

ORDINANCE NUMBER 2019-



AN ORDINANCE AMENDING CHAPTER 30, ARTICLE II,  
EROSION AND SEDIMENT CONTROL,  
SECTIONS 30-27 THROUGH 30-33, OF THE CITY CODE  
OF THE CITY OF WAYNESBORO, VIRGINIA

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF  
WAYNESBORO, VIRGINIA THAT:

1. Chapter 30, Article II, Erosion and Sediment Control, Sections 30-27 through 30-34 of the  
City Code of the City of Waynesboro, Virginia are amended and readopted as follows:

**Article II. - Erosion and Sediment Control**

**Sec. 30-27. - Definitions.**

Definitions as used in this article, unless the context requires a different meaning:

*Agreement in lieu of a plan* means a contract between the plan-approving authority and  
the owner that specifies conservation measures that must be implemented in the construction of  
a single-family residence or multi-family residence, resulting in less than 10,000 square feet of  
land disturbance; this contract may be executed by the plan-approving authority in lieu of a  
formal site plan.

*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. The person submitting an erosion and sediment control plan shall be  
the owner or agent of the owner of the land to be disturbed. Agents acting on behalf of the land  
owner shall present the appropriate form signed by the land owner (power of attorney), with the  
submitted erosion and sediment control plan.

*Board* means the State Water Control Board.

*Certified inspector* means an employee or agent of a program authority who:

- (1) Holds a certificate of competence from the board in the area of project  
inspection; or
- (2) Is enrolled in the board's training program for project inspection and  
successfully completes such program within one year after  
enrollment.

*Certified plan reviewer* means an employee or agent of a program authority who:

- (1) Holds a certificate of competence from the board in the area of plan  
review;

- (2) Is enrolled in the board's training program for plan review and successfully completes such program within one year after enrollment; or
- (3) Is licensed as a professional engineer, architect, landscape architect, or land surveyor pursuant to Code of Virginia, § 54.1-400 *et seq.*, or a professional soil scientist as defined in § 54.1-2200.

*Certified program administrator* means an employee or agent of a program authority who:

- (1) Holds a certificate of competence from the Board in the area of program administration; or
- (2) Is enrolled in the Board's training program for program administration and successfully completes such program within one year after enrollment.

*City* means the City of Waynesboro, Virginia.

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

*Department* means the Department of Environmental Quality (“DEQ”).

*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 residential dwelling units.

*District or soil and water conservation district* refers to the Headwaters Soil and Water Conservation District.

*Erosion and sediment control plan or plan* means a document containing material for the conservation of soil and water resources of a unit or group of units of land. It shall include appropriate maps, an 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. The plan also includes a written portion known as a narrative.

*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 construction or where an Agreement in Lieu is appropriate.

*Excavating* means any ditching, dredging, digging, scooping, or other mechanized methods of removing earth materials.

*Filling* means any depositing or stockpiling of earth materials.

*Grading* means any excavating or filling of earth material or any combination thereof, including the land in its excavated or filled conditions.

*Land disturbance or Land-disturbing activity* means any man-made change to the land surface that may result in soil erosion or has the potential to change its run-off characteristics, including the clearing, grading, excavating, transporting, and filling of land, except that the term shall not include:

- (1) Minor land-disturbing activities such as home gardens and individual home landscaping, repairs and maintenance work;
- (2) Individual service connections;
- (3) Installation, maintenance, or repair of any underground public utility lines when such activity occurs on an existing hard-surfaced road, street, or sidewalk, provided such land-disturbing activity is confined to the area of the road, street, or sidewalk which is hard-surfaced;
- (4) Septic tank lines or drainage fields unless included in an overall plan for land-disturbing activity relating to construction of the building to be served by the septic tank system;
- (5) Surface or deep mining;
- (6) Exploration or drilling for oil and gas including the well site, roads, feeder lines, and off-site disposal areas;
- (7) Tilling, planting, or harvesting of agricultural, horticultural, or forest crops, or livestock feedlot operations; including engineering operations and agricultural engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the Dam Safety Act, Article 2, (§ 10.1-604 *et seq.*) of chapter 6 of title 10.1, Code of Virginia, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of chapter 11 (§ 10.1-1100 *et seq.*) of title 10.1, Code of Virginia, or is converted to *bona fide* agricultural or improved pasture use as described in Code of Virginia, § 10.1-1163 (B);
- (8) Repair or rebuilding of the tracks, rights-of-way, bridges, communication facilities and other related structures and facilities of a railroad company;
- (9) Disturbed land areas of less than 10,000 square feet in size, when disturbance is not a part of home building activities;
- (10) Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;
- (11) Shoreline erosion control projects on tidal waters when all of the land disturbing activities are within the regulatory authority of and approved by local wetlands boards, the Marine Resources Commission or the United States Army Corps of Engineers; however, any associated land that is disturbed outside of this exempted area shall remain subject to this article; and
- (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 plan-approving authority.

*Land-disturbing permit* means a permit issued by the city for the clearing, filling, excavating, grading, transporting of land, or for any combination thereof or for any purpose set forth herein.

*Local erosion and sediment control program or local control program* means an outline of the various methods employed by the city 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.

*Minimum standard or minimum standards* means any or all of the 19 minimum standards set forth by the State Water Control Board pursuant to 9 VAC 25-840-40, as authorized by Code of Virginia, § 62.1-44.15:52.

*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.

*Permit* means a document issued by the city for the clearing, filling, excavating, grading, transporting of land, or for any combination thereof or for any purpose set forth herein. Permits shall be required for any land disturbing activity as defined in this article.

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

*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.

*Plan-approving authority* means the city engineering division designee responsible for determining the adequacy of a plan submitted for land-disturbing activities on a unit or units of lands and for approving plans.

*Program authority* means the city, which has adopted a soil erosion and sediment control program approved by the Board.

*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:

- (1) Holds a responsible land disturber certificate of competence;
- (2) Holds a current certificate of competence from the board in the areas of combined administration, program administration, inspection, or plan review;
- (3) Holds a current contractor certificate of competence for erosion and sediment control; or
- (4) Is licensed in the state as a professional engineer, architect, landscape architect or land surveyor pursuant to Code of Virginia, § 54.1-400 *et seq.*, or a professional soil scientist as defined in § 54.1-2200. 0

*Single-family residence* means a noncommercial dwelling that is occupied exclusively by one family.

*Soil erosion* means the movement of soil by wind or water into state waters or onto lands in the Commonwealth.

*State erosion and sediment control program* or *state program* means the program administered by the State Water Control Board pursuant to the Code of Virginia, Title 62.1, Chapter 3.1, Article 2.4 (§ 62.1-44.15:51, *et seq.*), including regulations designed to minimize erosion and sedimentation.

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

*Transporting* means any moving of earth materials from one place to another place other than such movement incidental to grading, when such movement results in destroying the vegetative ground cover either by tracking or the buildup of earth materials to the extent that erosion and sedimentation will result from the soil or earth materials over which such transporting occurs.

*Vegetative stabilization* means vegetative ground cover that has been sufficiently established, on all disturbed areas where other permanent ground stabilization methods have not been applied, and which vegetative ground cover has reached maturity and sustainability and protects the soil from raindrop impact erosion.

**Sec. 30-28. - Local erosion and sediment control program.**

- (a) Pursuant to § 62.1-44.15:54 of the Code of Virginia, the city hereby adopts the regulations, references, guidelines, standards and specifications promulgated by the Board and the most current city handbook or publication for the effective control of soil erosion and sediment deposition to prevent the unreasonable degradation of properties, stream channels, waters and other natural resources. Said regulations, references, guidelines, standards and specifications for erosion and sediment control are included in but not limited to the "Virginia Erosion and Sediment Control Regulations" and the Virginia Erosion and Sediment Control Handbook, as amended.
- (b) Before adopting or revising regulations, the city shall give due notice and conduct a public hearing on the proposed or revised regulations, except that a public hearing shall not be required when the city is amending its program to conform to revisions in the state program. However, a public hearing shall be held if the city proposes or revises regulations that are more stringent than the state program.
- (c) Pursuant to § 62.1-44.15-53 of the Code of Virginia, an erosion control plan shall not be approved until it is reviewed by a certified plan reviewer. Inspections of land-disturbing activities shall be conducted by a certified inspector. The erosion control program of the city shall contain a certified program administrator, a certified plan reviewer, and a certified inspector, who may be the same person.
- (d) The city hereby designates the engineering division of the city as the plan-approving authority.
- (e) The program and regulations provided for in this article shall be made available for public inspection at the office of the department of public works and the city manager's office.

