

Introduced January 7, 2013
Public Hearing January 22, 2013
Council Action February 4, 2013
Executive Action February 8, 2013
Effective Date April 10, 2013

County Council Of Howard County, Maryland

2013 Legislative Session

Legislative Day No. 1

Bill No. 3 -2013

Introduced by: The Chairperson at the request of the County Executive

AN ACT amending sediment and erosion control provisions in accordance with State law; amending certain purposes; defining certain terms; amending certain definitions; requiring the review and approval of certain plans before a grading permit may be issued; maintaining certain exemptions; requiring the Howard Soil Conservation District to review erosion and sediment control plans; requiring that sediment and erosion control plans contain certain information; setting forth the duration of plan approval; allowing a standard erosion and sediment control plan in certain instances; allowing variances under certain conditions; requiring certain inspections; clarifying certain enforcement procedures; providing for certain civil and criminal penalties; and generally related to sediment and erosion control provisions in Howard County.

Introduced and read first time January 7, 2013. Ordered posted and hearing scheduled.

By order Stephen LeGendre
Stephen LeGendre, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on January 22, 2013.

By order Stephen LeGendre
Stephen LeGendre, Administrator

This Bill was read the third time on February 4, 2013 and Passed , Passed with amendments , Failed .

By order Stephen LeGendre
Stephen LeGendre, Administrator

Sealed with the County Seal and presented to the County Executive for approval this 5th day of February, 2013 at 3:00 a.m./p.m.

By order Stephen LeGendre
Stephen LeGendre, Administrator

Approved Vetoed by the County Executive February 8, 2013

Ken Ulman
Ken Ulman, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment.

1 **Section 1. Be It Enacted** by the County Council of Howard County, Maryland, that the Howard
2 County Code is amended as follows:

3 By amending:

4 1. Title 3 "Buildings"
5 Subtitle 4 "Grading"

6
7 2. Title 18 "Public Works".
8 Subtitle 3 "Sediment and Erosion Control".

9
10 **Title 3. Buildings.**

11 **Subtitle 4. Grading.**

12
13 **Section 3.400. Purpose and authority.**

14 (a) *Purpose.* The purpose of this subtitle is to regulate the clearing and grading of land AND TO
15 MINIMIZE SOIL EROSION AND PREVENT OFF-SITE SEDIMENTATION by establishing requirements and
16 procedures for erosion and sediment control plans and permits.

17 (b) *Authority.* [[In accordance with title 4, subtitle 1 of the environment article, Annotated Code
18 of Maryland, this subtitle applies to all grading occurring in Howard County.]] THE PURPOSE OF
19 THIS SUBTITLE IS ACHIEVED BY USING SOIL EROSION AND SEDIMENT CONTROL PRACTICES
20 DESIGNED IN ACCORDANCE WITH THE CODE OF MARYLAND REGULATIONS (COMAR) 26.17.01,
21 THE 2011 MARYLAND STANDARDS AND SPECIFICATIONS FOR SOIL EROSION AND SEDIMENT
22 CONTROL (STANDARDS AND SPECIFICATIONS) AND SUBTITLE 4 OF THE ENVIRONMENT ARTICLE OF
23 THE ANNOTATED CODE OF MARYLAND. This subtitle represents the minimum erosion and
24 sediment control requirements and is not intended to limit or repeal any other powers granted to
25 the County under State law.

26
27 **Section 3.401. Definitions.**

28 The following terms USED IN THIS SUBTITLE AND IN TITLE 18, SUBTITLE 3 OF THIS CODE have the
29 meanings indicated:

30 (A) "ADMINISTRATION" MEANS THE MARYLAND DEPARTMENT OF THE ENVIRONMENT ("MDE"),
31 WATER MANAGEMENT ADMINISTRATION.

1 (B) “ADVERSE IMPACT” MEANS ANY DELETERIOUS EFFECT ON WATERS OR WETLANDS, INCLUDING
2 THEIR QUALITY, QUANTITY, SURFACE AREA, SPECIES COMPOSITION, AESTHETICS, OR USEFULNESS
3 FOR HUMAN OR NATURAL USES, WHICH ARE OR MAY POTENTIALLY BE HARMFUL OR INJURIOUS TO
4 HUMAN HEALTH, WELFARE, SAFETY OR PROPERTY, BIOLOGICAL PRODUCTIVITY, DIVERSITY, OR
5 STABILITY OR THAT UNREASONABLY INTERFERE WITH THE ENJOYMENT OF LIFE OR PROPERTY,
6 INCLUDING OUTDOOR RECREATION.

7 ([[a]]C) [*Agricultural land management practices*] “AGRICULTURAL LAND MANAGEMENT
8 PRACTICES” means those methods and procedures used in the cultivation of land in order to
9 further crop and livestock production and conservation of related soil and water resources.
10 [*Agricultural land management practices does not include logging*] LOGGING and timber
11 removal operations ARE NOT INCLUDED IN THIS DEFINITION.

12 (D) “APPLICANT” MEANS ANY PERSON, FIRM, OR GOVERNMENT AGENCY THAT EXECUTES THE
13 NECESSARY FORMS TO APPLY FOR A PERMIT OR APPROVAL TO CARRY OUT CONSTRUCTION OF A
14 PROJECT REQUIRING A GRADING PERMIT.

15 (E) “BEST MANAGEMENT PRACTICE” (“BMP”) MEANS A STRUCTURAL DEVICE OR NONSTRUCTURAL
16 PRACTICE DESIGNED TO TEMPORARILY STORE OR TREAT STORMWATER RUNOFF IN ORDER TO
17 MITIGATE FLOODING, REDUCE POLLUTION, AND PROVIDE OTHER AMENITIES.

18 ([[b]]F) [*Clear*] “CLEAR” means [[any activity which removes]] TO REMOVE THE vegetative
19 ground cover [[from land]] WHILE LEAVING THE ROOT MAT INTACT, BUT SHALL NOT INCLUDE THE
20 ORDINARY MOWING OF GRASS.

21 (G) “CONCEPT STAGE” MEANS THE FIRST STAGE OF THE SEDIMENT AND EROSION CONTROL DESIGN
22 PROCESS.

23 (H) “COUNTY” MEANS HOWARD COUNTY, MARYLAND.

24 (I) “DISCHARGE” MEANS:

- 25 (1) THE ADDITION, INTRODUCTION, LEAKING, SPILLING, OR EMITTING OF ANY
- 26 POLLUTANT TO WATERS OF THIS STATE; OR
- 27 (2) THE PLACING OF A POLLUTANT IN A LOCATION WHERE THE POLLUTANT IS LIKELY TO
- 28 POLLUTE.

29 (J) “DRAINAGE AREA” MEANS THAT AREA CONTRIBUTING RUNOFF TO A SINGLE POINT MEASURED IN
30 A HORIZONTAL PLANE THAT IS ENCLOSED BY A RIDGE LINE.

