

CAMPBELL COUNTY CODE OF 1988

CHAPTER 8

EROSION AND SEDIMENTATION CONTROL AND STORMWATER MANAGEMENT

For state law as to Erosion and Sediment Control Law generally, see VA. CODE ANN. §10.1-560 et seq. (Repl. Vol. 2006 and Cum. Supp. 2010). For state law as to duty of County to adopt provisions in Article I of this chapter, see VA. CODE ANN. §10.1-562 (Cum. Supp. 2010). As to state law as to Stormwater Management generally, see VA. CODE ANN. §10.1-603.1 et seq. (Repl. Vol. 2006 and Cum. Supp. 2010).

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ARTICLE I. EROSION AND SEDIMENTATION CONTROL.

Sec. 8-1. Purpose.

This article provides for, both during and following development, the effective control of soil erosion, sediment deposition, and nonagricultural runoff to prevent the unreasonable degradation of properties, stream channels, waters and other natural resources; and establishes procedures for the administration and enforcement of such controls in accordance with the Administrative Process Act (VA. CODE ANN. §2.2-4000 et seq. (Repl. Vol. 2008 and Cum. Supp. 2010).

In recognition of the fact that off-site erosion, flooding and nonpoint source pollution due to development in a watershed have become significant statewide problems, this article is intended to address post-development stormwater considerations associated with runoff from activities regulated by this article. The design of such systems which minimize adverse downstream effects of increased runoff shall meet or exceed the requirements contained in the Virginia Erosion and Sediment Control Regulations in Minimum Standard (MS) #19 and other applicable state minimum standards and specifications contained in the Virginia Erosion and Sediment Control Handbook, as promulgated and amended from time to time by the Virginia Soil and Water Conservation Board, and other more stringent local regulations as may be adopted by the Campbell County Board of Supervisors pursuant to the authority of VA. CODE ANN. §10.1-570 (Repl. Vol. 2006).

For state law authority, see VA. CODE ANN. §10.1-561 (Repl. Vol. 2006) and §10.1-562 (Cum. Supp. 2010).

[THE MARCH 17, 1997 AMENDMENT rewrote the section.]

[THE DECEMBER 20, 1999 AMENDMENT added the second paragraph.]

[THE JUNE 17, 2002 AMENDMENT substituted “§2.2-4000 et seq. (Repl. Vol. 2001)” for “§9-6.14:1 et seq.” in the first paragraph.]

Sec. 8-2. Application of article; incorporation of state regulations, minimum standards and specifications.

(a) Except as provided for in Sec. 8-4 of this Code, no person may engage in any land-disturbing activity, including activity that results from the construction of a single-family residence, until such person has submitted to the County, has had reviewed by and has been approved by the plan-approving authority, an erosion and sediment control plan for such land-disturbing activity, and has obtained a land-disturbing permit. Among other things, such erosion and sediment control plan shall address post-development stormwater runoff considerations such that properties and waterways downstream from development sites shall be protected from sediment deposition, erosion and damage due to increases in volume, velocity and peak flow rate of stormwater runoff for the stated frequency storm of 24-hour duration in accordance with the standards and criteria set forth in Minimum Standard #19 of the Virginia Erosion and Sediment Control Regulations §4 VAC 50-30-40, as in effect on July 1, 1998, and as amended or revised thereafter, which regulation is

hereby adopted and incorporated herein by reference. Such incorporation by reference is specifically intended to include future amendments to the state regulations, standards, and specifications cited above.

In accordance with VA. CODE ANN. §10.1-561 A. (Repl. Vol. 2006), stream restoration and relocation projects that incorporate natural channel designs concepts are not man-made channels and shall be exempt from any flow rate capacity and velocity requirements for natural or man-made channels as defined in any regulations promulgated pursuant to VA. CODE ANN. §10.1-561 A. (Repl. Vol. 2006), §10.1-562 (Cum. Supp. 2010), or §10.1-570 (Repl. Vol. 2006), or similar ordinances herein adopted pursuant to those statutes. Any land-disturbing activity that provides for stormwater management intended to address any flow rate capacity and velocity requirements for natural or manmade channels shall satisfy the flow rate capacity and velocity requirements for natural or manmade channels if the practices are designed to (i) detain the water quality volume and to release it over 48 hours; (ii) detain and release over a 24-hour period the expected rainfall resulting from the one year, 24-hour storm; and (iii) reduce the allowable peak flow rate resulting from the 1.5, 2, and 10-year, 24-hour storms to a level that is less than or equal to the peak flow rate from the site assuming it was in a good forested condition, achieved through multiplication of the forested peak flow rate by a reduction factor that is equal to the runoff volume from the site when it was in a good forested condition divided by the runoff volume from the site in its proposed condition, and shall be exempt from any flow rate capacity and velocity requirements for natural or manmade channels as defined in any regulations promulgated pursuant to VA. CODE ANN. §10.1-562 (Cum. Supp. 2010) or §10.1-570 (Repl. Vol. 2006), or similar ordinances herein adopted pursuant to those statutes.

(b) The Virginia Erosion and Sediment Control Regulations and state minimum standards and specifications, as promulgated and amended from time to time by the Virginia Soil and Water Conservation Board, are hereby adopted as a part of this article and incorporated herein by reference. Such incorporation by reference is specifically intended to include future amendments to the regulations, minimum standards and specifications cited above. The design standards set forth in the Virginia Erosion and Sediment Control Handbook, as promulgated and amended from time to time by the Virginia Soil and Water Conservation Board, are hereby designated as the standards to be used in plan review and inspection in Campbell County.

(c) It is the intent of this article to be an adjunct to Campbell County's ordinances concerning floodplains, subdivision, zoning, and stormwater management when promulgated, and other programs requiring compliance prior to authorizing construction in order to make the submission and approval of plans, issuance of permits, payment of fees, and coordination of inspection and enforcement activities more convenient and efficient both for Campbell County and those responsible for compliance with the programs.(9-8-87)

(d) Until Campbell County adopts a stormwater management program pursuant to VA. CODE ANN. §10.1-603.3 (Cum. Supp. 2010) and VA. CODE ANN. §15.2-2114 (Cum. Supp. 2011), the provisions of this article and applicable federal, state and/or local laws and regulations shall prescribe local stormwater runoff criteria for the control of off-site erosion and sedimentation.

For state law authority, see VA. CODE ANN. §10.1-563 (Cum. Supp. 2011), §10.1-562 (Cum. Supp. 2010)

and §10.1-561 (Repl. Vol. 2006). See also VA. CODE ANN. §1-220 (Repl. Vol. 2008).

Cross-reference.—Campbell County has not adopted a stormwater management program pursuant to VA. CODE ANN. §10.1-603.3 (Cum. Supp. 2010) or VA. CODE ANN. §15.2-2114 (Cum. Supp. 2011). Local stormwater runoff criteria governing control of certain off-site erosion and sedimentation are integrated in this article at this time.

Editor’s notes. - VA. CODE ANN. §10.1-562 A. (Cum. Supp. 2010) provides that each soil and water conservation district “shall adopt regulations consistent with the state program. The regulations may be revised from time to time as necessary. Before adopting or revising regulations, the district shall give due notice and conduct a public hearing on the proposed or revised regulations except that a public hearing shall not be required *when the district is amending its program to conform to revisions in the state program.*” [emphasis added]. Subsection C of VA. CODE ANN. §10.1-562 (Cum. Supp. 2010) provides that “Any county, city, or town within a district may adopt and administer an erosion and sediment control program.”

VA. CODE ANN. §10.1-570 (Repl. Vol. 2006) authorizes a district or locality to adopt more stringent soil erosion and sediment control regulations than those necessary to ensure compliance with the state regulations. The proposal of or revision of regulations more stringent than the state program shall require special notice and public hearing requirements, as described in VA. CODE ANN. §10.1-562.A. (Cum. Supp. 2010). However, no district or locality may impose more stringent regulations for plan approval or permit issuance than those specified in VA. CODE ANN. §10.1-563 (Cum. Supp. 2011) and VA. CODE ANN. §10.1-565 (Repl. Vol. 2006). VA. CODE ANN. §10.1-567 (Repl. Vol. 2006) authorizes districts and localities operating their own programs to cooperate and enter into agreements with any federal or state agency in connection with plans for erosion and sediment control with respect to land-disturbing activities.

[THE 1992 AMENDMENT designated the existing provisions as (a) and (c) and inserted new (b).]

[THE 1993 AMENDMENT substituted “plan-approving authority” for “administrator” in (a).]

[THE DECEMBER 20, 1999 AMENDMENT added the second and third sentences in (a); in (b), inserted “and state minimum standards and specifications” in the first sentence and added second and third sentences; rewrote (c); and added (d).]

[THE JULY 2, 2007 AMENDMENT added the second paragraph in (a).]

[THE JULY 7, 2008 AMENDMENT added “including activity that results from the construction of a single-family residence” in the second line of the first sentence, and “and has obtained a land-disturbing permit” at the end of the first sentence.]

Sec. 8-3. Definitions.

For the purpose of this article, certain terms and words used herein shall be interpreted as follows, unless the context clearly indicates otherwise. In addition, some terms not defined herein

are defined in Virginia Erosion and Sediment Control Regulations §4 VAC 50-30-10, and are incorporated herein by reference. Such incorporation by reference is specifically intended to include future amendments to the applicable statutes, state regulations, standards, and specifications.

Adequate channel. A channel that will convey the designated frequency storm event without overtopping the channel bank nor causing erosive damage to the channel bed or banks.

Agreement in lieu of a plan. 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.

Applicant. 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.

Best management practice (BMP). Schedules of activities, prohibitions of practices, including both structural and nonstructural practices, maintenance procedures, and other management practices to prevent or reduce the pollution of surface waters and groundwater systems from the impacts of land-disturbing activities.

Board. Virginia Soil and Water Conservation Board.

Certified inspector. An employee or agent of a program authority who (i) holds a certificate of competence from the Board in the area of project inspection or (ii) is enrolled in the Board's training program for project inspection and successfully completes such program within one year after enrollment.

Certified plan reviewer. An employee or agent of a program authority who (i) holds a certificate of competence from the Board in the area of plan review, (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, landscape architect or land surveyor pursuant to VA. CODE ANN. §54.1-400 et seq. (Repl. Vol. 2009 and Cum. Supp. 2010).

Certified program administrator. An employee or agent of a program authority who (i) holds a certificate of competence from the Board in the area of program administration or (ii) is enrolled in the Board's training program for program administration and successfully completes such program within one year after enrollment.

Clearing. Any activity which removes the vegetative ground cover including but not limited to root mat removal or topsoil removal.

Conservation plan, erosion and sediment control plan, or plan. 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.

Director. The Director of the Virginia Department of Conservation and Recreation or his designee.

District or soil and water conservation district. A political subdivision of the Commonwealth, and a public body corporate and politic, organized in accordance with the provisions of the Soil and Water Conservation Districts Law, VA. CODE ANN. §10.1-506 et seq. (Repl. Vol. 2006 and Cum. Supp. 2010), in this instance the Robert E. Lee Soil and Water Conservation District, for the purposes, with the powers, and subject to the restrictions set forth in this chapter and in VA. CODE ANN. §10.1-506 et seq. (Repl. Vol. 2006 and Cum. Supp. 2010).

Erosion impact area. 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 or to shorelines where the erosion results from wave action or other coastal processes.

Excavating. Any digging, scooping or other method of removing earth materials.

Filling. Any depositing or stockpiling of earth materials.

Flooding. A volume of water that is too great to be confined within the banks or walls of the stream, water body or conveyance system and that overflows onto adjacent lands, causing or threatening damage.

Grading. Any excavating or filling of earth materials or any combination thereof, including the land in its excavated or filled condition.

Impoundment. Generally, an artificial collection or storage of water, as a reservoir, pit, dugout, basin, sump, etc.

Inspection. An on-site review of the project's compliance with the permit, the local stormwater management program, and any applicable design criteria, or an on-site review to obtain information or conduct surveys or investigations necessary in the enforcement of the Act and the applicable regulations.

Land-disturbing activity. Any land change that 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; a manmade change to the land surface that potentially changes its runoff characteristics. The term shall not include the activities specified in §8-4 of this Code.

Land-disturbing permit. A permit issued by the County for clearing, filling, excavating, transporting, or any combination thereof. Such a permit shall not be issued unless the applicant submits with his application an approved erosion and sediment control plan and certification that the plan will be followed.