**Sec. 30-29. - Submission and approval of plans; contents of plans.**

- (a) Except as provided herein, no person may engage in any land-disturbing activity until he or she has submitted to the engineering division of the city an erosion and sediment control plan for the land-disturbing activity and such plan has been approved by the plan-approving authority. Where land-disturbing activities involve lands under the jurisdiction of more than one local control program, an erosion and sediment control plan, at the option of the applicant, may be submitted to the Board for review and approval rather than to each jurisdiction concerned. Where the land-disturbing activity results from the construction of a single-family residence or multi-family residence with less than 10,000 square feet of land disturbance; an agreement in lieu of a plan may be substituted for an erosion and sediment control plan if executed by the plan-approving authority.
- (b) The standards contained within the "Virginia Erosion and Sediment Control Regulations," the Virginia Erosion and Sediment Control Handbook and any local handbook or publication promulgated by the engineering division are to be used by the applicant when making a submittal under the provisions of this article 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. Any variances from these standards must be requested in writing, stating the circumstances requiring the variance. Financial issues shall not be considered as a cause for issuance of a variance.

- (c) All erosion and sediment control plans shall contain project specific specifications for temporary seeding and permanent seeding, including seed mix and application rates. Additionally, included on all plans shall be a project specific plan for watering vegetative measures, including party responsible for watering, schedule for watering, application rate, and application duration. The party responsible for watering shall maintain this responsibility until the certified inspector has determined that the vegetative stabilization is satisfactorily established.
- (d) The plan-approving authority shall review conservation plans submitted to it and grant written approval within 60 days of the receipt of the plan if it determines that the plan meets the requirements of the Board's regulations and this article 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. In addition, as a prerequisite to engaging in the land- disturbing activities shown on the approved plan, the person responsible for carrying out the plan shall provide the name of an individual holding a certificate of competence, to the program authority, as provided by § 62.1-44.15:53, who will be in charge of and responsible for carrying out the land-disturbing activity. Failure to provide the name of an individual holding a certificate of competence prior to engaging in land-disturbing activities may result in revocation of the approval of the plan and the person responsible for carrying out the plan shall be subject to the penalties provided in this article. However, the plan approving authority may waive the certificate of competence requirement for an agreement in lieu of a plan. 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 § 62.1-44.15:53. Failure to provide the name of an individual holding a certificate of competence shall be a violation of this article.
- (e) When the plan is determined to be inadequate, the plan-approving authority shall specify in writing, giving specific reasons for its disapproval, such modifications, terms and conditions that will permit approval of the plan. The plan-approving authority shall act on any plan that has previously been disapproved within 45 days after the plan has been revised, resubmitted for approval, and deemed adequate. If no action is taken after 60 days, the plan shall be deemed approved, and the person authorized to proceed with the proposed activity.
- (f) An approved plan may be changed by the plan-approving authority per § 62.1-44.15:55 (C):
  - (1) The inspection reveals that the plan is inadequate to satisfy applicable regulations, or
  - (2) The person responsible for carrying out the 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 article, are agreed to by the plan-approving authority and the person responsible for carrying out the plans.
- (g) In order to prevent further erosion, the city may require approval of a plan for any land identified in the local program as an erosion impact area.
- (h) When land-disturbing activity will be required of a contractor performing construction work pursuant to a construction contract, the preparation, submission, and approval of an erosion and sediment control plan or an agreement in lieu of a plan shall be the responsibility of the owner.

