



At a meeting of the Board of Supervisors of the County of Sussex held at the Courthouse thereof, on the 20<sup>th</sup> day of July 2006.

**PRESENT:**

**VOTE:**

Charlie E. Caple, Jr.	aye
William J. Collins, Jr.	aye
C. Eric Fly	aye
Alice W. Jones	aye
Rufus E. Tyler, Sr.	aye

**ABSENT:**

Wayne M. Harrell

**Erosion and Sediment Control Ordinance**

ON MOTION OF SUPERVISOR JONES, seconded by SUPERVISOR CAPLE and carried: **RESOLVED** that the Board of Supervisors hereby repeals its in entirety, inclusive of all sections and subsections therein, Sections 12-71 through Section 12-84, respectively of Chapter 12 (Planning and Development) and;

**BE IT FURTHER RESOLVED** and **ORDAINED** that Chapter 12 (Planning and Development), Sections 12-71 through Sections 12-84; inclusive of all sections and subsections now enacted and passed herein, is adopted, passed an re-enacted as follows:

**BE IT RESOLVED AND ORDAINED**, that the Board of Supervisors of Sussex County, Virginia, after due publication as required by applicable law and after the holding of a public hearing on the 20<sup>th</sup> day of July, 2006, **DOES HEREBY REPEAL**, in its entirety, inclusive of all sections and sub-sections therein, sections 12-71 through section 12-84; respectively of Chapter 12 ("PLANNING and DEVELOPMENT") and

**BE IT FURTHER RESOLVED AND ORDAINED** that Chapter 12 ("PLANNING and DEVELOPMENT") sections 12-71 through section 12-84; inclusive of all sections and sub-sections now enacted and passed herein, is adopted, passed and re-enacted as follows:

Section 12-71. TITLE, PURPOSE AND AUTHORITY

This ordinance shall be known as the "Erosion and Sediment Control Ordinance of Sussex County, Virginia. The purpose of this Ordinance and chapter is to prevent the degradation of properties, stream channels, waters and other natural resources of the

County of Sussex, Virginia, by establishing requirements for the control of soil erosion, sediment deposition and nonagricultural runoff and by establishing procedures whereby these requirements shall be administered and enforced.

State Law Reference: Code of Virginia, Title 10.1, Chapter 5, Article 4 (Section 10.1-560, et seq.

SECTION 12-72. **DEFINITIONS:** As used in this ordinance, unless the context requires a different meaning:

- A. **“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. This contract may be executed by the plan-approving authority in lieu of a formal site plan.
- B. **“Applicant”** means any person submitting an erosion and sediment control plan for approval or requesting the issuance of a permit, when required, authorizing land-disturbing activities to commence.
- C. **“Board”** means the Virginia Soil and Water Conservation Board.
- D. **“Certified Inspector”** means an employee or agent of a program authority, as hereinafter defined, who (i) holds a certificate of competence from the Board in the area of the project inspection or (ii) is enrolled in the Board’s training program for a project inspection and successfully completes such program within one year after enrollment.
- E. **“Certified plan reviewer”** means an employee or agent of a program authority, as hereinafter defined, who (i) holds a certificate of competence from the Board in the area of the plan review or (ii) is enrolled in the Board’s training program for plan review and successfully completes such program within one year after enrollment, or (iii) is licensed as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Article (Section 54.1-400, et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia, as amended.
- F. **“Certified program administrator”** means an employee or agent of a program authority, as hereinafter defined, who (i) holds a certificate of competence from the Board in the area of the program administrator or (ii) is enrolled in the Board’s training program for program administration and successfully completes such program within one year after enrollment.
- G. **“Clearing”** means any activity which removes the vegetative ground cover including, but not limited to, root mat removal or top soil removal.
- H. **“County”** means the County of Sussex, Virginia.

- I. **“Department”** means the Department of Conservation and Recreation.
- J. **“Development”** means a tract of land developed or to be developed as a single ownership or unified control which is to be used for any business or industrial purpose or is to contain three or more residential dwelling units.
- K. **“Director”** means the director of the department.
- L. **“District”** or **“Soil and Water Conservation District”** refers to the state designated Soil and Water Conservation District which the County geographically is located.
- M. **“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 may 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.
- N. **“Erosion Impact Area”** means an area of land not associated with current land-disturbing activity but subject to persistent soil erosion resulting in the delivery of sediment onto neighboring properties or into state waters. **This definition shall not apply to any lot or parcel of land of 10,000 square feet or less used for residential purposes.**
- O. **“Excavating”** means any digging, scooping or other methods of removing earth materials.
- P. **“Filling”** means any depositing or stockpiling of earth materials.
- Q. **“Grading”** means any excavating or filling of earth materials or any combination thereof, including the land in its excavated or filled condition.
- R. **“Land-disturbing activity”** means any land change which may result in soil erosion from water or wind and the movement of sediments into State waters or onto lands in the Commonwealth, including, but not limited to, 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;