Local erosion and sediment control program or local control program. An outline of the various methods employed by a program authority 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.

Natural channel design concepts. The utilization of engineering analysis and fluvial geomorphic processes to create, rehabilitate, restore, or stabilize an open conveyance system for the purpose of creating or recreating a stream that conveys its bankfull storm event within its banks and allows larger flows to access its bankfull bench and its floodplain.

Nonpoint source pollution. Contaminants such as sediment, nitrogen and phosphorus, hydrocarbons, heavy metals, and toxics whose sources cannot be pinpointed but rather are washed from the land surface in a diffuse manner by stormwater runoff.

Owner. 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.

Peak flow rate. The maximum instantaneous flow from a given storm condition at a particular location.

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

Person. Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town, or other political subdivision of the Commonwealth, any interstate body, or any other legal entity.

Plan-approving authority. The Board, the program authority, or a department of a program authority, responsible for determining the adequacy of a conservation plan submitted for land-disturbing activities on a unit or units of lands and for approving plans. Such person or persons shall be designated from time to time by the Board of Supervisors of Campbell County as its agent(s) to administer this chapter.

Program authority. A district, county, city, or town that has adopted a soil erosion and sediment control program that has been approved by the Board. Campbell County is the designated program authority through its Community Development Department, and the Environmental Manager is responsible for the administration of the program.

Runoff or stormwater runoff. That portion of precipitation that is discharged across the land surface or through conveyances to one or more waterways.

Runoff volume. The volume of water that runs off the land development project from a prescribed storm event.

Safety fence. A protective barrier installed to prohibit undesirable use of an erosion control measure, particularly a stormwater management facility.

Standards and specifications. Those minimum standards and specifications as set forth in Chapter 3 and Chapter 8 of the Virginia Erosion and Sediment Control Handbook which shall guide the person or persons administering the local control program in the performance of his/their responsibilities.

State erosion and sediment control program or state program. The program administered by the Board pursuant to VA. CODE ANN. §10.1-560 et seq. (Repl. Vol. 2006 and Cum. Supp. 2010), including regulations designed to minimize erosion and sedimentation.

State waters. All waters on the surface and under the ground wholly or partially within or bordering the Commonwealth or within its jurisdiction.

Stormwater detention. The process of temporarily impounding runoff and discharging it through a hydraulic outlet structure to a downstream conveyance system.

Stormwater detention basin. A stormwater management facility that temporarily impounds runoff and discharges it through a hydraulic outlet structure to a downstream conveyance system. While a certain amount of outflow may also occur via infiltration through the surrounding soil, such amounts are negligible when compared to the outlet structure discharge rates and are, therefore, not considered in the facility's design. Since a detention facility impounds runoff only temporarily, it is normally dry during nonrainfall periods.

Stormwater management facility. A device that controls stormwater runoff and changes the characteristics of that runoff including, but not limited to, the quantity and quality, the period of release or the velocity of flow.

Stormwater retention basin. A stormwater management facility that includes a permanent impoundment, or normal pool of water, for the purpose of enhancing water quality and, therefore, is normally wet, even during nonrainfall periods. Storm runoff inflows are or may be temporarily stored above this permanent impoundment for the purpose of reducing flooding, or stream channel erosion.

Transporting. Any moving of earth materials from one place to another, other than such movement incidental to grading, when such movement results in destroying the vegetative ground cover, either by tracking or the buildup of earth materials to the extent that erosion and sedimentation will result from the soil or earth materials over which such transporting occurs. (7-21-75, §3.) (9-8-87)

Water quality volume. The volume equal to the first one-half inch of runoff multiplied by the impervious surface of the land development project.

Watershed. A defined land area drained by a river or stream or system of connecting rivers or streams such that all surface water within the area flows through a single outlet.

For similar state law, see VA. CODE ANN. §10.1-560 (Cum. Supp. 2010) and VA. CODE ANN. §10.1-100

(Repl. Vol. 2006). See also VA. CODE ANN. §10.1-565 (Repl. Vol. 2006). See Virginia Erosion and Sediment Control Regulations §4 VAC 50-30-10 et seq. See also Virginia Stormwater Management Regulations §4 VAC 50-60-10 et seq.

[THE 1987 AMENDMENT added “unless the context clearly indicates otherwise” in the introductory paragraph, rewrote the definitions of “District or soil and water conservation district” and “Erosion and sedimentation control plan, conservation plan or plan,” substituted “excavated” for “excavating” in definition of “grading,” rewrote definition of “land-disturbing activity” and inserted definition of “Person.”]

[THE 1988 AMENDMENT, in the definition of “District or soil and water conservation district,” substituted “political” for “governmental” and “VA. CODE ANN. §10.1-506 et seq. (Cum. Supp. 1988)” for “VA. CODE ANN. §21-1 et seq. (Repl. Vol. 1983 and Cum. Supp. 1987)” twice, substituted “filling of” for “filling or” in the definition of “Grading;” in the definition of “Land-disturbing activity” substituted “Commonwealth” for “State” and deleted “other than federal lands” following “filling of land;” substituted “the Commonwealth” for “this state” in the definition of “Person,” and added the language beginning “who is responsible” at the end of the definition of “Plan-approving authority,” and substituted “Chapter 3” for “Part III” in the definition of “Standards and specifications.”]

[THE 1990 AMENDMENT inserted “and Water” preceding “Conservation Districts Law” in the definition of “District or soil and water conservation district.”]

[THE 1993 AMENDMENT deleted the definition of “Administrator,” placing similar provisions in the new definition of “plan-approving authority” and deleted “Subdivision,” inserted the following new definitions: “Agreement in lieu of a plan,” “Applicant,” “Certified inspector,” “Certified plan reviewer,” “Certified program administrator,” “Erosion impact area,” “Local erosion and sediment control program or local control program,” “Owner,” “Permittee,” “Program authority,” “State erosion and sediment control program or state program” and “State waters.” Also, the former “Erosion and sedimentation control plan, conservation plan or plan” was redesignated as “Conservation plan, erosion and sediment control plan, or plan” and “erosion impact area” was deleted preceding “management information” in the second sentence thereof; new second sentence was added in definition of “Land-disturbing permit” and the definition of “Plan-approving authority” was rewritten.]

[THE 1997 AMENDMENT inserted “from time-to-time” in the last sentence of the definition of “Plan-approving authority”.]

[THE DECEMBER 20, 1999 AMENDMENT added the second sentence in the introductory paragraph, inserted the definitions of “Adequate channel,” “Best management practice (BMP),” “Director,” “Flooding,” “Impoundment,” “Inspection,” “Non- point source pollution,” “Runoff or stormwater runoff,” “Safety fence,” “Stormwater detention,” “Stormwater detention basin,” “Stormwater management facility,” “Stormwater retention basin,” and “Watershed;” in the definition of “Land-

disturbing activity,” inserted “a manmade change to the land surface that potentially changes its runoff characteristics,” and in the definition of “Standards and Specifications,” inserted “minimum” preceding “standards” and “and Chapter 8” following “Chapter 3” and deleted “which are hereby adopted by reference and” preceding “which shall guide.”]

[THE JULY 6, 2004 AMENDMENT substituted “that” for “which” throughout the section.]

[THE JULY 2, 2007 AMENDMENT added the last sentence in the introductory paragraph and added the definitions for “Natural channel design concepts,” “Peak flow rate,” “Runoff volume,” and “Water quality volume.”]

[THE DECEMBER 1, 2008 AMENDMENT added the last sentence to the definition of “Program authority.”]

[THE JULY 19, 2010 AMENDMENT slightly revised wording of definition of “Adequate channel,” replaces language of definition of “Best management practice” with that of the Virginia administrative regulations, deleted “certified” from “landscape architect” in definition of “Certified plan reviewer,” added “or his designee” to definition of “Director,” aligned definition of “Inspection” to conform to regulations, and deleted “drainage ways” twice from the definition of “Watershed”)

Sec. 8-3.1. Certification of local program personnel.

(a) In accordance with the provisions of VA. CODE ANN. §10.1-561.1 (Repl. Vol. 2006), following the adoption of regulations by the Virginia Soil and Water Conservation Board establishing minimum standards of effectiveness of local erosion and sediment control programs and adoption of same into the local program, (i) a conservation plan shall not be approved until it is reviewed by a certified plan reviewer; (ii) inspections of land-disturbing activities are conducted by a certified inspector; and (iii) a local program shall contain a certified program administrator, a certified plan reviewer, and a certified project inspector, who may be the same person.

(b) Any person who holds a certificate of competence from the Board in the areas of plan review, project inspection, or program administration which was attained prior to the adoption of the mandatory certification provisions of subsection (a) of this section shall be deemed to satisfy the requirements of that area of certification.

For state law basis, see VA. CODE ANN. §10.1-561.1 (Repl. Vol. 2006) and VA. CODE ANN. §10.1-561 D (Repl. Vol. 2006).

Editor’s note.—Requirements for review and inspections by a certified plan reviewer, certified project inspector and certified program administrator, who all may be one person, shall become effective one (1) year after adoption of this section by the Board of Supervisors. This section was adopted on March 17, 1997. Pursuant to VA. CODE ANN. §10.1-561 G., as of December 31, 2004, personnel of the Virginia Department of Conservation and Recreation who inspect for

compliance with the Erosion and Sediment Control Law must hold valid certificates of competence as already required of local program personnel.

[THE MARCH 17, 1997 ACT adopted this section.]

Sec. 8-4. Noncontrolled activities.

In no instance shall the term “land-disturbing activity” as defined in this article be construed to include the following:

(a) Minor land-disturbing activities such 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 the land-disturbing activity is confined to the area of the road, street or sidewalk that 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 activities authorized under a permit issued by the Department of Mines, Minerals and Energy;

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

(g) Tilling, planting, or harvesting of agricultural, horticultural, or forest crops, or livestock feedlot operations; including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of VA. CODE ANN. §10.1-1100 et seq. (Repl. Vol. 2006 and Cum. Supp. 2010) or is converted to bona fide agricultural or improved pasture use as described in subsection B of VA. CODE ANN. §10.1-1163 (Repl. Vol. 2006).

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

(i) Agricultural engineering operations including but not limited to the construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the provisions of the Dam Safety Act, VA. CODE ANN. §10.1-604 et seq. (Repl. Vol. 2006 and Cum. Supp. 2010), ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage and land irrigation;

(j) Disturbed land areas of less than ten thousand (10,000) square feet in size;

(k) Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles; and

(1) Emergency work to protect life, limb or property, and emergency repairs; however, if the land-disturbing activity would have required an approved erosion and sediment control plan, if the activity were not an emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of the local plan-approving authority. (7-21-75, §4) (9-8-87)

For state law basis, see VA. CODE ANN. §10.1-560 (Cum. Supp. 2010).

[THE 1987 AMENDMENT rewrote the introductory paragraph, deleted language at the end of paragraph (f) regarding tilling, planting, harvesting, clearing and transporting on certain lands, redesignated former (g) through (k) as present (i) through (m), deleted former (1) concerning certain engineering operations on privately-owned land, inserted new (g) and (h), and inserted “land” following “Disturbed” in present (k).]

[THE 1988 AMENDMENT deleted “to” preceding “the following” in the introductory paragraph, deleted former (c) concerning construction, installation or maintenance of electric and telephone utility lines, redesignated former (d) through (i) as present (c) through (h), added language beginning “or livestock feedlot” at the end of (g), substituted “Repair” for “Construction, repair” in (h), added new (i), deleted “for commercial or noncommercial uses” following “areas” in (k), and substituted “however” for “provided that” in (m).]

[THE 1993 AMENDMENT deleted former (j) which exempted preparation for certain single family residences separately built, redesignated former (k) through (m) as present (j) through (1) and added “and” at the end of (k).]

[THE MARCH 17, 1997 AMENDMENT added the language beginning “however, this exception shall not apply” at the end of (g).]

[THE DECEMBER 20, 1999 AMENDMENT inserted “(10,000)” in (j).]

[THE JULY 6, 2004 AMENDMENT inserted “activities authorized under a permit issued by the Department of Mines, Minerals and Energy” in paragraph (e), and substituted “that” for “which” throughout the section.]

Sec. 8-5. Contents of erosion and sedimentation control plan.

An erosion and sedimentation control plan is required under this article. The erosion and sedimentation control plan shall detail those methods and techniques to be utilized for the effective control of soil erosion, sediment deposition and nonagricultural runoff. At a minimum, the erosion and sedimentation control plan shall comply with the Virginia Erosion and Sediment Control Regulations and state minimum standards and specifications, as they may be amended from time to time, which, by §8-2(b) of this Code, are adopted as part of this article.