- (i) Electric, natural gas and telephone utility companies, interstate and intrastate natural gas pipeline companies and railroad companies shall file general erosion and sediment control specifications annually with the board for review and written comments. The specifications shall apply to:
  - (1) Construction, installation or maintenance of electric, natural gas, fiber optic, cable, telephone, and other utility lines, and pipelines; and;
  - (2) Construction of the tracks, rights-of-way, bridges, communication facilities and other related structures and facilities of the railroad company.

Individual approval of separate projects within subdivisions (1) and (2) of this subsection is not necessary when board approved specifications are followed, however, projects included in subdivisions (1) and (2) must comply with board approved specifications. Projects not included in subdivisions 1 and 2 of this subsection shall comply with the requirements of the city erosion and sediment control program.
- (j) State agency projects are exempt from the provisions of this article except as provided for in the Code of Virginia, § 62.1-44.15:56, the Department of Environmental Quality shall be the plan approval authority for all state agency projects.
- (k) The Board shall be the plan approval authority for multi-jurisdictional projects per the Code of Virginia, § 62.1-44.15:55. A VESCP may enter into an agreement with an adjacent VESCP regarding the administration of multi-jurisdictional projects whereby the jurisdiction that contains the greater portion of the project shall be responsible for all or part of the administrative procedures as allowed in § 62.1-44.15:55 (A).
- (l) A responsible land disturber (RLD) shall be designated prior to land disturbing activity, and shall be in charge of and responsible for carrying out the land-disturbing activity in accordance with the approved plan, per the Code of Virginia, § 62.1-44.15:55 (B).
- (m) Variances must be requested and approved in writing per 9 VAC-25-840-50.

**Sec. 30-30. - Permits; fees; security for performance.**

- (a) Agencies authorized under any other law to issue grading, building, or other permits for activities involving land disturbing activities may not issue any such permit unless the applicant submits with his application an approved erosion and sediment control plan and certification that the plan will be followed.
- (b) No person may engage in any land-disturbing activity until he has acquired a land-disturbing permit, unless the proposed land-disturbing activity is specifically exempt from the provisions of this article, and has paid the fees and posted the required bond.
- (c) An administrative fee per the current engineering division fee schedule shall be paid to the city at the time of submission of the erosion and sediment control plan. City Code Sec. 30-54.
- (d) No permit, allowing activity that would cause land disturbance, shall be issued until the applicant submits with his application an approved erosion and sediment control plan and certification that the plan will be followed.
- (e) All applicants for permits shall provide to the city a performance bond, cash escrow, or an irrevocable letter of credit acceptable to the certified program administrator, to ensure that measures could be taken by the city at the applicant's expense should the applicant fail, after proper notice, within the time specified to initiate or maintain appropriate conservation measures required of him as a result of his land-disturbing activity. The amount of the bond or other security for performance shall not exceed



the total of the estimated cost to initiate and maintain appropriate conservation action based on unit price for new public or private sector construction in the locality and a reasonable allowance for estimated administrative costs and inflation which shall not exceed 25 percent of the cost of the conservation action. Where the land-disturbing activity results from the construction of a single-family residence with less than 10,000 square feet of total land disturbance, a performance bond of \$2,500 must be provided. Should it be necessary for the city to take such conservation action, the city may collect from the applicant any costs in excess of the amount of the surety held. Within 60 days of adequate stabilization, as determined by certified inspector in any project or section of a project, such bond, cash escrow or letter of credit, or the unexpended or un-obligated portion thereof shall be either refunded to the applicant or terminated.

- (f) If the owner of land, to which a land-disturbance permit or agreement in lieu of a plan has been obtained, transfers ownership of same land, the new owner of the land must apply to transfer the applicable land-disturbance permit or agreement in lieu of a plan to his/her name, within five working days of the transfer of ownership of land. It is incumbent upon the permit holder to notify the new property owner of this requirement.
- (g) These requirements are in addition to all other provisions relating to the issuance of permits and are not intended to otherwise affect the requirements for such permits.

