

Boyce Town Code

TITLE XV: ENVIRONMENTAL AND BUILDING REGULATIONS

Chapter

150. EROSION AND SEDIMENT CONTROL

151. BUILDING REGULATIONS

CHAPTER 150: EROSION AND SEDIMENT CONTROL

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§ 150.01 DEFINITIONS.

(A) For the purpose of this chapter, the definitions contained in Code of Virginia § 10.1-560 shall apply unless the context clearly indicates or requires a different

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meaning.

(B) The following definition shall also apply unless the context clearly indicates or requires a different meaning:

PLAN-APPROVING AUTHORITY. The Zoning Administrator is designated as responsible for determining the adequacy of a conservation plan submitted for land-disturbing activities on a unit or units of land and for approving plans, or other local or state agency designated by the locality.

§ 150.02 PLAN AND PERMIT REQUIRED.

Except as provided for in this chapter, no person may engage in any land-disturbing activity until such person has submitted to the locality an erosion and sediment control plan, which has been reviewed and approved by the locality or its designee, and has obtained a land disturbance permit for such activity.

Penalty, see § 150.99

§ 150.03 NONCONTROLLED ACTIVITIES.

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

(A) Such minor land-disturbing activities as home gardens and individual home landscaping, repairs and maintenance work;

(B) Individual service connections;

(C) Installation, maintenance or repair of any underground public utility lines when such activity occurs on an existing hard-surfaced road, street or sidewalk, provided that the land-disturbing activity is confined to the area of the road, street or sidewalk which is hard-surfaced;

(D) 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;

(E) Surface or deep mining;

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

(G) Repair or rebuilding of the tracks, rights-of-way, bridges, communication facilities and other related structures and facilities of a railroad company;

(H) Disturbed areas for commercial and noncommercial uses of less than 10,000 square feet in size.

(I) Preparation for single-family residences separately built;

(J) Installation of fence and signposts or telephone and electric poles and

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other kinds of posts or poles;

(K) 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 or 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; or

(L) Tilling, planting or harvesting of agricultural, horticultural or forest crops or livestock feedlot operations, 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 Dam Safety Act, being Code of Virginia § 10.1-604 et seq., ditches, strip cropping, lister furrowing, contour cultivation, contour furrowing, land drainage and land irrigation.

§ 150.04 REGULATED LAND-DISTURBING ACTIVITIES.

(A) Except as provided in divisions (B) and (C) of this section, no person shall engage in any land-disturbing activity after the adoption of this chapter until he has submitted to the locality or its designee an erosion and sediment plan for such land-disturbing activity, and until that plan has been reviewed and approved by the locality or its designee.

(B) Any state agency that undertakes a project involving a land-disturbing activity shall file specifications or a conservation plan with the Virginia Soil and Water Conservation Board for a review.

(C) Any person whose land-disturbing activities involve lands which extend into the jurisdiction of another local erosion and sediment control program is not required to submit a local plan, provided that such person has a plan approved by the Virginia Soil and Water Conservation Board.

(D) Whenever a land-disturbing activity is proposed to be conducted by a contractor performing construction work pursuant to a construction contract, the preparation, submission and approval of the required erosion and sediment control plan shall be the responsibility of the owner of the land.

(E) In order to prevent further erosion, the plan-approving authority may require approval of an erosion and sediment control plan for any land identified as an erosion impact area.

Penalty, see § 150.99

§ 150.05 PLAN; NUMBER OF COPIES TO BE SUBMITTED.

Five copies of the erosion and sediment control plan shall be submitted to the plan-approving authority.

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§ 150.06 INSPECTIONS AND REPORTS.

With respect to erosion and sediment control where a land disturbance permit is issued, either the permit-issuing authority or plan-approving authority shall periodically inspect the land-disturbing activity and the plan-approving authority may require reports from the person responsible for carrying out the plan to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sediment resulting from the land-disturbing activities. The owner, occupier or operator shall be given an opportunity to accompany the inspectors.

§ 150.07 PLAN; FORMAT AND CONTENTS.