Conservation practices for erosion and sediment control shall meet or exceed standards and specifications contained in the State Erosion and Sediment Control Handbook. When applicable, the plan-approving authority may require that erosion and sedimentation control plans be phased in order to reduce the potential environmental hazards during clearing and grading operations. Practices for which standards and specifications are not contained in the State Erosion and Sediment Control Handbook may be approved by the local plan-approving authority based on the merits of the practice as proposed for use in individual circumstances.

Even within Campbell County, the conservation practices needed to control accelerated erosion and sedimentation vary widely from site to site. Such factors as degree of slope, nature and types of soil, drainage characteristics, proximity to property boundaries and watercourse, acreage disturbed, amount of cut and fill, as well as other factors have a direct bearing on what combination of conservation practices will result in an adequate erosion and sediment control plan. The development of a plan shall recognize such variations in accordance with guidelines provided by the Virginia Erosion and Sediment Control Regulations.

Where conservation practices needed to control accelerated erosion and sedimentation and/or to manage the runoff from land development projects involve the construction and maintenance of a stormwater management facility not required to comply with provisions of the Virginia Dam Safety Act (VA. CODE ANN. §10.1-604 et seq. (Repl. Vol. 2006 and Cum. Supp. 2010)) or the Virginia Impounding Structure Regulations §4VAC 50-20-10 et seq., the provisions of this article shall control in the absence of a local stormwater management program. Impounding structures that are not covered by the said Virginia Impounding Structure Regulations shall be engineered for structural integrity during the 100-year storm event.

All erosion and sedimentation control measures, including those necessary for management of stormwater runoff, required by the provisions of this article or required under an approved plan shall be undertaken at the expense of the owner or his agent.

For general state authority, see VA. CODE ANN. §10.1-563 (Cum. Supp. 2011).

Cross-references: By granting variances, the plan-approving authority may waive or modify regulations deemed inappropriate or too restrictive for site conditions. See §4 VAC 50-30-50 (Virginia E & S Control Regulations) for conditions in which a variance may be granted.

[THE 1982 AMENDMENT, in the introductory paragraph, substituted “meet the conservation standards” for “follow the format” in the third sentence and “shall adhere to the following format” for “is as follows” at the end of that sentence.]

[THE 1988 AMENDMENT substituted “Campbell County Soil Survey Manual (1973)” for “Agricultural Handbook 18-Soil Survey Manual” in item 3, and, in item 10, substituted “Chapter 3” for “Part III” and “Second Edition (1980)” for “dated April 1974” and deleted former last sentence: “The above requirements are included in the Campbell County Erosion and Sediment Control Handbook.”]

[THE 1991 AMENDMENT substituted “comply with” for “meet the conservation standards detailed in Chapter 3 of the Virginia Erosion and Sediment Control Handbook, Second Edition-1980” in the third sentence of the introductory paragraph.]

[THE MARCH 17, 1997 AMENDMENT deleted the “Guidelines for Erosion and Sediment Control Plans” detailing plan requirements, but retained the present first three paragraphs describing plan requirements generally and incorporating state regulations, and added the new fourth paragraph.]

[THE FEBRUARY 2, 1998 AMENDMENT added the fifth paragraph (later redesignated as the first paragraph in §8-5.1 of this Code).]

[THE DECEMBER 20, 1999 AMENDMENT, in the first paragraph, substituted “for the effective control of soil erosion, sediment deposition and nonagricultural runoff” for “in the control of erosion and sedimentation,” and inserted “and state minimum standards and specifications;” substituted “State” for “local” twice in second paragraph; rewrote the fourth paragraph; deleted the former fifth paragraph (later redesignated as the first paragraph in §8-5.1 of this Code); and added the final paragraph herein.]

[THE JULY 7, 2008 AMENDMENT added the second sentence in the second paragraph.]

Sec. 8-5.1. Criteria for management of stormwater runoff; inclusion of stormwater management practices in erosion and sedimentation control plan.

Minimum Standard #19 in Virginia Erosion and Sediment Control Regulations §4 VAC 50-30-40 requires that all properties and waterways downstream from development sites shall be protected from sediment deposition, erosion and damage due to increases in volume, velocity and peak flow rate of stormwater runoff for the stated frequency storm of 24-hour duration in accordance with the standards and criteria set forth therein.

Minimum Standard #19 specifically addresses concentrated stormwater runoff and determination of receiving channel adequacy and shall be deemed to provide the criteria governing the management of stormwater runoff in the absence of a local stormwater management program. Minimum Standard #19 allows for stormwater runoff to be managed by a combination of channel improvement, stormwater detention, stormwater retention, or other measures satisfactory to the plan-approving authority in order to prevent downstream erosion. Such stormwater management measures and facilities shall be described in detail in the erosion and sedimentation control plan in accordance with requirements of the Virginia Erosion and Sediment Control Handbook and this article and shall be subject to the approval of the plan-approving authority. In addition, stormwater detention or retention facilities shall be subject to additional design criteria, and long-term maintenance requirements as prescribed in other provisions of this article, and by other applicable local, state, or federal laws and regulations.

See Minimum Standard #19 of Virginia Erosion and Sediment Control Regulations at §4 VAC 50-30-40.

[THE DECEMBER 20, 1999 ACT adopted this section, formerly part of §8-5.]

Sec. 8-5.2. Guidelines for applying statewide stormwater runoff standard.

The stormwater runoff criteria contained in Minimum Standard #19 in Virginia Erosion and Sediment Control Regulations, §4 VAC 50-30-40, apply to all land development projects which require an erosion and sediment control plan under state law. **In applying the stormwater runoff criteria, individual lots or parcels in a residential, commercial or industrial development shall not be considered to be separate development projects. Instead, the development, as a whole, shall be considered to be a single development project.** Application of the criteria contained in Minimum Standard #19 shall be considered for projects under 10,000 square feet in size to prevent piecemeal development. Hydrologic parameters that reflect the ultimate development condition shall be used in all engineering calculations.

The stormwater runoff criteria apply primarily at points of concentrated discharge along the perimeter of the development site. However, the project must also be designed so that increased sheet runoff (e.g. runoff from newly paved areas) will not cause damage to adjacent properties. Such increased sheet flows should be diverted to a stable outlet, adequate channel or detention facility where the stormwater runoff criteria can be applied.

Pursuant to the state criteria, an applicant must show that the runoff from the development project for the frequency storms specified in the aforesaid Minimum Standard #19 will not damage adjacent properties, or exceed the capacity of or cause erosion of receiving streams or channels. Each receiving stream or channel must be tested for adequacy. This must be proven by engineering calculations to be included in the erosion and sediment control plan. Any engineering analysis for a stormwater detention basin or a stormwater retention basin which is expected to “pond” water at a depth of more than two (2) feet for more than thirty (30) minutes at a time, shall include plans, specifications, hydrology, hydraulics, etc., and shall be conducted by and bear the seal of a professional engineer licensed to practice in Virginia.

If existing natural receiving channels or streams or previously constructed manmade channels or pipes are not adequate, the applicant must choose one of the following options:

(i) Improve the channels to a condition where the ten-year frequency storm will not overtop the channel banks and the two-year frequency storm will not cause erosion to the channel bed or banks. The applicant must provide evidence of permission to make the improvements.

(ii) Improve the pipe or storm sewer system to a condition where the ten-year frequency storm is contained within the appurtenances. The applicant must provide evidence of permission to make the improvements.

(iii) Develop a site design that will not cause the pre-development peak runoff rate from a two-year frequency storm to increase when runoff discharges into a natural channel or will not cause the pre-development peak runoff rate from a ten-year storm to increase when runoff discharges into a manmade channel.

(iv) Provide a combination of channel improvements, stormwater detention or other measures which is satisfactory to the plan-approving authority to prevent downstream erosion.

If the applicant chooses an option that includes stormwater detention or retention, the applicant must obtain approval from Campbell County of a plan of long-term maintenance of the detention or retention facility. The plan must establish the maintenance requirements of the facility and identify the owner and the person(s) responsible for performing the maintenance. Such facility shall be designed to accommodate the removal of accumulated sediment at the time of site stabilization and as necessary thereafter to maintain effectiveness as a stormwater runoff control measure.

See Minimum Standard #19 of Virginia Erosion and Sediment Control Regulations at 4 VAC 50-30-40.

[THE DECEMBER 20, 1999 ACT adopted this section.]

[THE JULY 7, 2008 AMENDMENT added the fourth sentence in the first paragraph.]

Sec. 8-5.3. Determination of rate of stormwater runoff.

Pre-development and post-development runoff rates shall be verified by calculations that are consistent with good engineering practices. All such hydrologic analyses must be based on the existing watershed characteristics and the ultimate development condition of the project site.

Individual lots or parcels in a residential, commercial, or industrial development shall not be considered to be separate development projects. Instead, the development, as a whole, shall be considered to be a single development project.

See Minimum Standard #19 of Virginia Erosion and Sediment Control Regulations at 4 VAC 50-30-40.

[THE DECEMBER 20, 1999 ACT adopted this section.]

Sec. 8-5.4. Safety fences.

(a) In general. The plan approving authority *may require* appropriate temporary safety fencing to be installed around the perimeter of erosion control measures under construction presenting significant risk to persons or animals, unless this is deemed unnecessary by the plan approving authority due to the remoteness of the site or other circumstances. When required under subsections (a), (b), or (c) of this section, safety fencing shall be so located as to create a formidable barrier to undesired access, while allowing for the continuation of necessary construction operations and/or for the continuation of proper functioning of the erosion control measure. The installation of safety fences shall meet or exceed the following standards and shall comply with any other requirements of local, state, or federal laws or regulations:

- (1) Safety fences shall be installed prior to the erosion and sediment control measure becoming accessible to persons or animals.

- (2) Installation of safety fences shall be undertaken at the expense of the owner or his agent, and, once installed, shall be maintained by the owner or his agent in accordance with the applicable standards and specifications included in the Virginia Erosion and Sediment Control Handbook, with particular attention to Standard and Specification 3.01 therein.
- (3) Safety fence shall be installed and maintained in accordance with applicable laws and regulations, including, but not limited to, Standard and Specification 3.01 of the Virginia Erosion and Sediment Control Handbook which specifies, among other things, minimum height requirements of safety fences, material (plastic, metal or “chainlink”, etc.) to be used for fences for different purposes and specifications for each type, required strategic posting of “DANGER” signs, procedures for installation of safety fence, maintenance, inspections, etc. Such standards and specifications are hereby incorporated by reference.
- (4) Such safety fences shall be removed by the owner or his agent immediately upon completion of the erosion control measure, unless (i) the plan approving authority authorizes an earlier removal or (ii) the plan approving authority requires continuation of the safety fencing around the erosion control measure due to specified special circumstances presenting significant continued risk to persons or animals.

(b) Additional requirements pertaining to certain stormwater detention or retention facilities. In recognition of the fact that a potentially dangerous erosion control measure which will remain in place on a long term or permanent basis, and which may contain water and/or silt deposits either continuously or intermittently, such as a stormwater detention or retention facility, poses a significantly higher risk of injury to persons and animals in the vicinity, the following additional requirements shall apply to safety fencing around stormwater detention or retention facilities which are expected to “pond” water at a normal depth of more than two (2) feet for more than thirty (30) minutes at a time:

- (1) Safety fence shall be constructed of metal or “chainlink” fence at least six feet (6’) in height, presenting a formidable barrier to undesired access by persons or animals.
- (2) The metal or “chainlink” fence shall meet or exceed the strength and physical requirements set forth in Standard and Specification 3.01 of the Virginia Erosion and Sediment Control Handbook and shall be installed in compliance with the procedures outlined therein.
- (3) Safety fencing shall be installed and maintained in all other respects in accordance with said Standard and Specification 3.01. Long term maintenance of the safety fence, or replacement when necessary, shall be deemed to be an integral part of the required maintenance associated with such stormwater detention or retention facility as long as such stormwater detention or retention facility remains in existence.

- (4) Signs noting potential hazards such as “DANGER—KEEP OUT” or “HAZARDOUS AREA—KEEP OUT” shall be installed immediately upon installation of a safety fence. Such warning signs shall be the size specified by the plan approving authority and shall be posted at intervals specified by such authority so as to be easily seen by persons approaching the protected area. The owner or his agent shall not allow trees, bushes, grasses, etc. to obscure warning signs and shall repair, replace, or relocate warning signs as necessary.