- 1 (K) "ENVIRONMENTAL SITE DESIGN" ("ESD") MEANS USING SMALL-SCALE STORMWATER
2 MANAGEMENT PRACTICES, NONSTRUCTURAL TECHNIQUES, AND BETTER SITE PLANNING TO MIMIC
3 NATURAL HYDROLOGIC RUNOFF CHARACTERISTICS AND MINIMIZE THE IMPACT OF LAND
4 DEVELOPMENT ON WATER RESOURCES.
- 5 (L) "EROSION" MEANS THE PROCESS BY WHICH THE LAND SURFACE IS WORN AWAY BY THE ACTION
6 OF WIND, WATER, ICE, OR GRAVITY.
- 7 ([[c]]M) [[*Erosion and sediment control*]] "EROSION AND SEDIMENT CONTROL" means a system
8 of structural and vegetative measures that [[minimizes]] MINIMIZES soil erosion and off-site
9 sedimentation.
- 10 (N) "EROSION AND SEDIMENT CONTROL PLAN" MEANS THE CONSTRUCTION DRAWINGS DEPICTING A
11 STRATEGY OR PLAN TO MINIMIZE EROSION AND PREVENT OFF-SITE SEDIMENTATION BY CONTAINING
12 SEDIMENT ON-SITE BY PASSING SEDIMENT-LADEN RUNOFF THROUGH A SEDIMENT CONTROL
13 MEASURE, PREPARED AND APPROVED IN ACCORDANCE WITH THE SPECIFIC REQUIREMENTS OF THE
14 HOWARD SOIL CONSERVATION DISTRICT, THIS SUBTITLE, AND TITLE 18, SUBTITLE 3 OF THIS
15 CODE, AND DESIGNED IN ACCORDANCE WITH THE STANDARDS AND SPECIFICATIONS.
- 16 (O) "EXEMPTION" MEANS THOSE LAND DEVELOPMENT ACTIVITIES THAT ARE NOT SUBJECT TO THE
17 EROSION AND SEDIMENT CONTROL REQUIREMENTS CONTAINED IN THIS SUBTITLE AND TITLE 18,
18 SUBTITLE 3 OF THIS CODE.
- 19 (P) "FINAL EROSION AND SEDIMENT CONTROL PLAN" MEANS THE FINAL STAGE OF THE SEDIMENT
20 AND EROSION CONTROL DESIGN PROCESS. THE PLAN SHALL BE PREPARED AND APPROVED IN
21 ACCORDANCE WITH THE SPECIFIC REQUIREMENTS OF THE HOWARD SOIL CONSERVATION DISTRICT,
22 THIS SUBTITLE, AND TITLE 18, SUBTITLE 3 OF THIS CODE, AND DESIGNED IN ACCORDANCE WITH
23 THE STANDARDS AND SPECIFICATIONS.
- 24 ([[d]]Q) [[*Grade*]] "GRADE" means to [[cause disturbance of land]] DISTURB EARTH BY, including
25 BUT NOT LIMITED TO, excavating, filling, [[stock-piling of earth materials]] STOCKPILING,
26 grubbing, REMOVING root mat or topsoil [[disturbance]], or any combination thereof.
- 27 (R) "GRADING UNIT" MEANS THE MAXIMUM CONTIGUOUS AREA ALLOWED TO BE GRADED AT A
28 GIVEN TIME. FOR THE PURPOSES OF THIS SUBTITLE, A GRADING UNIT IS 20 ACRES OR LESS.
- 29 (S) "HIGHLY ERODIBLE SOILS" MEANS THOSE SOILS WITH A SLOPE GREATER THAN 15 PERCENT OR
30 THOSE SOILS WITH A SOIL ERODABILITY FACTOR, K, GREATER THAN 0.35 AND WITH SLOPES
31 GREATER THAN 5 PERCENT.

1 (T) "INSPECTION AGENCY" MEANS THE HOWARD COUNTY DEPARTMENT OF PUBLIC WORKS.

2 (U) "OWNER/DEVELOPER" MEANS A PERSON UNDERTAKING, OR FOR WHOSE BENEFIT, ACTIVITIES
3 COVERED BY THIS SUBTITLE ARE CARRIED ON. GENERAL CONTRACTORS OR SUBCONTRACTORS, OR
4 BOTH, WITHOUT A PROPRIETARY INTEREST IN A PROPERTY ARE NOT INCLUDED WITHIN THIS
5 DEFINITION.

6 (V) "PERMITTEE" MEANS ANY PERSON TO WHOM A GRADING PERMIT HAS BEEN ISSUED.

7 ([[e]]W) [[*Person*]] "PERSON" [[means]] INCLUDES THE FEDERAL GOVERNMENT, THE STATE, ANY
8 COUNTY, MUNICIPAL CORPORATION, OR OTHER POLITICAL SUBDIVISION OF THE STATE, OR ANY OF
9 THEIR UNITS, OR an individual, receiver, trustee, guardian, [[personal representative]] EXECUTOR,
10 ADMINISTRATOR, fiduciary, or representative of any kind [[and]], OR any partnership, firm,
11 association, PUBLIC OR PRIVATE corporation, or ANY OF THEIR AFFILIATES, OR ANY other entity.

12 ([[f]] X) [[*Responsible person*]] "RESPONSIBLE PERSON" OR "RESPONSIBLE PERSONNEL" means[[a
13 foreman, superintendent or project engineer]] ANY PERSON WHO HAS SUCCESSFULLY COMPLETED
14 THE MARYLAND DEPARTMENT OF THE ENVIRONMENT RESPONSIBLE PERSONNEL CERTIFICATION
15 PROGRAM AND who is in charge of on-site clearing and grading operations or THE
16 IMPLEMENTATION AND MAINTENANCE OF AN EROSION AND sediment control [[associated with
17 earth changes or disturbances]] PLAN.

18 ([[g]]Y) [[*Sediment*]] "SEDIMENT" means soils or other surficial materials transported or
19 deposited by the action of wind, water, ice, gravity, or artificial means.

20 (Z) "SITE" MEANS ANY TRACT, LOT, OR PARCEL OF LAND, OR COMBINATION OF TRACTS, LOTS OR
21 PARCELS OF LAND THAT ARE IN ONE OWNERSHIP, OR ARE CONTIGUOUS AND IN DIVERSE
22 OWNERSHIP, WHERE DEVELOPMENT IS TO BE PERFORMED AS PART OF A UNIT, SUBDIVISION, OR
23 PROJECT.

24 (AA) "SITE DEVELOPMENT STAGE" MEANS THE SECOND STAGE OF THE SEDIMENT AND EROSION
25 CONTROL DESIGN PROCESS. THIS STAGE IS DESCRIBED IN COMAR 26.17.02.

26 ([[h]]BB) [[*Stabilization*]] "STABILIZATION" means the [[prevention]] PROTECTION of [[soil
27 movement]] EXPOSED SOILS FROM EROSION by [[any of various]] THE APPLICATION OF SEED AND
28 MULCH, SEED AND MATTING, SOD, OTHER vegetative MEASURES, and/or structural means.

29 ([[i]]CC) [[*Standards and specifications*]] "STANDARDS AND SPECIFICATIONS" means the [[1994]]
30 "2011 Maryland Standards and Specifications for Soil Erosion and Sediment [[Control]]
31 CONTROL" or any subsequent revisions[[thereto]].

1 (DD) "STORMWATER MANAGEMENT SYSTEM" MEANS NATURAL AREAS, ESD PRACTICES,
2 STORMWATER MANAGEMENT MEASURES, AND ANY OTHER STRUCTURE THROUGH WHICH
3 STORMWATER FLOWS, INFILTRATES, OR DISCHARGES FROM A SITE.

4 (EE) "VARIANCE" MEANS THE MODIFICATION OF THE MINIMUM EROSION AND SEDIMENT CONTROL
5 REQUIREMENTS FOR EXCEPTIONAL CIRCUMSTANCES SUCH THAT STRICT ADHERENCE TO THE
6 REQUIREMENTS WOULD RESULT IN UNNECESSARY HARDSHIP AND NOT FULFILL THE INTENT OF THIS
7 SUBTITLE AND TITLE 18, SUBTITLE 3 OF THIS CODE.

8 (FF) "WATERSHED" MEANS THE TOTAL DRAINAGE AREA CONTRIBUTING RUNOFF TO A SINGLE
9 POINT.