**Sec. 30-31. - Monitoring, reports, and inspections.**

- (a) The city may require the person responsible for carrying out the plan to monitor the land-disturbing activity. The person responsible for carrying out the plan will maintain records of these inspections and maintenance, to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation.
- (b) The certified inspector shall periodically inspect the land-disturbing activity in accordance with 9 VAC 25-840-60 of the state erosion and sediment control regulations to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation. These inspections shall be at a minimum bi-weekly and within 48 hours after run-off producing rain events. The owner, permittee, or person responsible for carrying out the plan shall be given notice of the inspection. If the certified inspector determines that there is a failure to comply with the plan, notice shall be served upon the permittee or person responsible for carrying out the plan by registered or certified mail to the address specified in the permit application or in the plan certification, or by delivery at the site of the land-disturbing activities to the agent or employee supervising such activities. The notice shall specify the measures needed to comply with the plan and shall specify the time within which such measures shall be completed. Upon failure to comply within the specified time, the permit may be revoked and the permittee or person responsible for carrying out the plan shall be deemed to be in violation of this article and shall be subject to the penalties provided by this article.
- (c) Upon determination of a violation of this article, the certified inspector may, in conjunction with or subsequent to a notice to comply as specified in this article, issue an order requiring that all or part of the land-disturbing activities permitted on the site be stopped until the specified corrective measures have been taken. If land-disturbing activities have commenced without an approved plan, the certified inspector shall

issue an order requiring that all of the land-disturbing activities be stopped until an approved plan or any required permits are obtained. Where the alleged noncompliance is causing or is in imminent danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the commonwealth, or where the land-disturbing activities have commenced without an approved plan or any required permits, such an order may be issued without regard to whether the permittee has been issued a notice to comply as specified in this article. Otherwise, such an order may be issued only after the permittee has failed to comply with such a notice to comply. The order shall be served in the same manner as a notice to comply, and shall remain in effect for a period of seven days from the date of service pending application by the enforcing authority or permit holder for appropriate relief to the circuit court of city. If the alleged violator has not obtained an approved plan or any required permits within seven days from the date of service of the order, the certified program inspector may issue an order to the owner requiring that all construction and other work on the site, other than corrective measures, be stopped until an approved plan and any required permits have been obtained. Such an order shall be served upon the owner by registered or certified mail to the address specified in the permit application or the land records of the city. The owner may appeal the issuance of an order to the circuit court of the city. Any person violating or failing, neglecting or refusing to obey an order issued by certified inspector may be compelled in a proceeding instituted in the circuit court of the city to obey same and to comply therewith by injunction, mandamus or other appropriate remedy. Upon completion and approval of corrective action or obtaining an approved plan or any required permits, the order shall immediately be lifted. Nothing in this section shall prevent the certified inspector from taking any other action authorized by this article per the Code of Virginia, §§ 62.1-44.15:58 and 62.1-44.15:63.

- (d) The certified inspector shall make final determination whether vegetative stabilization has been established on a permitted site. Permitted sites will not be released until all disturbed areas have been stabilized through use of man-made materials or vegetative stabilization.

**Sec. 30-32. - Penalties, injunctions, and other legal actions.**

- (a) A civil penalty in the amount listed on the schedule below shall be assessed against the owner of the property where the violation has occurred, for each violation of the respective offenses:
  - 1. Commencement of land disturbing activity without an approved plan as provided in section 30-29 (a) shall be \$1,000.00 per violation.
  - 2. Vegetative measures: Failure to comply with the Minimum Standards, 9 VAC 25-840-40, items 1, 2 and/or 3 shall be \$100.00 per violation.
  - 3. Structural measures: Failure to comply with the Minimum Standards, 9 VAC 25-840-40, items 2, 4, 9, 10, 11, 15, and/or 17 shall be \$100.00 per violation.
  - 4. Watercourse measures: Failure to comply with the Minimum Standards, 9 VAC 25-840-40, items 12, 13, and/or 15 shall be \$100.00 per violation.
  - 5. Underground utility measures: Failure to comply with the Minimum Standards, 9 VAC 25-840-40, item 16 (a) and/or (c) shall be \$100.00 per violation.