(c) Other stormwater detention or retention facilities—Fencing and/or signage discretionary. Stormwater detention or retention facilities which are not expected to “pond” water at a normal depth of more than two (2) feet for more than thirty (30) minutes at a time, but which pose a high risk of injury to persons or animals due to the depth of silt deposits, instability of the structure or its appurtenances, its proximity to populated areas, etc., shall be subject to the requirements of subsection (b) hereof at the discretion of the plan-approving authority.

(d) Waiver or modification of safety fence requirement. Waiver or modification of the safety fence requirements herein may be granted by the plan approving authority in its discretion. Any such waiver or modification shall be considered in accordance with the procedures set forth in Virginia Erosion and Sediment Control Regulations, §4 VAC 50-30-50. Such request for waiver or modification shall be presented in writing. Specific variances allowed by the plan approving authority shall be thoroughly documented and made a part of the written record of the erosion and sediment control plan.

[THE DECEMBER 20, 1999 ACT adopted this section.]

Sec. 8-6. Plan submission; approval; state reporting requirements.

(a) (1) Except as provided in §8-7 of this Code, no person may engage in any land-disturbing activity until he has submitted to the County an erosion and sediment control plan for the land-disturbing activity and the plan has been reviewed and 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 may, at the option of the applicant, be submitted to the Virginia Soil and Water Conservation Board for review and approval rather than submission to each jurisdiction concerned. Where the land-disturbing activity as defined in this chapter results from the construction of a single family residence, a land-disturbing permit must be obtained. The permit will serve as a formal agreement in lieu of an erosion and sediment control plan if executed by the plan-approving authority.

(2) The design standards set forth in the Virginia Erosion And Sediment Control Handbook, as promulgated and amended from time to time by the Virginia Soil and Water Conservation Board, are hereby designated as the standards to be used in plan review in Campbell County.

(b) One (1) complete set of the erosion and sediment control plan shall be submitted to the plan-approving authority for review. Upon final approval, three (3) copies of the erosion and sediment control plan, signed, sealed and dated by a Professional Engineer, shall be submitted to the plan-approving authority.

(c) The plan-approving authority shall review conservation plans submitted to it and grant written approval within forty-five (45) days of the receipt of the plan if it determines that the plan meets the requirements of the Virginia Soil and Water Conservation 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 chapter, and of VA. CODE ANN. §10.1-560 et seq. (Repl. Vol. 2006 and Cum. Supp. 2010). 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 in VA. CODE ANN. §10.1-561 (Repl. Vol. 2006), who will be in charge of and responsible for carrying out the land-disturbing activity. However, any plan-approving authority may waive the certificate of competence requirement for a land-disturbing permit serving as an agreement in lieu of a plan when construction of a single family residence is the purpose of a land-disturbing activity. If a violation occurs during the land-disturbing activity, the person responsible for carrying out the plan and/or in possession of the land-disturbing permit shall correct the violation(s). Failure to provide the name of an individual holding a certificate of competence prior to engaging in land-disturbing activities may result in revocation of the approval of the plan and the person responsible for carrying out the plan shall be subject to the penalties provided in this article.

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

(d) Electric, natural gas and telephone utility companies, interstate and intrastate natural gas pipeline companies, and railroad companies shall, and authorities created pursuant to VA. CODE ANN. § 15.2-5102 (Repl. Vol. 2008) may, file general erosion and sediment control specifications annually with the Virginia Soil and Water Conservation Board for review and approval. The specifications shall apply to:

1. Construction, installation or maintenance of electric transmission, natural gas and telephone utility lines and pipelines, and water and sewer lines; and
2. Construction of the tracks, rights-of-way, bridges, communication facilities and other related structures and facilities of the railroad company.

The Virginia Soil and Water Conservation Board shall have sixty (60) days in which to approve the specifications. If no action is taken by the Board within sixty (60) days, the specifications shall be deemed approved. Individual approval of separate projects within subdivisions 1 and 2 of this subsection is not necessary when approved specifications are followed. Projects not included in subdivisions 1 and 2 of this subsection shall comply with the requirements of the County erosion and sediment control program. The Board shall have the authority to enforce approved specifications and charge fees equal to the lower of (i) \$1,000 or (ii) an amount sufficient to cover the costs associated with standard and specification review and approval, project inspections, and compliance.

(e) Any person engaging, in more than one jurisdiction, in the creation and operation of wetland mitigation or stream restoration banks, which have been approved and are operated in accordance with applicable federal and state guidance, laws, or regulations for the establishment, use, and operation of wetlands mitigation or stream restoration banks, pursuant to a mitigation banking instrument signed by the Department of Environmental Quality, the Marine Resources Commission, or the U. S. Army Corps of Engineers, may, at the option of that person, file general erosion and sediment control specifications for wetland mitigation or stream restoration banks annually with the Virginia Soil and Water Conservation Board for review and approval consistent with guidelines established by that Board.

The Virginia Soil and Water Conservation Board shall have sixty (60) days in which to approve the specifications. If no action is taken by the Board within sixty (60) days, the specifications shall be deemed approved. Individual approval of separate projects under this subsection is not necessary when approved specifications are implemented through a project-specific erosion and sediment control plan. Projects not included in this subsection shall comply with the requirements of the County erosion and sediment control program. The Board shall have the authority to enforce approved specifications. Approval of general erosion and sediment control specifications by the Board does not relieve the owner or operator from compliance with any other County ordinances and regulations including requirements to submit plans and obtain permits as may be required by such ordinances and regulations.

(f) In order to prevent further erosion a local program may require approval of a conservation plan for any land identified in the local program as an erosion impact area.

(g) For the purposes of subsections (a) and (c) of this section, 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. (9-8-87)

(h) The County plan-approving authority shall report to the Virginia Department of Conservation and Recreation, in a method and on a time schedule established by that Department, a listing of each land-disturbing activity in Campbell County for which a plan has been approved under this Chapter.

For state law basis, see VA. CODE ANN. §10.1-563 (Cum. Supp. 2011). For authority for subsection (g), see VA. CODE ANN. §10.1-566.1 (Repl. Vol. 2006).

[THE 1987 AMENDMENT designated existing provisions as (b), rewrote provisions of former §8-9 as (a) herein, rewrote provisions of former §8-7 as (c) and (d) herein, and added new (e), (f), and (g).]

[THE 1988 AMENDMENT, in subsection (a), substituted “subsection (f)” for “subsections (e) and (f),” and substituted “Board” for “Commission” and “concerned” for “involved” in the second sentence; rewrote former provisions of (c) and (d) as present (c), inserted new (d), deleted former (e) [which provisions now appear substantially as paragraph (i) of §8-4], inserted new (e); in (f), inserted “annually” following

“specifications” and “for each project” following “plan,” and substituted “Department” for “Commission,” and rewrote the middle paragraph.]

[THE 1993 AMENDMENT substituted “§8-7 of this Code” for “subsection (f) of this section” in (a) and added new last sentence therein, deleted former (f) [which is rewritten and now appears as §8-7] and redesignated former (g) as present (f).]

[THE DECEMBER 20, 1999 AMENDMENT designated provisions of (a) as paragraph (1) thereof and added paragraph (2); in (d), inserted “natural gas” and “interstate and intrastate natural gas pipeline companies” and substituted “approval” for “written comments” in introductory paragraph, inserted “transmission, natural gas” and “and pipelines” in subdivision 1, and, in (d), substituted “approve the specifications” for “comment” in first sentence and inserted the second sentence.]

[THE JUNE 17, 2002 AMENDMENT added the last sentence [*now second sentence*] in first paragraph in (c) to require designation of a person holding a certificate of competence to be in charge of and responsible for carrying out the land-disturbing activity, such designation to be prerequisite to engaging in the land-disturbing activities shown on the approved plan.]

[THE JULY 6, 2004 AMENDMENT, in the first paragraph of (c), substituted “engaging in the land-disturbing activities shown on the approved plan” for “approval of the plan” and inserted “to the program authority” in second sentence, and added the third, fourth, and fifth sentences authorizing waiver of certificate of competence requirement for agreement in lieu of plan for construction of single family residence and specifying procedure regarding violations; and inserted “(45)” and “(60)” in (c) and (d).]

[THE JULY 2, 2007 AMENDMENT, in the second undesignated paragraph in (d), inserted “Virginia Soil and Water Conservation” in the first sentence and substituted “County” for “appropriate local” in the fourth sentence; redesignated former subsections (e) and (f) as present (f) and (g), inserted new subsection (e), and added subsection (h).]

[THE JULY 7, 2008 AMENDMENT divided the last sentence of (a)(1) into two sentences by substituting “a land-disturbing permit must be obtained. The permit will serve as a formal” for “a plan may be substituted for”, and added “as defined in this chapter” after “land-disturbing activity” in the new second-last sentence of (a)(1); revised (b) to require that one complete plan must be submitted to the county for review prior to the three sets for use, and added the second sentence to (b); inserted “a land-disturbing permit serving as” in the third sentence of (c) after “competence requirement for”, and revised the end of that sentence to read “when construction of a single family residence is the purpose of a land-disturbing activity” instead of “for construction of a single family residence”; substituted “plan and/or in possession of the land-disturbing permit” for “agreement in lieu of a plan” in the fourth sentence of (c), and deleted “and provide the name of an individual holding a certificate of competence, as provided by VA. CODE ANN. §10.1-561 (Repl. Vol. 2006)” from the end of the fourth sentence of (c).]

[THE JULY 20, 2009 AMENDMENT, in the first paragraph of (e), inserted “in more than one jurisdiction” once and “or stream restoration” three times; deleted “in multiple

jurisdictions” preceding “which have been approved,” inserted “wetlands” preceding “mitigation,” and substituted “mitigation banking instrument signed” for “permit issued.”]

[THE JULY 5, 2011 AMENDMENT added “and authorities created pursuant to VA. CODE ANN. § 15.2-5102 (Repl. Vol. 2008) may” in (d), added “and water and sewer lines” in (d)(1), and added “and charge fees equal to the lower of (i) \$1,000 or (ii) an amount sufficient to cover the costs associated with standard and specification review and approval, project inspections, and compliance” in the last sentence of (d).]

Sec. 8-7. State agency projects.

(a) A state agency shall not undertake a project involving a land-disturbing activity unless (i) the state agency has submitted annual specifications for its conduct of land-disturbing activities which have been reviewed and approved by the State Department of Conservation and Recreation as being consistent with the state program or (ii) the state agency has submitted a conservation plan for the project which has been reviewed and approved by the Department.

(b) The Department shall not approve a conservation plan submitted by a federal or state agency for a project involving a land-disturbing activity (i) in any locality which has not adopted a local program with more stringent regulations than those of the state program or (ii) in multiple jurisdictions with separate local programs, unless the conservation plan is consistent with the requirements of the state program.

(c) The Department shall not approve a conservation plan submitted by a federal or state agency for a project involving a land-disturbing activity in one locality with a local program with more stringent regulations than those of the state program unless the conservation plan is consistent with the requirements of the local program. If a locality has not submitted a copy of its local program regulations to the Department, the provisions of section (b) of this section shall apply.

(d) The Department shall have sixty days in which to comment on any specifications or conservation plan submitted to it for review and its comments shall be binding on the state agency and any private business hired by the state agency.

(e) As on-site changes occur, the state agency shall submit changes in a conservation plan to the Department.

(f) The state agency responsible for the land-disturbing activity shall ensure compliance with the approved plan or specifications.

For state law basis, see VA. CODE ANN. §10.1-564 (Repl. Vol. 2006). For definition of “Department,” see VA. CODE ANN. §10.1-100 (Repl. Vol. 2006).

[THE 1993 ACT adopted this section, substantially similar to former §8-6(f).]

Sec. 8-8. Approved plan required for issuance of grading, building, or other permits; security for performance.

(a) No agency authorized under any other law or ordinance to issue grading, building, or other permits for activities involving land-disturbing activities may issue any such permits unless the applicant submits with his application an approved erosion and sediment control plan and certification that the plan will be followed.

