

The following ordinance proposed at a regular meeting of the Board of Supervisors of Patrick County held at the Courthouse thereof, on May 12, 1975, having been duly advertised for adoption as provided by law, after a hearing hereon, on motion by Virgil R. Williams, seconded by Burton M. Slate and unanimously carried is hereby adopted:

BE IT ORDAINED by the Board of Supervisors of Patrick County, Virginia, as follows:

An ordinance regulating grading, filling, excavating, or the removal or destruction of the natural topsoil, trees, or other vegetative covering in order to prevent erosion and siltation of neighboring properties both during and after development; defining terms used herein; providing for the administration; and providing penalties for violation.

Article 1

Short Title

This Ordinance shall be known and may be cited as the Erosion and Sediment Control Ordinance of Patrick County, Virginia.

Article 2

Authority and Enactment

The Board of Supervisors of Patrick County, Virginia, pursuant to the authority conferred by acts of the General Assembly of the Commonwealth of Virginia (Title 21, Chapter 1, Article 61, Sec. 21-89.1 et.seq.) does hereby ordain and enact into law this Ordinance.

Article 3

Jurisdiction

This Ordinance shall apply to all land-disturbing activities herein defined within the boundaries of Patrick County, Virginia, with the exception of the unincorporated towns therein.

No person may engage in any land-disturbing activity, as defined herein, until such person has submitted to Patrick County and has had reviewed and approved by the County and the Soil and Water Conservation District, an erosion and sediment control plan for such land disturbing activity.

It is the intent of this Ordinance to be an adjunct to the County's Subdivision Regulations Ordinance and its Group Developments Ordinance wherein such apply to the development and subdivision of land within Patrick County.

#### Article 4

##### Purpose

The purpose of this Ordinance is to establish procedures and standards for land-development activity in order to alleviate harmful and/or damaging effects of on-site erosion and siltation of neighboring properties during and after land development, in the interest of protecting the health, safety, and welfare of the general public.

#### Article 5

##### Definitions

For the purpose of this Ordinance, certain terms and words used herein shall be interpreted as follows:

1. "Governing Body" shall mean the Board of Supervisors of Patrick County.
2. "Administrator" shall mean the official designated by Governing Body to serve as its agent to administer this Ordinance.
3. "District or Soil and Water Conservation District" shall mean a governmental subdivision of the State organized in accordance with the provisions of the Soil Conservation Districts Law Title 21, Chapter 1, Code of Virginia as amended.
4. "Plan Approving Authority" shall mean the Soil and Water Conservation District.
5. "Clearing" shall mean any activity which removes the vegetative ground cover including but not limited to the removal, root mat removal and/or topsoil removal.
6. "Grading" shall mean any excavating or filling of earth materials or any combination thereof, including the land in its excavated or filled condition.
7. "Excavating" shall mean any digging, scooping, or other method of removing earth materials.
8. "Filling" shall mean any depositing or stockpiling of earth materials.

9. "Transporting" shall mean any moving of earth materials from one place to another, other than such movement incidental to grading, when such movement results in destroying the vegetative ground cover, either by tracking or the building of earth materials to the extent that erosion and sedimentation will result from the soil or earth materials over which such transporting occurs.
10. "Land Disturbing Activity" shall mean any land change which may result in soil erosion from water or wind and the movement of sediments into waters or onto lands, including, but not limited to, clearing, grading, excavating, transporting and filling of land.
11. "Land Disturbing Permit" shall mean a permit issued by the County of Patrick for clearing, filling, excavating, grading or transporting, or any combination thereof.
12. "Erosion and Sedimentation Control Plan" or "Plan" shall mean a document containing material for the conservation of soil and water resources of a unit or group of units of land. It may include appropriate maps, and appropriate soil and water plan inventory and management information with needed interpretations, and a record of decisions contributing to conservation treatment. The "Plan" shall contain all major conservation decisions to assure that the entire unit or units of land will be so treated to achieve the conservation objectives.
13. "Person" shall mean any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, or any other legal entity.

## Article 6

### Exceptions

In no instance shall the provisions of this Ordinance be construed to apply to the following:

1. Such minor land disturbing activities as home gardens and individual home landscaping, repairs and maintenance work;
2. Individual service connections and construction or installation of public utility lines;
3. 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;
4. Surface or deep mining, tilling, planting or harvesting of agricultural, horticultural, or forest crops; or clearing and transporting on privately owned, occupied or operated agricultural, horticultural, or forest land;
5. Construction, repair or rebuilding of the tracks, right-of-way, bridges, communication facilities and other related structures and facilities of a railroad company;

6. Disturbed areas for commercial or noncommercial uses of less than ten thousand square feet in size;
7. Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;
8. Emergency work to protect life, limb or property, and emergency repairs; provided that if the land disturbing activity would have required an approved erosion and sediment control plan, if the activity were not an emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirement of the local plan approving authority;
9. Engineering operations on privately owned, occupied or operated agricultural, horticultural or forest lands such as the construction of terraces, terrace outlets, check dams, desilting basins, floodwater retarding structures, channel improvements, floodways, dikes, ponds, ditches, and the like; the utilization of strip cropping, lister furrowing, contour cultivating, contour furrowing; land drainage; land irrigation; seeding and planting of waste, sloping, abandoned, or eroded lands to water-conserving and erosion-preventing plants, trees and grasses; forestation and reforestation, rotation of crops, soil stabilization with trees, grasses, legumes, and other thick growing, soil holding crops; retardation of runoff by increasing absorption of rainfall; and retirement from cultivation of steep, highly erosive areas and areas now badly gullied or otherwise eroded.

#### Article 7

##### Plan Submission, Requirements, and Review

In the event that any land owner or developer shall intend to make changes in the contour of any land proposed to be subdivided, developed, or changed in use by grading, filling, excavating, or the removal or destruction of the natural topsoil, trees, or other vegetative covering thereon under a building permit, site development plan, subdivision plat, or otherwise, submitted to this County, the same shall only be accomplished after the owner or developer of said land or his agent has submitted to the Planning Commission for approval, a plan for erosion and sedimentation control or there has been a determination by the Planning Commission that such plans are not necessary.

Three (3) copies of the erosion and sediment control plan shall be submitted to the Administrator. Such plans shall include adequate measures for control of erosion and siltation, as recommended by the Soil and Water

Conservation District and required by this Ordinance, and by the County's Erosion and Sediment Control Plan.

A. Stage 1. Preliminary plats for subdivision or initial plans for site plans shall clearly indicate the approximate limit of clearing, the approximate limits of grading (which may not be the same as for clearing) together with tentative methods for erosion and siltation control. Areas to be disturbed by clearing or grading on which unstable or erodible soils exist shall be specifically indicated. Such areas will be identified by use of soil maps of Patrick County or by use of supplemental soil surveys prepared by a professional Soil Scientist. Soil information can be obtained at the office of the Soil and Water Conservation District. The latest criteria, including but not limited to that available from the Soil and Water Conservation District or the Health Department will be used as a guide for interpreting the soil maps.

B. Stage 2. Plans for the control of erosion and sedimentation shall be submitted to the Planning Commission at the time construction plans and site plan are submitted.

C. Stage 3. Final plans for the sequentially phased control of erosion and sedimentation and for the control measures and practices approved shall be a part of those plans, compliance with which is assured by subdivision or site plan agreement and bond. Such plans shall be noted to provide that "no area shall be left denuded for a period longer than 120 days." In the event developer does not install ground cover or other stabilizing devices and/or material to the minimum extent necessary to achieve erosion and sedimentation control equal to that which would have been furnished by the permanent cover shown on the approved plans, the cost of any such temporary measures taken by the County shall be borne by the developer and shall be a charge against the siltation escrow amount described below.

The Bonding requirements for development approval shall include a cash escrow guarantee which would assure the County that emergency measures could be taken by the County at the developer's expense if he did not initiate such action within such period as determined by the Planning Commission. The final plan shall be approved only after the agreement has been signed.

D. Stage 4. At the building permit application stage, review will be conducted by the Planning Commission to insure conformance with the plans as approved.

E. Stage 5. During the construction phase, further consultative technical assistance may be furnished, if necessary to the Planning Commission. The Building Inspector shall enforce compliance with the approved plans.

The following control measures will be incorporated with and will be the type of required measures for an effective erosion and sediment control plan :

A. The development plan should be fitted to the topography and soils so as to create the least erosion potential.

B. Coordinate erosion and siltation control measures with the required steps in construction, installing appropriate control measures prior to the construction or development.

C. Develop land in increments of workable size, on which adequate controls of erosion and siltation can be provided and maintained during the construction period.

Operations shall be staged so that the area being developed is not exposed for a long period of time without stabilization and so that the first disturbed areas are completely controlled before the next section is opened.

The developer shall be required to schedule sequentially phased controls of erosion and sedimentation is coordinated with the development and construction sequences, and shall specify in detail precisely which areas will be cleared first, and how long these areas will be exposed to the elements. No exposure period will be planned to exceed 120 days, provided however that such period may be extended if satisfactory control measures are established and remain in place.

D. Provisions should be made to effectively accomodate the increased runoff caused by changed soil and surface conditions during and after development.

Intercept and safely convey run-off to storm drains or natural outlets where it will not erode or flood the land.

Complete the drainage system and make it operational as quickly as possible during construction.

E. Wherever feasible, natural vegetation should be retained and protected.

Where necessary, temporary vegetation and/or mulching should be used to protect areas exposed during development.

F. Sediment basins (debris basins, desilting basins, or silt traps) should be installed and maintained to remove sediment from run-off waters from land undergoing development. Provide storm sewer inlets with debris guards and microsilt basins to trap sediment and avoid possible damage from blockage.

G. The permanent final vegetation and structures should be installed as soon as practical in the development.

H. Complete paving of streets, parking lots, and other paved areas as quickly as possible.

#### Article 8

##### Approval

Any erosion and sedimentation plan submitted under the provisions of this Ordinance will be acted on in forty-five (45) days from receipt by either approving or disapproving in writing and giving specific reasons for disapproval. If no formal action has been taken by the plan approving authority in forty-five (45) days after receipt of plan, the plan shall be deemed approved.

#### Article 9

##### Inspection and Enforcement

Inspection and enforcement of this Ordinance shall rest with the Administrator.

#### Article 10

##### Issuance of Permit; Fees

Except as provided in Article 4 of this Ordinance, no person shall engage in any land disturbing activity as defined in Article 3 of this Ordinance within the County of Patrick until he has acquired a land disturbing permit.

Issuance of a land disturbing permit is conditioned on an approved erosion and sediment control plan which or certification of such shall be presented at the time of application for such a permit and in addition, the requirements of Article 8 of this Ordinance concerning a performance bond, cash escrow, letter of credit, any combination thereof, or such other legal arrangement as is acceptable under the provisions of Article 9 and to the fees herein levied for land disturbing activities.

A plan review and inspection fee of \$15.00 for projects involving one (1) acre or less plus \$1.00 per acre of land or part thereof in excess of one (1) acre shall be paid at the time of filing erosion and sediment control plans.

#### Article 11

##### Amendment

An approved erosion and sedimentation plan may be amended by the Plan Approving Authority if on-site inspection indicates that the approved control measures are not effective in controlling erosion and sedimentation or because of changed circumstances the approved plan cannot be carried out; provided such amendments are agreed to by persons responsible for carrying out the plan.

#### Article 12

##### Administrative Appeal: Judicial Review

Final decisions of the Administrator or the Planning Commission under this Ordinance shall be subject to review by the Board of Supervisors, provided an appeal is filed within 30 days from the date of any written decision by the Administrator or the Plan Approving Authority.

Final decisions of the Patrick County Board of Supervisors under this Ordinance shall be subject to review by (the court of record of the county), provided an appeal is filed within 30 days from the date of the final written decision.

#### Article 13

##### Penalties, Injunctions, and Other Legal Actions

A violation of this Ordinance shall be deemed a misdemeanor and upon conviction shall be subject to a fine not exceeding one thousand dollars or thirty days imprisonment for each violation or both.

#### Article 14

##### Liability

Compliance with the provisions of this article shall be prima facie evidence in any legal or equitable proceeding for damages caused by erosion,

siltation, or sedimentation that all requirements of law have been met and the complaining party must show negligence in order to recover any damages.

