills regulated by the Department's Division of Solid Waste Management shall be considered as part of the land-disturbing activity where the borrow material is being used or from which the waste material originated. When the person conducting the land-disturbing activity is not the person conducting the land-disturbing activity is not the person obtaining the borrow and/or disposing of the waste, these areas shall be considered a separate land-disturbing activity.

Section 11 ACCESS AND HAUL ROADS

Temporary access and haul roads, other than public roads, constructed or used in

connection with any land-disturbing activity shall be considered a part of such activity.

Section 12 OPERATIONS IN LAKES OR NATURAL WATERCOURSES

During the development of a site, the person conducting the land-disturbing activity shall install and maintain all temporary and permanent erosion and sedimentation control measures as required by the approval plan or any provision of this ordinance, the Act, or any order adopted pursuant to this ordinance or the Act. After site development, the land owner or person in possession or control of the land shall install and/or maintain all necessary permanent erosion and sediment control measures, except those measures installed within a road or street right-of-way or easement accepted for maintenance by a governmental agency.

Section 13 ADDITIONAL MEASURES

Whenever the Town of Farmville determines that significant sedimentation is occurring as a result of land-disturbing activity, despite application and maintenance of protective practices, the person conducting the land-disturbing activity will be required to and shall take additional protective action.

Section 14 EXISTING UNCOVERED AREAS

- 14.1 All uncovered areas existing on the effective date of this ordinance which resulted from land-disturbing activity, exceed one acre, are subject to continued accelerated erosion, and are causing off-site damage from sedimentation, shall be provided with a ground cover or other protective measures, structures, or devices sufficient to restrain accelerated erosion and control off-site sedimentation.
- 14.2 The Town of Farmville will serve upon the landowner or other person in possession or control of the land a written notice of violation by registered or certified mail, return receipt requested, or other means reasonably calculated to give actual notice. The notice will set forth the measures needed to comply and will state the time within which such measures must be completed. In determining the measures required and the time allowed for compliance, the authority serving notice shall take into consideration the economic feasibility, technology, and quantity of work required, and shall set reasonable and attainable time limits of compliance.
- 14.3 The Town of Farmville reserves the right to require preparation and approval of an erosion control plan in any instance where extensive control measures are required.
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Section 15 PERMITS

15.1 No person shall undertake any land-disturbing activity subject to this ordinance without first obtaining a permit therefore from the Town of Farmville except that no permit shall be required for any land-disturbing activity:

15.1.1 for the purpose of fighting fires; or

15.1.2 for the stock piling of raw or processed sand, stone, or gravel in material processing plants and storage yards, provided that sediment control measures have been utilized to protect against off-site damage; or

15.1.3 that does not exceed 43,560 square feet in surface area. In determining the area, lands under one or diverse ownership being developed as a unit will be aggregated.

(The Code Enforcement Director may require sediment control on any building lot less than one(1) acre if warranted but not permit will be required.)

15.2 The Town of Farmville may establish a fee if considered necessary.

Section 16 EROSION AND SEDIMENTATION CONTROL PLANS

16.1 An erosion control plan shall be prepared for all land-disturbing activities subject to this ordinance whenever the proposed activity is to be undertaken on a tract comprising more than one acre, if more than one acre is to be uncovered.

The plan shall be filed with the Town of Farmville, and the County of Pitt Soil and Water Conservation District, at least 30 days prior to the commencement of the proposed activity.

16.2 Persons conducting land-disturbing activity on a tract which covers one or more acres shall file two copies of the erosion control plan with the Town of Farmville at least 30 days prior to beginning such activity and shall keep another copy of the plan on file at the job site. After approving the plan, if the Town of Farmville, either upon review of such plan or on inspection of the job site, determines that a significant risk of accelerated erosion or off-site sedimentation exists, the Town of Farmville will require a revised plan. Pending the preparation of the revised plan, work shall cease or shall continue under conditions outlined by the appropriate authority.