(b) All control measures required by the provisions of this article shall be undertaken at the expense of the owner or his agent; and prior to the issuance of any permit the owner or his agent shall execute and file with the agency an agreement and a reasonable performance bond with surety, approved by the agency, cash escrow, letter of credit, any combination thereof, or such other legal arrangement acceptable to the agency to ensure that measures could be taken by the agency at the applicant's expense should he fail, after proper notice, within the time specified to initiate or maintain appropriate conservation action which may be required of him by the approved plan as a result of his land-disturbing activity. The amount of the bond or other security for performance shall not exceed the total of the estimated cost to initiate and maintain appropriate conservation action based on unit price for new public or private sector construction in the locality and a reasonable allowance for estimated administrative costs and inflation which shall not exceed twenty-five percent of the estimated cost of the conservation action. If the agency takes such conservation action upon such failure by the permittee, the agency may collect from the permittee for the difference should the amount of the reasonable cost of such action exceed the amount of the security held.

(c)(1) Within sixty days of the achievement of adequate stabilization of the land-disturbing activity in any project or section thereof, the 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 based upon the percentage of stabilization accomplished in the project or section thereof. These requirements are in addition to all other provisions of law relating to the issuance of such permits and are not intended to otherwise affect the requirements for such permits.

(2) Adequate site stabilization in compliance with the approved plan shall be determined by the plan-approving authority upon inspection of the development and the erosion and sediment control measures. Such measures shall meet or exceed the requirements contained in the Virginia Erosion And Sediment Control Handbook, as promulgated and amended from time to time by the Virginia Soil and Water Conservation Board. The plan approving authority shall ensure that any accumulation of silt or sediment in a stormwater detention or retention basin or facility has been adequately cleaned out at the completion of land disturbing activities and that the area has been adequately stabilized by grading, seeding and mulching, or other measures immediately after being constructed, and that such other application of stabilizing materials as may be required by approved plan or applicable standards and specifications has been accomplished.

(3) Where a stormwater detention or retention basin or facility expected to "pond" water at a normal depth of more than two (2) feet for more than thirty (30) minutes at a time has been constructed as a stormwater control measure under the provisions of this article, upon completion of such construction the applicant and a professional engineer licensed to practice in Virginia shall certify in writing that the stormwater detention or retention facility has been constructed in accordance with the design criteria approved by the plan approving authority and in accordance with the applicable laws, regulations, standards and specifications. Such certification shall have affixed to it the official stamp or seal of the licensed professional engineer and such certification shall be deemed a specific condition precedent to the release of security under this section.

(4) Upon completion and adequate stabilization of all other measures for control of erosion, sedimentation, and/or stormwater runoff, the developer and project designer shall certify in writing that such measures were built according to design criteria approved by the plan approving authority and applicable laws, regulations, standards and specifications.

For state law basis, see VA. CODE ANN. §10.1-565 (Repl. Vol. 2006).

[THE 1987 AMENDMENT rewrote former first paragraph as (a) and (b), designated former second paragraph as (c), substituted “applicant” for “owner or his agent” therein and added last sentence.]

[THE 1988 AMENDMENT, in (b), substituted “and” for “or certification of such approved plan from the local plan-approving authority or from the Commission where appropriate, as well as” and “prior to the issuance of any permit” for “pending such actual provision thereof,” deleted “prior to issuance of the land-disturbing permit” preceding “agreement and a reasonable,” inserted “with surety approved by the administrator” following “performance bond,” deleted “with surety approved by the administrator” preceding “to ensure” and added second sentence; and substituted “achievement of adequate stabilization” for “completion” in first sentence of (c), and deleted “as the case may be” at the end thereof.]

[THE 1993 AMENDMENT substituted “plan-approving authority” for “administrator” in (b).]

[THE MARCH 17, 1997 AMENDMENT deleted “in an amount determined by the plan-approving authority equal to the approximate total cost of providing erosion and sedimentation control improvements” preceding “to ensure” in subsection (b), and inserted a new second sentence therein; substituted “agency” for “county” and for “plan-approving authority” in (b); inserted “In any project or section thereof” in first sentence in (c) and added “based upon the percentage of stabilization accomplished in the project or section thereof” at the end of that sentence.]

[THE DECEMBER 20, 1999 AMENDMENT designated the former provisions of subsection (c) as paragraph (1) therein, and added new paragraphs (2), (3) and (4).]

Sec. 8-8.1. Long-term maintenance requirements for stormwater detention or retention facilities.

(a) If an applicant chooses an option for the control of stormwater runoff that includes stormwater detention or retention, the applicant must obtain approval from Campbell County of a plan for long-term maintenance of the detention or retention facility.

The plan must establish the maintenance requirements of the facility, identify the owner of the facility, and identify the person responsible for performing such maintenance. Such stormwater runoff facilities shall be maintained, inspected, and repaired as needed by the person responsible for such long-term maintenance to ensure continued performance of their intended

function and such facilities shall meet or exceed standards set forth in the Virginia Erosion and Sediment Control Handbook, as promulgated and amended from time to time by the Virginia Soil and Water Conservation Board. Maintenance responsibility shall include, but not be limited to:

(i) Adequate site stabilization at the completion of land disturbing activities by grading, seeding, mulching, application of additional stabilizing materials; and

(ii) Adequate clean-out of silt and sediment accumulated in the basin or facility upon completion of land disturbing activities; and

(iii) Maintenance of safety fence, and replacement thereof when necessary, around detention or retention facility when required under provisions of this article or when required in the discretion of the plan-approving authority; and

(iv) Maintenance of the detention or retention facility so as to keep it reasonably clear of undergrowth and trees that may impede its effectiveness; **the facility shall be cleared of such undergrowth, trees, and other debris at least three (3) times a year** and accumulated silt and sediment shall be cleaned out if such interfere with the effectiveness of the facility as a stormwater runoff control measure; and

(v) Periodic inspections of the detention or retention facility for adequacy of grass cover, settlements, bulges, or cracks, erosion, trees, excessive undergrowth, rodent holes, obstacles to inlet or outlet, adequacy of safety fencing, etc., and necessary remediation of any problems observed shall be undertaken in accordance with the maintenance plan; and

(vi) Such other maintenance responsibilities as may be imposed by the approved maintenance plan.

(b) In addition to the requirements of subsection (a) of this section, long-term maintenance plans for those stormwater detention or retention basins or facilities expected to “pond” water at a normal depth of more than two (2) feet for more than thirty (30) minutes at a time shall be certified by a professional engineer licensed to practice in Virginia. The maintenance plan shall place particular emphasis on operating and maintaining the basin or facility in keeping with the project design in such manner as to maintain its structural integrity, safety, and effectiveness during both normal and abnormal conditions which may reasonably be expected to occur during its planned life.

(c) The local government may *choose* to accept maintenance responsibility for a stormwater detention or retention facility, but is under no obligation to assume such responsibility. Where the local government does not **expressly** accept **by ordinance** the maintenance responsibility for such stormwater detention or retention facility, the responsibility must be borne by the landowner, the homeowners’ association, or other legal entity succeeding in title. In such a case, a long-term maintenance agreement shall be executed between the responsible party and Campbell County **prior** to the issuance of any permit or approval under this article. Such agreement shall constitute a covenant running with the land, thus binding on successors in title.

[THE DECEMBER 20, 1999 ACT adopted this section.]

Sec. 8-8.2. Responsibility for operation and maintenance of stormwater detention or retention facilities to remain with property owner and successors in title.

(a) Responsibility for the operation and long-term maintenance of stormwater detention or retention facilities for the control of stormwater runoff, unless specifically assumed by a governmental agency shall remain with the property owner and shall pass to any successor in interest. Legally binding arrangements acceptable to the Board of Supervisors for the County of Campbell, after consulting with the County Attorney as to the legal sufficiency of such agreement, shall be made and such agreement shall be duly recorded among the land records in the Clerk's Office of the Circuit Court of Campbell County, Virginia. The execution and delivery of such legally binding agreement establishing the maintenance requirements for the facility, identifying the owner of the facility, and identifying the person responsible for such maintenance, shall be deemed to be a necessary prerequisite to obtaining approval by the County of a plan for the long-term maintenance of a stormwater detention or retention facility.

(b) Approval by Campbell County, through the plan approving authority or otherwise, of a long-term maintenance plan for a stormwater detention or retention facility, and/or determination by Campbell County, through the County Attorney, as to the legal adequacy of a proposed long-term maintenance agreement regarding such facility shall not be deemed to constitute acceptance by the County of such maintenance responsibility. **The County of Campbell shall not be deemed to have assumed responsibility for any such maintenance program or its related costs unless such responsibility is expressly accepted by duly adopted ordinance of the Board of Supervisors of Campbell County.**

[THE DECEMBER 20, 1999 ACT adopted this section.]

Sec. 8-8.3. Requirements of agreement between owner/developer and County concerning long-term maintenance of stormwater detention or retention basin or facility.

As a condition precedent to approval by the Board of Supervisors of any long-term maintenance plan for a stormwater detention or retention basin or facility under the provisions of this article, the owner of the property on which such facility is proposed to be located shall enter into a legally binding agreement with the Board of Supervisors of Campbell County establishing the maintenance requirements of the facility, detailing the owner's responsibilities for long-term maintenance of the facility, identifying any other person responsible for performing such maintenance, and specifying such other requirements as may be adopted from time to time, by the Board of Supervisors. The agreement shall be acceptable in form and in content to the County Attorney and, upon execution by necessary parties, shall be duly recorded among the land records in the Clerk's Office of the Circuit Court of Campbell County, Virginia.

The agreement shall describe with particularity the property to be affected and shall contain recitations sufficient to demonstrate that such agreement was entered into not only for the benefit of the then owners of the land, but also for the benefit of the land itself. **The agreement shall constitute a covenant running with the land and shall be binding on the owner, its administrators, executors, assigns, heirs, and any other successors in interest.** When the

subject property is to be subdivided, such agreement shall be executed and recorded prior to the conveyance of any lot in the subdivision. Such covenant running with the land shall be described in full or incorporated by reference into each deed of conveyance out of the described tract, and such covenant shall be noted on any subsequently recorded plat of subdivision of the described tract.

Terms and conditions of the agreement shall include, but not be limited to:

(i) The owner/developer shall ensure that the stormwater detention or retention basin or facility is constructed in accordance with approved plans and specifications attached to the agreement; and

(ii) The agreement shall bind the owner and any successors in interest to maintain the stormwater detention or retention basin or facility in accordance with the maintenance procedures shown on plans attached thereto in order to assure good working order acceptable to the County, and to make periodic inspections of the basin or facility for the same purpose; and

(iii) The owner/developer and any successors in interest shall grant permission to the County, its authorized agents and employees to enter upon the property and to inspect the stormwater basin or facility upon providing owner/developer ten (10) days' written notice by first class mail. Such notice requirement may be waived or modified by agreement between the owner/developer and the County. Owner/developer further agrees to waive such notice when the County determines that an immediate inspection of the facilities is necessary due to threat of imminent danger to life or property. Such right of access will *allow* the County to inspect the facility, but the County is under no obligation to conduct periodic inspections. Defects or deficiencies discovered during any such inspection shall be documented and specific measures to be taken to remedy such defect or deficiency shall be described in writing, a copy of which shall be provided to owner/developer. Such defects and/or deficiencies shall be corrected within a reasonable period of time as determined between owner/developer and the County, but shall not exceed a maximum number of days prescribed in the agreement; and

(iv) In the event the owner/developer and any successors in interest fails to maintain stormwater management facilities, as shown on the plans attached to the agreement, in good working order acceptable to Campbell County, the County may enter upon the property after notice as required above and take whatever steps it deems necessary to maintain said stormwater management facilities. This provision shall not be construed to allow the County to erect any structure of a permanent nature on the land of the owner/developer or any successors in interest without first obtaining written approval of same. It is expressly understood and agreed that the County is under no obligation to maintain or repair said facilities, and in no event shall this agreement be construed to impose any such obligations on the County; and

(v) In the event the County, pursuant to this agreement, performs work of any nature, or expends any funds in performance of said work for labor, use of equipment, supplies, materials, and the like, the owner/developer, its administrators, executors, assigns, heirs, and any other successors in interest shall reimburse the County upon demand, within a specified number of days of receipt thereof for all costs incurred by the County hereunder; and

(vi) Notwithstanding the above-mentioned remedies, Developer and County acknowledge that the County may take such other additional enforcement actions as are set forth in

Chapter 8 of the Campbell County Code of 1988, including, but not limited to, those prescribed in §8-11 of that chapter, as the County may deem necessary.