Erosion and Sediment Control Ordinance, adopted by Sussex County Board of Supervisors, July 20, 2006

- (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, (Sec. 10.1-604 et seq.) Of Chapter 6, 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 (Sec. 10.1-1100 et seq.) Of this title or is converted to bona fide agricultural or improved pasture use as described in Subsection B of Sec. 10.1-1163;
- (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;
- (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 ordinance; 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.

- S. **“Land-disturbing Permit”** means a permit issued by the County of Sussex, Virginia for the clearing, filling, excavating, grading, transporting of land or for any combination thereof or for any purpose set forth herein.
- T. **“Local erosion and sediment control program”** or **“local control program”** means an outline of the various methods employed by the County of Sussex, Virginia to regulate land-disturbing activities and thereby minimize erosion and sedimentation in compliance with the state program and may include such items as local ordinances, policies and guidelines, technical materials, inspection, enforcement, and evaluation.
- U. **“Owner”** means the owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee or other person, firm or corporation in control of a property.
- V. **“Permittee”** means the person to whom the permit authorizing land-disturbing activities is issued or the person who certifies that the approved erosion and sediment control plan will be followed.
- W. **“Person”** means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town or other political subdivision of the commonwealth, any interstate body, or any other legal entity.
- X. **“Plan-approving authority”** means the County of Sussex, Virginia Building Official or other certified employee or agent, as designated by the Sussex County Administrator, who meets the applicable certification requirements contained in this ordinance. Said person shall be responsible for determining the adequacy of a plan submitted for land-disturbing activities on a unit or units of land and for approving plans.
- Y. **“Program authority”** means the County of Sussex, Virginia which has adopted a soil and sediment control program approved by the Board.
- Z. **“Responsible Land Disturber”** means an individual from the project or development team, who will be in charge of and responsible for carrying out a land-disturbing activity covered by an approved plan or agreement in lieu of a plan, who (i) holds a Responsible Land Disturber certificate of competence, (ii) holds a current certificate of competence from the Board in the areas of Combined Administration, Program Administration, Inspection, or Plan Review, (iii) holds a current Contractor certificate of competence for erosion and sediment control, or (iv) is licensed in Virginia as a professional engineer, architect, certified land

architect or land survey or pursuant to Article 1 (Sec. 54.1-400 et seq.) Of Chapter 4 of Title 54 .1.

- AA. **“Single-family residence”** means a noncommercial dwelling that is occupied exclusively by one family.
- BB. **“State Erosion and Sediment Control Program”** means the program administered by the Virginia Soil and Water Conservation Board pursuant to the Code of Virginia including regulations designed to minimize erosion and sedimentation.
- CC. **“State Waters”** means all waters on the surface and under the ground wholly or partially within or bordering the Commonwealth or within its jurisdictions.
- DD. **“Towns”** means the incorporated towns of Jarratt, Stony Creek, Wakefield, and Waverly, Virginia, respectively and any future town which might be incorporated within the geographical boundaries, in part or wholly, in Sussex County, Virginia.
- FF. **“Transporting”** means any moving of earth materials form 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.

#### SECTION 12-73 LOCAL EROSION AND SEDIMENT CONTROL PROGRAM

- A. Pursuant to Section 10.1-562 of the Code of Virginia, the County of Sussex, Virginia or the program authority hereby adopts the regulations, references, guidelines, standards and specifications promulgated by the Board and any other duly adopted authoritative reference utilized by Board 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 amending or revising this ordinance or adopting or revising any regulations not now herein adopted, the County shall give due notice and conduct a public hearing on the proposed amending or revising of this ordinance or the proposed or revised regulations not now adopted, except that a public hearing shall not be required when the program authority is amending its program to conform with revisions in the state program. However, a public hearing shall be held if the program authority herein proposes or revises regulations that are more stringent than the state program.

- C. Pursuant to Section 10.1-561.1 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 County of Sussex, Virginia shall contain a certified program administrator, a certified plan reviewer, and a certified inspector, who may be the same person.
- D. The program authority hereby designates the Sussex County Building Official or other certified employee or agent, as designated by the Sussex County Administrator, who meets the applicable certification requirements contained in this ordinance, as the plan-approving authority until or unless otherwise designated the Sussex County Administrator.
- E. The program and regulations provided for in this ordinance shall be made available for public inspection at the Sussex County Administrator's Office.