(A) The erosion and sedimentation control plan shall follow the format detailed in the current edition of the Virginia Erosion and Sediment Control Regulations (VR625-02-00), which is hereby adopted in its entirety.

(B) Approved standards and specifications for control techniques to be utilized in preparing this plan are set forth in the Erosion and Sediment Control Regulations and the current edition of the Virginia Erosion and Sediment Control Handbook.

(C) The standards and specifications referred to in divisions (A) and (B) of this section are hereby included and made a part of the locality's erosion and sediment control program.

§ 150.08 APPROVAL OF PLANS.

(A) The plan-approving authority shall act on all plans submitted within 45 days from receipt thereof by either approving the plan in writing or by disapproving the plan in writing and giving the specific reasons for its disapproval.

(B) When a plan submitted for approval under this section is found upon review by the plan-approving authority to be inadequate, the authority shall specify such modifications, terms and conditions as will permit approval of the plan and communicate these requirements to the applicant as herein required.

(C) If no action is taken by the plan-approving authority within the time specified in division (A) of this section, the plan shall be deemed approved and the person authorized to proceed with the proposed activity.

§ 150.09 BOND.

(A) Before the issuance of any land disturbance permit, the plan-approving authority may require from any applicant a reasonable performance bond, cash escrow, letter of credit or any combination thereof or such other legal arrangement as is acceptable to the authority to insure that emergency measures could be taken by the locality, at the applicant's expense, should he fail within the time specified to initiate

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appropriate conservation action which may be required of him as a result of this land-disturbing activity. In addition, the applicant will be held responsible for any costs incurred by the locality for corrective measures taken to correct problems resulting from the project which exceed the amount held for such purposes.

(B) Within 60 days of site stabilization, verified by final field inspection, any 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.

(C) Any applicant aggrieved by a decision of the plan-approving authority with respect to the terms or requirements of such a performance bond or surety, if required, may cause that decision to be reviewed by the Town Council, provided that a notice of appeal is filed with the plan-approving authority within ten days after such decision. The appeal shall be considered by the Town Council at its next regular meeting which occurs no less than five days after receipt of the notice of appeal by the permit-issuing authority.

§ 150.10 PERMIT; CONDITIONS FOR ISSUING.

(A) Except as otherwise provided in this chapter, no person shall engage in any land-disturbing activity within the locality until that person has acquired a land disturbance permit.

(B) Issuance of a land disturbance permit is conditioned on an approved erosion and sediment control plan and certification that the plan will be followed which shall be presented at the time of application for such a permit. In addition, the requirements of § 150.09, concerning a performance bond, cash escrow, letter of credit, any combination thereof or such other legal arrangement as is acceptable under the provisions of § 150.09, shall be met and the fees herein levied for land-disturbing activities shall be paid.

(C) A schedule for plan review and inspection fees may be adopted by the Town Council.

Penalty, see § 150.99

Statutory reference:

Adopting schedule of fees; hearing required, see Code of Virginia § 10.1-562

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§ 150.11 AMENDMENTS TO PLANS.

An approved erosion and sediment control plan may be amended by the plan-approving authority if:

(A) On-site inspection indicates that the approved control measures are not effective in meeting the standards set forth in the Erosion and Sediment Control Regulations and the current edition of the Virginia Erosion and Sedimentation Control Handbook; or

(B) Due to 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 chapter, are agreed to by the plan-approving authority and the person responsible for carrying out the plan.

§ 150.12 APPEALS.

(A) Decisions of the plan-approving authority under this chapter shall not be the final decision of the locality, but shall be subject to review by the Town Council. The decision of the Town Council shall be the final decision of the locality.

(B) Final decisions of the Town Council under this chapter shall be subject to review by the Circuit Court of the county, provided that an appeal is filed within 30 days from the date of the final written decision.

§ 150.98 VIOLATIONS; ENFORCEMENT.