(vii) It is the intent of this agreement to ensure the proper maintenance of the described on-site stormwater management facilities by the owner/developer or any successors in interest; provided, however, that this agreement shall not be deemed to create or effect any additional liability of any party for damage alleged to result from or be caused by stormwater damage; and

(viii) The owner/developer, its executors, administrators, assigns, heirs, and other successors of interest shall indemnify and hold the County and its agents and employees harmless for any and all damages, accidents, casualties, occurrences, or claims which might arise or be asserted against the County from the construction and/or maintenance of the described on-site stormwater management facilities by the owner/developer or the County.

In the event a claim is asserted against Campbell County, its agents or employees, the County shall promptly notify the owner/developer, who shall defend, at its own expense, any suit based on such claim. If any judgment or claim against the County, its agents or employees shall be allowed, the owner/developer shall pay all costs and expenses in connection therewith; and

(ix) The agreement shall be recorded among the land records in the Clerk's Office of the Circuit Court of Campbell County, Virginia, and shall constitute a covenant running with the land, and shall be binding on the owner/developer, its administrators, executors, assigns, heirs, and any other successors in interest.

[THE DECEMBER 20, 1999 ACT adopted this section.]

Sec. 8-9. Fees required.

There shall be imposed upon each applicant reasonable fees to defray the costs of program administration, including costs associated with the issuance of grading or land-disturbing permits, plan review, and periodic inspection for compliance with the erosion and sediment control plans; provided, that charges for such costs are not made under any other law, ordinance, or program. The fees shall in no instance exceed an amount commensurate with the services rendered, taking into consideration the time, skill and administrators' expense involved. (3-21-89)

A schedule of fees shall be set out in the Appendix of Fees Imposed under the Campbell County Code of 1988, an uncodified ordinance which may be revised from time to time by duly adopted ordinance of the Board of Supervisors, and which is incorporated herein by reference.

For state law basis, see VA. CODE ANN. §10.1-562 I (Cum. Supp. 2010).

Editor's note.—Effective January 1, 1997, the Campbell County Board of Supervisors adopted an uncodified ordinance setting a schedule of fees, set out in the Appendix of Fees Imposed under the Campbell County Code of 1988. Such fee schedule may be revised from time to time by the Board

via uncodified ordinances. A current schedule of fees shall be on file and available to the public in the office of administrator of County Erosion and Sedimentation Control Program. Effective June 17, 2002, the Board of Supervisors adopted provisions imposing a land-disturbing permit fee.

[THE 1987 AMENDMENT rewrote this section.]

[THE MARCH 1989 AMENDMENT substituted “\$1,000.00, whichever is less” for “\$300.00, whichever is least” in the second sentence.]

[THE MARCH 17, 1997 AMENDMENT deleted “or \$1,000.00, whichever is less” at the end of the first paragraph and added the second paragraph.]

[THE JUNE 17, 2002 AMENDMENT substituted “reasonable fees” for “a reasonable fee” near the beginning of the first sentence.]

Sec. 8-9.1. Schedule of fees. **[Reserved]**

Editor’s note.—The Campbell County Board of Supervisors has adopted an uncodified ordinance setting a schedule of fees applicable to this article, set out in the Appendix of Fees Imposed under the Campbell County Code of 1988. Such fee schedule may be revised from time to time by the Board via uncodified ordinances. A current schedule of fees shall be on file and available to the public in the office of administrator of the County Erosion and Sedimentation Control Program.

Sec. 8-10. Amendment of approved plan.

An approved erosion and sediment control plan may be changed by the plan-approving authority that approved the plan in the following cases:

(1) Where inspection has revealed that the plan is inadequate to satisfy applicable regulations; or

(2) Where the person responsible for carrying out the approved plan finds that because of changed circumstances or for other reasons the approved plan cannot be effectively carried out, and proposed amendments to the plan, consistent with the requirements of this article, are agreed to by the plan-approving authority and the person responsible for carrying out the plan. (9-8-87)

For state law basis, see VA. CODE ANN. §10.1-563 C. (Cum. Supp. 2011).

Cross-references: The plan-approving authority may waive or modify any regulations deemed inappropriate or too restrictive for site conditions, by granting a variance. For conditions under which a variance may be granted, see §5 of the Virginia Erosion and Sediment Control Regulations.

[THE 1987 AMENDMENT rewrote this section.]

[THE 1988 AMENDMENT substituted “sediment control” for “sedimentation” in the introductory paragraph and rewrote paragraph (1).]

[THE JUNE 17, 2002 AMENDMENT, in the introductory paragraph, substituted “that approved” for “which has approved” and deleted “or by the Board when it has approved the plan” preceding “in the following cases.”]

Sec. 8-11. Monitoring, reports, and inspections; stop work orders by County.

(a)(1) Responsibility for periodic inspection and enforcement of this chapter shall rest with the plan-approving authority or its designee as provided for by the Campbell County Board of Supervisors. However, responsibility for the operation and long-term maintenance of stormwater detention or retention facilities for the control of stormwater runoff shall remain with the developer and/or property owner, their successors or assigns. For the purposes of this article, maintenance responsibility for such a facility shall include, but not be limited to, those functions specified in §8-8.1 of this Code, among which are included periodic inspections of the facility.

(2) The design standards set forth in the Virginia Erosion and Sediment Control Handbook, as promulgated and amended from time to time by the Virginia Soil and Water Conservation Board, are hereby designated as the standards to be used in inspections in Campbell County.

(b) The plan-approving authority or, if a permit is issued in connection with land-disturbing activities that involve the issuance of a grading, building, or other permit, the permit-issuing authority (i) shall provide for periodic inspections of the land-disturbing activity and/or of the initial installation of stormwater management measures, and require that an individual holding a certificate of competence, as provided by VA. CODE ANN. §10.1-561 (Repl. Vol. 2006), shall be in charge of and responsible for carrying out the land-disturbing activity and (ii) may require monitoring and 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, sediment, and/or stormwater runoff. However, any plan-approving authority may waive the certificate of competence requirement for a land-disturbing permit serving as an agreement in lieu of a plan when construction of a single family residence is the purpose of a land-disturbing activity. The owner, permittee or person responsible for carrying out the plan shall be given notice of the inspection, and an opportunity to accompany the inspectors. If the permit-issuing authority or plan-approving authority 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. Where the plan-approving authority serves notice, a copy of the notice shall also be sent to the issuer of the permit. The notice shall specify the measures needed to comply with the plan and shall specify the time within which such measures shall be completed. Upon failure to comply within the time specified, the permit may be revoked and the permittee or person responsible for carrying out the plan shall be deemed to be in violation of this article and shall be subject to the penalties provided by §8-13 of this Code.

(c) Upon receipt of a sworn complaint of a violation of this article from the representative of the program authority or the Board responsible for ensuring program compliance, the chief administrative officer, or his designee, of the program authority or the Board may, in conjunction with or subsequent to a notice to comply as specified in subsection (b) above, 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 or, if land-disturbing activities have commenced without an approved plan or issuance of a land-disturbing permit as provided in §8-6 of this Code, requiring that all of the land-disturbing activities be stopped until an approved plan or any required permits are obtained. Where the alleged noncompliance is causing or is in imminent danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the Commonwealth, or where the land-disturbing activities have commenced without an approved plan or any required permits, such an order may be issued whether or not the alleged violator has been issued a notice to comply as specified in subsection (b) above. Otherwise, such an order may be issued only after the alleged violator has failed to comply with a notice to comply. The order shall be served in the same manner as a notice to comply, and shall remain in effect for a period of seven days from the date of service pending application by the enforcing authority or alleged violator for appropriate relief to the circuit court of the jurisdiction wherein the violation was alleged to have occurred. 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 chief administrative officer or his designee may issue an order to the owner requiring that all construction and other work on the site, other than corrective measures, be stopped until an approved plan and any required permits have been obtained. Such an order shall be served upon the owner by registered or certified mail to the address specified in the permit application or the land records of the locality in which the site is located. The owner may appeal the issuance of an order to the circuit court of the jurisdiction wherein the violation was alleged to have occurred. Any person violating or failing, neglecting or refusing to obey an order issued by the chief administrative officer or his designee may be compelled in a proceeding instituted in the circuit court of the jurisdiction wherein the violation was alleged to have occurred to obey same and to comply therewith by injunction, mandamus or other appropriate remedy. Upon completion and approval of corrective action or obtaining an approved plan or any required permits, the order shall immediately be lifted. Nothing in this section shall prevent the chief administrative officer or his designee from taking any other action specified in §8-13 and §8-14 of this Code. (9-8-87)

For state law basis, see VA. CODE ANN. §10.1-566 (Repl. Vol. 2006).

[THE 1982 AMENDMENT added “Responsibility for periodic” at the beginning.]

[THE 1987 AMENDMENT designated the first paragraph as (a), deleted the former second paragraph providing that procedures for plan submission, review, inspection and enforcement would be jointly developed by the soil conservation district and the administrator, and added (b), (c), and (d).]

[THE 1988 AMENDMENT combined provisions of former (b) and (c) as (b); redesignated former (d) as present (c); substituted “whether or not the alleged violator” for “without regard to whether the permittee” in the second sentence, “alleged violator” for “permittee” in the third sentence and for “permit holder” in the fourth sentence.]

[THE 1992 AMENDMENT deleted “upon conviction” preceding “shall be subject” in (b).]

[THE 1993 AMENDMENT substituted “plan-approving authority or its designee as provided for by the Campbell County Board of Supervisors” for “administrator” in (a); in (b), substituted “plan-approving authority” for “administrator” in the first sentence, “permittee, or person responsible for carrying out the plan” for “occupier or operator” in the second sentence and deleted “and an opportunity to accompany the inspectors” following “inspection” in the second sentence; and, in (c), deleted “substantial” preceding “violation,” substituted “the representative of the program authority or the Board responsible for ensuring program compliance” for “the designated enforcement officer,” substituted “or his designee, of the program authority or the Board” for “of (i) the Soil and Water Conservation Board, or (ii) the County” and added “or, if land-disturbing activities have commenced without...,” all in the first sentence; also, in (c), inserted “or where the land-disturbing activities have commenced without an approved plan or any permits,” in the second sentence, added new fifth through eighth sentences, substituted “and approval of corrective action or obtaining an approved plan or any required permits” for “of corrective action” in the ninth sentence and inserted “or his designee” in the tenth sentence.]

[THE FEBRUARY 2, 1998, AMENDMENT inserted “and §8-14” in (b) and (c).]

[THE DECEMBER 20, 1999 AMENDMENT rewrote existing (a) as paragraph (1) therein and added second sentence; added new paragraph (2) in (a); in (b), inserted “and/or of the initial installation of stormwater management measures” in (i) and added “and/or stormwater runoff”; inserted “and an opportunity to accompany the inspectors” in second sentence.]

[THE JUNE 17, 2002 AMENDMENT inserted “and require that an individual . . . carrying out the land-disturbing activity and” at the end of clause (i) in (b).]

[THE JULY 6, 2004 AMENDMENT inserted the second sentence in (b) to allow a plan approving authority to waive the certificate of competence requirement for an agreement in lieu of plan for construction of a single family residence.]

[THE JULY 7, 2008 AMENDMENT substituted “a land-disturbing permit serving as an agreement in lieu of a plan when construction of a single family residence is the purpose of a land-disturbing activity” for “an agreement in lieu of a plan for construction of a single family residence” in (b); and inserted “or issuance of a land-disturbing permit” in the first sentence of (c).]

Sec. 8-11.1. Stop work orders by Soil and Water Conservation Board; civil penalties.

(a) An aggrieved owner of property sustaining pecuniary damage resulting from a violation of an approved plan or required permit, or from the conduct of land-disturbing activities commenced without an approved plan or required permit, may give written notice of the alleged violation to the program authority and to the Director.

(b) Upon receipt of the notice from the aggrieved owner and notification to the program authority, the Director shall conduct an investigation of the aggrieved owner’s complaint.

(c) If the program authority has not responded to the alleged violation in a manner which causes the violation to cease and abates the damage to the aggrieved owner's property within thirty days following receipt of the notice from the aggrieved owner, the aggrieved owner may request that the Director require the violator to stop the violation and abate the damage to his property.

(d) If (i) the Director's investigation of the complaint indicates that the program authority has not responded to the alleged violation as required by the local program, (ii) the program authority has not responded to the alleged violation within thirty days from the date of the notice given pursuant to subsection (a) of this section, and (iii) the Director is requested by the aggrieved owner to require the violator to cease the violation, then the Director shall give written notice to the program authority that the Director will request the Soil and Water Conservation Board to issue an order pursuant to subsection (e) of this section.

