



## Loudoun County, Virginia

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### Department of Building and Development

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## EROSION AND SEDIMENT CONTROL PROGRAM ENFORCEMENT PROTOCOL

(Revised June 11, 2019)

### Purpose and Intent:

The following protocols have been established to ensure consistent and timely enforcement action when land disturbance activities do not meet the requirements set forth in the Virginia Erosion and Sediment Control Handbook, the Loudoun County Codified Ordinances and the Facilities Standards Manual. The procedures contained within this document are to be administered without exception by County staff and reflect the critical nature, severity of the offense and potential impacts caused by the cited non-compliance. A copy of this document shall be provided to the responsible party (i.e. landowner or assignee) at all Pre-Construction Meetings. Where such meetings have already been conducted prior to the development and implementation of these Enforcement Protocols, a copy shall be attached to the first Inspection Report prepared for the subject land disturbing activity. The responsible party shall be required to sign a certification of receipt and acknowledgement of the procedures and penalties set forth in the Enforcement Protocols. *Note: All Erosion and Sediment Control Inspections shall be documented by an inspection report. There will be **NO** verbal warnings preceding Step # 1, Inspection Report.*

### Critical Non-Compliance Enforcement Protocol:

This protocol shall be used to cite and enforce erosion and sediment control requirements for land disturbance activities where the non-compliance is critical in nature. Examples of such critical non-compliant circumstances are, but not limited to, a public safety hazard; failing sediment basins and traps due to lack of maintenance or improper installation; improperly installed or maintained stream crossings; exceeding approved limits of clearing and grading in sensitive and preservation areas; potential impacts to off-site property; and, failure to meet stabilization timelines. The following enforcement protocol and accompanying timelines shall be used in such critical situations:

- (1) An **Inspection Report** shall be prepared providing a detailed description of the non-compliance issue and required remediation action. The Inspection Report shall specify that corrective action must be complete within *a maximum of five (5) working days or the amount of time determined upon the Inspector's discretion and agreed to by the responsible party* or a Notice to Comply shall be issued. This report shall be delivered by email to the responsible party to document receipt of the report.

- (2) A **Notice to Comply** shall be issued immediately if the required corrective action as documented in the Inspection Report has not been addressed within the *specified* timeline. A Notice to Comply shall also be used without first issuing an Inspection Report where the non-compliance is severely impacting water quality or adjoining property. The Notice to Comply shall specify that the corrective action must be complete within *a maximum of two (2) working days or the amount of time as determined upon the Inspector's discretion and agreed to by the responsible party*, or a Stop Work Order will be invoked. This document shall be delivered by email or certified mail to the responsible party to document receipt. County staff may also telephone the responsible party to verify receipt of document.
- (3) In the event that the responsible party has not met the corrective action requirements set forth in the Notice to Comply, a **Stop Work Order** will immediately be issued that specifies that corrective action shall commence within twenty four (24) hours or legal action may be taken by the County. In doing so, the grading permit shall be revoked and, where applicable, all other associated County permits (i.e. building permit inspections) shall be suspended. All Stop Work Orders shall remain in effect for seven (7) calendar days from the date of issuance. When the violation has been corrected, the Stop Work Order shall be lifted. However, the responsible party shall be required to re-apply for a grading permit and pay the associated *grading permit application* fees. Upon approval of a new grading permit, the other permits that had been suspended will become effective and the land development activities on the affected site may resume.

### **Moderately Critical Non-Compliance Enforcement Protocol:**

This protocol shall be used to cite and enforce erosion and sediment control requirements for land disturbance activities where the non-compliance is moderately critical in nature. Examples of such moderately critical non-compliant circumstances are, but not limited to, inadequate or *improperly* maintained silt fence, diversion dikes, construction entrances, *inlet/outlet* protection, dust control and required maintenance of established erosion and sediment controls. The following enforcement protocol and accompanying timelines shall be used in such moderately critical situations:

- (1) An **Inspection Report** shall be prepared providing a detailed description of the non-compliance issue and required remediation action. The Inspection Report shall specify that corrective action must be complete within *a maximum of five (5) working days or the amount of time determined upon the Inspector's discretion and agreed to by the responsible party*. This document shall be delivered by email or certified mail to the responsible party to document receipt. County staff may also telephone the responsible party to verify receipt of document. If the corrective action has not been completed within the specified timeframe, a second

Inspection Report shall be issued stating that the required action must be complete within three (3) working days or a Notice to Comply shall be issued.

- (2) A **Notice to Comply** shall be issued immediately if the required corrective action as documented in the Inspection Report has not been addressed within the three-day timeline. The Notice to Comply shall specify that the corrective action must be complete within *a maximum of five (5) working days or the amount of time as determined by the Inspector's discretion and agreed to by the responsible party* or a Stop Work Order will be invoked. This document shall be delivered by email or certified mail to the responsible party to document receipt. County staff may also telephone the responsible party to verify receipt of document.
  
- (3) In the event that the responsible party has not met the corrective action requirements set forth in the Notice to Comply, a **Stop Work Order** will immediately be issued that specifies that corrective action shall commence within twenty four (24) hours or legal action may be taken by the County. In doing so, the grading permit shall be revoked and, where applicable, all other associated County permits (i.e. building permit inspections) shall be suspended. All Stop Work Orders shall remain in effect for seven (7) calendar days from the date of issuance. When the violation has been corrected, the Stop Work Order shall be lifted. However, the responsible party shall be required to re-apply for a grading permit and pay the associated *grading permit application fees*. Upon approval of a new grading permit, the other permits that had been suspended will become effective and the land development activities on the affected site may resume.