10
11 **Section 3.402. Grading permit.**

12 (a) *Permit Required.* Except as provided in subsection (b) of this section, a person may not clear
13 or grade land in Howard County without a grading permit from the Department of Inspections,
14 Licenses and Permits. BEFORE A GRADING PERMIT FOR ANY SITE IS ISSUED, THE COUNTY SHALL
15 REVIEW AND APPROVE A FINAL EROSION AND SEDIMENT CONTROL PLAN FOR THE SITE.

16 (b) *Exemptions [[to Requirement for Permit]].* [[A grading permit is not required for grading or
17 clearing associated with]]THE FOLLOWING ACTIVITIES ARE EXEMPT FROM THE PROVISIONS OF THIS
18 SUBTITLE:

- 19 (1) Agricultural land management practices and [[construction of]] agricultural
20 [[structures]]BMPs;
- 21 (2) Construction of a single-family residence or accessory buildings thereto that
22 disturbs an area of less than 0.5 acres and occurs on a lot of two acres or more;
- 23 (3) Clearing or grading activities that disturb less than 5,000 square feet of land area
24 and disturb less than 100 cubic yards of earth;
- 25 (4) The laying of gas, electrical, telephone, or cable television lines which disturbs
26 less than 100 linear feet; or
- 27 (5) Clearing or grading activities that are subject exclusively to State approval and
28 enforcement under State law[.]AND REGULATIONS.

29 (c) *DENIAL OF PERMITS.* THE DEPARTMENT OF INSPECTIONS, LICENSES AND PERMITS MAY DENY
30 THE ISSUANCE OF ANY PERMITS TO AN APPLICANT WHEN IT DETERMINES THAT THE APPLICANT IS
31 NOT IN COMPLIANCE WITH THE PROVISIONS OF A BUILDING OR GRADING PERMIT OR APPROVED

1 EROSION AND SEDIMENT CONTROL PLAN.

2
3 **Section 3.403. Erosion and ~~[[sediment control plans]]~~ SEDIMENT CONTROL PLANS.**

4 (a) *Approval of Erosion and Sediment Control Plans Required.* ~~[[An Applicant for a grading~~
5 ~~permit shall submit]]~~ SUBJECT TO SECTION 3.402 OF THIS SUBTITLE, A PERSON MAY NOT CLEAR OR
6 GRADE LAND WITHOUT an erosion and sediment control plan approved by the Howard Soil
7 Conservation District.

8 (b) *Submission of Erosion and Sediment Control Plan to Howard Soil Conservation District.* An
9 Applicant shall submit an erosion and sediment control plan and any required supporting
10 documentation to the Howard Soil Conservation District for review and approval. ~~[[The plan~~
11 ~~shall contain sufficient information, drawings, and notes to describe how soil erosion and off-site~~
12 ~~sedimentation will be minimized. The plan shall serve as a basis for all subsequent grading and~~
13 ~~stabilization.]]~~ THE HOWARD SOIL CONSERVATION DISTRICT SHALL REVIEW EROSION AND
14 SEDIMENT CONTROL PLANS TO DETERMINE COMPLIANCE WITH THIS SUBTITLE AND THE STANDARDS
15 AND SPECIFICATIONS PRIOR TO APPROVAL. IN APPROVING THE PLAN, THE HOWARD SOIL
16 CONSERVATION DISTRICT MAY IMPOSE SUCH CONDITIONS THAT MAY BE DEEMED NECESSARY TO
17 ENSURE COMPLIANCE WITH THE PROVISIONS OF THIS SUBTITLE, COMAR 26.17.01, THE
18 STANDARDS AND SPECIFICATIONS, AND THE PRESERVATION OF PUBLIC HEALTH AND SAFETY.

19 (c) *Contents of the erosion and sediment control plan.* An Applicant shall submit an erosion and
20 sediment control plan that meets the requirements of the Howard Soil ~~[[Conversation]]~~
21 CONSERVATION District, this subtitle, ~~[[the Maryland Sediment Control Regulations (COMAR~~
22 ~~26.17.01),]]~~ TITLE 18, SUBTITLE 3 OF THIS CODE, THE STANDARDS AND SPECIFICATIONS, AND
23 TITLE 4 OF THE ENVIRONMENT ARTICLE OF THE ANNOTATED CODE OF MARYLAND. ~~[[the~~
24 ~~"standards and specifications."]]~~ The plan shall include sufficient information to evaluate the
25 environmental characteristics of the affected areas, the potential impacts of the proposed grading
26 on water resources, and the effectiveness and acceptability of measures proposed to minimize
27 soil erosion and ~~[[off-site sedimentation. The Applicant shall certify on the drawings that all~~
28 ~~clearing, grading, drainage, construction, and development shall be conducted in strict~~
29 ~~accordance with the plan. Applicants shall submit the following information:]]~~ OFF SITE
30 SEDIMENTATION. AT A MINIMUM, APPLICANTS SHALL SUBMIT THE FOLLOWING INFORMATION:

- 31 (1) A letter of ~~[[transmittal]]~~ TRANSMITTAL, AN APPLICATION, OR BOTH;

- 1 (2) NAME, ADDRESS, AND TELEPHONE NUMBER OF:
- 2 (I) THE OWNER OF THE PROPERTY WHERE THE GRADING IS PROPOSED;
- 3 (II) THE DEVELOPER; AND
- 4 (III) THE APPLICANT;
- 5 (([2])3) A vicinity [[sketch]] MAP indicating north arrow, scale, SITE LOCATION, and other
6 information necessary to easily locate the property;
- 7 [[(3)] A plan at an appropriate scale indicating at least:
- 8 (i) Name, address, and telephone number of:
- 9 a. The owner of the property where the grading is proposed;
- 10 b. The developer; and
- 11 c. The Applicant;
- 12 (ii) The existing and proposed topography;
- 13 (iii) The proposed grading and earth disturbance, including:
- 14 a. Surface area involved;
- 15 b. Volume of spoil material;
- 16 c. Volume of borrow material; and
- 17 d. Limits of grading, including limitation of mass clearing and
18 grading whenever possible.
- 19 (iv) Storm drainage provisions, including:
- 20 a. Velocities and quantities of flow at outfalls; and
- 21 b. Site conditions around points of all surface water discharge from
22 the site.
- 23 (v) Erosion and sediment control provisions to minimize on-site erosion and
24 prevent off-site sedimentation, including:
- 25 a. Provisions to preserve topsoil and limit disturbance;
- 26 b. Details of grading practices;
- 27 c. Design details for structural controls; and
- 28 d. Details of temporary and permanent stabilization measures,
29 including placement of the following statement on the plan.
30 Following initial soil disturbance or redisturbance, permanent or
31 temporary stabilization shall be completed within:

- 1 A. TOTAL DISTURBED AREA;
- 2 B. VOLUME OF CUT AND FILL QUANTITIES; AND
- 3 C. VOLUME OF BORROW AND SPOIL QUANTITIES;
- 4 (V) STORM DRAINAGE FEATURES, INCLUDING:
- 5 A. EXISTING AND PROPOSED BRIDGES, STORM DRAINS, CULVERTS,
- 6 OUTFALLS, ETC.;
- 7 B. VELOCITIES AND PEAK FLOW RATES AT OUTFALLS FOR THE TWO-
- 8 YEAR AND TEN-YEAR FREQUENCY STORM EVENTS; AND
- 9 C. SITE CONDITIONS AROUND POINTS OF ALL SURFACE WATER
- 10 DISCHARGE FROM THE SITE;
- 11 (VI) EROSION AND SEDIMENT CONTROL PRACTICES TO MINIMIZE ON-SITE
- 12 EROSION AND PREVENT OFF-SITE SEDIMENTATION, INCLUDING:
- 13 A. THE SALVAGE AND REUSE OF TOPSOIL;
- 14 B. PHASED CONSTRUCTION AND IMPLEMENTATION OF GRADING UNIT(S)
- 15 TO MINIMIZE DISTURBANCES, BOTH IN EXTENT AND DURATION;
- 16 C. LOCATION AND TYPE OF ALL PROPOSED SEDIMENT CONTROL
- 17 PRACTICES;
- 18 D. DESIGN DETAILS AND DATA FOR ALL EROSION AND SEDIMENT
- 19 CONTROL PRACTICES; AND
- 20 E. SPECIFICATIONS FOR TEMPORARY AND PERMANENT STABILIZATION
- 21 MEASURES INCLUDING, AT A MINIMUM:
- 22 I. THE "STANDARD STABILIZATION NOTE" ON THE PLAN
- 23 STATING: "FOLLOWING INITIAL SOIL DISTURBANCE OR RE-
- 24 DISTURBANCE, PERMANENT OR TEMPORARY STABILIZATION
- 25 SHALL BE COMPLETED WITHIN:
- 26 1. THREE CALENDAR DAYS AS TO THE SURFACE OF ALL
- 27 PERIMETER DIKES, SWALES, DITCHES, PERIMETER
- 28 SLOPES, AND ALL SLOPES STEEPER THAN 3
- 29 HORIZONTAL TO 1 VERTICAL (3:1); AND

1 K. APPROVAL OF THE APPROPRIATE ENFORCEMENT AUTHORITY PRIOR
2 TO REMOVAL OF SEDIMENT CONTROLS; AND

3 [[h]]L. Removal of controls AND STABILIZATION OF AREAS THAT ARE
4 DISTURBED BY REMOVAL OF SEDIMENT CONTROLS.

5 ([[vii]]VIII) A statement [[placed on the plan indicating that the Applicant shall
6 request]] REQUIRING THE OWNER/DEVELOPER OR REPRESENTATIVE TO
7 CONTACT the Department of Public Works [[to inspect and approve work
8 completed]] OR ITS AGENT AT THE FOLLOWING STAGES OF THE PROJECT OR
9 in accordance with the approved erosion and sediment control plan, [[the]]
10 grading permit, [[and this subtitle]] OR BUILDING PERMIT:

11 a. [[On all sites with disturbed areas in excess of two acres, approval
12 of the inspection agency shall be requested upon completion of
13 installation of perimeter erosion and sediment controls, but before
14 proceeding with any other earth disturbance or grading. Other
15 building or grading inspection approvals may not be authorized
16 until this initial approval by the inspection agency is made; and]]
17 PRIOR TO THE START OF EARTH DISTURBANCE;

18 B. UPON COMPLETION OF THE INSTALLATION OF PERIMETER EROSION
19 AND SEDIMENT CONTROLS, BUT BEFORE PROCEEDING WITH ANY
20 OTHER EARTH DISTURBANCE OR GRADING;

21 [[b. Approval shall be requested upon final stabilization of all sites
22 with disturbed areas in excess of two acres before removal of
23 controls;]]

24 C. PRIOR TO THE START OF ANOTHER PHASE OF CONSTRUCTION OR
25 OPENING OF ANOTHER GRADING UNIT; AND

26 D. PRIOR TO THE REMOVAL OF SEDIMENT CONTROL PRACTICES;

27 ([[viii]]IX) [[Certification by the Applicant that any clearing, grading,
28 construction, or development will be done pursuant to the plan and that a
29 responsible person involved in the construction project will have, before
30 beginning the project, a certification of training at a program approved by
31 the Maryland Department of the Environment for the Control of Sediment

1 and Erosion. The requirement for certification of training for a responsible
2 person may be waived by the Howard Soil Conservation District on a
3 project involving four or fewer residential units; and]] CERTIFICATION BY
4 THE OWNER/DEVELOPER THAT ANY CLEARING, GRADING, CONSTRUCTION,
5 OR DEVELOPMENT WILL BE DONE PURSUANT TO THE APPROVED EROSION
6 AND SEDIMENT CONTROL PLAN. THE CERTIFICATION SHALL ALSO REQUIRE
7 THAT THE RESPONSIBLE PERSONNEL INVOLVED IN THE CONSTRUCTION
8 PROJECT HAVE A CERTIFICATE OF TRAINING AT AN MDE APPROVED
9 TRAINING PROGRAM FOR THE CONTROL OF EROSION AND SEDIMENT PRIOR
10 TO BEGINNING THE PROJECT. THE CERTIFICATE OF TRAINING FOR
11 RESPONSIBLE PERSONNEL MAY BE WAIVED BY THE DEPARTMENT OF PUBLIC
12 WORKS ON ANY PROJECT INVOLVING FOUR OR FEWER RESIDENTIAL LOTS.

13 (X) ADDITIONALLY, THE OWNER/DEVELOPER SHALL ALLOW A RIGHT OF ENTRY
14 FOR PERIODIC ON-SITE EVALUATION BY THE HOWARD SOIL CONSERVATION
15 DISTRICT, THE DEPARTMENT OF INSPECTIONS, LICENSES AND PERMITS, THE
16 DEPARTMENT OF PUBLIC WORKS, AND THE MARYLAND DEPARTMENT OF
17 THE ENVIRONMENT; AND

18 (XI) CERTIFICATION BY A PROFESSIONAL ENGINEER, LAND SURVEYOR,
19 LANDSCAPE ARCHITECT, ARCHITECT, OR FORESTER (FOR FOREST HARVEST
20 OPERATIONS ONLY) REGISTERED IN THE STATE THAT THE PLANS HAVE BEEN
21 DESIGNED IN ACCORDANCE WITH EROSION AND SEDIMENT CONTROL LAWS,
22 REGULATIONS, AND STANDARDS, IF REQUIRED BY THE HOWARD SOIL
23 CONSERVATION DISTRICT OR THE ADMINISTRATION.

24 ([[ix]]9) Any additional information or data deemed appropriate by the Howard Soil
25 Conservation District.

26 [[(d) *Exception.* The requirements of subsection (c)(3)(v)d. of this section do not apply to those
27 areas which are shown on the plan and are currently being used for incidental and minimal
28 material storage, or for those areas on which actual construction activities are currently being
29 performed or to interior areas of a surface mine sited where the stabilization material would
30 contaminate the recoverable resource. Maintenance shall be performed as necessary to ensure

1 that the stabilized areas continuously meet the appropriate requirements of the "standards and
2 specifications."]]

3 *[(e) Review and Approval by Howard Soil Conservation District.*

4 (1) *Requirements of State law.* Title 8, subtitle 3, of the agriculture article of the
5 Annotated Code of Maryland and title 4, subtitle 1, environment article of the
6 Annotated Code of Maryland require the Howard Soil Conservation District to
7 review and approve plans for clearing, transporting, or otherwise disturbing soil.

8 (2) *Review of plan.* In reviewing the plan, the Howard Soil Conservation District shall
9 consider the plan's compliance with this subtitle, the Maryland Sediment Control
10 Regulations, the Code of Maryland Regulations, the "standards and
11 specifications," and the requirements of the Howard Soil Conservation District.

12 (3) *Variances.* The Howard Soil Conservation District may grant a written variance
13 from the requirements of the "standards and specifications" if strict adherence to
14 the specifications will result in unnecessary hardship and not fulfill the intent of
15 this subtitle. In order to obtain a variance, the Applicant shall submit a written
16 request for a variance to the Howard Soil Conservation District stating the
17 specific variances sought and reasons for requesting the variances.]]

18 (D) *PLAN APPROVAL DURATION.* APPROVED PLANS REMAIN VALID FOR TWO YEARS FROM THE DATE
19 OF APPROVAL UNLESS EXTENDED OR RENEWED BY THE HOWARD SOIL CONSERVATION DISTRICT.