#### Article 15

##### Severability

Should any provision of this Ordinance be held to be unconstitutional or invalid, such declaration shall not effect or impair the remainder of this Ordinance.

#### Article 16

##### Incorporated Towns

This Ordinance shall not apply to any land disturbing activity in any of the Incorporated Towns within the boundaries of Patrick County unless and until the governing body of any such town shall by appropriate action indicate the intention to have the land disturbing activities within its boundaries covered by the terms and provisions of this Ordinance. Upon the taking of such action by the governing body of any of said Incorporated towns the terms and provisions of this Ordinance shall apply fully to any land disturbing activity in said Incorporated Town.

#### Article 17

##### Effective Date

This Ordinance shall be in force and effect immediately upon its passage, an emergency existing.

Voting Aye: Conner, Hall, Slate, Stovall, and Williams  
Voting Nay: None

(Adopted March 24, 1982)

(Adopted May 12, 1975)

The following amended ordinance proposed at a regular meeting of the Board of Supervisors of Patrick County held at the Courthouse thereof, on Thursday, February 11, 1982, having been duly advertised for adoption as provided by law, after a hearing thereon on Monday, March 8, 1982, on motion by W. Alfred Martin, seconded by Edward V. Pilson and carried, is hereby adopted.

BE IT ORDAINED by the Board of Supervisors of Patrick County, Virginia, as follows:

An ordinance regulated to protect the lands and waters comprising the water sheds of the County of Patrick through erosion and sediment control, and to repeal all prior ordinances heretofore passed in the County of Patrick relating to this same subject.

#### ARTICLE 1

##### AUTHORIZATION

The Board of Supervisors of Patrick County, Virginia, pursuant to the authority conferred by Acts of the General Assembly of the Commonwealth of Virginia (Title 21, Chapter 1, Section 21-89.1, et. seq.) does hereby ordain and enact into law this Ordinance.

#### ARTICLE 2

##### DEFINITIONS

"Land disturbing activity" shall mean any land change which may result in soil erosion from water or wind and the movement of sediments into state or county waters, or onto lands in the state and County of Patrick including, but not limited to, clearing, grading, excavating, transporting and filling of land, other than federal lands.

#### ARTICLE 3

##### EXEMPTIONS

There is exempt from coverage under this ordinance the following:

- (1) Such minor land disturbing activities as home gardens and individual home landscaping, repairs and maintenance work;
- (2) Individual service connections;
- (3) Construction, installation, and maintenance of electric and telephone utility lines;
- (4) Installation, maintenance or repair of any underground public utility lines when such activity occurs on an existing hard surfaced road, street or sidewalk provided such land disturbing activity is confined to an area of the road, street or sidewalk which is hard surfaced;
- (5) 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;

- (6) Surface or deep mining;
- (7) Exploration or drilling for oil and gas including the well site, roads and off site disposal areas;
- (8) Tilling, planting or harvesting agricultural, horticultural or forest crops;
- (9) Construction, repair or rebuilding of the tracks, right-of-way, bridges, communication facilities and other related structures and facilities of a railroad company;
- (10) Preparation for single family residences separately built, unless in conjunction with multiple construction in subdivision development;
- (11) Disturbed land areas for commercial or non-commercial uses of less than 10,000 square feet in size;
- (12) Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;
- (13) Emergency work to protect life, limb or property, and emergency repairs; provided, that if the land disturbing activity would have required an approved erosion and sediment control plan, if the activity were not an emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirement of the local plan approving authority when applicable.

#### ARTICLE 4

##### PLAN SUBMISSION AND APPROVAL

1. Except as provided herein, no person may engage in land disturbing activity after the adoption of the conservation standards by the County of Patrick until he has submitted to the County an erosion and sediment control plan for such land disturbing activity and such plan has been reviewed and approved by the plan approving authority.
2. As used herein, the plan approving authority shall mean the New River Soil and Water Conservation District Directors.

#### ARTICLE 5

##### CONSERVATION STANDARDS

The County of Patrick hereby adopts and incorporates by reference the conservation standards as set forth in Chapter 3 of the Virginia Erosion and Sediment Control Handbook (2nd Edition 1980), as amended. A copy of this handbook is available for inspection at the office of the County Administrator.

#### ARTICLE 6

##### CHANGE IN APPROVED PLANS

An approved plan may be changed by the authority, which has approved the plan, when it has approved the plan in the following cases:

1. Where inspection has revealed the inadequacy of the plan to accomplish the erosion and sediment control objectives of the plan, and appropriate modification to correct the deficiencies of the plan are agreed to by the plan approving authority and 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 the proposed amendments to the plan,

consistent with the requirements of this Article, are agreed to by the plan approving authority and the person responsible for carrying out the plan.

#### ARTICLE 7

##### PERMIT ISSUANCE

1. Each person who is required by the local erosion and sediment control ordinance to prepare and submit an erosion and sediment control plan for a proposed land disturbing activity, must also obtain, a land disturbing permit from the building inspector before the proposed activity is commenced.
2. The building inspector will not issue a land disturbing permit unless the applicant has:
  - a. Gained approval of his submitted erosion and sediment control plan; and
  - b. Paid required plan review and inspection fees; and
  - c. Certified on his permit application that he will properly perform the control measures included in the plan and will abide by the requirements of the erosion and sediment control ordinance; and
  - d. Submitted any required performance guarantees which may be required; and
  - e. Certified on his permit application that he will guarantee the right of entry on to the property under permit, to appropriate persons for the purpose of inspection and monitoring the plan.

#### ARTICLE 8

##### FEES

At the time the applicant submits his erosion and sediment control plan and permit application for approval, he must also submit a plan review and inspection fee in an amount commensurate with the services rendered by the plan approving authority and others connected with the plan approval process, taking into consideration the time, skill, and expenses involved, or \$150.00, whichever is least.

#### ARTICLE 9

##### PERFORMANCE GUARANTEES

The plan approving authority, prior to issuance of any permit, may require from any applicant a reasonable performance bond, cash escrow, letter of credit, any combination thereof, or such other legal arrangement acceptable to the agency, to insure that measures could be taken by the county at the applicant's expense should he fail after proper notice, within the time specified to initiate or maintain appropriate conservation action which may be required of him by such approved plan as a result of his land disturbing activity. Within sixty (60) days of the completion of the land disturbing activity, 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 arrangements are in

addition to all other provisions of law relating to the issuance of such permits and are not intended to otherwise affect the requirements for such permits.

## ARTICLE 10

### INSPECTION AND ENFORCEMENT

1. The building inspector is responsible for developing and implementing a systematic program for on-site inspection to insure that the erosion and sediment control measures on the approved plans are actually carried out.

2. The building inspector is also responsible for developing and implementing a file system by land disturbing projects. The file should contain a record of each inspection, date of inspection, date land disturbing activities commenced, and comments concerning compliance and non-compliance.

3. A report shall be made of each inspection made. If there is a case of non-compliance the report shall contain statements of the conservation measures needed for compliance, and a recommended time in which such measures should be commenced and/or completed.

4. Upon determination that a violation exists, the building inspector shall prepare a notice to comply as follows:

a. Where performance guarantee is involved:

The notice to comply shall contain a detailed description of the conservation measures necessary for compliance. When no action is taken within 48 hours of delivery of the notice to comply, the building inspector shall prepare a letter of intent to utilize the performance bond, cash escrow or other legal arrangements to apply the conservation measures to correct the deficiency. This letter of intent will be cleared with the Commonwealth Attorney and sent by registered or certified mail to the person responsible for carrying out the plan. If no action is taken within the time specified in the letter, the building inspector shall request the Board of Supervisors to utilize the performance guarantee which is in effect and request a local contractor to undertake the needed erosion control measures on behalf of the county.

b. Where no performance guarantee is involved:

The notice to comply shall contain a detailed description of the conservation measures necessary for compliance and the time within which such conservation measures shall be completed. Such notice to comply shall be served by registered or certified mail to the person responsible for carrying out the plan. If the conservation measures are not completed within the time specified, the building inspector shall notify in writing the County Board of Supervisors of the circumstances and recommend whether or not legal action should be taken against the violator.

5. The building inspector shall notify all permit issuing authorities when a notice to comply has been issued to withhold all future permits to the violator until the violation is corrected, and, upon failure to comply within the notice to comply, the permit for the project in violation may be revoked.

6. The building inspector shall be responsible for handling complaints concerning absent or ineffective erosion control measures.

7. When, upon investigation, it is determined that ineffective erosion control measures are being followed, but such measures are in accordance with approved plans, the building inspector shall meet with the person responsible for carrying out the plan and corrective measures shall be discussed and decided upon mutually.

ARTICLE 11

PENALTIES

A violation of this Ordinance shall be deemed a misdemeanor and upon conviction, shall be subject to a fine not exceeding One Thousand Dollars (\$1,000.00) or thirty (30) days imprisonment for each violation or both.

ARTICLE 12

SEVERABILITY

Should any provision of this ordinance be held to be unconstitutional or invalid, such declaration shall not effect or impair the remainder of this ordinance.

ARTICLE 13

INCORPORATED TOWNS

This Ordinance shall not apply to any land disturbing activity in any of the incorporated towns within the boundaries of Patrick County unless and until the governing body of such town shall by appropriate action indicate the intention to have the land disturbing activities within its boundaries covered by the terms and provisions of this Ordinance. Upon the taking of such action by the governing body of any of said incorporated towns the terms and provisions of the Ordinance shall apply fully to any land disturbing activity in said incorporated town.

ARTICLE 14

EFFECTIVE DATE

This Ordinance shall be in force and effect as of the 24th day of March, 1982.

Voting Aye: Stovall, Cassell, Martin, and Pilson

Voting Nay: None

Absent: Coalson

Supervisors Order Book No. 14, Pg. 83  
(Adopted May 12, 1979)  
(Amended March 24, 1982)  
(Amended April 9, 1990)

The following Ordinance proposed at a regular meeting of the Board of Supervisors held at the Courthouse thereof, on Monday, May 12, 1975, and adopted; amended March 24, 1982, and adopted; and duly advertised for Public Hearing and amended on Monday, April 9, 1990, on motion by Lowell A. Layman, seconded by James E. Walker and carried, it is hereby adopted:

BE IT ORDAINED by the Board of Supervisors of Patrick County, Virginia, as follows:

An Ordinance regulated to protect the lands and waters comprising the water sheds of the County of Patrick through erosion and sediment control, and to repeal all prior ordinances heretofore passed in the County of Patrick relating to this same subject.

ARTICLE 1  
AUTHORIZATION

The Board of Supervisors of Patrick County, Virginia, pursuant to the authority conferred by Acts of the General Assembly of the Commonwealth of Virginia (Title 10, Chapter 5, Article 4) does hereby ordain and enact into law this Ordinance.

ARTICLE 2  
DEFINITION

"Land Disturbing Activity" shall mean any land change which may result in soil erosion from water or wind and the movement of sediments into state or county waters, or onto lands in the state and County of Patrick, including, but not limited to, clearing, grading, excavating, transporting, and filling of land.

ARTICLE 3  
EXEMPTIONS

There is exempt from coverage under this Ordinance the following:

1. Such minor land disturbing activities 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 such land disturbing activity is confined to an area of the land, street or sidewalk which is hard surfaced;
4. Septic tank lines or drainage fields unless included in an overall plan for land disturbing activity relating to construction of the building to be served by the septic tank system;

5. Surface or deep mining;
6. Exploration or drilling for oil and gas including the well site, feeder lines, roads and off-site disposal areas;
7. Tilling, planting or harvesting of agricultural, horticultural or forest crops, or livestock feed lot operations; including engineering operations, as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage and land irrigation; agricultural engineering operations including, but not limited to, the construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the provisions of the Dam Safety Act, Article 2 (Section 10-1-604, et seq.) of Chapter 6 of Chapter 10.1, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage and land irrigation;
8. Repair or rebuilding of the tracks, right-of-ways, bridges, communication facilities and other related structures and facilities of a railroad company;
9. Preparation for single family residences separately built, unless in conjunction with multiple construction in subdivision development;
10. Disturbed land areas of commercial or non-commercial uses of less than 10,000 square feet in size;
11. Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;
12. Emergency work to protect life, limb or property, and emergency repairs; provided, that if the land disturbing activity would have required an approved erosion and sediment control plan, if the activity were not an emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of the local plan approving authority.