(e) If the program authority has not instituted action to stop the violation and abate the damage to the aggrieved owner's property within ten days following receipt of the notice from the Director, the board is authorized to issue an order requiring the owner, permittee, person responsible for carrying out an approved plan, or person conducting the land-disturbing activities without an approved plan or required permit to cease all land-disturbing activities until the violation of the plan or permit has ceased, or an approved plan and required permits are obtained, as appropriate, and specified corrective measures have been completed.

(f) Such orders are to be issued only after a hearing with reasonable notice to the affected person of the time, place and purpose thereof, and they shall become effective upon service on the person by certified mail, return receipt requested, sent to his address specified in the land records of the locality, or by personal delivery by an agent of the Director. However, if the Board finds that any such violation is grossly affecting or presents an imminent and substantial danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the Commonwealth, it may issue, without advance notice or hearing, an emergency order directing such person to cease all land-disturbing activities on the site immediately and shall provide an opportunity for a hearing, after reasonable notice as to the time and place thereof, to such person, to affirm, modify, amend or cancel such emergency order.

(g) If a person who has been issued an order or emergency order is not complying with the terms thereof, the Board may institute a proceeding in the appropriate circuit court for an injunction, mandamus, or other appropriate remedy compelling the person to comply with such order.

(h) Any person violating or failing, neglecting or refusing to obey any injunction, mandamus or other remedy obtained pursuant to subsection (g) of this section shall be subject, in the discretion of the court, to a civil penalty not to exceed \$2,000.00 for each violation. Any civil penalties assessed by a court shall be paid into the state treasury.

For state law basis, see VA. CODE ANN. §10.1-569.1 (Repl. Vol. 2006).

[THE MARCH 17, 1997 ACT adopted this section.]

[THE DECEMBER 20, 1999 AMENDMENT deleted “District” preceding “Director” at the end of subsection (a).]

Sec. 8-12. Appeals.

(a) Final decisions of the administrator or the plan-approving authority under this article shall be subject to review by the Circuit Court for the County of Campbell, provided that an appeal is filed within thirty (30) days from the date of any written decision by the administrator or plan-approving authority adversely affecting the rights, duties, or privileges of the person engaging in or proposing to engage in land-disturbing activities. (7-12-75, §12) (11-15-82) (9-8-87)

(b) Final decisions of the districts shall be subject to an administrative review by the Board, provided that an appeal is filed within thirty (30) days from the date of the written decision.

(c) Final decisions of the Board either upon its own action or upon the review of the action of a district shall be subject to judicial review in accordance with the provisions of the Administrative Process Act (VA. CODE ANN. §2.2-4000 et seq. (Repl. Vol. 2008 and Cum. Supp. 2010)).

For state law basis, see VA. CODE ANN. §10.1-568 (Repl. Vol. 2006).

[THE 1982 AMENDMENT rewrote the second paragraph to delete provisions regarding review by Board of Supervisors or Planning Commission, since state code provides for appeals only to the Circuit Court.]

[THE 1987 AMENDMENT substituted “any” for “all” preceding “written” and substituted “adversely affecting . . activities” for “denying the proposed permit.”]

[THE 1988 AMENDMENT substituted “that an” for “such” preceding “appeal.”]

[THE FEBRUARY 2, 1998 AMENDMENT designated the existing provisions as (a) and added new (b) and (c).]

[THE JUNE 17, 2002 AMENDMENT substituted “§2.2-4000 et seq. (Repl. Vol. 2001)” for “§9-6.14:1 et seq. (Repl. Vol. 1998 and Cum. Supp. 2000)” in (c).]

Sec. 8-13. Penalties, injunctions and other legal actions.

(a) Any person who violates a provision of this article shall be guilty of a Class 1 misdemeanor, and upon conviction thereof, shall be punished by confinement in jail for not more than twelve months and a fine of not more than \$2,500, either or both.

(b) Reserved.

(c) The appropriate permit-issuing authority, the program authority, the Soil and Water Conservation Board, 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 under §§8-6, 8-7, 8-10, or 8-11 of this article, without the necessity of showing that an adequate remedy at law does not exist; however, an owner of property shall not apply for injunctive relief unless (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, or 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.

(d) In addition to any criminal or civil penalties provided under this article or under state law, any person who violates any provision of this article may be liable to the program authority or the Soil and Water Conservation Board, as appropriate, in a civil action for damages.

(e) 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 locality wherein the land lies. Any civil penalties assessed by a court shall be paid into the treasury of the locality wherein the land lies, 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.

(f) With the consent of any person who has violated or failed, neglected or refused to obey any regulation or order of the Soil and Water Conservation Board, or any condition of a permit or any provision of this article, the Board, the Director or plan approving or permit-issuing authority may provide, in an order issued by the Board or plan-approving or permit-issuing authority against such person, for the payment of civil charges for violations in specific sums, not to exceed the limit specified in subsection (e) of this section. Such civil charges shall be instead of any appropriate civil penalty which could be imposed under subsection (e).

(g) Upon request of a program authority or the permit-issuing authority, the Commonwealth's attorney shall take legal action to enforce the provisions of this article. Upon request of the Board, the Attorney General shall take appropriate legal action on behalf of the Board to enforce the provisions of this article.

(h) Compliance with the provisions of this article shall be prima facie evidence in any legal or equitable proceeding for damages caused by erosion or sedimentation that all requirements of law have been met and the complaining party must show negligence in order to recover any damages. (9-8-87)

For state law basis, see VA. CODE ANN. §10.1-569 (Repl. Vol. 2006). See also VA. CODE ANN. §18.2-11 (Repl. Vol. 2009), VA. CODE ANN. §15.2-1429 (Repl. Vol. 2008), and VA. CODE ANN. §10.1-570 (Repl. Vol. 2006).

Editor's Note.—The March 17, 1997 amendment deleted the former provisions of subsection (a) which had provided for criminal penalties for violation of this article; adoption of such a schedule of civil penalties for violations of this article was in lieu of criminal sanctions and precluded prosecution of such violation as a misdemeanor. The June 17, 2002 amendment deleted the

schedule of civil penalties and reinstated the *criminal* penalties for violations of this article. See also VA. CODE ANN. §10.1-562 J (Cum. Supp. 2010).

[THE 1987 AMENDMENT incorporated provisions of former §8-14 in subsection (d).]

[THE 1988 AMENDMENT, in (b), inserted “appropriate permit-issuing authority or the” preceding “administrator,” substituted “circuit court in any jurisdiction wherein the land lies” for “Circuit Court of Campbell County or to the Circuit Court of the City of Richmond should the land lie in more than one jurisdiction, for injunctive relief” and substituted “an adequate remedy at law does not exist” for “there does not exist an adequate remedy at law,” deleted former (c), which provisions have been rewritten as new (f), redesignated former (d) as present (g) and deleted “siltation” preceding “or sedimentation” therein, and inserted present (c), (d), (e), and (f).]

[THE 1992 AMENDMENT inserted present (b), redesignated former (b) through (g) as present (c) through (h); in present (d), inserted “or civil” and substituted “locality” for “county, city;” added the last two sentences in present (e); substituted “subsection (e)” for “subsection (d)” in the first sentence in present (f) and substituted “subsection (b) or (e)” for “subsection (d)” at the end of the second sentence thereof.]

[THE 1993 AMENDMENT, in (a), inserted “Class 1” and substituted “confinement in jail for not more than twelve months and a fine of not more than \$2,500.00, either or both” for “a fine not exceeding \$1,000 or 30 days imprisonment for each violation or both;” deleted “uniform schedule of” preceding “civil” and “with §8-14 of this Code” for “with the schedule” in the first sentence in (b), inserted “the program authority” and substituted “Soil and Water Conservation Board” for “administrator” in (c), substituted “program authority” for “locality” in (d), substituted “\$2,000” for “\$1,000” in (e) and substituted “program authority” for “district or locality operating its own program” in the first sentence in (g).]

[THE MARCH 17, 1997 AMENDMENT deleted former (a) [providing for criminal penalties for violations], substituted new second sentence in (b) for former sentence which read: “A civil action for such violation may be brought by the locality wherein the land lies,” inserted “or the owner of property which has sustained damage or which is in imminent danger of being damaged” and “§§8-6, 8-7, 8-10, or 8-11 of” in (c), added new language beginning “however, an owner..” and continuing with new clauses (i) and (ii) in (c); and deleted “criminal or” preceding “civil penalties” in (d).]

[THE FEBRUARY 2, 1998 AMENDMENT substituted “article” for “chapter” and inserted “schedule of” preceding “civil penalties established” and “under the authority of VA. CODE ANN. §10.1- 562 J (Repl. Vol. 1993)” in the first sentence of (a).]

[THE JUNE 17, 2002 AMENDMENT inserted provisions of (a) providing for criminal penalties for violations, deleted provisions of former (b) which had prescribed a schedule of civil penalties for violations, inserted “criminal or” and “or under state law” in (d), and deleted “(b) or” preceding “(e)” at the end of (f).]

Sec. 8-14. Reserved.

Editor's note: The June 17, 2002 amendment repealed provisions of former §8-14, which had provided a schedule of civil penalties as the exclusive sanction for violations of this article.

ARTICLE II. STORMWATER MANAGEMENT.

Sec. 8-15. to Sec. 8-27. Reserved.

Editor's note. VA. CODE ANN. §10.1-603.3 (Cum. Supp. 2010) requires localities located within Tidewater Virginia, as defined by the Chesapeake Bay Preservation Act, or any locality that is partially or wholly designated as required to obtain coverage under an MS4 (“municipal separate storm sewer system” as defined in VA. CODE ANN. §10.1-603.2 (Repl. Vol. 2006)) permit under the provisions of the federal Clean Water Act to adopt a local stormwater management program for land disturbing activities pursuant to VA. CODE ANN. §10.1-603.1 *et seq.* (Repl. Vol. 2006 and Cum. Supp. 2010) according to a schedule set by the Virginia Soil and Water Conservation Board. Such schedule shall require adoption no sooner than 15 months and not more than 21 months following the effective date of the regulation that establishes local program criteria and delegation procedures, unless the Board deems that the Virginia Department of Conservation’s review of the local program warrants an extension up to an additional 12 months, provided the locality has made substantive progress. Such a locality may adopt a local management program at an earlier date with the consent of the Virginia Soil and Water Conservation Board. Other localities may elect to adopt and administer a local stormwater management program *for land disturbing activities* pursuant to VA. CODE ANN. §10.1-603.1 *et seq.* (Repl. Vol. 2006 and Cum. Supp. 2010). Such localities shall inform the Virginia Soil and Water Conservation Board and the Virginia Department of Conservation and Recreation of their initial intention to seek delegation for the stormwater management program for land disturbing permits within six months following the effective date of the regulation that establishes local program criteria and delegation procedures. In the absence of the delegation of a stormwater management program to a locality, the Department of Conservation and Recreation will administer the responsibilities of VA. CODE ANN. §10.1-603.1 *et seq.* (Repl. Vol. 2006 and Cum. Supp. 2010) within the given jurisdiction in accordance with an adoption and implementation schedule set by the Virginia Soil and Water Conservation Board. When such a local program is established by ordinance, it must include certain provisions specified by state law and state regulations, but the local program may include additional provisions not prohibited by state law or more stringent provisions, provided that statutory requirements as to factual findings and public hearing are met. See also provisions of VA. CODE ANN. §15.2-2114 (Cum. Supp. 2011).

At this time, Campbell County has not established a local stormwater management program by ordinance. However, insofar as possible, concerns regarding stormwater runoff and stormwater retention have been addressed within the local erosion and sedimentation control program as set forth in Article I. of this chapter.

[SAMPLE STORMWATER MANAGEMENT AGREEMENT]

[NOTE: This sample agreement is not adopted as part of Chapter 8, but is designed to be complementary to its terms and may be used for guidance.]

Note: The following sample agreement is provided for illustrative purposes only, and contains general provisions applicable in most situations. However, additional provisions may be agreed upon between the parties and included in this written agreement. Because each situation is unique, this sample agreement should be used as *guidance only* in formulating an agreement addressing the special challenges of each situation.

[Name and address of attorney preparing Agreement to be inserted here. Also include tax parcel numbers identifying property affected.]