20 (E) *GRANDFATHERING OF APPROVED PLANS.*

21 (1) ANY PLANS THAT RECEIVE FINAL APPROVAL AFTER ~~FEBRUARY 15, 2013~~ JANUARY
22 9, 2013 SHALL BE IN COMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION AND
23 THE STANDARDS AND SPECIFICATIONS.

24 (2) A PLAN THAT RECEIVES FINAL APPROVAL BY ~~FEBRUARY 15, 2013~~ JANUARY 9, 2013
25 MAY BE REAPPROVED UNDER ITS EXISTING CONDITIONS IF GRADING ACTIVITIES
26 HAVE BEGUN ON THE SITE BY ~~FEBRUARY 15, 2015~~ JANUARY 9, 2013, WITH THE
27 EXCEPTION OF STABILIZATION REQUIREMENTS.

28 (3) STABILIZATION PRACTICES ON ALL SITES SHALL BE IN COMPLIANCE WITH THE
29 REQUIREMENTS OF THIS SECTION OF THIS CODE, AND THE STANDARDS AND
30 SPECIFICATIONS BY ~~FEBRUARY 15, 2013~~ JANUARY 9, 2013, REGARDLESS OF WHEN
31 AN APPROVED EROSION AND SEDIMENT CONTROL PLAN WAS APPROVED.

1 (F) *REVIEW AND APPROVAL BY HOWARD SOIL CONSERVATION DISTRICT.* THE REVIEW AND APPROVAL
2 PROCESS SHALL BE IN ACCORDANCE WITH THE COMPREHENSIVE AND INTEGRATED PLAN APPROVAL
3 PROCESS DESCRIBED IN THE STANDARDS AND SPECIFICATIONS, TITLE 18, SUBTITLE 9 OF THIS
4 CODE, AND TITLE 4 OF THE ENVIRONMENT ARTICLE OF THE ANNOTATED CODE OF MARYLAND.

5 (G) AT A MINIMUM, THE CONCEPT STAGE SHALL INCLUDE THE MAPPING OF NATURAL RESOURCES
6 AND SENSITIVE AREAS INCLUDING HIGHLY ERODIBLE SOILS AND SLOPES GREATER THAN 15
7 PERCENT AS WELL AS INFORMATION REQUIRED UNDER TITLE 18, SUBTITLE 9 OF THIS CODE. THESE
8 AREAS ARE TO REMAIN UNDISTURBED OR AN EXPLANATION SHALL BE INCLUDED DURING THE
9 CONCEPT OR SITE DEVELOPMENT STAGE DESCRIBING ENHANCED PROTECTION STRATEGIES FOR
10 THESE AREAS DURING CONSTRUCTION.

11 (H) THE SITE DEVELOPMENT STAGE SHALL INCLUDE ALL CONCEPT STAGE INFORMATION AND
12 INFORMATION ABOUT HOW PROPOSED EROSION AND SEDIMENT CONTROL PRACTICES WILL BE
13 INTEGRATED WITH PROPOSED STORMWATER MANAGEMENT PRACTICES. THE LATTER MAY BE
14 ACCOMPLISHED THROUGH A NARRATIVE AND MAY BE SHOWN ON AN OVERLAY PLAN SHOWING
15 BOTH ESD AND EROSION AND SEDIMENT CONTROL PRACTICES. AN INITIAL SEQUENCE OF
16 CONSTRUCTION AND PROPOSED PROJECT PHASING TO ACHIEVE THE GRADING UNIT RESTRICTION
17 SHOULD BE SUBMITTED AT THIS TIME. A CONSTRUCTION DRAWING INCLUDED IN THIS STAGE SHALL
18 CONTAIN SUFFICIENT INFORMATION, DRAWINGS, AND NOTES TO DESCRIBE HOW SOIL EROSION AND
19 OFF-SITE SEDIMENTATION WILL BE MINIMIZED. THE CONCEPT AND SITE DEVELOPMENT STAGES
20 SHALL SERVE AS A BASIS FOR ALL SUBSEQUENT GRADING AND STABILIZATION.

21 (I) AN APPLICANT SHALL SUBMIT A FINAL EROSION AND SEDIMENT CONTROL PLAN TO THE
22 HOWARD SOIL CONSERVATION DISTRICT FOR REVIEW AND APPROVAL. THE RELATED DRAWINGS
23 SHALL INCLUDE ALL OF THE INFORMATION REQUIRED BY THE CONCEPT AND SITE DEVELOPMENT
24 STAGE AS WELL AS ANY INFORMATION REQUIRED BY THIS SUBTITLE BUT NOT ALREADY SUBMITTED.

25 (J) ~~[[4]]~~ *Approval.* ~~[[The Howard Soil Conservation District shall indicate its approval of~~
26 ~~a plan by signing and dating the plan. A plan is]]~~ A FINAL EROSION AND SEDIMENT
27 CONTROL PLAN SHALL NOT BE CONSIDERED APPROVED WITHOUT THE INCLUSION OF THE
28 ~~[[this]]~~ SIGNATURE AND DATE OF SIGNATURE OF THE HOWARD SOIL CONSERVATION
29 DISTRICT ON THE CONSTRUCTION DRAWING. In approving the plan, the Howard
30 Soil Conservation District may impose conditions it deems necessary to ensure
31 compliance with the provisions of this subtitle, the Maryland Sediment Control

1 Regulations, the "standards and specifications," requirements of the Howard Soil
2 Conservation District or the preservation of public health and safety.

3 ~~[(5)]~~ *Validity of plans.* Approved plans remain valid for two years from the date of
4 approval. The Howard Soil Conservation District may extend the approval time at
5 its discretion.]]

6 ~~[(f)]~~ *κ Modifications to Approved Erosion and Sediment Control Plans.*

7 (1) The Howard Soil Conservation District may revise approved plans as necessary.
8 Modifications may be requested by ~~[[an Applicant, permit holder]]~~ THE
9 PERMITTEE, THE OWNER/DEVELOPER, THE INSPECTION AGENCY, or the Department
10 of ~~[[Public Works]]~~ INSPECTIONS, LICENSES AND PERMITS IN ACCORDANCE WITH
11 COMAR 26.17.01.09(H), PLAN MODIFICATIONS.

12 (2) THE HOWARD SOIL CONSERVATION DISTRICT MAY DEVELOP A LIST OF MINOR
13 MODIFICATIONS THAT MAY BE APPROVED AS FIELD REVISIONS BY THE INSPECTION
14 AGENCY. THE LIST OF MINOR MODIFICATIONS SHALL NOT BE IMPLEMENTED UNLESS
15 IT HAS BEEN APPROVED BY THE ADMINISTRATION.

16 ~~[(g)]~~ *l Notification by Howard Soil Conservation District.* Within 30 days of submission of the
17 completed erosion and sediment control plan, the Howard Soil Conservation District shall notify
18 the Applicant of approval, approval with modifications, or the reasons for disapproval. If a
19 decision is not made within 30 days, the Howard Soil Conservation District shall inform the
20 Applicant of the status of the review process and the anticipated completion date.

21 *(m) STANDARD PLAN.*

22 (1) THE HOWARD SOIL CONSERVATION DISTRICT MAY ADOPT A STANDARD EROSION
23 AND SEDIMENT CONTROL PLAN FOR ACTIVITIES WITH MINOR EARTH DISTURBANCES,
24 SUCH AS SINGLE-FAMILY RESIDENCES, SMALL COMMERCIAL AND OTHER SIMILAR
25 BUILDING SITES, MINOR MAINTENANCE GRADING, AND MINOR UTILITY
26 CONSTRUCTION.