#### ARTICLE 4 PLAN SUBMISSION AND APPROVAL

1. Except as provided herein, no person may engage in any land disturbing activity after the adoption of the conservation standards by the County of Patrick until he has submitted to the County an erosion and sediment control plan for such land disturbing activity and such plan has been reviewed and approved by the plan approving authority.
2. As used herein, the plan approving authority shall mean the Board, known as "Patrick Soil and Water Conservation Directors".
3. The plan-approving authority shall review conservation plans submitted to it and grant written approval within forty-five (45) days of the receipt of the plan if it determines that the plan meets the requirements of

the Board's regulations and if the person responsible for carrying out the plan certifies that he will properly perform the conservation measures included in the plan and will conform to the provisions of this article.

4. When a plan is determined to be inadequate, written notice of disapproval stating the specific reasons for disapproval shall be communicated to the applicant within forty-five (45) days. The notice shall specify such modifications, terms, and conditions that will permit approval of the plan. If no action is taken by the plan approving authority within the time specified above, the plan shall be deemed approved and the person authorized to proceed with the proposed activity.

#### ARTICLE 5 CONSERVATION STANDARDS

The County of Patrick hereby adopts and incorporates by reference the conservation standards as set forth in Chapter 3 of the Virginia Erosion and Control Handbook (2nd Edition 1980), as amended. A copy of this handbook is available for inspection at the Office of the County Administrator.

#### ARTICLE 6 CHANGE IN APPROVED PLANS

An approved plan may be changed by the authority which has approved the plan in the following cases:

1. Where inspection has revealed that the plan is inadequate to satisfy applicable regulations; 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 plan-approving authority and the person responsible for carrying out the plan.

#### ARTICLE 7 PERMIT ISSUANCE

1. Each person who is required by the local erosion and sediment control ordinance to prepare and submit an erosion and sediment control plan for a proposed land disturbing activity must also obtain a land disturbing permit from the building inspector before the proposed activity is commenced.

2. The building inspector will not issue a land disturbing permit unless the applicant has:

- (a) Gained approval of his submitted erosion and sediment control plan; and
- (b) Paid in full all required plan review and inspection fees; and
- (c) Certified on his permit application that he will properly perform the control measures included in the plan and will abide by the requirements of the erosion and sediment control ordinance; and

- (d) Submitted any performance guarantee which may be required; and
- (e) Certified on his permit application that he will guarantee the right of entry on to the property under permit, to appropriate persons for the purpose of inspection and monitoring the plan.

#### ARTICLE 8 FEES

At the time the applicant submits his erosion and sediment control plan and permit application for approval, he must also submit a plan review and inspection fee in an amount commensurate with the services rendered by the plan approving authority and others connected with the plan approval process, taking into consideration the time, skill, and expense involved, or \$1,000.00, whichever is less.

#### ARTICLE 9 PERFORMANCE GUARANTEES

The plan approving authority, prior to issuance of any permit, may require from any applicant a reasonable performance bond, cash escrow, letter of credit, any combination thereof, or such other legal arrangement acceptable to the agency, to ensure that measures could be taken by the County at the applicant's expense should he fail, after proper notice, within the time specified, to initiate or maintain appropriate conservation action which may be required of him by such approved plan as a result of his land disturbing activity. Within sixty (60) days of the adequate stabilization of the land disturbing activity, 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 of law relating to the issuance of such permits and are not intended to otherwise affect the requirements for such permits.

If the applicant fails to provide adequate stabilization in accordance with the approved plan, the County may use all or part of the security or performance guarantee to perform the required measures. If the cost of such performance by the County exceeds the amount of the security or performance guarantee, the applicant shall be liable to the county for the difference in cost.

#### ARTICLE 10 INSPECTION AND ENFORCEMENT

1. The building inspector shall implement a systematic program for on-site inspection to ensure that the erosion and sediment control measures on the approved plans are actually carried out.

2. The building inspector shall be responsible for developing

and implementing a file system for land disturbing projects. The file should contain a record of each inspection, date of inspection, date land disturbing activities commenced, and comments concerning compliance and non-compliance.

3. The building inspector shall make periodic inspections to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sediment. The owner, occupier or operator shall be given notice of the inspection and an opportunity to accompany the inspector.

4. A report shall be made of each inspection. If there is a case of non-compliance, the report shall contain statements of the conservation measures needed for compliance and a recommended time in which such measures should be commenced and/or completed.

5. Upon determination that a violation exists, the building inspector shall prepare a notice to comply as follows:

(a) Where performance guarantee is involved:  
The notice to comply shall contain a detailed description of the conservation measures necessary for compliance. When no action is taken within 48 hours of delivery of the notice to comply, the building inspector shall prepare a letter of intent to utilize the performance bond, cash escrow or other legal arrangements to apply the conservation measures to correct the deficiency. This letter of intent will be cleared with the Commonwealth Attorney and forwarded by registered or certified mail to the person responsible for carrying out the plan. If no action is taken within the time specified in the letter, the building inspector shall request the Board of Supervisors to utilize the performance guarantee which is in effect and request a local contractor to undertake the needed erosion control measures on behalf of the County.

(b) Where no performance guarantee is involved:  
The notice to comply shall contain a detailed description of the conservation measures necessary for compliance and the time within which such conservation measures shall be completed. Such notice to comply shall be served by registered or certified mail to the permittee or person responsible for carrying out the plan. If the conservation measures are not completed within the time specified, the building inspector shall notify in writing the County Board of Supervisors of the circumstances and recommend whether or not legal action should be taken against the violator.

6. The building inspector shall notify all permit issuing authorities when a notice to comply has been issued to withhold all future permits to the violator until the violation is corrected, and, upon failure to comply within the notice to comply, the permit for the project in violation may be revoked.

7. The building inspector shall be responsible for handling complaints concerning absent or ineffective erosion control measures.

8. When, upon investigation, it is determined that ineffective erosion control measures are being followed, but such measures are in accordance with approved plans, the building inspector shall meet with the person responsible for carrying out the plan and corrective measures shall be discussed. The Board may change the approved plan, without the agreement or consent of the developer, if the plan is inadequate.

#### ARTICLE 11 PENALTIES

A violation of this Ordinance shall be deemed a misdemeanor and, upon conviction, shall be subject to a fine not exceeding One Thousand (\$1,000.00) Dollars or thirty (30) days imprisonment for each violation, or both.

In addition, the Board shall have all authority as set forth in Section 10.1-566C and 10.1-569 of the 1950 Code of Virginia, as amended, which provisions are incorporated herein by reference, including all subsequent amendments.

#### ARTICLE 12 SEVERABILITY

Should any provisions of this Ordinance be held to be unconstitutional or invalid, such declaration shall not effect or impair the remainder of this Ordinance.

#### ARTICLE 13 INCORPORATED TOWNS

This Ordinance shall not apply to any land disturbing activity in any of the incorporated towns within the boundaries of Patrick County unless and until the governing body of any such town shall by appropriate action indicate the intention to have the land disturbing activities within its boundaries covered by the terms and provisions of this Ordinance. Upon the taking of such action by the governing body of any said incorporated towns, the terms and provisions of this Ordinance shall apply fully to any land disturbing activity in said incorporated town.

#### ARTICLE 14 EFFECTIVE DATE

This Ordinance shall be in force and effect as of the 9th day of April, 1990, at which time all prior Ordinances dealing with this subject matter and enacted pursuant to Title 21, Chapter 1, Section 21.89.1, shall be repealed.

Voting Aye: Cassell, Walker, Harold, Layman, and Pilson  
Voting Nay: None

On motion by James E. Walker, seconded by Ewell Harold and carried, the following ordinance is hereby adopted.

AT THE REGULAR MEETING OF THE BOARD OF SUPERVISORS OF PATRICK COUNTY, VIRGINIA, HELD AT STUART, VIRGINIA, ON MONDAY JULY 13, 1992, THE FOLLOWING ORDINANCE WAS PROPOSED FOR ITS ADOPTION AT THE REGULAR MEETING OF THE BOARD OF SUPERVISORS OF PATRICK COUNTY, VIRGINIA, TO BE HELD ON MONDAY, SEPTEMBER 14, 1992.

AN ORDINANCE TO AMEND AND RE-ENACT AN ORDINANCE  
ADOPTED BY THE BOARD OF SUPERVISORS OF PATRICK COUNTY,  
VIRGINIA, EFFECTIVE APRIL 9, 1990, ENTITLED: "AN  
ORDINANCE TO REGULATE AND PROTECT THE LANDS AND WATERS  
COMPRISING THE WATER SHEDS OF THE COUNTY OF PATRICK  
THROUGH EROSION AND SEDIMENT CONTROL."

BE IT ORDAINED by the Board of Supervisors of Patrick County, Virginia, as follows:

The following article is added to the current ordinance, above referenced:

Article 11A

Patrick County hereby adopts the "Virginia Erosion and Sediment Control Regulations" promulgated by the Virginia Soil and Water Conservation Board pursuant to Section 10.1-562 of the 1950 Code of Virginia for the effective control of soil erosion, sediment deposition and non-agricultural runoff which must be met in any control program to prevent unreasonable degradation of properties, stream channels, waters and other natural resources. Standards and specifications for meeting the regulations are included in but not limited to The Virginia Erosion and Sediment Control Handbook, as amended from time to time.

All remaining provisions of the said ordinance are readopted in their entirety.

Supervisors Order Book No. 15  
(Adopted February 13, 1995)

The Board having previously advised of its intent to amend the county Erosion and Sediment Control Ordinance, and having duly advertised said intention and given consideration to same, on motion by James E. Walker, seconded by Kathy H. Clements and carried, the ensuing ordinance was adopted.

The following is an Ordinance to repeal and reenact an Ordinance proposed and adopted at a regular meeting of the Board of Supervisors on Monday, May 12, 1975, amended March 24, 1982, and amended on April 9, 1990, which said Ordinance is designed to protect the lands and waters comprising the watersheds of the County of Patrick through erosion and sediment control, and to repeal all prior ordinances heretofore passed in the County of Patrick relating to the same subject.

**ARTICLE 1  
AUTHORIZATION**

The Board of Supervisors of Patrick County, Virginia pursuant to the authority conferred by Acts of the General Assembly of the Commonwealth of Virginia (Title 10.1, Chapter 5, Article 4) does hereby ordain and enact into law this Ordinance.

**ARTICLE 2  
DEFINITION**

"Land Disturbing Activity" shall mean any land change which may result in soil erosion from water or wind and the movement of sediments into state or county waters, or onto lands in the state and County of Patrick, including, but not limited to, clearing, grading, excavating, transporting, and filling of land, except that the term shall not include:

1. Such minor land disturbing activities 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 such land disturbing activity is confined to an area of the land, street or sidewalk which is hard surfaced;
4. Septic tank lines or drainage fields unless included in an overall plan for land disturbing activity relating to construction of the building to be served by the septic tank system;
5. Surface or deep mining;
6. Exploration or drilling for oil and gas including the well site, feeder lines, roads and off-site disposal areas;
7. Tilling, planting or harvesting of agricultural, horticultural or forest crops, or livestock feedlot operations; including engineering operations, as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, 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 the harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (Section 10.1-1100, et seq.) of the 1950 Code of Virginia, as amended, or is converted to bona fide agricultural or improved pasture use as described in Subsection B of Section of 10.1-1163;

8. Repair or rebuilding of the tracks, right-of-way, bridges, communication facilities and other related structures and facilities of a railroad company;
9. Agricultural engineering operations including, but not limited to the construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the provisions of the Dam Safety Act, Article 2 (Section 10.1-604, et seq.) of Chapter 6 of Chapter 10.1, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage and land irrigation;
10. Disturbed land areas of less than 10,000 square feet in size;
11. Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;
12. Emergency work to protect life, limb or property, and emergency repairs; provided, that if the land disturbing activity would have required an approved erosion and sediment control plan if the activity were not an emergency, than the land area disturbed shall be shaped and stabilized in accordance with the requirements of the local plan approving authority.

### **ARTICLE 3 PLAN SUBMISSION AND APPROVAL**

1. Except as provided herein, no person may engage in any land disturbing activity after the adoption of the conservation standards by the County of Patrick until he has submitted to the County an erosion and sediment control plan for such land disturbing activity and such plan has been reviewed and approved by the plan approving authority.

