

RE: Repeal of the Calvert County Ordinances Addressing Erosion and Sediment Control and Adopting of the Calvert County Grading, Erosion and Sediment Control Ordinance

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ORDINANCE

AN ORDINANCE FOR THE PURPOSE OF REPEALING THE CALVERT COUNTY ORDINANCES ADDRESSING EROSION AND SEDIMENT CONTROL AND ADOPTING THE CALVERT COUNTY GRADING, EROSION AND SEDIMENT CONTROL ORDINANCE

Recitals

WHEREAS, Maryland Annotated Code, Environment Article, Title 4, Subtitle 1 authorizes and empowers the Board of County Commissioners of Calvert County, Maryland to adopt a grading ordinance to promote the health, safety and welfare of Calvert County, and to provide for their administration, enforcement and amendment consistent with that Subtitle;

WHEREAS, Maryland Annotated Code, Local Government Article, Section 13-704 and Code of Maryland Regulations, Title 26, Subtitle 17, authorizes and empowers the Board of County Commissioners of Calvert County, Maryland to adopt a sediment and erosion control ordinance to control sedimentation and promote the health, safety and welfare of Calvert County, and to provide for its administration, enforcement and amendment;

WHEREAS, the Board of County Commissioners have, this day, approved such changes as have been made by the Director of Public Works and Transportation and incorporated within Exhibit "A" hereto as directed by the Maryland Department of the Environment;

WHEREAS, on March 15, 2016, for which due public notice was published in a newspaper of general circulation in Calvert County, the Board of County Commissioners of Calvert County, Maryland conducted a public hearing and accepted public comment;

WHEREAS, upon due consideration of the comments of the public and staff; and in furtherance of the public health, safety and welfare, it is in the best interest of the public health, safety and welfare of the citizens of Calvert County, Maryland, to adopt the Ordinance attached hereto as Exhibit A and incorporated herein by reference; and

WHEREAS, all procedural requirements regarding due public notice and subsequent action of the Board of County Commissioners of Calvert County, Maryland have been met.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Calvert County, Maryland that the Calvert County Sedimentation Control Ordinance, Ordinances 42-71; 61-72; 6-72; 12-85; 20-85; and 42-92, as amended; and any regulations or ordinance previously adopted by this Board regarding erosion or sediment control are hereby repealed in their entirety and reenacted with amendments as reflected in the Calvert County Grading, Erosion and Sediment Control Ordinance, Exhibit "A" hereto, incorporated herein by reference.

BE IT FURTHER ORDAINED, by the Board of County Commissioners of Calvert County, Maryland that the Calvert County Grading, Erosion and Sediment Control Ordinance, Exhibit "A" hereto, shall be effective upon the date written below.

Received for Record 3/16, 2016
at 10:41 clock A M. Same day
recorded in Liber KP 49
Folio 138 COUNTY COMMISSIONERS
ORDINANCES AND RESOLUTION.

0000496139

Ordinance No. 07-16

RE: Repeal of the Calvert County
Ordinances Addressing Erosion and
Sediment Control and Adopting of the
Calvert County Grading, Erosion
and Sediment Control Ordinance

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Garry P. Smith
BE IT FURTHER ORDAINED, by the Board of County Commissioners of Calvert County, Maryland that in the event any portion of the Calvert County Grading, Erosion and Sediment Control Ordinance is found to be unconstitutional, illegal, null or void it is the intent of the Board of County Commissioners to sever only the invalid portion or provision, and that the remainder of the Ordinance shall be enforceable and valid.

BE IT FURTHER ORDAINED, by the Board of County Commissioners of Calvert County, Maryland that the foregoing recitals are adopted as if fully rewritten herein.

BE IT FURTHER RESOLVED by the Board of County Commissioners of Calvert County, Maryland that this Resolution shall be effective upon June 1, 2016, upon: recordation; publication of a fair summary; and approval of the Maryland Department of the Environment pursuant to Section 4-101 of the *Environment Article* of the Maryland Annotated Code.

DONE, this 15th day of March, 2016, by the Board of County Commissioners of Calvert County, Maryland.

Aye:

Nay:

Absent/Abstain:

ATTEST:

**BOARD OF COUNTY
COMMISSIONERS OF CALVERT
COUNTY, MARYLAND**

Maureen L. Frederick
Maureen L. Frederick, Clerk

Evan K. Slaughenhoupt Jr.
Evan K. Slaughenhoupt Jr., President

Approved for form and legal
sufficiency by:

Tom Hejl
Tom Hejl, Vice-President

Mike Hart
Mike Hart

John B. Norris, III
John B. Norris, III, County Attorney

Pat Nutter
Pat Nutter

Steven R. Weems
Steven R. Weems

Calvert County Grading, Erosion and Sediment Control Ordinance

Ordinance Adopted February 26, 1971

Revision Ordinance Adopted: December 8, 1992

Effective January 1, 1993

Revision: March 15, 2016

Article I
General Provisions

§38-1 Title

This document, also being Chapter 38 of the Code of Calvert County, Maryland, shall be known as the "Calvert County Grading, Erosion and Sediment Control Ordinance" and may also be referred to as the "Erosion and Sediment Control Ordinance," "Sedimentation Control Ordinance," or the "Grading Ordinance."

§38-2 Purpose

The purpose of this Ordinance is to protect, maintain, and enhance the public health, safety, and general welfare within the County by establishing the minimum requirements and procedures used in the review and approval of Erosion and Sediment Control Plans. Proper erosion and sediment control practice design, installation, and maintenance will substantially reduce the amount of off-site sedimentation caused by soil erosion, will help maintain wildlife habitat, and assist in the attainment and maintenance of stream, river and bay water quality standards.