(A) If, as a result of a complaint or routine inspection, control measures at the site of a land-disturbing activity for which a permit has been issued are found not to be in compliance with the approved plan or are determined to be otherwise inadequate, the plan-approving authority shall issue a notice to comply. Such notice shall be sent by registered or certified mail to the address specified in the permit application or delivered to the agent or employee supervising such activity. The notice shall state the measures necessary to comply, and specify the time permitted to complete the required measures. If the specified measures are not completed within the allotted time, a stop-work order may be issued, the land disturbance permit revoked and/or a criminal complaint filed.

(B) Where the plan-approving authority determines that there is imminent danger of harmful erosion occurring due to noncompliance with this chapter or repeated noncompliance with an approved erosion and sediment control plan occurs, the plan-approving authority in conjunction with, or subsequent to, a notice to comply, may issue a stop-work order requiring that all or part of the land-disturbing activities permitted on the site be stopped.

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(C) The plan-approving authority, or the owner of property which has sustained damage or which is in imminent danger of being damaged, may apply to the circuit court in any jurisdiction wherein the land lies to enjoin a violation or a threatened violation of this chapter 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 this chapter, and the plan-approving authority, that a violation of this chapter has caused, or creates a probability of causing, damage to his property; and

(2) Neither the person who has violated this chapter nor the plan-approving 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.

(D) The Commonwealth's Attorney shall, upon request of the locality, take legal action to enforce the provisions of this chapter.

(E) Compliance with the provisions of this chapter shall be prima facie evidence in any legal or equitable proceedings 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.

§ 150.99 PENALTY.

(A) In accordance with Code of Virginia § 10.1-569, a violation under this chapter shall be deemed a Class 1 misdemeanor and, upon conviction, shall be subject to a fine not exceeding \$1,000 or 30 days imprisonment for each violation, or both.

(B) Without limiting any other remedies in this section or state law, any person who violates any provision of this chapter may be liable to the locality in a civil action for damages up to \$2,000 for each violation.

(C) With the consent of any person who has violated or failed, neglected or refused to obey any regulation or order under this chapter, the plan-approving authority may issue an order against such person, for the payment of civil charges for violations in specific sums, not to exceed \$2,000. Such civil charges shall be instead of any appropriate civil penalty that could be imposed under division (B) of this section.

Statutory reference:

Authority, see Code of Virginia § 10.1-569

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CHAPTER 151: BUILDING REGULATIONS

Section 151.01 Uniform Statewide Building Code

Section 151.02 Manufactured Housing Prohibited

§ 151.01 UNIFORM STATEWIDE BUILDING CODE.

The locality shall enforce the Uniform Statewide Building Code, promulgated under authority of Code of Virginia § 36-98.

Penalty, see § 10.99

§ 151.02 MANUFACTURED HOUSING PROHIBITED.

(A) *Definition.* For the purpose of this code, the following definition shall apply.

MANUFACTURED HOME. (Also known as MOBILE HOME). A portable dwelling unit, built on a permanent chassis, transportable in one or more sections, and designed to be used as a dwelling, with or without a permanent foundation. "Mobile home" shall include a "manufactured home" as defined in Section 1200.2 of the 1987 edition of the Industrialized Building and Manufactured Home Safety Regulations of the Virginia Uniform Statewide Building Code. A manufactured home (mobile home) is not a modular home. A Modular Home is a dwelling unit, consisting of one or more sections, manufactured off-site and transported to the point of use for installation or erection on a permanent foundation. An "industrialized building" as defined in Section 200.0 of the 1987 edition of the Industrialized Building and Manufactured Home Safety Regulations of the Virginia Uniform Statewide Building Code, when used as a residential unit, is a "modular home." A modular home is not a manufactured home (mobile home).

(B) No manufactured home shall be placed on any lot in the Town.

(C) Whenever any manufactured home is destroyed or damaged in any manner to the extent that the cost of repair or restoration to its condition before the occurrence exceeds fifty percent of the replacement cost at the time destruction, it shall not be restored or replaced, and the remains of the destroyed or damaged manufactured home shall be removed from the lot upon which it is placed. If a manufactured home is destroyed or damaged to the extent that the cost of repair or restoration is fifty percent or less, any such repair, restoration, or replacement shall start within six months and be completed within 12 months of the occurrence.