2. As used herein, the plan approving authority shall be the Board, comprising the "Patrick Soil and Water Conservation Directors".

3. The plan-approving authority shall review conservation plans submitted to it and grant written approval within forty-five (45) days of the receipt of the plan if it determines that the plan meets the requirements of the Board's regulations and if the person responsible for carrying out the plan certifies that he will properly perform the conservation measures included in the plan and will conform to the provisions of this ordinance.

4. When a plan is determined to be inadequate, written notice of disapproval stating the specific reasons for disapproval shall be communicated to the applicant within forty-five (45) days. The notice shall specify such modifications, terms, and conditions that will permit approval of the plan. If no action is taken by the plan approving authority within the time specified above, the plan shall be deemed approved and the person authorized to proceed with the proposed activity.

5. Where land disturbing activities involve lands under the jurisdiction of more than one local control program, at the option of the applicant an erosion and sediment control may be submitted to the Virginia Soil and Water Conservation

Board for review and approval rather than for each jurisdiction concerned; provided, however, that copies of the application shall be delivered to the Patrick County plan approving authority for review and comment.

6. When land disturbing activity will be required by a contractor performing construction work on property in the County of Patrick, the preparation, submission and approval of an erosion and sediment control plan shall be the responsibility of the owner of the land.

#### **ARTICLE 4 CONSERVATION STANDARDS**

The County of Patrick hereby adopts and incorporates by reference the conservation standards as set forth in Chapter 3 of the Virginia Erosion and Control Regulations, as amended. A copy of these regulations is available for inspection at the Office of the County Administrator.

#### **ARTICLE 5 CHANGE IN APPROVED PLANS**

An approved plan may be changed by the authority which has approved the plan in the following cases:

1. Where inspection has revealed that the plan is inadequate to satisfy applicable regulations; 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 plan-approving authority and the person responsible for carrying out the plan.

#### **ARTICLE 6 PERMIT ISSUANCE**

1. Each person who is required by the local erosion and sediment control ordinance to prepare and submit an erosion and sediment control plan for a proposed land disturbing activity must also obtain a land disturbing permit from the building inspector before the proposed activity is commenced.

2. The building inspector will not issue a land disturbing permit unless the applicant has:

- (a) Gained approval of his submitted erosion and sediment control plan; and
- (b) Paid in full all required plan review and inspection fees; and
- (c) Certified on his permit application that he will properly perform the control measures included in the plan and will abide by the requirements of the erosion and sediment control ordinance; and
- (d) Submitted any performance guarantee which may be required; and
- (e) Certified on his permit application that he will guarantee the right of entry on to the property under permit to appropriate persons for the purpose of inspection and monitoring the plan.

3. Agencies authorized under any other law to issue grading, building or other permits for activities involving land disturbing activities may not issue such permit unless the applicant provides proof that he has obtained approval of an

erosion and sediment control plan related to the application, and certifies that the plan will be followed.

## ARTICLE 7 FEES

At the time the applicant submits his erosion and sediment control plan and permit application for approval, he must also submit a plan review and inspection fee in an amount commensurate with the services rendered by the plan approving authority and others connected with the plan approval process, taking into consideration the time, skill and expense involved, or \$1,000.00, whichever is less.

## ARTICLE 8 PERFORMANCE GUARANTEES

The plan approving authority, prior to issuance of any permit, may require from any applicant a reasonable performance bond, cash escrow, letter or credit, any combination thereof, or such other legal arrangement acceptable to the authority to ensure that measures could be taken by the County at the applicant's expense should he fail, after proper notice, within the time specified, to initiate or maintain appropriate conservation action which may be required of him by such approved plan as a result of his land disturbing activity. Within sixty (60) days of the adequate stabilization of the land disturbing activity, 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 of law relating to the issuance of such permits and are not intended to otherwise affect the requirements for such permits.

If the applicant fails to provide adequate stabilization in accordance with the approved plan, the County may use all or part of the security or performance guarantee to perform the required measures. If the cost of such performance by the County exceeds the amount of the security or performance guarantee, the applicant shall be liable to the county for the difference in cost.

## ARTICLE 9 INSPECTION AND ENFORCEMENT

1. The building inspector shall implement a systematic program for on-site inspection to ensure that the erosion and sediment control measures on the approved plans are actually carried out.

2. The building inspector shall be responsible for developing a plan of inspection which shall contain a record of each inspection, date of inspection, date land disturbing activities commenced, and comments concerning compliance and non-compliance.

3. The building inspector shall make periodic inspections to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sediment. The owner, occupier or operator shall be given notice of the inspection and an opportunity to accompany the inspector.

4. A report shall be made of each inspection. If there is a case of non-compliance, the report shall contain statements of the conservation measures needed for compliance and a recommended time in which such measures should be commenced and/or completed.

5. Upon determination that a violation exists, the building inspector shall prepare a notice to comply as follows:

(a) **Where performance guarantee is involved:** The notice to comply shall contain a detailed description of the conservation measures necessary for compliance. If no action is taken within 48 hours of delivery of the notice to comply, the building inspector shall prepare a letter of intent to utilize the performance bond, cash escrow or other legal arrangements to perform the conservation measures to correct the deficiency. This letter of intent will be cleared with the County Attorney and forwarded by registered or certified mail to the person responsible for carrying out the plan. If no action is taken within the time specified in the letter, the building inspector shall request the Board of Supervisors to utilize the performance guarantee which is in effect and request a local contractor to undertake the needed erosion control measures on behalf of the County.

(b) **Where no performance guarantee is involved:** The notice to comply shall contain a detailed description of the conservation measures necessary for compliance and the time within which such conservation measures shall be completed. Such notice to comply shall be served by registered or certified mail to the permittee or person responsible for carrying out the plan. If the conservation measures are not completed within the time specified, the building inspector shall notify in writing the County Board of Supervisors and the County Attorney of the circumstances and the County Attorney shall recommend whether or not legal action should be taken against the violator.

6. The building inspector shall notify all permit issuing authorities when a notice to comply has been issued to withhold all future permits to the violator until the violation is corrected, and upon failure to comply within the notice to comply, the permit for the project in violation may be revoked.

7. The building inspector shall be responsible for handling complaints concerning absent or ineffective erosion control measures.

8. When, upon investigation, it is determined that ineffective erosion control measures are being followed, but such measures are in accordance with approved plans, the building inspector shall meet with the person responsible for carrying out the plan and corrective measures shall be discussed. The Board may change the approved plan without the agreement or consent of the developer if the plan is inadequate.

## ARTICLE 10 PENALTIES

A violation of this Ordinance shall be deemed a misdemeanor and, upon conviction, the violator shall be subject to a fine not exceeding Two Thousand Five Hundred (\$2,500.00) Dollars and/or a jail sentence not to exceed 12 months for each violation.

In addition, the Board shall have the authority to pursue at its option any or all those remedies, legal and equitable, and assess any or all penalties available at common law and Sections 10.1-562 (J), 10.1- 569 and 10.1-569.1 of the 1950 Code of Virginia, as amended, which provisions are incorporated herein by reference, including all subsequent amendments.

## ARTICLE 11 APPEALS

Final decisions under this Ordinance may be appealed pursuant to the provisions of Section 10.1-568 of the Code as amended, and which provisions are incorporated herein by reference.

## **ARTICLE 12 SEVERABILITY**

**Should any provisions of this Ordinance be held to be unconstitutional or invalid, such declaration shall not effect or impair the remainder of this Ordinance.**

## **ARTICLE 13 INCORPORATED TOWNS**

**This Ordinance shall not apply to any land disturbing activity in any of the incorporated towns within the boundaries of Patrick County unless and until the governing body of any such town shall by appropriate action adopt and ordinance to have the land disturbing activities within its boundaries covered by the terms and provisions of this Ordinance. Upon the taking of such action by the governing body of any said incorporated towns, the terms and provisions of this Ordinance shall apply to any land disturbing activity in said incorporated town.**

## **ARTICLE 14 EFFECTIVE DATE**

**This Ordinance shall be in force and effect as of the 13th day of February, 1995 at which time all prior Ordinances dealing with this subject matter shall be repealed.**

Supervisors Order Book No. 16  
(Adopted April 14, 1997)

The following ordinance previously proposed by the Board of Supervisors of Patrick County, and after having been duly advertised for adoption as provided by law following public notification of same, on motion by Barry W. Shelor, seconded by Kenneth D. Hopkins and carried, is hereby adopted as follows:

**EROSION AND SEDIMENT CONTROL ORDINANCE**

**ARTICLE 1  
AUTHORIZATION**

The Board of Supervisors of Patrick County, Virginia, pursuant to the authority conferred by Acts of the General Assembly of the Commonwealth of Virginia (Title 10.1, Chapter 5, Article 4) does hereby ordain and enact into law this Ordinance.

**ARTICLE 2  
DEFINITION**

"Land Disturbing Activity" shall mean any land change which may result in soil erosion from water or wind and the movement of sediments into state or county waters, or onto lands in the Commonwealth and County of Patrick, including, but not limited to, clearing, grading, excavating, transporting, and filling of land, except that the term shall not include:

1. Such minor land disturbing activities 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 such land disturbing activity is confined to an area of the land, street or sidewalk which is hard surfaced;
4. Septic tank lines or drainage fields unless included in an overall plan for land disturbing activity relating to construction of the building to be served by the septic tank system;
5. Surface or deep mining;
6. Exploration or drilling for oil and gas including the well site, feeder lines, roads and off-site disposal areas;
7. Tilling, planting or harvesting of agricultural, horticultural or forest crops, or livestock feedlot operations; including engineering operations, as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, 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 the harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (Section 10.1-1100 et seq.) of the Code of Virginia, 1950, as amended, or is converted to bona fide agricultural or improved pasture use as described in Subsection B of Section 10.1-1163;
8. Repair or rebuilding of the tracks, right-of-way, bridges, communications facilities and other related structures and facilities of a railroad company;
9. Agricultural engineering operations including, but not limited to, the construction of terraces, terrace outlets, check

dams, desilting basins, dikes, ponds not required to comply with the provisions of the Dam Safety Act, Article 2 (Section 10.1-604 et seq.) of Chapter 6 of Chapter 10.1, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage and land irrigation;

10. Disturbed land areas of less than 10,000 square feet in size;
11. Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;
12. Emergency work to protect life, limb or property, and emergency repairs; provided, that if the land disturbing activity would have required an approved erosion and sediment control plan if the activity were not an emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of the local plan approving authority.

### ARTICLE 3 PLAN SUBMISSION AND APPROVAL

1. Except as provided herein, no person may engage in any land disturbing activity after the adopting of the conservation standards by the County of Patrick until he has submitted to the County an erosion and sediment control plan for such land disturbing activity and such plan has been reviewed and approved by the plan approving authority.

2. As used herein, the plan approving authority shall be the "certified employee of the Patrick County Building Inspection Department".

3. The plan-approving authority shall review conservation plans submitted to it and grant written approval within forty-five (45) days of the receipt of the plan if the person responsible for carrying out the plan certifies that he will properly perform the conservation measures included in the plan and will conform to the provisions of this ordinance.

4. When a plan is determined to be inadequate, written notice of disapproval stating the specific reasons for disapproval shall be communicated to the applicant within forty-five (45) days. The notice shall specify such modifications, terms, and conditions that will permit approval of the plan. If no action is taken by the plan approving authority within the time specified above, the plan shall be deemed approved and the person authorized to proceed with the proposed activity.

5. Where land disturbing activities involve lands under the jurisdiction of more than one local control program, at the option of the applicant an erosion and sediment control plan may be submitted to the Virginia Soil and Water Conservation Board for review and approval rather than for each jurisdiction concerned; provided, however, that copies of the application shall be delivered to the Patrick County plan approving authority for review and comment.

6. When land disturbing activity will be required by a contractor performing construction work on property in the County of Patrick, the preparation, submission and approval of an erosion and sediment control plan shall be the responsibility of the owner of the land.

### ARTICLE 4 CONSERVATION STANDARDS

The County of Patrick hereby adopts and incorporates by reference the conservation standards as set forth in the Virginia

Erosion and Sediment Control Regulations and the Virginia Erosion and Sediment Control Handbook, each as amended. A copy of these regulations is available for inspection at the Office of the County Administrator.