§38-3 Authority

This Ordinance is adopted by the Board of the County Commissioners of Calvert County, Maryland pursuant to the following authorizations:

- A. Maryland Annotated Code, Environment Article, Title 4, Subtitle 1 authorizes and empowers the Board of County Commissioners of Calvert County, Maryland to adopt a grading ordinance to promote the health, safety and welfare of Calvert County, and to provide for their administration, enforcement and amendment consistent with that Subtitle; and
- B. Maryland Annotated Code, Local Government Article, Section 13-704 and Code of Maryland Regulations, Title 26, Subtitle 17, authorizes and empowers the Board of County Commissioners of Calvert County, Maryland to adopt a sediment and erosion control ordinance to control sedimentation and promote the health, safety and welfare of Calvert County, and to provide for its administration, enforcement and amendment consistent with that Subtitle.

§38-4 Terms Defined

As used in this Chapter 38, the following terms and phrases shall have the meanings indicated:

- A. **ADMINISTRATION**
Refers to the Maryland Department of the Environment and its agents.
- B. **ADVERSE IMPACT**
Any deleterious effect on waters or wetlands, including their quality, quantity, surface area, species composition, aesthetics or usefulness for human or natural uses. Such deleterious effect is or may potentially be harmful or injurious to human health, welfare, safety or property, to biological productivity, diversity, or stability or which unreasonably interfere with the enjoyment of life or property, including outdoor recreation.
- C. **AGRICULTURAL LAND**
Land that is assessed by the Maryland Department of Assessment and Taxation as agricultural at time of grading permit application.
- D. **AGRICULTURAL LAND MANAGEMENT PRACTICES**
Those approved methods and procedures used in the cultivation of land in order to further crop and livestock production and conservation of related soil and water resources. Logging and timber removal operations may not be considered a part of this definition.
- E. **APPLICANT**

Any person who executes the necessary forms to procure official approval of a project or a permit to carry out construction of a project.

F. AREAS ON WHICH ACTUAL CONSTRUCTION ACTIVITIES ARE CURRENTLY BEING PERFORMED

That area which is prone to repeated disturbance due to construction operations and traffic from construction vehicles and/or personnel. This area shall not be necessarily construed as being the entire site, lot, or parcel and shall not include the disturbed area associated with water well installation and/or septic handling facilities. This is also considered to be the Limits of Disturbance ("LOD") or Limits of Work ("LOW").

G. CERTIFICATION

A signed and sealed, written statement from an individual licensed in the State of Maryland (engineer, surveyor, landscape architect) that specific constructions, inspections or tests (where required) have been performed and that such comply with the applicable requirements of this Ordinance.

H. CLEAR

Any activity that removes the vegetative ground cover while leaving the root mat intact.

I. COMPACTION

Densifications of a soil or rock fill by mechanical or other acceptable procedures.

J. CUT

See "Excavation."

K. DEPARTMENT

The Maryland Department of the Environment, Sediment and Storm Water Administration.

L. DEVELOPER

A person, partnership, corporation, firm, or governmental agency undertaking or proposing the construction of a building, a project consisting of interrelated buildings, or other construction, and who is primarily financially responsible for the proposed.

M. DISTRICT

The Calvert Soil Conservation District.

N. DISTURBANCE

Land clearing, grubbing, topsoil stripping, soil movement, grading, cutting and filling, transporting, or otherwise disturbing land for any purpose.

O. DIVERSION

A channel, ditch or ridge constructed across a slope as to intercept and divert surface run-off.

P. DIVISION

The Calvert County Department of Public Works, Project Management and Inspections Division.

Q. DRAINAGE AREA

That area contributing runoff to a single point, measured in a horizontal plane, which is enclosed by a ridge line.

R. DRAINAGEWAY

See "Watercourse."

S. ENGINEER

See "Professional Engineer."

T. EROSION

The process by which the land surface is worn away by the action of wind, water, ice or gravity.

U. EROSION AND SEDIMENT CONTROL

A system of structural and vegetative measures that minimize soil erosion and off-site sedimentation.

V. EROSION AND SEDIMENT CONTROL PLAN

An erosion and sediment control strategy or plan designed to minimize erosion and prevent off-site sedimentation by containing sediment on-site or by passing sediment laden runoff through a sediment control measure, prepared and approved in accordance with the specific requirements of The District and this chapter, and designed in accordance with the Standards and Specifications.

W. EXCAVATION

Any act by which soil or rock is cut into, dug, quarried, uncovered, removed, displaced, or relocated and shall include the conditions resulting therefrom. *May also be referred to as "Cut."*

X. EXEMPTION

Those activities that are not subject to the erosion and sediment control requirements contained in this Chapter 38.

Y. FLOODPLAIN

That land typically adjacent to a body of water with ground surface elevations that are inundated by the base flood, excepting the land adjoining the banks of ponds, lakes, or stormwater management detention and retention facilities when the banks of such water bodies provide containment of the base flood.

Z. GRADE

To cause disturbance of the earth. This shall include but not be limited to any excavating, filling, stockpiling of earth materials, grubbing, root mat or topsoil disturbance, or any combination.

AA. GROUND COVER

Any of various low growing plants grown especially in areas where it is difficult to grow grass.

BB. INSPECTOR

The representative of Calvert County and/or MDE (the Administration) that routinely visits the site to exercise professional judgment on the quality of work for consistency with the approved site plan and compliance with the appropriate ordinances.

CC. INSPECTIONS AND PERMITS

The Calvert County Community Planning and Building Division of -Inspections and Permits.

DD. LIMIT OF DISTURBANCE ("LOD")

Refer to the definition for "Areas On Which Actual Construction Activities Are Currently Being Performed."

EE. LIMIT OF Work ("LOW")

Refer to the definition for Areas On Which Actual Construction Activities Are Currently Being Performed.

FF. MAINTENANCE

The care of a properly installed sediment and erosion control plan for the period covered by the grading permit.