6. Maintenance measures: Failure to comply with the Minimum Standards, 9 VAC 25-840-40, item 18 shall be \$100.00 per violation.
  7. Failure to obey a stop work order shall be \$100.00.
  8. Failure to stop work when permit revoked \$100.00.
- (b) The permittee shall be notified of each violation and associated assessment in writing, via certified mail. This notification shall be sent no later than the first working day after the violation.
  - (c) Each day during which the violation is found to have existed shall constitute a separate offense and separate penalty. However, in no event shall a series of specified violations arising from the same operative set of facts result in civil penalties which exceed a total of \$10,000.00, except that a series of violations arising from the commencement of land-disturbing activities without an approved plan for any site shall not result in civil penalties which exceed a total of \$10,000.00.
  - (d) The certified program administrator, or the owner of property which has sustained damage or which is in imminent danger of being damaged, may apply to the circuit court of the city to enjoin a violation or a threatened violation of this article, without the necessity of showing that an adequate remedy at law does not exist. However, an owner of property shall not apply for injunctive relief unless:
    - (1) He has notified in writing the person who has violated the local program, and the program authority, that a violation of the local program has caused, or creates a probability of causing, damage to his property, and
    - (2) Neither the person who has violated the local program nor the program authority has taken corrective action within 15 days to eliminate the conditions which have caused, or create the probability of causing, damage to his property.
  - (e) In addition, any person who violates any provision of this article may be liable to the city in a civil action for damages.
  - (f) Without limiting the remedies which may be obtained in this section, any person violating or failing, neglecting, or refusing to obey any injunction, mandamus, or other remedy obtained pursuant to this section shall, upon a finding of an appropriate court, be assessed a civil penalty for each violation. Such assessment shall be in accordance with the civil penalties in subsection (b). A civil action for such violation or failure may be brought by the city. Any civil penalties assessed by a court shall be paid into the treasury of the city, except that where the violator is the locality itself, or its agent, the court shall direct the penalty to be paid into the state treasury.
  - (g) With the consent of any person who has violated or failed, neglected, or refused to obey any regulation or condition of a permit or any provision of this article, the city may provide an order for the payment of civil charges for violations in specific sums, not to exceed the limit specified in subsection (e) of this section. Such civil charges shall be instead of any appropriate civil penalty which could be imposed under subsection (b) or (e).
  - (h) The city attorney shall, upon request of the city or the permit issuing authority, take legal action to enforce the provisions of this article.
  - (i) 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.

- (j) Occupation permits and/or inspections by the city's building department shall not be granted until corrections to all erosion and sediment control practices have been made in accordance with the approved plans, notice of violation, stop work order, or permit requirements, and accepted by the city.
- (k) Any violator may be required to restore land to its undisturbed condition or in accordance with a notice of violation, stop work order, or permit requirements. In the event that restoration is not undertaken within a reasonable time after notice, the city may take necessary corrective action, the cost of which shall be covered by the performance bond, or become a lien upon the property until paid, or be billed directly to the land owner.

**Sec. 30-33. - Appeals and judicial review.**

- (a) Any final decision of the city shall be subject to judicial review, provided that an appeal is filed within 30 days from the date of any written decision adversely affecting the rights, duties, or privileges of the person engaging in or proposing to engage in land-disturbing activities. Code of Virginia, § 62.1-44.15:62.
- (b) Final decisions of the Board shall be subject to judicial review in accordance with the provisions of the Administrative Process Act.

2. The City Manager is hereby authorized to take all actions reasonably necessary, including executing such documents as are reasonably necessary, to effectuate and carry out the purposes of this Ordinance.

3. This Ordinance shall take effect immediately upon adoption by the City Council.

Introduced:

Adopted:

Effective:

[SEAL]

ATTEST:

\_\_\_\_\_  
 Clerk, City Council  
 City of Waynesboro, Virginia

\_\_\_\_\_  
 Mayor, City Council  
 City of Waynesboro, Virginia