27 (2) A STANDARD EROSION AND SEDIMENT CONTROL PLAN SHALL MEET THE
28 REQUIREMENTS OF THIS SUBTITLE AND THE STANDARDS AND SPECIFICATIONS.

29 (3) MDE SHALL REVIEW AND APPROVE A STANDARD PLAN PRIOR TO ITS ADOPTION.

30 *(n) VARIANCES.* THE HOWARD SOIL CONSERVATION DISTRICT MAY ONLY GRANT A WRITTEN
31 VARIANCE FROM THE REQUIREMENTS OF THIS SUBTITLE WHEN STRICT ADHERENCE WILL RESULT IN

1 EXCEPTIONAL HARDSHIP AND NOT FULFILL THE INTENT OF THIS SUBTITLE. THE OWNER/DEVELOPER
2 SHALL SUBMIT A WRITTEN REQUEST FOR A VARIANCE TO THE HOWARD SOIL CONSERVATION
3 DISTRICT. THE REQUEST SHALL STATE THE SPECIFIC VARIANCE SOUGHT AND THE REASONS FOR THE
4 REQUEST. THE HOWARD SOIL CONSERVATION DISTRICT SHALL NOT GRANT A VARIANCE UNLESS
5 AND UNTIL SUFFICIENT INFORMATION IS PROVIDED DESCRIBING THE UNIQUE CIRCUMSTANCES OF
6 THE SITE THAT JUSTIFY THE VARIANCE

7
8 **Section 3.404. Permits.**

9 (a) *Issuance.* The Department of Inspections, Licenses and Permits shall issue a grading permit
10 if:

- 11 (1) The Applicant submits an erosion and sediment control plan for the site
12 [[approved by]] TO the Howard Soil Conservation District AND THE HOWARD SOIL
13 CONSERVATION DISTRICT HAS APPROVED THE EROSION AND SEDIMENT CONTROL
14 PLAN FOR THE SITE;
- 15 (2) The Applicant certifies in writing that any construction or development will be
16 done pursuant to the approved erosion and sediment control plan;
- 17 (3) Where applicable, the Applicant submits an approved stormwater management
18 plan in accordance with the requirements of section 18.902 of this Code. Where
19 applicable, the Applicant shall submit an executed developer agreement for the
20 stormwater management work and any required maintenance agreement for the
21 maintenance of a private stormwater management system;
- 22 (4) The Applicant is developing a golf course for redevelopment, as defined in section
23 16.129, and has complied with section 16.129 of this Code;
- 24 (5) The Applicant provides the surety required by section 3.405 of this subtitle; and
25 (6) The Applicant pays the grading permit fee.

26 (b) *Permit [[Duration]] EXPIRATION and Renewal.*

27 [[A]] THE grading permit [[is valid for work that begins within 12 months]] SHALL EXPIRE TWO
28 YEARS FROM THE DATE of issuance [[and for work that occurs within 12 months after the initial
29 work has begun. Except as otherwise provided by law,]] UNLESS EXTENDED OR RENEWED BY the
30 Department of Inspections, Licenses and Permits [[may grant, for reasonable cause and on the

1 recommendation of the Department of Public Works, one or more extensions. Each extension
2 may be for a period of up to six months]].

3 *[[c) Display of Permit.* The permit holder shall post the approved grading permit in a
4 conspicuous place on the site during construction.]]

5 *[[d)C) Permit Fee.* A permit fee schedule may be established by resolution of the Howard
6 County Council for the administration and management of the erosion and sediment control
7 program. *[[Work on County-owned property, including capital improvement projects, refuse
8 disposal areas, sanitary landfills, and Public Works projects,]]* THE COUNTY is exempt from the
9 permit fee.

10 *[[e)D) Permit Suspension and Revocation.* The Department of Inspections, Licenses and
11 Permits may suspend or revoke *[[a]]* ANY grading *[[permit]]* OR BUILDING PERMITS after providing
12 written notification to the *[[permit holder for:]]* PERMITTEE BASED ON ANY OF THE FOLLOWING
13 REASONS:

14 (1) *[[A]]* ANY violation of the terms or conditions of the approved erosion and
15 sediment control plan~~[[, stormwater management plan or grading permit;]]~~ OR
16 PERMITS;

17 (2) Noncompliance with *[[a]]* ANY violation notice or stop work order;

18 (3) Changes in site characteristics upon which plan approval and permit issuance
19 *[[was]]* WERE based; or

20 (4) *[[A]]* ANY violation of this subtitle or any rules and regulations adopted under it.

21 *[[f)E) Permit Conditions.* In issuing a grading permit, the Department of Inspections, Licenses
22 and Permits may impose such conditions *[[thereon as]]* THAT may be deemed necessary to ensure
23 compliance with the provisions of this subtitle or the preservation of the public health and safety.
24

25 **Section 3.405. Surety required.**

26 (a) *Form.* Except as provided in subsection (c) of this section, the Applicant shall provide the
27 County with surety in the form of a letter of credit or cash to guarantee the cost of stabilizing the
28 soil within the construction area~~[[,]]~~ AND the costs of ~~[[constructing sediment control measures
29 on the perimeter of the site to control mud and silt and the costs of achieving positive drainage
30 patterns]]~~ THE INSTALLATION, MAINTENANCE, AND REMOVAL OF THE EROSION AND SEDIMENT
31 CONTROLS SHOWN ON THE APPROVED PLAN.

1 (b) *Amount*. The County shall determine the amount of the surety based on the size of the area to
2 be disturbed and the type of construction.

3 (c) *Exemptions*. An Applicant performing grading for the following types of construction is
4 exempt from the surety requirements:

- 5 (1) Residential subdivisions of four or fewer lots;
- 6 (2) Individual single-family residential lots;
- 7 (3) Grading-spoils operations on lots of three acres or less;
- 8 (4) Laying of less than ½ mile of gas, electric, telephone or cable television lines
9 within public rights-of-way; or
- 10 (5) Laying of less than 300 feet of gas, electric, telephone or cable television lines
11 outside of the public right-of-way.

12

13 **Section 3.406. - Enforcement.**

14 [(a) *Right of Entry*. The County may enter upon property to ensure compliance with this
15 subtitle. If a permit is revoked, the County may enter the property and perform work in order to
16 stabilize the soil within the construction areas, to construct sediment control measures on the
17 perimeter of the site to control mud and silt, or to provide positive drainage patterns.

18 (b) *Stop-Work Order*. If a person clears or grades land without a grading permit or in violation
19 of the approved site development plan or erosion and sediment control plan, the County may
20 issue a stop-work order banning any or all construction activity on the site except temporary
21 sediment control measures specified by the County until a grading permit is issued or the
22 violation is abated.]]

23 (A) *ENFORCEMENT AUTHORITY*. THE COUNTY SHALL, THROUGH THE AUTHORITY OF THIS SUBTITLE
24 AND COMAR 26.17.01 AND 26.08.01.01B(20), USE ENFORCEMENT ACTIONS WHEN VIOLATIONS OF
25 THIS SUBTITLE OCCUR. ANY STEP IN THE ENFORCEMENT PROCESS MAY BE TAKEN AT ANY TIME,
26 DEPENDING UPON THE SEVERITY OF THE VIOLATION.

27 (B) *RIGHT OF ENTRY*. THE COUNTY MAY ENTER UPON PROPERTY TO ENSURE COMPLIANCE WITH
28 THIS SUBTITLE. IF A PERMIT IS REVOKED, THE COUNTY MAY ENTER THE PROPERTY AND PERFORM
29 WORK IN ORDER TO STABILIZE THE SOIL WITHIN THE CONSTRUCTION AREAS, TO CONSTRUCT
30 SEDIMENT CONTROL MEASURES ON THE PERIMETER OF THE SITE TO CONTROL MUD AND SILT, OR TO
31 PROVIDE POSITIVE DRAINAGE PATTERNS.