GG. PERMITTEE

Any person to whom a grading permit has been issued.

HH. PERSON

Includes the federal government, the state, the County, municipal corporation, or other political subdivision of the state, or any of their units, or an individual, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind, or any partnership, firm, association, public or private corporation, or any of their affiliates, or any other entity.

II. PROFESSIONAL ARCHITECT

A person who has been duly registered and licensed to practice professional architecture and/or landscape architecture in the State of Maryland.

JJ. PROFESSIONAL ENGINEER

A person licensed to practice professional engineering in the State of Maryland.

KK. PROFESSIONAL LAND SURVEYOR

A person who is licensed to practice surveying in the State of Maryland.

LL. RESPONSIBLE PERSONNEL

Any foreman, superintendent, project manager, developer, owner or project engineer who is in charge of on-site clearing and grading operations or sediment control associated with earth changes or disturbances.

MM. SEDIMENT

Soils or other surficial materials transported or deposited by the action of wind, water, ice, gravity, or other artificial means.

NN. SITE

Any tract, lot or parcel of land or combination of tracts, lots or parcels of land which are in one ownership, or are contiguous and in diverse ownership, where development is to be performed as part of a unit, subdivision, or project involving the simultaneous clearing or grading of the combined tracts, lots or parcels.

OO. SLOPE

The inclined exposed surface of a fill, excavation, or natural terrain.

PP. STABILIZATION

The prevention of soil movement by any of a variety of vegetative and/or structural means.

QQ. STANDARDS AND SPECIFICATIONS

The 2011 Maryland Standards and Specifications for Soil Erosion and Sediment Control or any subsequent revisions.

RR. STEEP SLOPE

A slope over fifteen percent (15%) located within the critical area or within highly erodible soils. In areas outside the critical area or on non-erodible soils slopes greater than twenty-five percent (25%) are considered steep soils. These slopes that are often characterized by increased run-off, erosion and sediment hazards.

SS. STORMWATER

Water that originates from a precipitation event.

TT. STRIPPING

Any activity that removes the vegetative surface cover including tree removal, clearing, grubbing, and storage or removal of topsoil.

UU. TIMBER HARVESTING

The severing of trees at or above the ground level leaving the stump and root system intact.

VV. VARIANCE

An approved modification of the criteria set forth in the Standards and Specifications.

WW. WATERCOURSE

Any natural or artificial stream, river, creek, ditch, channel, canal, conduit, culvert, drain, waterway, gully, ravine or wash, in and including any area adjacent thereto which is subject to inundation by reason of overflow of flood water.

XX. WATERSHED

An area comprised of two or more drainage areas that contribute runoff to a single point.

YY. WETLANDS

Any area that meets the criteria as set forth in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands, as amended from time to time.

§38-5 Applicability

The provisions of this Ordinance shall apply to the disturbance, development and use of all land within the unincorporated County, unless expressly and specifically exempted, "grandfathered" or provided otherwise in this Chapter 38. The provisions of this Chapter 38 shall apply to the development and use of all land within the incorporated areas of the County upon adoption by the municipality and agreement with the Department of Public Works, (hereinafter, the "Department") unless expressly and specifically exempted or provided otherwise in this Ordinance. No development shall be undertaken without prior authorization pursuant to this Chapter 38; or, in the instance of grading, as approved pursuant to this and Chapter 104 of the Code of Calvert County, Maryland. All development shall comply with the standards, criteria, and procedures of this Chapter 38. Should any Court jurisdiction deem any section, paragraph, sentence or phrase of these regulations invalid, it shall only apply to the part or parts declared invalid and not to the entire Chapter 38.

§38-6 Vesting and Grandfathering

- A. Calvert County recognizes and accepts the standard of vested rights as established by Maryland case law.
- B. "Grandfathering" provisions are hereby adopted to provide for the continuance of certain development activities approved prior to the adoption and effective date of this Chapter 38. The following provisions are intended to provide clarification to the "grandfathering" of approved plans:
 1. Any plans that receive final approval after January 9, 2013 must be in compliance with the requirements of this Ordinance and the Standards and Specifications.
 2. A plan that receives final approval by January 9, 2013 may be reapproved under its existing conditions if grading activities have begun on the site by January 9, 2015, with the exception of stabilization requirements.
 3. Stabilization practices on all sites must be in compliance with the requirements of this Ordinance and the Standards and Specifications by January 9, 2013, regardless of when an approved erosion and sediment control plan was approved.

4. If a plan was approved prior to January 9, 2013, the site can proceed under the stands under which it was approved.
- C. Grandfathered plan approvals shall be considered valid for the following periods:
 1. Preliminary subdivision approval: a maximum of three (3) years; and
 2. Final plan approval: a maximum of twenty-four (24) months in which to record the final plat, and
 3. Site plan approval: as specified within the Calvert County Zoning Ordinance, as amended from time to time.

§38-7 Exemptions

The following activities located outside the critical area and buffer as defined by Article 8-1.08.D.2 of the Calvert County Zoning Ordinance, as amended from time to time, are exempt from the provisions of this Ordinance if the exemption is approved by the District and issued by Inspections and Permits:

1. Agricultural Exemptions:
 - a. Agricultural land management practices reviewed and approved by the District;
 - b. The construction, maintenance or repair of agricultural BMPs reviewed and approved by the District; and
 - c. The construction, maintenance or repair of agricultural buildings reviewed and approved by the District.
2. Urban Exemptions:
 - a. Clearing or grading activities that disturb less than 5,000 square feet of land area and disturb less than 100 cubic yards of earth that do not direct runoff to highly erodible soils and do not disturb or discharge toward steep slopes and not related to new construction of a single family dwelling;
 - b. The replacement of an existing single family dwelling using the original footprint and connecting to an existing septic field;
 - c. Clearing or grading activities that are subject exclusively to State approval and enforcement under State law and regulations;
 - d. The overlay of existing paved roads and parking surfaces with new surface material where only minor preparation to the existing surface is required; and
 - e. Work performed by the Calvert County Department of Public Works and its agents, contractors and subcontractors to complete maintenance associated with existing public roads and right of ways, including overlaying of existing roads, benching of shoulders with daily stabilization and in kind culvert replacement.
3. Any surface mining operation and the affected land covered by a surface mining permit issued by the State of Maryland, Department of Natural Resources, under the authority of the Maryland Annotated Code, Natural Resources Article, Title 7, Subtitle 6A.
4. An application for an exemption shall be made to the District and Community Planning and Building Division of Inspections and Permits. The application shall contain sufficient information to evaluate the site's characteristic and the impact the grading would have on the surrounding areas. The District and the Calvert County Department of Community Planning and Building shall review the application. The applicant shall be notified by The District of approval or the reasons for the disapproval within fifteen (15) working days. If approved, Inspections and Permits shall issue a grading permit exemption for the activity. The grading permit exemption shall be posted on site in a conspicuous location.

§38-8 Variance

- A. The District may grant a variance from the requirements of this Chapter 38 where strict adherence will result in unwarranted hardship. The applicant shall submit a written request for a variance to the District. The request must state the specific variance sought and the reasons for the request. The District shall not grant a variance unless and until sufficient information is provided describing the unique circumstances of the site to justify the variance. The request for a variance will be reviewed based on the following criteria:
1. Uniqueness of the property – the property has an inherent characteristic not shared by other properties in the area
 - a. Shape;
 - b. Topography;
 - c. Subsurface condition;
 - d. Historical significance; and
 - e. Practical restrictions imposed by abutting properties;
 2. The allocation of a variance cannot be solely for profit, convenience or caprice;
 3. The hardship was created by anyone having current possessory or ownership interest in the property; and
 4. The variance will not be detrimental to public welfare or injurious to their property or improvements.
- B. Any variance granted must include appropriate erosion and sediment control measures, which may include, without limitation: redundant controls; accelerated stabilization; more frequent inspections; and other measures that may be required by the approving authority to serve the purpose of this Chapter 38.

§38-9 Responsibilities

The Department of Public Works, through its Project Management Division (hereafter referred to as the "Division") shall be responsible for the coordination and enforcement of the provisions of this Chapter 38. The Calvert Soil Conservation District (hereafter referred to as the "District") has plan review and approval for all projects within Calvert County, Maryland. The District has authority over all agricultural projects. The Division has inspection and enforcement authority over all single family residential projects this includes new construction, additions and/or modifications to developed lots. The Maryland Department of the Environment (hereafter referred to as the "Administration") has inspection and enforcement authorities for all commercial and multifamily residential projects this includes new construction, additions and/or modifications to developed lots.

§38-10 Severability

If any portion, section, subsection, sentence, clause, or phrase of this Chapter 38 is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portion of this Chapter 38, it being the intent of Calvert County that this Chapter 38 shall stand, notwithstanding the invalidity of any portion, section, subsection, sentence, clause, or phrase, hereof.

Article II

Grading Permit Review

§38-11 Review, Phasing Requirements, and Exemptions

- A. There are three steps to a Grading Permit review. Each step must be reviewed and approved prior to the completion of the next step. They are:
1. The Concept Application – identification of topography, environmental features, site layout, Environmental Site Design (hereafter "ESD") targets.

- a. The concept phase of project review and approval requires mapping of natural resources, vegetative buffer strips, highly erodible soils, and slopes 15 percent and steeper.
- b. The foregoing mapped areas shall be protected from erosion using additional measures or, where practicable, designated to remain undisturbed.
- c. This data serves as the foundation for developing both the erosion and sediment control, and stormwater management facets of the site development plan. Field verification is necessary to verify topographic maps, soil maps, and other materials.
2. Site Development Plan- The site development plan provides a more detailed design of the project.
 - a. Included in this step is a narrative describing how erosion and sediment control will be integrated into the stormwater management strategy using ESD in accordance with the Design Manual.
 - b. An overlay plan showing stormwater and erosion, and sediment control practices, is also required as part of the site development submittal.
 - c. After approval from the approving agencies, the applicant will proceed with final plan preparation.
3. Final Plan Review - Final erosion and sediment control plans must include the limit of disturbance ("LOD"), the location of each sediment control practice, contours for sediment traps and sediment basins, associated construction notes, details, and representative cross-sections.
 - a. When phasing is necessary, the sediment control plan must include initial, interim, and final phase sediment control practices, as appropriate.
 - b. A sequence of construction must be provided with enough detail to guide the construction, maintenance, and removal of the erosion and sediment controls.
- B. Additionally, plans must include phasing and/or sequencing describing how a project will comply with the 20 acre grading unit restriction. All projects are expected to comply with the grading unit criteria as required by COMAR 26.17.01 and the Standards and Specifications. An exception may be granted by the approval authority only when the applicant has sufficiently demonstrated that a project cannot be phased or sequenced to meet the criteria due to the uniqueness of the project or the site. The justification for an exception shall not include the cost of moving dirt more than once, the need to install interim sediment practices, or that the total construction time will increase if the project needs to be broken into phases.
- C. An applicant for a grading permit shall submit with the application a proposed Erosion and Sediment Control Plan and any supporting computations for review and approval by the District. The Sediment Control Plan shall:
 1. Be prepared signed and sealed by a professional engineer, land surveyor, or landscape architect, licensed in said capacity by the state of Maryland;
 2. Meet the requirements set forth in the District's policy and Guidelines; and
 3. Contain sufficient information, drawings and notes to describe how soil erosion and off site sedimentation will be minimized.
- D. Upon receipt of an application for a grading permit, the District shall review the proposed Erosion and Sediment Control Plan to determine compliance with this ordinance and Standards and Specification prior to approval.
- E. The District shall notify the applicant of approval, or reasons for disapproval or modification within 10 working days.
- F. The District may impose conditions upon its approval deemed necessary to ensure compliance with the provisions of this Chapter 38, the State Sediment Control Regulations, the Standards and Specifications or the preservation of public health and safety.