16.3 Erosion control plans may be disapproved unless accompanied by an authorized statement of financial responsibility and ownership. This statement shall be signed by the person financially responsible or the land-disturbing activity or his attorney-in-fact. The statement shall include the mailing and street addresses of the principal place of business of the person financially responsible and of the owner of the land or their registered agents. if the person financially responsible is not a resident of North

Carolina, a North Carolina agent must be designated in the statement for the purpose of receiving notice of compliance or non-compliance with the plan, the Act, this ordinance, or rules or orders adopted or issued pursuant to this ordinance.

- 16.4 The County of Pitt Soil and Water Conservation District within 20 days of receipt of any plan, or within such additional time as may be prescribed by the Town of Farmville, shall review such plan and submit its comments and recommendations to the Town of Farmville. Failure of the Soil and Water Conservation District to submit its comments and recommendations within 20 days or within the prescribed additional time will not delay final action on the plan.
- 16.5 The Town of Farmville will review each complete plan submitted to them and within 30 days of receipt thereof will notify the person submitting the plan that it has been approved, approved with modifications, approved with performance reservations, or disapproved. Failure to approve or disapprove a complete erosion and sedimentation control plan within 30 days of receipt shall be deemed approval. Denial of a plan must specifically state in writing the reasons for denial. The Town of Farmville must approve or deny a revised plan within 15 days of receipt, or it is deemed to be approved. If, following commencement of a land-disturbing activity pursuant to an approved plan, the Town of Farmville determines that the plan is inadequate to meet the requirements of this ordinance, the Town of Farmville may require such revisions as are necessary to comply with this ordinance.
- 16.6 Any plan submitted for a land disturbing activity for which an environmental document is required by the North Carolina Environmental Policy Act (G.S. 113A-1, et seq.) shall be deemed incomplete until a complete environmental document is available for review. The Town of Farmville shall promptly notify the person submitting the plan that the 30 day time limit for review of the plan pursuant to Section 17 (.5) of this ordinance shall not begin until a complete environmental document is available for review.
- 16.7 The plan required by this section shall contain architectural and engineering drawings, maps, assumptions, calculations, and narrative statements as needed to adequately describe the proposed development of the tract and the measures planned to comply with the requirements of this ordinance. Plan content may vary to meet the needs of specific site requirements. Detailed guidelines for plan preparation may be obtained from the Town of Farmville, on request.
- 16.8 An erosion control plan may be disapproved upon a finding that an applicant, or any parent or subsidiary corporation if the applicant is a corporation:
- 16.8.1 Is conducting or has conducted land-disturbing activity without an approved plan, or has received notice of violation of a plan previously approved by the Commission or a local government pursuant to the Act and has not complied with the notice within the time specified in the notice;

- 16.8.2 Has failed to pay a civil penalty assessed pursuant to the Act or a local ordinance adopted pursuant to the Act which is due and for which no appeal is pending;
- 16.8.3 Has been convicted of a misdemeanor pursuant to G.S. 113A-64(b) or any criminal provision of a local ordinance adopted pursuant to the Act or;
- 16.8.4 Has failed to substantially comply with State rules or local ordinances and regulations adopted pursuant to the Act.

For purposes of this subsection (17.8) an applicant's record may be considered for only the two years prior to the application date.

- 16.9 Applications for amendment of an erosion control plan in written and/or graphic form may be made at any time under the same conditions as the original application. Until such time as said amendment is approved by the Town of Farmville, the land-disturbing activity shall not proceed except in accordance with the erosion control plan as originally approved.
- 16.10 Any person engaged in land-disturbing activity who fails to file a plan in accordance with this ordinance, or who conducts a land-disturbing activity except in accordance with provisions of an approved plan shall be deemed in violation of this ordinance.