## ARTICLE 5 CHANGE IN APPROVED PLANS

An approved plan may be changed by the authority which has approved the plan in the following cases:

1. Where inspection has revealed that the plan is inadequate to satisfy applicable regulations; 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 plan-approving authority and the person responsible for carrying out the plan.

## ARTICLE 6 PERMIT ISSUANCE

1. Each person who is required by the local erosion and sediment control ordinance to prepare and submit an erosion and sediment control plan for a proposed land disturbing activity must also obtain a land disturbing permit from the building inspector before the proposed activity is commenced.

2. The building inspector's department will not issue a land disturbing permit unless the applicant has:

- (a) Gained approval of his submitted erosion and sediment control plan; and
- (b) Paid in full all required plan review and inspection fees; and
- (c) Certified on his permit application that he will properly perform the control measures included in the plan and will abide by the requirements of the erosion and sediment control ordinance; and
- (d) Submitted any performance guarantee which may be required; and
- (e) Certified on his permit application that he will guarantee the right of entry on to the property under permit to appropriate persons for the purpose of inspection and monitoring the plan.

3. Agencies authorized under any other law to issue grading, building or other permits for activities involving land disturbing activities may not issue such permit unless the applicant provides proof that he has obtained approval of an erosion and sediment control plan related to the application, and certifies that the plan will be followed.

## ARTICLE 7 FEES

At the time the applicant submits his erosion and sediment control plan and permit application for approval, he must also submit a plan review and inspection fee in an amount commensurate with the services rendered by the plan approving authority and others connected with the plan approval process, taking into consideration the time, skill and expense involved, or \$1000.00, whichever is less.

## ARTICLE 8 PERFORMANCE GUARANTEES

The plan approving authority, prior to issuance of any permit, may require from any applicant a reasonable performance bond, cash, escrow, letter of credit, any combination thereof, or such other legal arrangement acceptable to the authority to ensure that measures could be taken by the County at the applicant's expense should he fail, after proper notice, within the time specified, to initiate or maintain appropriate conservation action which may be required of him by such approved plan as a result of his land disturbing activity. Within sixty (60) days of the adequate stabilization of the land disturbing activity, 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 of law relating to the issuance of such permits and are not intended to otherwise affect the requirements for such permits.

If the applicant fails to provide adequate stabilization in accordance with the approved plan, the County may use all or part of the security or performance guarantee to perform the required measures. If the cost of such performance by the County exceeds the amount of the security or performance guarantee, the applicant shall be liable to the County for the difference in cost.

## ARTICLE 9 INSPECTION AND ENFORCEMENT

1. A state certified employee of the building inspector's department is hereby designated as the certified inspector, program administrator and plan reviewer.

2. The certified inspector shall implement a systematic program for on-site inspection to ensure that the erosion and sediment control measures on the approved plans are actually carried out.

3. The certified inspector shall be responsible for developing a plan of inspection which shall contain a record of each inspection, date of inspection, date land disturbing activities commenced, and comments concerning compliance and non-compliance.

4. The certified inspector shall make periodic inspections to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sediment. The owner, occupier or operator shall be given notice of the inspection and an opportunity to accompany the inspector.

5. A report shall be made of each inspection. If there is a case of non-compliance, the report shall contain statements of the conservation measures needed for compliance and a recommended time in which such measures should be commenced and/or completed.

6. Upon determination that a violation exists, the certified inspector shall prepare a notice to comply as follows:

(a) Where performance guarantee is involved: The notice to comply shall contain a detailed description of the conservation measures necessary for compliance. If no action is taken within 48 hours of delivery of the notice to comply, the certified inspector shall prepare a letter of intent to utilize the performance bond, cash escrow or other legal arrangements to perform the conservation measures to correct the deficiency. This

letter of intent will be cleared with the County Attorney and forwarded by registered or certified mail to the person responsible for carrying out the plan. If no action is taken within the time specified in the letter, the certified inspector shall request the Board of Supervisors to utilize the performance guarantee which is in effect and request a local contractor to undertake the needed erosion control measures on behalf of the County.

(b) Where no performance guarantee is involved:

The notice to comply shall contain a detailed description of the conservation measures necessary for compliance and the time within which such conservation measures shall be completed. Such notice to comply shall be served by registered or certified mail to the permittee or person responsible for carrying out the plan. If the conservation measures are not completed within the time specified, the certified inspector shall notify in writing the County Board of Supervisors and the County Attorney of the circumstances and the County Attorney shall recommend whether or not legal action should be taken against the violator.

7. The certified program administrator shall notify all permit issuing authorities when a notice to comply has been issued to withhold all future permits to the violator until the violation is corrected, and, upon failure to comply within the notice to comply the permit for the project in violation may be revoked.

8. The certified plan reviewer shall be responsible for handling complaints concerning absent or ineffective erosion control measures.

9. When, upon investigation, it is determined that ineffective erosion control measures are being followed, but such measures are in accordance with approved plans, the certified inspector shall meet with the person responsible for carrying out the plan and corrective measures shall be discussed. The Board may change the approved plan without the agreement or consent of the developer if the plan is inadequate.

#### ARTICLE 10 PENALTIES

A violation of this Ordinance shall be deemed a misdemeanor and, upon conviction, the violator shall be subject to a fine not exceeding Two Thousand Five Hundred (\$2,500.00) Dollars and/or a jail sentence not to exceed twelve (12) months for each violation.

In addition, the plan-approving authority shall have the authority to pursue at its option any or all of those remedies, legal and equitable, and assess any or all penalties available at common law and Section 10.1-562 (J), 10.1-566, 10.1-569 and 10.1-569.1 of the Code of Virginia, 1950, as amended, which provisions are incorporated herein by reference, including all subsequent amendments.

#### ARTICLE 11 APPEALS

Final decisions under this Ordinance may be appealed pursuant to the provisions of Section 10.1-568 of the Code, as amended, and which provisions are incorporated herein by reference.

#### ARTICLE 12 SEVERABILITY

Should any provisions of this Ordinance be held to be unconstitutional or invalid, such declaration shall not effect or impair the remainder of this Ordinance.

#### **ARTICLE 13 INCORPORATED TOWNS**

This Ordinance shall not apply to any land disturbing activity in any of the incorporated towns within the boundaries of Patrick County unless and until the governing body of any such town shall by appropriate action adopt an ordinance to have the land disturbing activities within its boundaries covered by the terms and provisions of this Ordinance. Upon the taking of such action by the governing body of any said incorporated towns, the terms and provisions of this Ordinance shall apply to any land disturbing activity in said incorporated town.

#### **ARTICLE 14 EFFECTIVE DATE**

This Ordinance shall be in force and effect as of the first day of July, 1997 at which time all prior Ordinances dealing with this subject matter shall be repealed.

**SUPERVISORS ORDER BOOK NO. 16**  
(Adopted June 10, 1998)

The following ordinance previously proposed by the Board of Supervisors of Patrick County, and after having been duly advertised for adoption as provided by law following public notification of same, on motion by James D. East, seconded by Kathy H. Clements and carried, is hereby adopted as follows:

**AN ORDINANCE TO REPEAL AND RE-ENACT WITHIN THE COUNTY OF PATRICK AN ORDINANCE ESTABLISHING PROCEDURES AND STANDARDS FOR EROSION AND SEDIMENT CONTROL.**

**ARTICLE 1**  
**AUTHORIZATION**

The Board of Supervisors of Patrick County, Virginia, pursuant to the authority conferred by Acts of the General Assembly of the Commonwealth of Virginia (Title 10.1, Chapter 5, Article 4) does hereby ordain and enact into law this Ordinance.

**ARTICLE 2**  
**DEFINITION**

"Land Disturbing Activity" shall mean any land change which may result in soil erosion from water or wind and the movement of sediments into state or county waters, or onto lands in the Commonwealth and County of Patrick, including, but not limited to, clearing, grading, excavating, transporting, and filling of land, except that the term shall not include:

1. Such minor land disturbing activities 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 such land disturbing activity is confined to an area of the land, street or sidewalk which is hard surfaced;
4. Septic tank lines or drainage fields unless included in an overall plan for land disturbing activity relating to construction of the building to be served by the septic tank system;
5. Surface or deep mining;

6. Exploration or drilling for oil and gas including the well site, feeder lines, roads and off-site disposal areas;

7. Tilling, planting or harvesting of agricultural, horticultural or forest crops, or livestock feedlot operations; including engineering operations, as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, 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 the harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (Section 10.1-1100 et seq.) of the Code of Virginia, 1950, as amended, or is converted to bona fide agricultural or improved pasture use as described in Subsection B of Section 10.1-1163;

8. Repair or rebuilding of the tracks, right-of-way, bridges, communications facilities and other related structures and facilities of a railroad company;

9. Agricultural engineering operations including, but not limited to, the construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the provisions of the Dam Safety Act, Article 2 (Section 10.1-604 et seq.) of Chapter 6 of Chapter 10.1, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage and land irrigation;

10. Disturbed land areas of less than 10,000 square feet in size;

11. Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;

12. Emergency work to protect life, limb or property, and emergency repairs; provided, that if the land disturbing activity would have required an approved erosion and sediment control plan if the activity were not an emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of the local plan approving authority.

### ARTICLE 3

#### PLAN SUBMISSION AND APPROVAL

1. Except as provided herein, no person may engage in any land disturbing activity after the adopting of the conservation standards by the County

of Patrick until he has submitted to the County an erosion and sediment control plan for such land disturbing activity and such plan has been reviewed and approved by the plan approving authority.

2. As used herein, the plan approving authority shall be the "certified employee of the Patrick County Building Inspection Department".

3. The plan-approving authority shall review conservation plans submitted to it and grant written approval within forty-five (45) days of the receipt of the plan if the person responsible for carrying out the plan certifies that he will properly perform the conservation measures included in the plan and will conform to the provisions of this ordinance.

4. When a plan is determined to be inadequate, written notice of disapproval stating the specific reasons for disapproval shall be communicated to the applicant within forty-five (45) days. The notice shall specify such modifications, terms, and conditions that will permit approval of the plan. If no action is taken by the plan approving authority within the time specified above, the plan shall be deemed approved and the person authorized to proceed with the proposed activity.

5. Where land disturbing activities involve lands under the jurisdiction of more than one local control program, at the option of the applicant an erosion and sediment control plan may be submitted to the Virginia Soil and Water Conservation Board for review and approval rather than for each jurisdiction concerned; provided, however, that copies of the application shall be delivered to the Patrick County plan approving authority for review and comment.

6. When land disturbing activity will be required by a contractor performing construction work on property in the County of Patrick, the preparation, submission and approval of an erosion and sediment control plan shall be the responsibility of the owner of the land.

#### ARTICLE 4

#### CONSERVATION STANDARDS

The County of Patrick hereby adopts and incorporates by reference the conservation standards as set forth in the Virginia Erosion and Sediment Control Regulations and the Virginia Erosion and Sediment Control Handbook, each as amended. A copy of these regulations is available for inspection at the Office of the County Administrator.

**ARTICLE 5**  
**CHANGE IN APPROVED PLANS**

An approved plan may be changed by the authority which has approved the plan in the following cases:

1. Where inspection has revealed that the plan is inadequate to satisfy applicable regulations; 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 plan-approving authority and the person responsible for carrying out the plan.

**ARTICLE 6**  
**PERMIT ISSUANCE**

1. Each person who is required by the local erosion and sediment control ordinance to prepare and submit an erosion and sediment control plan for a proposed land disturbing activity must also obtain a land disturbing permit from the building inspector before the proposed activity is commenced.

2. The building inspector's department will not issue a land disturbing permit unless the applicant has:

- (a) Gained approval of his submitted erosion and sediment control plan; and
- (b) Paid in full all required plan review and inspection fees; and
- (c) Certified on his permit application that he will properly perform the control measures included in the plan and will abide by the requirements of the erosion and sediment control ordinance; and
- (d) Submitted any performance guarantee which may be required; and
- (e) Certified on his permit application that he will guarantee the right of entry on to the property under permit to appropriate persons for the purpose of inspection and monitoring the plan.

3. Agencies authorized under any other law to issue grading, building or other permits for activities involving land disturbing activities may not issue such permit unless the applicant provides proof that he has obtained approval of an erosion and sediment control plan related to the application, and certifies that the plan will be followed.