- G. The Erosion and Sediment Control plan may not be approved without the inclusion of the signature and date of signature of the District on the plans.
- H. The approved Erosion and Sediment Control Plan shall serve as a basis for all subsequent grading and stabilization.

Article III

Erosion and Sediment Control Plan Sheet Requirements

§38-12 Plan Submittal and Contents

Each Erosion and Sediment Control sheet submitted for review or approval shall include or provide the following:

- A. Title Block. Project name, title of sheet, sheet number, date, name and address of the surveying or engineering firm, stamp of registered engineer/professional land surveyor, scale, and Table of Revisions. The Table of Revisions should include a general description of the revision, date revised, and initials of the responsible individual.
- B. Location Map of Project. Location Map must be shown in such a way that it can be easily found for inspection. Map scale should not exceed 1:25000 (USGS Quad base). Single lots and pools are exempt from this requirement for a Location map.
- C. North Arrow. A north arrow will be on every EROSION AND SEDIMENT Plan Sheet.
- D. Vicinity Map. A vicinity map with a north arrow, scale site location and other information needed to locate the property on the cover sheet.
- E. Legend.
- F. Identification. Identification of all environmentally sensitive areas, this includes critical areas, steep slopes, wetlands, floodplains, stream and their associated buffers. Plan should also depict the limits and types of soils and also identify those that are highly erodible.
- G. Proposed stormwater management practices.
- H. Storm drainage features, including:
 - 1. Existing and proposed bridges, storm drains, culverts, outfalls, etc.;
 - 2. Velocities and peak flow rates at outfalls for the two-year and ten-year frequency storm events; and
 - 3. Site conditions around points of all surface water discharge from the site.
- I. The proposed grading and earth disturbance including:
 - 1. Total disturbed area;
 - 2. Limits of grading including limitations of mass clearing and grading;
 - 3. Volume of cut and fill quantities; and
 - 4. Volume of borrow and spoil quantities.
- J. Scale: The plan scale will not exceed 1 inch = 50 feet (reference *2011 Standards*, page XVII). An erosion and sediment control plan scale greater than 1 inch = 50 feet will not be accepted. Request for a reduced scale should be submitted to The District for review and approval on a case by case basis.
- K. Existing/Proposed Contours. Show existing and proposed contours at a two foot contour interval. Both existing and proposed contours must be shown on the same sheet. Any plan submitted in phases, where rough grading is phase one and final grading/building construction is phase two, must show the finished grade of phase one as the existing grade of phase two.
- L. Show existing contours as dashed lines. Show at least three contours on the plat. Extend contours far enough beyond the LOD to indicate general drainage patterns. Flat sites may use spot elevations in lieu of contour lines to indicate existing conditions. Show enough spot elevations to easily determine the general drainage pattern. Proposed contours must be shown as solid lines. Tie all contours into original ground within the LOW. This includes road plans. Cross sections at specified intervals are not to be used as a substitute.

- M. Location and type of all proposed sediment control practices:
1. Provision to preserve topsoil and limit disturbance;
 2. Details of grading practices including the statement that a slope of at least two percent (2%) shall be maintained to the property line or for ten feet whichever is less away from the foundation of proposed structures and appurtenances;
 3. Design details and data for all erosion and sediment control practices; and
 4. Specifications for temporary and permanent stabilization measures including, at a minimum:
 - a. The "Standard Stabilization Note" on the plan stating: "Following initial soil disturbance or re-disturbance, permanent or temporary stabilization must be completed within:
 - 1) Three (3) calendar days as to the surface of all perimeter dikes, swales, ditches, perimeter slopes, and all slopes steeper than 3 horizontal to 1 vertical (3:1); and
 - 2) Seven (7) calendar days as to all other disturbed or graded areas on the project site not under active grading.
 - b. Details for areas requiring accelerated stabilization; and
 - c. Maintenance requirements as defined in the Standards and Specifications;
- N. Sequence of Construction. A sequence of construction describing the relationship between the implementation and maintenance of controls, including permanent and temporary stabilization, and the various stages or phases of earth disturbance and construction. Any changes or revisions to the sequence of construction must be approved by the District prior to proceeding with construction. The sequence of construction includes the sequence of practice installation, the time required to complete each item, who (and when) to call before grading activities begin, and the need for inspection/approval by the enforcing agency before practices are removed. The sequence should indicate all phasing of land disturbance activities. When erosion and sediment controls must be removed as part of the phasing process, the sequence must include the creation of new controls before the destruction of existing practices. Each phase should be identified by name or number and relate directly to a specific, easily identifiable area on each plan sheet. The sequence of construction, at a minimum, must include the following:
1. Request for a pre-construction meeting with the appropriate enforcement authority;
 2. Clearing and grubbing as necessary for the installation of perimeter controls;
 3. Construction and stabilization of perimeter controls;
 4. Remaining clearing and grubbing within installed perimeter controls;
 5. Road grading;
 6. Grading for the remainder of the site;
 7. Utility installation and connections to existing structures;
 8. Construction of buildings, roads, and other construction;
 9. Final grading, landscaping, and stabilization;
 10. Installation of stormwater management measures;
 11. Approval of the appropriate enforcement authority prior to removal of sediment controls; and
 12. Removal of controls and stabilization of areas that are disturbed by removal of sediment controls.
- O. Inspection Schedule. A statement requiring the owner/developer or representative to contact the inspection agency or its agent at least 48 hours prior to the following stages of the project or in accordance with the approved erosion and sediment control plan, grading permit, or building permit:
1. Prior to the start of earth disturbance;
 2. Upon completion of the installation of perimeter erosion and sediment controls, but before proceeding with any other earth disturbance or grading;
 3. Prior to the start of another phase of construction or opening of another grading unit; and