Section 17 APPEALS

- 17.1 Except as provided in Section 18.2 of this ordinance the appeal of a disapproval or approval with modifications of a plan shall be governed by the following provisions:
 - 17.1.1 The disapproval or modification of any proposed erosion control plan by the Town of Farmville shall entitle the person submitting the plan to a public hearing if such person submits written demand for a hearing with 15 days after receipt of written notice of disapproval or modifications.
 - 17.1.2 Hearings held pursuant to this section shall be conducted by the Town of Farmville Board of Adjustment within 15 days after the date of the appeal or request for a hearing.
 - 17.1.3 The Board of Adjustment shall made recommendations to the Board of Commissioners of the Town of Farmville within 5 days after the date of the hearing on any erosion control plan.
 - 17.1.4 The Board of Commissioners of the Town of Farmville will render its final decision on any erosion control plan upon which a hearing is requested on the first Tuesday of the month following

the recommendation of the Board of Adjustment.

17.1.5 If the Town of Farmville upholds the disapproval or modification of a proposed soil erosion and sedimentation control plan following the hearing, the person submitting the plan shall then be entitled to appeal the Board of Commissioners' decision to the North Carolina Sedimentation Control Commission as provided in Section 113A-61(c) of the General Statutes and Title 15 NCAC 4B .0018(b).

17.2 In the event that an erosion control plan is disapproved pursuant to Section 17.8 of this ordinance, the Town of Farmville shall notify the Director of the Division of Land Resources of such disapproval within 10 days. The Town of Farmville shall advise the applicant and the Director in writing as to the specific reasons that the plan was disapproved. The applicant may appeal the Town of Farmville disapproval of the plan pursuant to Section 17.8 of this ordinance directly to the Commission.

Section 18 INSPECTIONS AND INVESTIGATIONS

18.1 Agents, officials, or other qualified persons authorized by the Town of Farmville will periodically inspect the sites of land-disturbing activity to determine compliance with the Act, this ordinance, or rules or orders adopted or issued pursuant to this ordinance, and to determine whether the activity is being conducted in accordance with an approved plan and whether the measures required in the plan are effective in controlling erosion and sediment resulting from land-disturbing activity. Notice of the right to inspect shall be included in the notification of plan approval.

18.2 If, through inspection, it is determined that a person engaged in land-disturbing activity has failed to comply with the Act, this ordinance, or rules, or orders adopted or issued pursuant to this ordinance, or has failed to comply with an approved plan, a notice of violation shall be served upon that person by registered or certified mail or other means reasonably calculated to give actual notice. The notice shall set forth the measures necessary to achieve compliance with the plan, specify a reasonable time period within which such measures must be completed, and warn that failure to correct the violation within the time period will result in the assessment of a civil penalty or other enforcement action. However, no time period for compliance need be given for failure to submit an erosion control plan for approval or for obstructing, hampering or interfering with authorized representative while in the process of carrying out his official duties. If the person engaged in land-disturbing activity fails to comply within the time specified, enforcement action shall be initiated.

18.3 The Town of Farmville shall have the power to conduct such investigations as it may reasonably deem necessary to carry out its duties as prescribed in this ordinance, and for this purpose to enter at reasonable time upon any property, public or private, for the purpose of investigating and inspecting the sites of any land-disturbing activity. No

person shall refuse entry or access to any authorized representative or agent of the Town of Farmville who requests entry for purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper, or interfere with any such representative while in the process of carrying out his official duties.

- 18.4 The Town of Farmville shall also have the power to require written statements, or the filing of reports under oath, with respect to pertinent questions relating to land-disturbing activity.