1 (C) *CORRECTIVE ACTION ORDER*. WHEN THE COUNTY DETERMINES THAT A VIOLATION OF THIS
2 SUBTITLE HAS OCCURRED, THE COUNTY SHALL NOTIFY THE ON-SITE PERSONNEL OR THE PERMITTEE
3 IN WRITING OF THE VIOLATION, DESCRIBE THE REQUIRED CORRECTIVE ACTION AND THE TIME
4 PERIOD IN WHICH THE VIOLATION MUST BE CORRECTED.

5 (D) *STOP-WORK ORDER*. IF A PERSON CLEARS OR GRADES LAND WITHOUT A GRADING PERMIT, THE
6 COUNTY SHALL ISSUE A STOP-WORK ORDER BANNING ANY OR ALL CONSTRUCTION ACTIVITY ON
7 THE SITE EXCEPT TEMPORARY SEDIMENT CONTROL MEASURES SPECIFIED BY THE COUNTY. IF A
8 PERSON CLEARS OR GRADES LAND IN VIOLATION OF THIS SUBTITLE, THE COUNTY MAY ISSUE A
9 STOP-WORK ORDER BANNING ANY OR ALL CONSTRUCTION ACTIVITY ON THE SITE EXCEPT
10 TEMPORARY SEDIMENT CONTROL MEASURES SPECIFIED BY THE COUNTY, UNTIL THE VIOLATION IS
11 CORRECTED.

12 (E) *CIVIL CITATION*. WHEN THE COUNTY IDENTIFIES A VIOLATION OF THIS SUBTITLE, THE COUNTY
13 MAY ISSUE A CITATION TO THE OWNER/DEVELOPER OR THE PERMITTEE, OR BOTH, ASSESSING CIVIL
14 PENALTIES IN ACCORDANCE WITH SECTION 3.407 OF THIS SUBTITLE. THE CONTENTS AND
15 ENFORCEMENT OF THE CITATION SHALL BE GOVERNED BY TITLE 24 OF THIS CODE.

16 (F) *INJUNCTIVE RELIEF*. ANY AGENCY WHOSE APPROVAL IS REQUIRED UNDER THIS SUBTITLE OR
17 ANY INTERESTED PERSON MAY SEEK AN INJUNCTION AGAINST ANY PERSON WHO VIOLATES OR
18 THREATENS TO VIOLATE ANY PROVISION OF THIS SUBTITLE.

19 (G) *OTHER LEGAL ACTION*. THE COUNTY MAY TAKE ANY OF THE ENFORCEMENT ACTIONS
20 AUTHORIZED BY THIS SUBTITLE REGARDLESS OF WHETHER ANY OTHER ENFORCEMENT ACTION HAS
21 BEEN TAKEN FOR A VIOLATION AND MAY TAKE OTHER LEGAL ACTION INCLUDING, WITHOUT
22 LIMITATION, REFERRAL FOR CRIMINAL ENFORCEMENT OR A CIVIL ACTION FOR DAMAGES TO
23 RECOVER DOUBLE THE AMOUNT OF COSTS INCURRED BY THE COUNTY FOR ACTIONS TAKEN TO
24 ABATE A VIOLATION. THE COUNTY SHALL USE ANY DAMAGES RECOVERED UNDER THIS SECTION
25 SOLELY FOR THE COUNTY'S EROSION AND SEDIMENT CONTROL PROGRAM, INCLUDING CORRECTING
26 FAILURES TO IMPLEMENT OR MAINTAIN SEDIMENT AND EROSION CONTROLS.

27

28 **Section 3.407. Penalties.**

29 (a) *Criminal Penalties*. ~~[[A]]~~ANY person who violates any provision of this ~~[[sub]]~~
30 SUBTITLE, OR ANY RULE, REGULATION, ORDER, OR PERMIT ISSUED UNDER THIS SUBTITLE, is guilty
31 of a misdemeanor and upon conviction is subject to a fine not exceeding \$1,000.00or

1 imprisonment not exceeding six [[months]] MONTHS, OR BOTH, [[or both]] for each violation
2 [[with costs imposed in the discretion of the court]]. Each day a violation OCCURS OR continues
3 is a separate offense. COSTS MAY BE IMPOSED AT THE DISCRETION OF THE COURT.

4 (b) *Civil Penalties.* [[Alternatively or in addition to and concurrent with all other remedies,
5 a violation of this subtitle may be punished as a civil violation pursuant to the provisions of
6 title 24, “civil penalties,” of this Code. Each day a violation continues is a separate offense.

7 A first violation of the provisions of this subtitle shall be a Class D offense. Subsequent
8 violations shall be Class B offenses.]] A VIOLATION OF THIS SUBTITLE IS A CLASS A OFFENSE

9 AND ANY PERSON WHO VIOLATES ANY PROVISION OF THIS SUBTITLE, OR ANY RULE,
10 REGULATION, ORDER, OR PERMIT ISSUED UNDER THIS SUBTITLE, IS SUBJECT TO A CIVIL
11 PENALTY UP TO \$1,000 FOR EACH VIOLATION. EACH DAY A VIOLATION OCCURS OR CONTINUES
12 IS A SEPARATE OFFENSE.

13
14 **SECTION 3.408. SEVERABILITY.**

15 IF ANY PORTION, SECTION, SUBSECTION, SENTENCE, CLAUSE, OR PHRASE OF THIS SUBTITLE IS FOR
16 ANY REASON HELD INVALID OR UNCONSTITUTIONAL BY ANY COURT OF COMPETENT JURISDICTION,
17 SUCH PORTION SHALL BE DEEMED A SEPARATE, DISTINCT, AND INDEPENDENT PROVISION AND SUCH
18 HOLDING SHALL NOT AFFECT THE VALIDITY OF THE REMAINING PORTION OF THIS SUBTITLE, IT
19 BEING THE INTENT OF THE COUNTY THAT THIS SUBTITLE SHALL STAND, NOTWITHSTANDING THE
20 INVALIDITY OF ANY PORTION, SECTION, SUBSECTION, SENTENCE, CLAUSE, OR PHRASE, HEREOF.

21
22 **Title 18. Public Works.**

23 **Subtitle 3. Sediment and Erosion Control.**

24
25 **Section 18.300. Purpose and authority.**

26 (a) *Purpose.* The purpose of this subtitle is to protect, maintain, and enhance the public health,
27 safety, and general welfare by establishing minimum requirements and procedures to control the
28 adverse impacts associated with LAND DISTURBANCE [[accelerated soil erosion and resultant
29 sedimentation. Minimizing soil erosion and off-site sedimentation will minimize damage to
30 public and private property, and assist in the attainment and maintenance of water quality
31 standards]].

1 (b) *Authority*. [[In accordance with title 4, subtitle 1 of the Environment Article, Annotated
2 Code of Maryland, this subtitle applies to all grading occurring in Howard County.]] THE GOAL
3 IS TO MINIMIZE SOIL EROSION AND PREVENT OFF-SITE SEDIMENTATION BY USING SOIL EROSION AND
4 SEDIMENT CONTROL PRACTICES DESIGNED IN ACCORDANCE WITH THE CODE OF MARYLAND
5 REGULATIONS (COMAR) 26.17.01, THE 2011 MARYLAND STANDARDS AND SPECIFICATIONS
6 (STANDARDS AND SPECIFICATIONS) AND TITLE 4 OF THE ENVIRONMENT ARTICLE OF THE
7 ANNOTATED CODE OF MARYLAND. This subtitle represents the minimum erosion and sediment
8 control requirements and is not intended to limit or repeal any other powers granted to the
9 County under State law.