## ARTICLE 7

### FEES

At the time the applicant submits his erosion and sediment control plan and permit application for approval, he must also submit a plan review and inspection fee in an amount commensurate with the services rendered by the plan approving authority and others connected with the plan approval process, taking into consideration the time, skill and expense involved, or \$1000.00, whichever is less.

## ARTICLE 8

### PERFORMANCE GUARANTEES

The plan approving authority, prior to issuance of any permit, shall require from any applicant a reasonable performance bond, cash, escrow, letter of credit, any combination thereof, or such other legal arrangement acceptable to the authority to ensure that measures could be taken by the County at the applicant's expense should he fail, after proper notice, within the time specified, to initiate or maintain appropriate conservation action which may be required of him by such approved plan as a result of his land disturbing activity. Within sixty (60) days of the adequate stabilization of the land disturbing activity, 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 of law relating to the issuance of such permits and are not intended to otherwise affect the requirements for such permits.

If the applicant fails to provide adequate stabilization in accordance with the approved plan, the County may use all or part of the security or performance guarantee to perform the required measures. If the cost of such performance by the County exceeds the amount of the security or performance guarantee, the applicant shall be liable to the County for the difference in cost.

## ARTICLE 9

### INSPECTION AND ENFORCEMENT

1. A state certified employee of the building inspector's department is hereby designated as the certified inspector, program administrator and plan reviewer.

2. The certified inspector shall implement a systematic program for on-site inspection to ensure that the erosion and sediment control measures on the approved plans are actually carried out.

3. The certified inspector shall be responsible for developing a plan of inspection which shall contain a record of each inspection, date of inspection, date land disturbing activities commenced, and comments concerning compliance and non-compliance.

4. The certified inspector shall make periodic inspections to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sediment. The owner, occupier or operator shall be given notice of the inspection and an opportunity to accompany the inspector.

5. A report shall be made of each inspection. If there is a case of non-compliance, the report shall contain statements of the conservation measures needed for compliance and a recommended time in which such measures should be commenced and/or completed.

6. Upon determination that a violation exists, the certified inspector shall prepare a notice to comply as follows:

(a) Where performance guarantee is involved: The notice to comply shall contain a detailed description of the conservation measures necessary for compliance. If no action is taken within 48 hours of delivery of the notice to comply, the certified inspector shall prepare a letter of intent to utilize the performance bond, cash escrow or other legal arrangements to perform the conservation measures to correct the deficiency. This letter of intent will be cleared with the County Attorney and forwarded by registered or certified mail to the person responsible for carrying out the plan. If no action is taken within the time specified in the letter, the certified inspector shall request the Board of Supervisors to utilize the performance guarantee which is in effect and request a local contractor to undertake the needed erosion control measures on behalf of the County.

(b) Where no performance guarantee is involved: The notice to comply shall contain a detailed description of the conservation measures necessary for compliance and the time within which such conservation measures shall be completed. Such notice to comply shall be served by registered or certified mail to the permittee or person responsible for carrying out the plan. If the conservation measures are not completed within the time specified, the

certified inspector shall notify in writing the County Board of Supervisors and the County Attorney of the circumstances and the County Attorney shall recommend whether or not legal action should be taken against the violator.

7. The certified program administrator shall notify all permit issuing authorities when a notice to comply has been issued to withhold all future permits to the violator until the violation is corrected, and, upon failure to comply within the notice to comply the permit for the project in violation may be revoked.

8. The certified plan reviewer shall be responsible for handling complaints concerning absent or ineffective erosion control measures.

9. When, upon investigation, it is determined that ineffective erosion control measures are being followed, but such measures are in accordance with approved plans, the certified inspector shall meet with the person responsible for carrying out the plan and corrective measures shall be discussed. The Board may change the approved plan without the agreement or consent of the developer if the plan is inadequate.

## ARTICLE 10

### PENALTIES

A violation of this Ordinance shall be deemed a misdemeanor and, upon conviction, the violator shall be subject to a fine not exceeding Two Thousand Five Hundred (\$2,500.00) Dollars and/or a jail sentence not to exceed twelve (12) months for each violation.

In addition, the plan-approving authority shall have the authority to pursue at its option any or all of those remedies, legal and equitable, and assess any or all penalties available at common law and Section 10.1-562 (J), 10.1-566, 10.1-569 and 10.1-569.1 of the Code of Virginia, 1950, as amended, which provisions are incorporated herein by reference, including all subsequent amendments.

## ARTICLE 11

### APPEALS

Final decisions under this Ordinance may be appealed pursuant to the provisions of Section 10.1-568 of the Code, as amended, and which provisions are incorporated herein by reference.

ARTICLE 12  
SEVERABILITY

Should any provisions of this Ordinance be held to be unconstitutional or invalid, such declaration shall not effect or impair the remainder of this Ordinance.

ARTICLE 13  
INCORPORATED TOWNS

This Ordinance shall not apply to any land disturbing activity in any of the incorporated towns within the boundaries of Patrick County unless and until the governing body of any such town shall by appropriate action adopt an ordinance to have the land disturbing activities within its boundaries covered by the terms and provisions of this Ordinance. Upon the taking of such action by the governing body of any said incorporated towns, the terms and provisions of this Ordinance shall apply to any land disturbing activity in said incorporated town.

ARTICLE 14  
EFFECTIVE DATE

This Ordinance shall be in force and effect as of the first day of July, 1998 at which time all prior Ordinances dealing with this subject matter shall be repealed.

Voting Aye: Walker, East, Brammer, Clements and Martin

Voting Nay: None

ADOPTED SEPTEMBER 11, 2002

The following revised ordinance presented at a regular meeting of the Board of Supervisors held at the Patrick County Administration Building thereof, having been duly advertised for adoption as provided by law, and after discussion thereof on Wednesday, September 11, 2002, on motion by Darrell Cockerham, seconded by Charles B. Smith and carried, is hereby adopted:

## EROSION AND SEDIMENT CONTROL ORDINANCE

### ARTICLE 1 AUTHORIZATION

The Board of Supervisors of Patrick County, Virginia, pursuant to the authority conferred by Acts of the General Assembly of the Commonwealth of Virginia (Title 10.1, Chapter 5, Article 4) does hereby ordain and enact into law this Ordinance. This Ordinance shall be known as the "Erosion and Sediment Control Ordinance of Patrick County, Virginia." The purpose of this chapter is to prevent degradation of properties, stream channels, waters and other natural resources of the County of Patrick 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.

### ARTICLE 2 DEFINITIONS

- A. "Agreement in lieu of a plan" means a contract between plan-approving authority and the owner that specifies conservation measures that must be implemented in the construction of a single-family residence; this contract may be executed by the plan approving authority in lieu of a formal site plan.
- B. "Applicant" means any person submitting an erosion and sediment control plan for approval or requesting the issuance of a permit, when required, authorizing land disturbing activities to commence.
- C. "Board" means the Virginia Soil and Water Conservation Board.
- D. "Certified Inspector" means an employee or agent of the County who (i) holds a certificate of competence from the Board in the area of project inspection or (ii) is enrolled in the Board's training program for project inspection and successfully completes such program within one year after enrollment.
- E. "Certified Plan Reviewer" means an employee or agent of the County who (i) holds a certificate of competence from the Board in the area of plan review or (ii) is enrolled in the Board's training program for plan review and successfully completes such program within one year after enrollment or (iii) is licensed as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Article 1 (Section 54.1-400 et seq.) of Chapter 4 of Title 54.1.
- F. "Certified Program Administrator" means an employee or agent of the County who (i) holds a certificate of competence from the Board in the area of program administration or (ii) is enrolled in the Board's training program for program administration and successfully completes such program within one year after enrollment.
- G. "County" means the County of Patrick.
- H. "Clearing" means any activity which removes the vegetative ground cover including, but not limited to, root mat removal or top soil removal.
- I. "Department" means the Department of Conservation and Recreation.
- J. "Development" means a tract of land developed or to be developed as a single unit under single ownership or unified control which is to be used for any business or industrial purpose or is to contain three or more residential dwelling units.

- K. "Director" means the Director of the Department.
- L. "District" or "Soil and Water Conservation District" refers to the Patrick County Soil and Water Conservation District.
- M. "Erosion and Sediment Control Plan" or "Plan" means a document containing material for conservation of soil and water resources of a unit or group of units of land. It may include appropriate maps, appropriate soil and water plan inventory, management information and decisions with necessary interpretations, for conservation treatment. The plan shall contain all material conservation decisions to assure that the entire unit or units of land be treated to achieve the conservation objectives.
- N. "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.
- O. "Land Disturbing Activity" shall mean any land change which may result in soil erosion from water or wind and the movement of sediments into state or county waters, or onto lands in the Commonwealth and County of Patrick, including, but not limited to, clearing, grading, excavating, transporting, and filling of land, except that the term shall not include:
  1. Such minor land disturbing activities 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 surfaces road, street or sidewalk provided such land disturbing activity is confined to an area of the land, 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 of deep mining;
  6. Exploration or drilling for oil and gas including the well site, feeder lines, roads and off-site disposal areas;
  7. Tilling, planting or harvesting of agricultural, horticultural or forest crops, or livestock feedlot operations including engineering operations, as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with Section 10.1-604 et seq. of the Dam Safety Act, 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 the harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (Section 10.1-1100 et seq.) of the Code of Virginia, 1950, as amended, or is converted to bona fide agricultural or improved pasture use as described in Subsection B of Section 10.1-1163;
  8. Repair or rebuilding of the tracks, right of way, bridges, communication facilities and other related structures and facilities of a railroad company;
  9. Disturbed land areas of less than 10,000 square feet in size;
  10. Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;
  11. Emergency work to protect life, limb or property, and emergency repairs, provided that if the land disturbing activity would have required an approved erosion and sediment control plan if the activity were not an emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of the local plan approving authority.
- S. "Land Disturbing Permit" means a permit issued by the County of Patrick for the clearing, filling, excavating, grading or transporting of land or for any combination thereof or for any purpose set forth herein.
- T. "Local erosion and sediment control program" means an outline of the various methods employed by the County of Patrick 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.**

**U. "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.**

**V. "Permittee" means the person to whom the permit authorizing land-disturbing activities is issued to or the person who certifies that the approved erosion and sediment control plan will be followed.**

**W. "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.**

**X. "Plan approving authority" means the Building Inspector responsible for determining the adequacy of a plan submitted for land disturbing activities on a unit or units of land and for approving plans.**

**Y. "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.**

**Z. "Single Family Residence" means a noncommercial dwelling that is occupied exclusively by one family.**

**AA. "State Erosion and Sediment Control Program" means the program administered by the Virginia Soil and Water Conservation Board pursuant to the State Code including regulations designed to minimize erosion and sedimentation.**

**BB. "State Waters" means all waters on the surface and under the ground wholly or partially within or bordering the Commonwealth or within its jurisdictions.**

**CC. "Town" means the incorporated Town of Stuart, Virginia.**

### **ARTICLE 3** **PLAN SUBMISSION AND APPROVAL**

- 1. Except as provided herein, no person may engage in any land disturbing activity after the adoption of the conservation standards by the County of Patrick until he has submitted to the Building Inspector an erosion and sediment control plan for such land disturbing activity or an agreement in lieu of a plan for a single family residence and such plan has been approved by the plan approving authority.**
- 2. As used herein, the plan approving authority shall be the "certified employee of the Patrick County Building Inspection Department".**
- 3. The standards contained within the "Virginia Erosion and Sediment Control Regulations" and the Virginia Erosion and Sediment Control Handbook 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.**

4. The plan approving authority shall, within forty five (45) days, approve any such plan, if it is determined that the plan meets the requirements of the local control program, and if the person responsible for carrying out the plan certifies that he or she will properly perform the erosion and sediment control measures included in the plan and will conform to the provisions of this ordinance. In addition, as a prerequisite to approval of the plan, the person responsible for carrying out the plan shall provide the name of a Responsible Land Disturber, who will be in charge of and responsible for carrying out the land disturbing activity, in accordance with the approved plan.
5. When a plan is determined to be inadequate, written notice of disapproval stating the specific reasons for disapproval shall be communicated to the applicant within forty-five (45) days. The notice shall specify such modifications, terms, and conditions that will permit approval of the plan. If no action is taken by the plan approving authority within the time specified above, the plan shall be deemed approved and the person may proceed with the proposed activity.
6. Where land disturbing activities involve lands under the jurisdiction of more than one local control program, at the option of the applicant an erosion and sediment control plan may be submitted to the Virginia Soil and Water Conservation Board for review and approval rather than for each jurisdiction concerned; provided, however, that copies of the application shall be delivered to the Patrick County plan approving authority for review and comment.
7. When land disturbing activity will be required by a contractor performing construction work on property in the County of Patrick, the preparation, submission and approval of an erosion and sediment control plan shall be the responsibility of the owner of the land.