Section 19 PENALTIES

19.1 Civil Penalties

19.1.1 Any person who violates any of the provisions of this ordinance, or rules or orders adopted or issued pursuant to this ordinance, or who initiates or continues a land-disturbing activity for which an erosion control plan is required except in accordance with the terms, conditions, and provisions of an approved plan, shall be subject to a civil penalty of not more than \$500, except that the penalty for failure to submit an erosion control plan shall be as provided in Section 20.1.3 of this subsection. No penalty shall be assessed until the person alleged to be in violation has been notified of the violation by registered or certified mail, return receipt requested, or other means reasonably calculated to give actual notice. The notice shall describe the violation with reasonable particularity, specify a reasonable time period within which the violation must be corrected, and warn that failure to correct the violation within the time period will result in the assessment of a civil penalty or other enforcement action. If, after the allotted time period has expired, the violator has not completed corrective actions, a civil penalty may be assessed from the date of receipt of the notice of violation. However, no time period for compliance need be given for failure to submit an erosion control plan for approval or for obstructing, hampering or interfering with an authorized representative while in the process of carrying out his official duties. Each day of continuing violation shall constitute a separate violation.

19.1.2 The Board of Commissioners of the Town of Farmville shall determine the amount of the civil penalty to be assessed under this subsection and shall make written demand for payment upon the person in violation, and shall set forth in detail a description of the violation for which the penalty has been imposed. In determining the amount of the penalty the governing body shall consider the degree and extent of harm caused by the violation and the cost of rectifying the damage. Notice of the assessment

shall be by registered or certified mail or other means reasonably calculated to give actual notice. If payment is not received or equitable settlement reached within 30 days after demand for payment is made the matter shall be referred to the Town of Farmville attorney for institution of a civil action in the name of the Town of Farmville in the appropriate division of the General Courts of Justice for recovery of the penalty. Such civil action must be filed within three (3) years of the date the final decision was served on the violator.

19.1.3 Any person who fails to submit an erosion control plan for approval as required by this ordinance shall be subject to a single, non-continuing civil penalty of not more than one thousand dollars (\$1,000). Any person who is subject to a civil penalty under this subdivision may be subject to additional civil penalties for violation of any other provision of this ordinance, or rules or orders adopted or issued pursuant to this ordinance.

19.1.4 Civil penalties collected pursuant to this ordinance shall be used or disbursed as directed by G.S. 113A-64(a).

19.2 Criminal Penalties

Any person who knowingly or willfully violates any provision of this ordinance, or rule or order adopted or issued pursuant to this ordinance, or who knowingly or willfully initiates or continues a land-disturbing activity for which an erosion control plan is required except in accordance with the terms, conditions, and provisions of an approved plan, shall be guilty of a misdemeanor punishable by imprisonment not to exceed 90 days, or by a fine not to exceed \$5,000, or by both, in the discretion of the court.

Section 20 INJUNCTIVE RELIEF

20.1 Whenever the governing body has reasonable cause to believe that any person is violating or threatening to violate this ordinance or any rule or order adopted or issued pursuant to this ordinance, or any term, condition, or provision of an approved erosion control plan, it may, either before or after the institution of any other action or proceeding authorized by this ordinance, institute a civil action in the name of the Town of Farmville for injunctive relief to restrain the violation or threatened violation. The action shall be brought in the Superior Court of Pitt County.

20.2 Upon determination by a court that an alleged violation is occurring or is threatened, it shall enter such orders or judgments as are necessary to abate the violation or to prevent the threatened violation. The institution of an action for injunctive relief under this section shall not relieve any party to such proceedings from any civil or criminal penalty prescribed for violations of this ordinance.

Section 21 SEVERABILITY

If any section or sections of this ordinance is/are held to be invalid or unenforceable, all other sections shall nevertheless continue in full force and effect.

Section 22 EFFECTIVE DATE

This ordinance shall be effective upon its adoption.

Section 23 REVISIONS

The Town of Farmville shall incorporate revisions required by the Commission within 8 months following receipt of the required revisions. If standards and provisions of this ordinance currently meet or exceed the required revisions the Commission shall be so notified within 90 days of their receipt.

Adopted by the Farmville Board of Commissioners in regular session, October 6, 1992.