Section 12-74 SUBMISSIONS AND APPROVAL OF PLANS, CONTENTS OF PLAN

- A. Except as provided herein, no corporation or person shall engage in any land-disturbing activity until it, he or she has submitted to the Sussex County Building Official, or other county official designated by the Sussex County Administrator, 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.
  - (1) Where the land-disturbing activity results from the construction of a single-family residence, 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 shall be used by the applicant when making a submittal under the provisions of this ordinance and in the preparation of an erosion and sediment control plan. The plan-approving authority, in considering the adequacy of a submitted plan, shall be guided by the same standards, regulations and guidelines. When the standards vary between the publications, the State regulations shall take precedence.
- C. The plan approving authority shall review conservation plans submitted to it and grant written approval within 45 days of the receipt of the plan if it determines that the plan meets the requirements of the Board's regulations and if the person responsible for carrying out the plan certifies that he will properly perform the

conservation measures included in the plan and will conform to the provisions of this article. 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 § 10.1-561, of the Virginia Erosion and Sediment Control Law, 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 ordinance.

(1) However, the plan-approving authority may waive the certificate of competence requirement for an agreement in lieu of a plan for construction of a single family residence. If a violation occurs during the land-disturbing activity, then the person responsible for carrying out the agreement in lieu of a plan shall correct the violation and provide the name of an individual holding a certificate of competence, as provided by §10.1-561 of the Virginia Erosion and Sediment Control Law. Failure to provide the name of an individual holding a certificate of Competence shall be a violation of this ordinance.

D. The plan shall be acted upon within 45 days from receipt thereof by either approving said plan in writing or by disapproving said plan in writing and giving specific reasons for its disapproval.

E. An approved plan may be changed by the plan approving authority when:

(1) The inspection reveals that the plan is inadequate to satisfy applicable regulations; or

(2) The person or corporation 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 ordinance, are agreed to by the plan-approving authority and the person responsible for carrying out the plans.

F. In order to prevent further erosion, the County may require approval of a plan for any land identified in the local program as an erosion impact area.

G. 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 shall be the responsibility of the owner.



- H. 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 and telephone utility lines, and pipelines; and;
  - (2) Construction of the tracks, right-of-way, bridges, communication facilities and other related structures and facilities of the railroad company.
- I. State agency projects are exempt from the provisions of this ordinance except as provided for in the Code of Virginia, Sec. 10.1-564.

#### SECTION 12-75. 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 ordinance, and has paid the fees and posted the required bond.
- C. An administrative fee of \$200.00 and an additional \$4.00 per acre of land shall be paid to the County at the time of submission of the erosion and sediment control plan.
- D. No land-disturbing permit 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 County of Sussex, Virginia a performance bond, cash escrow, or an irrevocable letter of credit acceptable to the Sussex County Administrator, to ensure that measures could be taken by the County of Sussex, Virginia 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.
- (1) 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 twenty-five percent of the cost of the conservation action. Should it be necessary for the County of Sussex, Virginia to take such conservation action, the County of Sussex, Virginia may collect from the applicant any costs in excess of the surety held.

- (2) Within sixty (60) days of adequate stabilization, as determined by Building Official in any project or section of a project, such bond, cash escrow or letter of credit, or the unexpended or unobligated portion thereof shall be either refunded to the applicant or terminated, based upon the percentage of stabilization accomplished in the project or project section.

- F. 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.

#### Section 12-76. MONITORING, REPORTS, AND INSPECTIONS

- A. The County, which is the program authority herein, 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 Sussex County Building Official, or such other county official as designated by the Sussex County Administrator, shall periodically inspect the land-disturbing activity in accordance with Sec 4VAC50-30-60 of the Virginia 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. The owner, permittee, or person responsible for carrying out the plan shall be given notice of the inspection.
- (1) If the Sussex County Building Official 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.
  - (2) The notice shall specify the measure 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 ordinance and shall be subject to the penalties provided by this ordinance.

C. Upon a determination of a violation of this ordinance by the County and/or its Building Official, the County and/or its Building Official, in conjunction with or subsequent to a notice to comply as specified in this ordinance, 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.

- (1) If land-disturbing activities have commenced without an approved plan, the County Administrator and/or its Building Official may, in conjunction with or subsequent to a notice to comply as specified in this ordinance, issue an order requiring that all or part of the land-disturbing activities be stopped until an approved plan or any required permits are obtained.
- (2) 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 ordinance. Otherwise, such an order may be issued only after the permittee has failed to comply with such a notice to comply.
- (3) 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 County of Sussex, Virginia.