#### ARTICLE 4 CONSERVATION STANDARDS

The County of Patrick hereby adopts and incorporates by reference the conservation standards as set forth in the Virginia Erosion and Sediment Control Regulations and the Virginia Erosion and Sediment Control Handbook, each as amended. A copy of these regulations is available for inspection at the Office of the County Administrator.

#### ARTICLE 5 CHANGE IN APPROVED PLANS

An approved plan may be changed by the authority which has approved the plan in the following cases:

1. Where inspection has revealed that the plan is inadequate to satisfy applicable regulations; 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 plan approving authority and the person responsible for carrying out the plan.

#### ARTICLE 6 PERMIT ISSUANCE

1. Each person who is required by the local erosion and sediment control ordinance to prepare and submit an erosion and sediment control plan for a proposed land disturbing activity must also obtain a land disturbing permit from the building inspector before the proposed activity is commenced.
2. The building inspector's department will not issue a land disturbing permit unless the applicant has:

- (a) Gained approval of his submitted erosion and sediment control plan; and
- (b) Paid in full all required plan review and inspection fees; and
- (c) Certified on his permit application that he will properly perform the control measures included in the plan and will abide by the requirements of the erosion and sediment control ordinance; and
- (d) Submitted any performance guarantee which may be required; and
- (e) Certified on his permit application that he will guarantee the right of entry on to the property under permit to appropriate persons for the purpose of inspecting and monitoring the plan.

3. Agencies authorized under any other law to issue grading, building or other permits for activities involving land disturbing activities may not issue such permit unless the applicant provides proof that he has obtained approval of an erosion and sediment control plan related to the application, and certifies that the plan will be followed.

## ARTICLE 7 FEES

At the time the applicant submits his erosion and sediment control plan and permit application for approval, he must also submit a plan review and inspection fee in an amount commensurate with the services rendered by the plan approving authority and others connected with the plan approval process, taking into consideration the time, skill, and expense involved, or \$1,000.00, whichever is less.

## ARTICLE 8 PERFORMANCE GUARANTEES

The plan approving authority, prior to issuance of any permit, may require from any applicant a reasonable performance bond, cash, escrow, letter of credit, any combination thereof, or such other legal arrangement acceptable to the authority to ensure that measures could be taken by the County at the applicant's expense should he fail, after proper notice, within the time specified, to initiate or maintain appropriate conservation action which may be required of him by such approved plan as a result of his land disturbing activity. Within sixty (60) days of the adequate stabilization of the land disturbing activity, 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 of law relating to the issuance of such permits and are not intended to otherwise affect the requirements for such permits.

If the applicant fails to provide adequate stabilization in accordance with the approved plan, the County may use all or part of the security or performance guarantee to perform the required measures. If the cost of such performance by the County exceeds the amount of the security or performance guarantee, the applicant shall be liable to the County for the difference in cost.

## ARTICLE 9 INSPECTION AND ENFORCEMENT

1. The Emergency Management Coordinator is hereby designated as the certified inspector, program administrator and plan reviewer.
2. The certified inspector shall implement a systematic program for on site inspection to ensure that the erosion and sediment control measures on the approved plans are actually carried out.
3. The certified inspector shall be responsible for developing a plan of inspection which shall contain a record of each inspection, date of inspection, date land disturbing activities commenced, and comments concerning compliance and non-compliance.

4. The certified inspector shall make periodic inspections to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sediment. The owner, occupier or operator shall be given notice of the inspection and an opportunity to accompany the inspector.
5. The fee for inspection is \$50.00 for the first acre, and \$10.00 for each additional acre.
6. A report shall be made of each inspection. If there is a case of non-compliance, the report shall contain statements of the conservation measures needed for compliance and a recommended time in which such measures should be commenced and/or completed.
7. Upon determination that a violation exists, the certified inspector shall prepare a notice to comply as follows:
  - (a) Where performance guarantee is involved: The notice to comply shall contain a detailed description of the conservation measures necessary for compliance. If no action is taken within 48 hours of delivery of the notice to comply, the certified inspector shall prepare a letter of intent to utilize the performance bond, cash escrow or other legal arrangements to perform the conservation measures to correct the deficiency. This letter of intent will be cleared with the County Attorney and forwarded by registered or certified mail to the person responsible for carrying out the plan. If no action is taken within the time specified in the letter, the certified inspector shall request the Board of Supervisors to utilize the performance guarantee which is in effect and request a local contractor to undertake the needed erosion control measures on behalf of the County.
  - (b) Where no performance guarantee is involved: The notice to comply shall contain a detailed description of the conservation measures necessary for compliance and the time within which such conservation measures shall be completed. Such notice to comply shall be served by registered or certified mail to the permittee or person responsible for carrying out the plan. If the conservation measures are not completed within the time specified, the certified inspector shall notify in writing the County Board of Supervisors and the County Attorney of the circumstances and the County Attorney shall recommend whether or not legal action should be taken against the violator.
8. The certified program administrator shall notify all permit issuing authorities when a notice to comply has been issued to withhold all future permits to the violator until the violation is corrected, and, upon failure to comply within the notice to comply, the permit for the project in violation may be revoked.
9. The certified plan reviewer shall be responsible for handling complaints concerning absent or ineffective erosion control measures.
10. When, upon investigation, it is determined that ineffective erosion control measures are being followed, but such measures are in accordance with approved plans, the certified inspector shall meet with the person responsible for carrying out the plan and corrective measures shall be discussed. The Board may change the approved plan without the agreement or consent of the developer if the plan is inadequate.

#### ARTICLE 10 PENALTIES

A violation of this Ordinance shall be deemed a Class 1 misdemeanor. In addition, the Program Administrator shall have the authority to pursue at its option on any or all of those remedies, legal and equitable, and assess any or all penalties available at common law and sections 10.1-562(J), 10.1-566, 10.1-569 and 10.1-569.1 of the Code of Virginia, 1950, as amended, which provisions are incorporated herein by reference, including all subsequent amendments.

## **ARTICLE 11 APPEALS**

**Final decisions under this Ordinance may be appealed pursuant to the provisions of Section 10.1-568 of the Code, as amended, and which provisions are incorporated herein by reference.**

## **ARTICLE 12 SEVERABILITY**

**Should any provisions of this Ordinance be held to be unconstitutional or invalid, such declaration shall not effect or impair the remainder of this Ordinance.**

## **ARTICLE 13 INCORPORATED TOWNS**

**This Ordinance shall be enforceable in the Town of Stuart unless and until Stuart passes it's own Soil Erosion and Sediment Ordinance.**

## **ARTICLE 14 REMEDIES**

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

## **ARTICLE 15 EFFECTIVE DATE**

**This Ordinance shall be in force and effect as of the 11th day of September, 2002, at which time all prior Ordinances dealing with this subject matter shall be repealed.**

**Voting Aye: East, Martin, Cockerham, Harris and Smith  
Voting Nay: None**

**ADOPTED JULY 9, 2003**

**The following ordinance proposed by the Board of Supervisors of  
Patrick County and having been duly advertised for adoption as provided  
by law, after a hearing thereon, on motion by David G. Young, seconded by  
Charles B. Smith and carried, is hereby adopted:**

**EROSION AND SEDIMENT CONTROL ORDINANCE**

**ARTICLE 1  
AUTHORIZATION**

The Board of Supervisors of Patrick County, Virginia, pursuant to the authority conferred by Acts of the General Assembly of the Commonwealth of Virginia (Title 10.1, Chapter 5, Article 4) does hereby ordain and enact into law this Ordinance. This Ordinance shall be known as the "Erosion and Sediment Control Ordinance of Patrick County, Virginia." The purpose of this chapter is to prevent degradation of properties, stream channels, waters and other natural resources of the County of Patrick 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.

**ARTICLE 2  
DEFINITIONS**

- A. "Agreement in lieu of a plan" means a contract between plan-approving authority and the owner that may specify conservation measures that must be implemented in the construction of a single-family residence; this contract may be executed by the plan approving authority in lieu of a formal site plan.
- B. "Applicant" means any person submitting an erosion and sediment control plan for approval or requesting the issuance of a permit, when required, authorizing land disturbing activities to commence.
- C. "Board" means the Virginia Soil and Water Conservation Board.
- D. "Certified Inspector" means an employee or agent of the County who (i) holds a certificate of competence from the Board in the area of project inspection or (ii) is enrolled in the Board's training program for project inspection and successfully completes such program within one year after enrollment.
- E. "Certified Plan Reviewer" means an employee or agent of the County who (i) holds a certificate of competence from the Board in the area of plan review or (ii) is enrolled in the Board's training program for plan review and successfully completes such program within one year after enrollment or (iii) is licensed as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Article 1 (Section 54.1-400 et seq.) of Chapter 4 of Title 54.1.

F. "Certified Program Administrator" means an employee or agent of the County who (i) holds a certificate of competence from the Board in the area of program administration or (ii) is enrolled in the Board's training program for program administration and successfully completes such program within one year after enrollment.

G. "County" means the County of Patrick.

H. "Clearing" means any activity which removes the vegetative ground cover including, but not limited to, root mat removal or top soil removal.

I. "Department" means the Department of Conservation and Recreation.

J. "Development" means a tract of land developed or to be developed as a single unit under single ownership or unified control which is to be used for any business or industrial purpose or is to contain three or more residential dwelling units.

K. "Director" means the Director of the Department.

L. "District" or "Soil and Water Conservation District" refers to the Patrick County Soil and Water Conservation District.

M. "Erosion and Sediment Control Plan" or "Plan" means a document containing material for conservation of soil and water resources of a unit or group of units of land. It may include appropriate maps, appropriate soil and water plan inventory, management information and decisions with necessary interpretations, for conservation treatment. The plan shall contain all material conservation decisions to assure that the entire unit or units of land be treated to achieve the conservation objectives.

N. "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.

O. "Land Disturbing Activity" shall mean any land change which may result in soil erosion from water or wind and the movement of sediments into state or county waters, or onto lands in the Commonwealth and County of Patrick, including, but not limited to, clearing, grading, excavating, transporting, and filling of land, except that the term shall not include:

1. Such minor land disturbing activities 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 surfaces road, street or sidewalk provided such land disturbing activity is confined to an area of the land, 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 of deep mining;
6. Exploration or drilling for oil and gas including the well site, feeder lines, roads and off-site disposal areas;
7. Tilling, planting or harvesting of agricultural, horticultural or forest crops, or livestock feedlot operations including engineering operations, as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with Section 10.1-604 et seq. of the Dam Safety Act, 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 the harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (Section 10.1-1100 et seq.) of the Code of Virginia, 1950, as amended, or is converted to bona fide agricultural or improved pasture use as described in Subsection B of Section 10.1-1163;
8. Repair or rebuilding of the tracks, right of way, bridges, communication facilities and other related structures and facilities of a railroad company;
9. Disturbed land areas of less than 10,000 square feet in size;
10. Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;
11. Emergency work to protect life, limb or property, and emergency repairs, provided that if the land disturbing activity would have required an approved erosion and sediment control plan if the activity were not an emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of the local plan approving authority.

P. "Land Disturbing Permit" means a permit issued by the County of Patrick for the clearing, filling, excavating, grading or transporting of land or for any combination thereof or for any purpose set forth herein.

Q. "Local erosion and sediment control program" means an outline of the various methods employed by the County of Patrick 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.

R. "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.

S. "Permittee" means the person to whom the permit authorizing land-disturbing activities is issued to or the person who certifies that the approved erosion and sediment control plan will be followed.

T. "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.

U." Plan approving authority" means the Building Inspector responsible for determining the adequacy of a plan submitted for land disturbing activities on a unit or units of land and for approving plans.

V. "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.

W. "Single Family Residence" means a noncommercial dwelling that is occupied exclusively by one family.

X. "State Erosion and Sediment Control Program" means the program administered by the Virginia Soil and Water Conservation Board pursuant to the State Code including regulations designed to minimize erosion and sedimentation.