4. Prior to the removal of sediment control practices.
- P. Certification. Certification by the owner/developer that any clearing, grading, construction, or development will be done pursuant to the approved erosion and sediment control plan. The certification must also require that Certificate of Training at an MDE approved training program for the control of erosion and sediment prior to beginning the project. The Certificate of Training for Responsible Personnel may be waived by the District on any project involving four or fewer residential lots. Additionally, the owner/developer shall allow right of entry for periodic on-site evaluation by the District, permit issuing agency, the inspection agency, and/or MDE; and
- Q. Certification. Certification by a professional engineer, land surveyor, landscape architect, architect, or forester (for forest harvest operations only) registered in the State that the plans have been designed in accordance with erosion and sediment control laws, regulations, and standards, if required by the District or the Administration.
- R. Additional Information. Any additional information or data deemed appropriate by the District.

Article IV Permits

§38-13 Permit Procedures

- A. Permit Requirements. Before a grading or building permit is issued for any site, the District must review and approve an Erosion and Sediment Control Plan for the site. This includes submission of the required application, plans, fees, and supporting information. At a minimum, the application shall include the following:
 1. Owner Block. The name, address, and telephone number shall be printed or typed.
 2. Job Location Block. Indicate where the work will take place, using either an address or location description from the Courthouse to the site.
 3. Contractor Block. Supply requested information as requested by the Division.
 4. Type of Construction/Development. The description of work and area affected (Lot numbers) on the application must agree with the activities and limit of disturbance on the Erosion and Sediment Control Plan.
 5. Registered Engineer/Professional Land Surveyor Certification. The Registered Engineer/Professional Land Surveyor's name (printed or typed), license number, and signature. The Engineer/Surveyor signature is required on all commercial, industrial, subdivision, and single lot applications and on large grading plans. All other plans will be reviewed on a case-by-case basis.
 6. Owner/Authorized Agent Certification. Provide signature over printed or typed name, date, and phone number of Owner/Agent. If not the owner's signature and name (shown in Owner's Block), include the individual's title and affiliation.
 7. In addition to the foregoing, grading or building permits shall not be issued without:
 - a. Performance bond; and
 - b. Permission from adjacent property owners as necessary.
- B. Permit Expiration and Renewal. The building or grading permit shall expire two (2) years from the date of issuance unless extended or renewed by Calvert County Inspections and Permits. Application for permit renewal shall be made in writing at least two (2) months prior to the permit expiration date. The duration of the extension shall be determined by the District Manager or the Manager's designee. In no case shall the term of the extension exceed one (1) year. If deemed necessary by the Division, the erosion and sediment control plan shall be resubmitted to the District for review prior to the extension or renewal.
- C. Permit Fee. A permit fee schedule may be established by the Calvert County Board of County Commissioners for the administration and management of the erosion and sediment control program. The fee shall be due and payable prior to the issuance of the grading permit. Capital

Improvement Projects approved by the Board of County Commissioners of Calvert County, Maryland, including, without limitation, refuse disposal areas, sanitary landfills, and public works projects, are exempt from this permit fee.

- D. Permit Suspension and Revocation. The Division may suspend or revoke any grading or building permits after providing written notification to the permittee based on any of the following reasons:
1. Any violation(s) of the terms or conditions of the approved erosion and sediment control plan or permits;
 2. Noncompliance with violation notice(s) or stop work order(s);
 3. Changes in site characteristics upon which plan approval and permit issuance were based; or
 4. Any violation(s) of this Ordinance or any rules and regulations adopted under it.
- An action to suspend or revoke a permit under this section does not preclude the Division from imposing other enforcement or punitive measures as provided by Law.
- E. Permit Conditions. In issuing a grading or building permit, the Division may impose such conditions that may be deemed necessary to ensure compliance with the provisions of this Ordinance, or the preservation of the public health and safety.
- F. Continuous Maintenance of Worked Performed. The owner of any property on which grading or other work has been performed or is in the process of being performed pursuant to a permit granted under the provision of this Ordinance, shall continuously maintain and repair all graded surfaces and erosion control facilities, retaining walls, drainage structures or means and other protective devise, plantings and ground cover, installed or completed.

Article V

Security for Assurance of Performance

§38-14 Security

- A. Performance Guarantee. The applicant owner or developer shall furnish a surety or cash bond, irrevocable letter of credit, or other means of security acceptable to the County Attorney in accordance with the following:
1. Prior to the issuance of any building or grading permit; and
 2. The amount of the security shall equal to at least the cost of the installation, maintenance, and removal of the erosion and sediment controls shown on the approved plan and stabilization of the site plus 25% for a total of 125%.
- B. Partial Release of Guarantee. When the applicant owner or developer submits a request for partial release and the Engineering Division Chief, or designee, finds that permanent stabilization of the site is not immediately possible due to adverse weather conditions (i.e. excessive rainfall, frozen soil), the County may release part of the performance guarantee or accept substitute security acceptable to the County Attorney such that the value of the security then held by the County shall be 125% of the amount necessary to complete the work required by the applicable permit(s). The requirements of this section do not relieve the developer of having to provide temporary stabilization for the site.
- C. Release of Guarantee. The guarantee posted shall not be fully released without submission and approval of as-built plans to the Department of Public Works, and final inspection to verify that all work has been completed in accordance with the approved plans. Additionally, the performance bond shall not be released until the posting of an Inspection and Maintenance Bond has been provided by the applicant owner or developer.
- D. Maintenance Bond. A perpetual Maintenance Bond acceptable to the County Attorney equal to 10% of the estimated construction cost shall be posted to assure performance of the owner's maintenance responsibilities.