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 County Administrator and/or its Building Official 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 address specified in the permit application or the land records of the County of Sussex, Virginia.

- (4) The Owner may appeal the issuance of an Order to the Circuit Court of the County of Sussex, Virginia.
- (5) Any person violating or failing, Neglecting or refusing to obey an order issued by the County Administrator and/or its Building Official may be compelled in a proceeding instituted in the Circuit Court of the County of Sussex, Virginia to obey the same and to comply therewith by injunction,

mandamus 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.

- (6) Nothing in this section shall prevent the County Administrator and/or the Building Official from taking any other action authorized by this ordinance.

#### SECTION 12-77. PENALTIES, INJUNCTIONS, AND OTHER LEGAL ACTIONS

- A. Any person who violates any provision of this ordinance shall, upon a finding by the General District Court of Sussex County, Virginia, be assessed a civil penalty. The civil penalty for any one violation shall be \$100, except that the civil penalty for commencement of land-disturbing activities without an approved plan shall be a civil penalty not exceeding \$1,000. Each day during which the violation is found to have existed shall constitute a separate offense. 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 \$3,000, 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.

Note: The adoption of civil penalties according to this schedule shall be in lieu of criminal sanctions and shall preclude the prosecution of such violation as a misdemeanor under subsection A of this section. (See Code of Virginia, Section 10.1-562 J).

- B. The Sussex County Administrator and/or its Building Official, or the owner of property which has sustained damage or which is imminent danger of being damaged, may apply to the Circuit Court of Sussex County, Virginia to enjoin a violation or a threatened violation of this ordinance, without the necessity of showing that an adequate remedy at law does not exist.
- (1) However, an owner of property shall not apply for injunctive relief unless
- (i) 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, creates a probability of causing, damage to his property, and
  - (ii) neither the person who has violated the local program nor the program authority has taken corrective action within fifteen days to eliminate the conditions which have caused, or create the probability of causing, damage to his property.
- C. In addition to any civil penalties provided under this ordinance, any person who violates any provision of this ordinance may be liable to Sussex County, Virginia in a civil action for damages and this ordinance shall not be construed as

preventing any federal, state, county, local or administrative official from instituting any criminal or civil action warranted by, excepting the provisions of this ordinance, any other federal, state, county or local or administrative statute, ordinance or administrative regulation.

D. 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 be subject, in the discretion of the court, to a civil penalty not to exceed \$2,000 for each violation. A civil action for such violation or failure may be brought by the County of Sussex, Virginia.

(1) Any civil penalties assessed by a court shall be paid into the treasury of the County of Sussex, Virginia, 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.

(2) 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 ordinance, the County of Sussex, Virginia may provide for the payment of civil charges for violations in specific sums, not to exceed the limit specified in Subsection D of this section. Such civil charges shall be instead of any appropriate civil penalty which could be imposed under Subsection D.

(3) The Sussex County Attorney shall, upon request of the County or the permit issuing authority institute, take legal action to enforce the provisions of this ordinance.

E. Compliance with the provisions of this ordinance 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.

#### SECTION 12-78. APPEALS AND JUDICIAL REVIEW

A. Any applicant under the provision of this ordinance who is aggrieved by any action of the County or its agent in disapproving plans submitted pursuant to this ordinance shall have the right to apply for and receive a review of such action by the Sussex County Board of Supervisors provided an appeal is filed within 30 days from the date of the action. Any applicant who seeks an appeal hearing before the Sussex County Board of Supervisors shall be heard at the next regularly scheduled Board of Supervisors public hearing provided that the Board of Supervisors and other involved parties have at least 30 days prior notice. In reviewing the agent's actions, the Board of Supervisors shall consider evidence and opinions presented by the aggrieved applicant and agent. After considering the evidence and opinions, the Board of Supervisor may affirm, reverse or modify

the action. The Board of Supervisors' decision shall be final, subject only to review by the Circuit Court of Sussex County, Virginia.

- B. Final decisions of the County under this ordinance shall be subject to review by the Sussex County, Virginia Circuit Court, provided 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.

SECTIONS 12-79-12-84. RESERVED.

**BE IT FURTHER RESOLVED AND ORDAINED** that this re-enacted ordinance shall take effect upon its passage and the Clerk of the Board of Supervisors shall forward certified copies of this ordinance to the Clerk of the Sussex Circuit and General District Courts and the Attorney for the Commonwealth, respectively, of Sussex County, Virginia.

COPY TESTE:

  
Mary E. Jones, Clerk