This Agreement Prepared by:
DAVID W. SHREVE, ESQUIRE
County Attorney for Campbell County
POST OFFICE BOX 547
ALTAVISTA, VIRGINIA 24517
VSB #16624

TAX PARCEL NUMBER: _____

STORMWATER MANAGEMENT FACILITY MAINTENANCE AGREEMENT
E & S Permit #: _____

THIS AGREEMENT, made and entered into this ___ day of _____, 20____, by and between _____, Grantor, hereinafter called the "Owner," whose legal address is _____, and the **COUNTY OF CAMPBELL, VIRGINIA**, a political subdivision of the Commonwealth of Virginia, acting by and through its **BOARD OF SUPERVISORS**, Grantee, hereinafter called the "County," whose legal address is 47 Courthouse Lane, Post Office Box 100, Rustburg, Virginia 24588;

W I T N E S S E T H:

WHEREAS, _____ is the Owner of that certain parcel of land lying and being in the _____ Magisterial District of Campbell County, Virginia, identified as Tax Parcel # _____, being of record in the Clerk's Office of the Circuit County of Campbell County, Virginia, in Deed Book ___ at Page ___ or Deed Instrument No. _____, referred to herein as the "Property," which Property is briefly described as follows: _____;

WHEREAS, Owner desires the approval of an Erosion and Sediment Control Plan (Plan File # _____), referred to as the "Plan," for erosion and sediment control measures, including stormwater management measures and facilities, as required by the County, a copy of which Plan is attached hereto and which is expressly incorporated by reference herein; and

WHEREAS, the Plan provides for a stormwater management facility and other drainage conveyance channels or permanent erosion and sediment control measures and improvements within the confines of the Property, referred to as the “Facilities”; and

WHEREAS, the County and the Owner agree that the health, safety, and general welfare of the residents of Campbell County, Virginia require that on-site stormwater management Facilities as shown on the Plan be constructed on the Property by the Owner and adequately maintained by the Owner;

NOW, THEREFORE, in consideration of the foregoing Property, the mutual benefits and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. The on-site stormwater management Facilities shall be constructed by the Owner in accordance with the attached Plan and specifications, and, upon completion of construction of such Facilities Owner shall provide written certifications required by §8-8(c) of the Campbell County Code of 1988.

2. The Owner shall maintain the Facilities in accordance with the maintenance procedures shown on the attached Plan in order to assure good working order acceptable to the County. Such maintenance procedures shall meet or exceed those maintenance requirements set forth in Chapter 8 of the Campbell County Code of 1988, particularly in §8-8.1 thereof, *which provisions are incorporated herein by reference*, and pertinent state statutes and regulations, whichever standard is more stringent. For the purposes of this Agreement, maintenance shall include site stabilization, clean-out of silt and sediment upon completion of land-disturbing activities and at regular intervals thereafter, maintenance of safety fencing when required by Plan, clearing of undergrowth, trees, and other debris at least three (3) times a year, periodic inspections by Owner and necessary remediation of problems by Owner, and such other repair, reconstruction or replacement of Facilities as necessary to meet the standards in this Agreement.

3. In addition to the above requirements, the long-term maintenance Plan for any Facility expected to “pond” water at a normal depth of more than two (2) feet for more than thirty (30) minutes at a time shall be certified by a Professional Engineer licensed to practice in Virginia. The Plan shall place particular emphasis on operating and maintaining the Facility in compliance with the project design in such manner as to maintain its structural integrity, safety, and effectiveness during both normal and abnormal conditions which may reasonably be expected to occur during its planned life.

4. (a) The Owner identifies _____ as the person responsible for performing the required maintenance of the Facilities. The street address and telephone number where such person may be contacted are: _____; (____) ____-____.

(b) Owner hereby acknowledges that identification of such person shall not be deemed to relieve Owner, its administrators, executors, assigns, heirs, and any other successors in interest of its/their ultimate responsibilities under the provisions of this Agreement or

under the pertinent provisions of Chapter 8 of the Campbell County Code of 1988 or applicable statutes or regulations.

(c) Owner further agrees to provide written notification to the County of the name, address, and telephone number of any person whom Owner may identify subsequently as the person responsible *for performing* required maintenance.

5. The Owner hereby grants permission to the County, its authorized agents and employees to enter upon the Property and to inspect the Facilities upon providing Owner ten (10) days written notice by first class mail. Such notice requirement may be waived or modified by agreement between the Owner and the County. Such right of access will *allow* the County to inspect the facility, but the County is under no obligation to conduct periodic inspections. Defects or deficiencies discovered during any such inspection shall be documented and specific measures to be taken to remedy such defect or deficiency shall be described in writing, a copy of which shall be provided to Owner. Owner agrees to perform promptly all needed maintenance and correct defects and/or deficiencies reported to it by County. Such defects and/or deficiencies shall be corrected within a reasonable period of time as determined between Owner and the County, but such period shall not exceed fifteen (15) days.

6. Owner further agrees to waive the notice requirement specified in Paragraph 5 above when the County determines that an immediate inspection of the Facilities is necessary due to threat of imminent danger to life or property or other emergency. The County, or its agents, may enter immediately upon the Property and take whatever reasonable steps it deems necessary to mitigate the danger or emergency. The County shall notify the Owner of such entrance as soon as possible but in no event later than twenty-four (24) hours after such entry. Alternatively, the County may notify the Owner by telephone to take necessary action within a specified time period. Should Owner fail to respond, or should Owner inform County that it does not intend to act within the specified time period, then County, or its agents, may enter immediately upon the Property and take whatever reasonable steps it deems necessary to mitigate the danger or emergency.

7. In the event of notice being required under Paragraph 5 above or any other provision of this Agreement, such notice shall be deemed to have been given when put in writing and deposited in the U. S. Mail (first class mail with postage prepaid) to the following:

If to the Owner:

Name of person: _____ **OR**

Name of entity if a corporation, partnership, etc.: _____

Name of officer and title if a corp. or partnership, etc.: _____

Address: _____

Telephone number: _____

If to County:

County Administrator
County of Campbell
Post Office Box 100
Rustburg, Virginia 24588

Owner further agrees to notify County in writing at the above address immediately upon any change in legal status, address, or telephone number of Owner.

8. In the event the Owner fails to maintain the Facilities, as shown on the attached Plan, in good working order acceptable to the County, or to promptly correct defects and/or deficiencies reported to it by County within the prescribed time period, the County may enter upon the Property after notice as required in Paragraph 5 above and take whatever steps it deems necessary to maintain said Facilities. This provision shall not be construed to allow the County to erect any structure of a permanent nature on the land of the Owner without first obtaining written approval of the Owner. It is expressly understood and agreed that the County is under no obligation to maintain or repair said Facilities, and in no event shall this Agreement be construed to impose any such obligations on the County.

9. In the event the County, pursuant to this Agreement, performs work of any nature, or expends any funds in performance of said work for labor, use of equipment, supplies, materials, and the like, the Owner, its administrators, executors, assigns, heirs, and any other successors in interest shall reimburse the County upon demand, within thirty (30) days of receipt thereof for all costs incurred by the County hereunder.

10. Notwithstanding the above-mentioned remedies, Owner and County acknowledge that the County may take such other additional enforcement actions as are set forth in Chapter 8 of the Campbell County Code of 1988, including, but not limited to, those prescribed in §8-11 of that chapter, as the County may deem necessary.

11. It is the intent of this Agreement to ensure the proper maintenance of on-site Facilities by the Owner; provided, however, that this Agreement shall not be deemed to create or affect any additional liability of any party for damage alleged to result from or be caused by stormwater damage.

12. The Owner, its executors, administrators, assigns, heirs, and other successors of interest shall indemnify and hold the County and its agents and employees harmless for any and all damages, accidents, casualties, occurrences, or claims which might arise or be asserted against the County from the construction and/or maintenance of the described on-site Facilities by the Owner or the County.

In the event a claim is asserted against the County, its agents or employees, the County shall promptly notify the Owner and the Owner shall defend, at its own expense, any suit based on such claim. If any judgment or claim against the County, its agents or employees shall be allowed, the Owner shall pay all costs and expenses in connection therewith.

13. The County shall not pay any compensation to Owner, its administrators, executors, assigns, heirs, or any other successors in interest at any time for its use of the Property in any way necessary for the inspection and maintenance of the Facilities, including access to the Facilities.

14. This Agreement shall be governed by the laws of the Commonwealth of Virginia.

15. Plans and specifications for stormwater management facilities and measures to be undertaken on the subject property shall be attached hereto and are hereby incorporated by reference as a part of this Agreement.

16. **This Agreement shall be recorded among the land records in the Clerk's Office of the Circuit Court of Campbell County, Virginia, and shall constitute a covenant running with the land, and shall be binding on the Owner, its administrators, executors, assigns, heirs, and any other successors in interest.**

17. Such covenant running with the land shall be described in full or incorporated by reference into each deed of conveyance out of the described Property, and such covenant shall be noted on any subsequently recorded plat of subdivision or re-subdivision of Property.

IN WITNESS WHEREOF, _____, Owner, has affixed his signature and seal; **OR IN WITNESS WHEREOF**, _____, a Virginia Corporation, pursuant to a Resolution duly adopted on the ____ day of _____, 20__, has caused this instrument to be executed by _____, its _____, on behalf of the Corporation; and

IN FURTHER WITNESS WHEREOF, the BOARD OF SUPERVISORS of the COUNTY OF CAMPBELL, VIRGINIA, has caused this instrument to be executed by R. David Laurell, County Administrator, on behalf of the BOARD OF SUPERVISORS of the COUNTY OF CAMPBELL, VIRGINIA.

[Signature] _____ (SEAL)
[Print name] _____

OR

[Name of corporation, partnership] _____
[Signature of officer] By: _____ (SEAL)
[Print name of officer and his title] _____

STATE OF VIRGINIA,
CITY/COUNTY OF _____, to-wit:

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by _____, **Owner**.

(SEAL) _____
Notary Public

My commission expires: _____.

OR

STATE OF VIRGINIA,
CITY/COUNTY OF _____, to-wit:

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by _____ [name of officer], _____ [name of office held] of _____ [name of corporation], a Virginia corporation, on behalf of the Corporation, **Owner**.

(SEAL)

Notary Public

My commission expires: _____.

THE BOARD OF SUPERVISORS OF CAMPBELL COUNTY, VIRGINIA

By: _____ (SEAL)
R. DAVID LAURELL, County Administrator

STATE OF VIRGINIA,
COUNTY OF CAMPBELL, to-wit:

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by R. DAVID LAURELL, County Administrator for the County of Campbell, Virginia, on behalf of the BOARD OF SUPERVISORS of the COUNTY OF CAMPBELL, VIRGINIA.

(SEAL)

Notary Public

My commission expires: _____.

[A resolution, or a certified copy thereof, authorizing a designated officer of the corporation or other entity to execute this Agreement on behalf of the corporation or other entity shall be attached to this Agreement and recorded with said Agreement in the Clerk’s Office of the Circuit Court of Campbell County, Virginia.]

[ATTACHMENT]

RESOLUTION

I, _____, the duly elected and qualified Secretary of _____, a Virginia Corporation duly organized, validly existing and in good standing under the laws of Virginia, hereby certify that at a legally convened meeting of the Board of Directors of _____, duly called and held on the ____ day of _____, 20 __, the following Resolution was duly adopted in accordance with the articles of incorporation and bylaws of _____, and is now in full force and effect:

BE IT RESOLVED by the Board of Directors of _____, a Virginia Corporation, that the _____ [specify office], _____ [name of officer], of this Corporation is authorized to execute, acknowledge, and deliver on behalf of the Corporation any deed or other instrument conveying or encumbering land, or interest therein, including but not limited to a Stormwater Management Facility Maintenance Agreement by and between the Corporation and the County of Campbell, Virginia, or granting any easement or right-of-way over land owned by the Corporation.

BE IT FURTHER RESOLVED that the Secretary of the Corporation shall attach to such deed or other instrument a copy of this Resolution by the Board of Directors authorizing the above-named officer of the Corporation to execute, acknowledge, and deliver such deed or instrument on behalf of the Corporation.

I further certify that _____ is the duly elected and acting _____ [specify office] of the Corporation and, as such, has the authority to perform the powers listed above.

IN WITNESS WHEREOF, I have hereunto subscribed my name hereto as Secretary of _____, on the ____ day of _____, 20__.

[Name of Corporation] _____
[Signature of Corporate Secretary] _____ SEAL]
[Print name of Secretary] _____, Secretary