Article VI
Inspection

§38-15 Reports, Right of Entry, and Complaints

- A. The Administration is responsible for the inspection and enforcement of all land disturbing activities, except single family dwellings, including those sites requiring an erosion and sediment control plan as specified by this Chapter 38. This enforcement authority may be delegated to Calvert County through a request by the County or required as a condition of a National Pollutant Discharge Elimination System (NDPES) municipal separate storm sewer system permit.
- B. Inspection Frequency and Reports
 - 1. The permittee shall maintain a copy of the approved erosion and sediment control plan on site.
 - 2. The permittee shall notify the enforcement agency (the Administration for commercial sites and the Division for single family residential projects) of the startup date of the project at least 48 hours in advance thereof.
 - 3. On all sites, the permittee shall request at least 48 hours in advance of the anticipated completion date that the enforcement agency inspect work completed at the stages of construction specified below, to ensure accordance with the approved erosion and sediment control plan, the grading permit, and this Chapter 38:
 - a. Upon completion of installation of perimeter erosion and sediment controls prior to proceeding with additional earth disturbances, grading or any construction; and
 - b. Upon final stabilization before removal of sediment controls. Other building or grading inspections approvals may not be authorized until the final stabilization approval by their respective inspection authority is made.
 - 4. The respective enforcement agencies shall take all reasonable measures to inspect each active site having an approved Erosion and Sediment Control Plan for compliance with the plan on average once every two (2) weeks.
 - 5. The respective enforcement agencies shall take all reasonable measures to have a written report prepared by the inspection agency following every inspection. The report shall describe:
 - a. The date and location of the site inspection;
 - b. Whether the approved plan has been properly implemented and maintained;
 - c. Practice deficiencies or erosion and sediment control plan deficiencies;
 - d. If a violation exists, the type of enforcement action taken; and
 - e. If applicable, a description of any modifications to the plan.
 - 6. The respective enforcement agencies shall notify the on-site personnel or the permittee in writing when violations are observed, describing:
 - a. The nature of the violation;
 - b. The required corrective action; and
 - c. The time period in which to have the violation corrected.
- C. Right of Entry. It shall be a condition of every grading and/or building permit that the respective enforcement agencies and any other County agency concerned with the administration or enforcement of this Chapter 38 has the right to enter the property subject to the approval periodically to inspect for compliance with the approved plan and this Ordinance.
- D. Complaints. The respective enforcement agencies shall accept and investigate complaints regarding erosion and sediment control concerns from any interested parties and:
 - 1. Conduct an initial investigation within three (3) working days from receipt of the complaint;

2. Notify the complainant of the initial investigation and findings within seven (7) days from receipt of the complaint; and
3. Take appropriate action when violations are discovered during the course of the complaint investigation.

Article VII

Field Changes And Modifications To Erosion And Sediment Control Plans

§38-16 Modifications

- A. Modifications will not be approved "after the fact." Therefore, any deviation from the approved plan without first having it "redlined" (field approved) by the District, may be interpreted by inspectors as noncompliance. Each requested change must be evaluated on its own merit to ensure it meets State and County standards.
- B. Modification by the Administration, District, and the Division. The Administration, District or the Division may revise approved plans as necessary. The permittee shall be notified in writing of any major revision that the agency may require.
- C. Modification resulting from an Inspection. Modifications resulting from an inspection arise when inspections of the site indicate that the approved erosion control plan needs modification. Such modifications are typically approved when an existing sediment control structure is not working, field topography does not match the design or continued use of a specific structure interferes with building construction. Where the modification resulting from an inspection is a major modification, as defined below, approval shall be requested by the permittee and processed in the as described below.
- D. Modifications requested by the Permittee. Modifications can be requested by a permittee at any time in accord with the following provisions:
 1. Minor Revisions or Modifications:
 - a. Minor Revisions are changes to the approved Plan enumerated in this sub-part 1 where site conditions or other factors impose a hardship upon following the approved Erosion and Sediment Control Plan and:
 - 1) Are not within the critical area;
 - 2) Are not within a wetland area, buffer or other sensitive area;
 - 3) Will not increase the limit of work;
 - 4) Will not alter an approved Stormwater Management system;
 - 5) Will not change a building location;
 - 6) Will not encroach on a setback;
 - 7) Will not increase the size of a parking area;
 - 8) Will not affect other County ordinances or regulations.
 - b. The following Minor Revisions to the approved Erosion and Sediment Control Plan may be approved by the County/State inspector on site in the field, as agreed to by the Division and District through a meeting of understanding, if documented on the field inspection report:
 - 1) Increasing or decreasing the amount of silt fence or straw bale dike by 30 percent of the original length, not to exceed 250 feet. When silt fence/straw bale dike lengths are increased, the addition may not be used to intercept concentrated flows or as a substitution for a non-equivalent practice, such as perimeter dikes/swales;
 - 2) The relocation of approved sediment control measures (including silt fence, straw bale dikes, and perimeter dikes/swales) to better meet field conditions, provided the changes do not increase the limit of disturbance or the drainage area; or

- 3) Changes in sediment trap dimensions to meet field conditions, provided the total storage volume and trapping efficiency are not reduced.
- c. The following Minor Revisions to the approved Erosion and Sediment Control Plan may be approved by District and approval before action is taken (Redline Modification):
 - 1) Substitution of a practice for another when that substitution is not an equivalent practice;
 - 2) Relocation of a sediment trap that alters the original drainage area;
 - 3) Changes in the order of practice installation or the sequence of construction; or
 - 4) Minor extensions to the limit of disturbance (LOD) beyond the approved area.
2. Major Revisions or Modifications:
 - a. Major Revisions include all modifications not Minor Revisions above.
 - b. Major Revisions also include modifications required where site inspections indicate that the approved erosion control plan needs modification. In such instances, the permittee shall request a major revision.
 - c. Requests for Major Revisions to approved plans shall be made in writing to the District.
 - d. Major Revisions require plan resubmittal of modified erosion and sediment control plans for review by appropriate agencies.
 - e. The District will not approve a Major Revision until it has been reviewed and approved by the appropriate departments and agencies.