Y. "State Waters" means all waters on the surface and under the ground wholly or partially within or bordering the Commonwealth or within its jurisdictions.

Z. "Town" means the incorporated Town of Stuart, Virginia.

### ARTICLE 3 PLAN SUBMISSION AND APPROVAL

1. Except as provided herein, no person may engage in any land disturbing activity after the adoption of the conservation standards by the County of Patrick until he has submitted to the Building Inspector an erosion and sediment control plan for such land disturbing activity or an agreement in lieu of a plan for a single family residence and such plan has been approved by the plan approving authority. However, any plan approving authority may waive the certificate of competence requirement for an agreement in lieu of a plan for construction of a single family residence. If a violation occurs during the land-disturbing activity, then the person responsible for carrying out the agreement in lieu of a plan shall correct the violation and provide the name of an individual

holding a certificate of competence, as provided by Section 10.1-561. Failure to provide the name of an individual holding a certificate of competence shall be in violation of this article.

2. As used herein, the plan approving authority shall be the "certified employee or agent of Patrick County".
3. The standards contained within the "Virginia Erosion and Sediment Control Regulations" and the Virginia Erosion and Sediment Control Handbook 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.
4. The plan approving authority shall, within forty five (45) days, approve any such plan, if it is determined that the plan meets the requirements of the local control program, and if the person responsible for carrying out the plan certifies that he or she will properly perform the erosion and sediment control measures included in the plan and will conform to the provisions of this ordinance. In addition, as a prerequisite to engaging in land disturbing activities shown on an erosion and sediment control plan, the person responsible for carrying out the plan shall provide the name of a Responsible Land Disturber, who will be in charge of and responsible for carrying out the land disturbing activity, in accordance with the approved plan.
5. When a plan is determined to be inadequate, written notice of disapproval stating the specific reasons for disapproval shall be communicated to the applicant within forty-five (45) days. The notice shall specify such modifications, terms, and conditions that will permit approval of the plan. If no action is taken by the plan approving authority within the time specified above, the plan shall be deemed approved and the person may proceed with the proposed activity.

6. Where land disturbing activities involve lands under the jurisdiction of more than one local control program, at the option of the applicant an erosion and sediment control plan may be submitted to the Virginia Soil and Water Conservation Board for review and approval rather than for each jurisdiction concerned; provided, however, that copies of the application shall be delivered to the Patrick County plan approving authority for review and comment.
7. When land disturbing activity will be required by a contractor performing construction work on property in the County of Patrick, the preparation, submission and approval of an erosion and sediment control plan shall be the responsibility of the owner of the land.

#### ARTICLE 4 CONSERVATION STANDARDS

The County of Patrick hereby adopts and incorporates by reference the conservation standards as set forth in the Virginia Erosion and Sediment Control Regulations and the Virginia Erosion and Sediment Control Handbook, each as amended. A copy of these regulations is available for inspection at the Office of the County Administrator.

#### ARTICLE 5 CHANGE IN APPROVED PLANS

An approved plan may be changed by the authority which has approved the plan in the following cases:

1. Where inspection has revealed that the plan is inadequate to satisfy applicable regulations; 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 plan approving authority and the person responsible for carrying out the plan.

#### ARTICLE 6 PERMIT ISSUANCE

1. Each person who is required by the local erosion and sediment control ordinance to prepare and submit an erosion and sediment control plan for a proposed land disturbing activity must also obtain a land disturbing permit from the building inspector before the proposed activity is commenced.
2. The building inspector's department will not issue a land disturbing permit unless the applicant has:

- (a) Gained approval of his submitted erosion and sediment control plan; and
- (b) Paid in full all required plan review and inspection fees; and
- (c) Certified on his permit application that he will properly perform the control measures included in the plan and will abide by the requirements of the erosion and sediment control ordinance; and
- (d) Submitted any performance guarantee which may be required; and
- (e) Certified on his permit application that he will guarantee the right of entry on to the property under permit to appropriate persons for the purpose of inspecting and monitoring the plan.

3. Agencies authorized under any other law to issue grading, building or other permits for activities involving land disturbing activities may not issue such permit unless the applicant provides proof that he has obtained approval of an erosion and sediment control plan related to the application, and certifies that the plan will be followed.

#### ARTICLE 7 FEES

The fee for each inspection is \$50.00 for the first acre, and \$10.00 for each additional acre. At the time the applicant submits his erosion and sediment control plan and permit application for approval, he must also submit a plan review and inspection fee (noted above) in an amount commensurate with the services rendered by the plan approving authority and others connected with the plan approval process, taking into consideration the time, skill, and expense involved, or \$1,000.00, whichever is less.

#### ARTICLE 8 PERFORMANCE GUARANTEES

The plan approving authority, prior to issuance of any permit, shall require from any applicant a reasonable performance bond, cash, escrow, letter of credit, any combination thereof, or such other legal arrangement acceptable to the authority to ensure that measures could be taken by the County at the applicant's expense should he fail, after proper notice, within the time specified, to initiate or maintain appropriate conservation action which may be required of him by such approved plan as a result of his land disturbing activity. Within sixty (60) days of the adequate stabilization of the land disturbing activity, 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 of law relating to the issuance of such permits and are not intended to otherwise affect the requirements for such permits.

If the applicant fails to provide adequate stabilization in accordance with the approved plan, the County may use all or part of the security or performance guarantee to perform the required measures. If the cost of such performance by the County exceeds the amount of the security or performance guarantee, the applicant shall be liable to the County for the difference in cost.

#### ARTICLE 9 INSPECTION AND ENFORCEMENT

1. The certified inspector shall implement a systematic program for on site inspection to ensure that the erosion and sediment control measures on the approved plans are actually carried out.
2. The certified inspector shall be responsible for developing a plan of inspection which shall contain a record of each inspection, date of inspection, date land disturbing activities commenced, and comments concerning compliance and non-compliance.
3. The certified inspector shall make periodic inspections to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sediment. The owner, occupier or operator shall be given notice of the inspection and an opportunity to accompany the inspector.
4. A report shall be made of each inspection. If there is a case of non-compliance, the report shall contain statements of the conservation measures needed for compliance and a recommended time in which such measures should be commenced and/or completed.
5. Upon determination that a violation exists, the certified inspector shall prepare a notice to comply as follows:
  - a. Where performance guarantee is involved: The notice to comply shall contain a detailed description of the conservation measures necessary for compliance. If no action is taken within 48 hours of delivery of the notice to comply, the certified inspector shall prepare a letter of intent to utilize the performance bond, cash escrow or other legal arrangements to perform the conservation measures to correct the deficiency. This letter of intent will be cleared with the County Attorney and forwarded by registered or certified mail to the person responsible for carrying out the plan. If no action is taken within the time specified in the letter, the certified inspector shall request the Board of Supervisors to utilize the performance guarantee which is in effect and request a local contractor to undertake the needed erosion control measures on behalf of the County.

b. Where no performance guarantee is involved. The notice to comply shall contain a detailed description of the conservation measures necessary for compliance and the time within which such conservation measures shall be completed. Such notice to comply shall be served by registered or certified mail to the permittee or person responsible for carrying out the plan. If the conservation measures are not completed within the time specified, the certified inspector shall notify in writing the County Board of Supervisors and the County Attorney of the circumstances and the County Attorney shall recommend whether or not legal action should be taken against the violator.

6. The certified program administrator shall notify all permit issuing authorities when a notice to comply has been issued to withhold all future permits to the violator until the violation is corrected, and, upon failure to comply within the notice to comply, the permit for the project in violation may be revoked.
7. The certified plan reviewer shall be responsible for handling complaints concerning absent or ineffective erosion control measures.
8. When, upon investigation, it is determined that ineffective erosion control measures are being followed, but such measures are in accordance with approved plans, the certified inspector shall meet with the person responsible for carrying out the plan and corrective measures shall be discussed. The Board may change the approved plan without the agreement or consent of the developer if the plan is inadequate.

#### ARTICLE 10 PENALTIES

A violation of this Ordinance shall be deemed a Class 1 misdemeanor. In addition, the Program Administrator shall have the authority to pursue at its option on any or all of those remedies, legal and equitable, and assess any or all penalties available at common law and sections 10.1-562(J), 10.1-566, 10.1-569 and 10.1-569.1 of the Code of Virginia, 1950, as amended, which provisions are incorporated herein by reference, including all subsequent amendments.

#### ARTICLE 11 APPEALS

Final decisions under this Ordinance may be appealed pursuant to the provisions of Section 10.1-568 of the Code, as amended, and which provisions are incorporated herein by reference.

#### ARTICLE 12 SEVERABILITY

Should any provisions of this Ordinance be held to be unconstitutional or invalid, such declaration shall not effect or impair the remainder of this Ordinance.

ARTICLE 13  
INCORPORATED TOWNS

This Ordinance shall be enforceable in the Town of Stuart unless and until Stuart passes its own Soil Erosion and Sediment Ordinance.

ARTICLE 14  
REMEDIES

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

ARTICLE 15  
EFFECTIVE DATE

This Ordinance shall be in force and effect as of the 9th day of July, 2003, at which time all prior Ordinances dealing with this subject matter shall be repealed.

VOTING AYE: Cockerham, Smith, Harris, Martin and Young

VOTING NAY: None

On motion by Crystal P. Harris, seconded by H. Danny Foley, Sr. and carried, the Board does hereby adopt the following:

**AN ORDINANCE TO AMEND AND RE-ENACT THE ORDINANCE ADOPTED BY THE BOARD OF SUPERVISORS OF PATRICK COUNTY, VIRGINIA, EFFECTIVE SEPTEMBER 1, 1973, AND AMENDED MAY 13, 1991, AMENDED JUNE 9, 1997, AMENDED MAY 14, 2003, AND AMENDED MARCH 27, 2006 ENTITLED "EROSION AND SEDIMENT CONTROL ORDINANCE OF PATRICK COUNTY, VIRGINIA".**

**BE IT ORDAINED by the Board of Supervisors of Patrick County, Virginia, that certain specific Articles of the aforesaid Ordinance be amended as follows:**

**ARTICLE 2**

**DEFINITIONS**

**U. "Plan approving authority" means the erosion and sediment control plan reviewer responsible for determining the adequacy of a plan submitted for land disturbing activities on a unit or units of land and for approving plans.**

**ARTICLE 3**

**PLAN SUBMISSION AND APPROVAL**

**1. Except as provided herein, no person may engage in any land disturbing activity after the adoption of the conservation standards by the County of Patrick until he has submitted to the County's certified program administrator or his designated agent, an erosion and sediment control plan for such land disturbing activity or an agreement in lieu of a plan for a single family residence and such plan has been approved by the plan approving authority. However, any plan approving authority may waive the certificate of competence requirement for an agreement in lieu of a plan for construction of a single-family residence. If a violation occurs during the land disturbing activity, then the person responsible for carrying out the agreement in lieu of a plan shall correct the violation and provide the name of an individual holding a certificate of competence, as provided by Section 10.1-561. Failure to provide the name of an individual holding a certificate of competence shall be in violation of this article.**

**ARTICLE 6**

**PERMIT ISSUANCE**

**1. Each person who is required by the local erosion and sediment control ordinance to prepare and submit an erosion and sediment control plan for a proposed land disturbing activity must also obtain a land disturbing permit from the County before the proposed activity is commenced.**

**2. The County will not issue a land disturbing permit unless the applicant has:**

**ARTICLE 8**

**PERFORMANCE GUARANTEES**

**The plan approving authority, prior to issuance of any permit, may require from any applicant a reasonable performance bond, cash, escrow, letter of credit, and combination thereof, or such other legal arrangement acceptable to the authority to ensure that measures could be taken by the County at the applicant's expense should he fail, after proper notice, within the time specified, to initiate or maintain appropriate conservation action which may be required of him by such approved plan as a result of his land disturbing activity. Within sixty (60) days of the adequate stabilization of the land disturbing activity, 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 of law relating to the issuance of such permits and are not intended to otherwise affect the requirements for such permits.**

**If the applicant fails to provide adequate stabilization in accordance with the approved plan, the County may use all or part of the security or performance guarantee to perform the required measures. If the cost of such performance by the County exceeds the amount of the security or performance guarantee, the applicant shall be liable to the County for the difference in cost.**

Aye: Martin, Young, Foley, Harris, and Large  
Nay: None