Article X Enforcement

§38-17 Inspections, Violations, and Forfeiture of Security

- A. When violation of this Chapter 38 does occur, the Project Management and Inspections Division shall, through the authority of: this Chapter 38; Maryland Annotated Code, *Natural Resources Article*, Title 4, Subtitle 1; COMAR 26.17.01; and all applicable federal, State and local laws, ordinances, resolutions, regulations, rules and policies, take necessary and appropriate enforcement action, which may include, but is not limited to, one or more of the following actions:
 1. Stop Work. The Division shall order a stop work on a site where land disturbance is occurring without an approved erosion and sediment control plan. Measures shall be required to be implemented as necessary to stabilize all disturbances and prevent off-site sedimentation.
 - a. The Division shall issue a stop work notice to:
 - 1) The permittee who does not correct violations within the time set forth in any notice of violation or Field Report issued;
 - 2) Any person who undertakes erosion and sediment control work without first obtaining a permit; or
 - 3) Any person who is performing erosion and sediment control work that is creating an adverse control situation that the Division deems to be of a critical environmental nature.
 - b. The stop work notice shall be posted on the work site and the Division shall attempt to deliver the notice to the permittee, the person actually performing the work or the owner of the property, as appropriate, by any means reasonably calculated to effectuate delivery.

- c. Upon the stop work notice being posted on the work site, no further work shall be permitted on the site other than as necessary to correct the non-compliance and stabilize all disturbances.
2. Injunction.
 - a. In addition to all other remedies provided by the law, Calvert County shall have the right of injunctive relief against all violations requiring correction or abate or eliminate any violation.
 - b. Calvert County shall have the right to *ex parte* relief to abate alleged violations of this Chapter 38 if and when the Calvert County Department of Public Works determines that the alleged violation adversely affects the safety of persons or property.
 - c. Any agency whose approval is required under this Chapter 38 or any person with standing may seek an injunction against any person who violates or threatens to violate any provision of this Chapter 38.
3. Permit Cancellation. If at any time the Department of Public Works finds that all work of the permit is not completed within the time specified therein, or as otherwise provided for in this Chapter or violates any other term or condition, the permit may be canceled and the security shall be forfeited; or if a bond has been posted, payment in full to Calvert County will be ordered. The funds, so received, will be used by the County for defraying the cost of contracting, including engineering and administration, for the restoration of the site to meet the minimum requirements of this Ordinance, with particular emphasis on stability, pollution control, safety and erosion control.
4. Permit Revocation. In the event the work does not conform to the permit or to the approved plans and specifications or to any written instructions of the Department of Public Works or violates any other term or condition, written notice to comply shall be given the applicant. Such notice shall set forth the corrective measures that must be taken and the time limit required for taking such action. If the corrective action as stipulated has not been taken within the time allotted, the Department of Public Works may revoke the permit or plan and stop work except that necessary to correct the violation condition.
5. Civil Citation. The Division, or its designee, may deliver a citation to a person believed to be committing a violation of this Chapter 38.
 - a. A copy of the citation shall be retained by the Division and shall bear a certification attesting to the truth of the matters set forth. The citation shall contain:
 - 1) The name and address of the person charges,
 - 2) The nature of the violation,
 - 3) The place and time of the violation,
 - 4) The amount of the fine assessed,
 - 5) The manner, location, and time in which the fine may be paid, and the person's right to elect to stand trial in the District Court of Calvert County for the violation.
 - b. The fine for each civil violation of this Chapter 38 is:
 - 1) \$250.00 for the first violation;
 - 2) \$500.00 for the second violation;
 - 3) \$750.00 for the third violation; and
 - 4) \$1,000.00 for each violation in excess of three.
 - c. Each day a violation continues shall be a separate offense.
 - d. If a person who receives a citation for violation fails to pay the fine by the date of payment set forth in the citation, and fails to file a timely notice of intention to stand trial, a formal notice of the violation shall be sent the person's last address, if known. If the citation is not satisfied within 15 days of the notice, the person is liable for an additional fine not exceed twice the original fine amount. If after 35 days the citation is

not satisfied, the County may request adjudication of the case through The District Court, whereupon the District Court shall schedule the case for trial and summon the defendant to appear.

- e. A person who receives a civil citation pursuant to this section may elect to stand trial in the District Court of Calvert County, for the offense, by filing with the Division, a Notice of Intent to Stand Trial. The notice shall be given at least five (5) days before the date of payment as set forth in the citation. On receipt of Notice of Intent to Stand Trial, the Division shall forward to the District Court having venue, a copy of the citation and, the Notice of Intent to Stand Trial. On receipt of the citation, the District Court shall schedule the case for trial and notify the defendant of the trial date. All fines and penalties or forfeitures collected by the Court for violations shall be remitted to Calvert County.

§38-18 Special Remedy for Risk of Environmental Harm

- A. If the Engineering Division Chief determines there is imminent and substantial risk of environmental harm because of the disturbance of land and subsequent instability of a site, the County may perform that work necessary to the eliminate or minimize the risk and to provide environmental stabilization and protection.
- B. The cost of the work performed by the County or its contractors under the provision of this section shall:
 - 1. Be levied and collected from the owner of the property in the same manner as County real property taxes; and
 - 2. Have the same priority right, bear the same interest and penalties, and in every respect be treated as County real property taxes.