10
11 **Section 18.301. Definitions.**

12 TERMS USED IN THIS SUBTITLE SHALL HAVE THE MEANINGS SET FORTH IN SECTION 3.401 OF THIS
13 CODE.

14 [[The following terms have the meanings indicated:

- 15 (a) *Clear* means any activity which removes the vegetative ground cover.
- 16 (b) *Erosion and sediment control* means a system of structural and vegetative measures that
17 minimize soil erosion and off-site sedimentation.
- 18 (c) *Erosion and sediment control plan* means a strategy or plan to minimize erosion and
19 prevent off-site sedimentation by containing sediment on-site by passing sediment-laden
20 runoff through a sediment control measure, prepared and approved in accordance with
21 the specific requirements of the Howard Soil Conservation District and this subtitle, and
22 designed in accordance with the "standards and specifications."
- 23 (d) *Grade* means to cause disturbance of the earth. This shall include but not be limited to
24 any excavating, filling, stockpiling of earth materials, grubbing, root mat or topsoil
25 disturbance, or any combination of them.
- 26 (e) *Person* means an individual, receiver, trustee, guardian, personal representative,
27 fiduciary, or representative of any kind and any partnership, firm, association,
28 corporation, or other entity.
- 29 (f) *Sediment* means soils or other surficial materials transported or deposited by the action of
30 wind, water, ice, gravity, or artificial means.]]

1 **Section 18.302. Applicability.**

2 NO PERSON SHALL DISTURB LAND OR CREATE OR CAUSE A DISCHARGE OF SEDIMENT OR
3 STORMWATER IN VIOLATION OF THIS SUBTITLE WITHOUT IMPLEMENTING SOIL EROSION AND
4 SEDIMENT CONTROLS IN ACCORDANCE WITH THE REQUIREMENTS OF THIS SUBTITLE; TITLE 3,
5 SUBTITLE 4 OF THIS CODE; AND THE STANDARDS AND SPECIFICATIONS, EXCEPT AS PROVIDED
6 WITHIN THIS SUBTITLE. A person may not clear or grade land unless the person obtains a grading
7 permit under section 3.402 of this Code and implements soil erosion and sediment controls in
8 accordance with the requirements of section 3.403 of this Code.

9
10 **Section 18.303. Inspection.**

11 (A) THE ADMINISTRATION IS RESPONSIBLE FOR THE INSPECTION AND ENFORCEMENT OF ALL LAND
12 DISTURBING ACTIVITIES, INCLUDING THOSE SITES REQUIRING AN EROSION AND SEDIMENT CONTROL
13 PLAN AS SPECIFIED BY THIS SUBTITLE AND TITLE 3, SUBTITLE 4 OF THIS CODE. THIS
14 ENFORCEMENT AUTHORITY MAY BE DELEGATED TO THE COUNTY THROUGH A REQUEST BY THE
15 COUNTY OR REQUIRED AS A CONDITION OF A NATIONAL POLLUTANT DISCHARGE ELIMINATION
16 SYSTEM (NPDES) MUNICIPAL SEPARATE STORM SEWER SYSTEM PERMIT. THIS SECTION APPLIES TO
17 THE ADMINISTRATION, OR, THE COUNTY, IF DELEGATED ENFORCEMENT AUTHORITY.

18 *([a]B) Inspection; Frequency and Reports:*

- 19 (1) THE OWNER/DEVELOPER *[[A permit holder]]* shall maintain a copy of the approved
20 erosion and sediment control plan *[[on-site]]* ON SITE.
- 21 (2) EVERY ACTIVE SITE HAVING A DESIGNED EROSION AND SEDIMENT CONTROL PLAN
22 SHOULD BE INSPECTED FOR COMPLIANCE WITH THE PLAN ON AVERAGE ONCE
23 EVERY TWO (2) WEEKS.
- 24 (3) A WRITTEN REPORT SHALL BE PREPARED BY THE DEPARTMENT OF PUBLIC
25 WORKS AFTER EVERY INSPECTION. THE REPORT SHALL DESCRIBE:
- 26 (I) THE DATE AND LOCATION OF THE SITE INSPECTION;
27 (II) WHETHER THE APPROVED PLAN HAS BEEN PROPERLY IMPLEMENTED AND
28 MAINTAINED;
29 (III) PRACTICE DEFICIENCIES OR EROSION AND SEDIMENT CONTROL PLAN
30 DEFICIENCIES;
31 (IV) IF A VIOLATION EXISTS, THE TYPE OF ENFORCEMENT ACTION TAKEN; AND

1 (V) IF APPLICABLE, A DESCRIPTION OF ANY MODIFICATIONS TO THE PLAN.

2 (4) THE DEPARTMENT OF PUBLIC WORKS SHALL NOTIFY THE ON-SITE PERSONNEL OR
3 THE OWNER/DEVELOPER IN WRITING WHEN VIOLATIONS ARE OBSERVED,
4 DESCRIBING:

5 (I) THE NATURE OF THE VIOLATION;

6 (II) THE REQUIRED CORRECTIVE ACTION; AND

7 (III) THE TIME PERIOD IN WHICH TO HAVE THE VIOLATION CORRECTED.

8 ([[2]]5) A [[permit holder]] PERMITEE shall request that the Department of Public Works
9 inspect completed work to ensure compliance with the approved site development
10 plan, erosion and sediment control plan, the grading or building permit, and this
11 subtitle:

12 (i) Upon completion of installation of perimeter erosion and sediment
13 controls, prior to proceeding with any other earth disturbance or grading.

14 (ii) Upon establishment of final grades; and

15 (iii) Upon final stabilization before removal of sediment controls.

16 ([[3]]6) No other building or grading inspection approvals may be authorized until initial
17 approval by the Department of Public Works under paragraph [[(2)]](5) of this
18 subsection is granted.

19 [[(4)] The Department of Public Works shall inspect every active site having a designed
20 erosion and sediment control plan on an average of once every two weeks.

21 (5) An inspector shall prepare a written report after every inspection which includes:

22 (i) The date and location of the site inspection;

23 (ii) Whether or not the approved plan has been properly implemented and
24 maintained;

25 (iii) Any practice deficiencies or erosion and sediment control plan
26 deficiencies; and

27 (iv) If a violation exists, the type of enforcement action taken.

28 (5) The Department of Public Works shall notify the on-site personnel or the permit
29 holder in writing when violations are observed, describing:

30 (i) The nature of the violation;

31 (ii) The required corrective action; and

1 (iii) The time period in which to have the violation corrected.]]

2 [[(6) The Department of Public Works shall inspect the stormwater management
3 facilities pursuant to the inspection schedule set forth in volume 1 of the Howard County
4 Design Manual.]]

5 ([[b]]C) *Modifications to Erosion and Sediment Control Plans.* When inspection of a site
6 indicates that modification of an approved erosion and sediment control plan is appropriate:

7 (1) For a major modification to an approved plan, including a modification due to
8 inadequate control of erosion and sediment as revealed through inspection, the
9 [[permit holder]] PERMITTEE shall submit a request for a modification to the
10 Howard Soil Conservation District; or

11 (2) For a minor modification, an inspector may approve a modification in the field
12 based on a documented field inspection report. The Howard Soil Conservation
13 District, in conjunction with the Department of Public Works, shall maintain a list
14 of allowable field modifications APPROVED BY THE ADMINISTRATION for use by
15 the inspector.

16 ([[c]]D) *Complaints.* [[If the County receives a complaint, it shall initiate an investigation within
17 three days and the complainant shall be notified of any action or proposed action within seven
18 days of receipt of the complaint.]] THE INSPECTION AGENCY SHALL ACCEPT AND INVESTIGATE
19 COMPLAINTS REGARDING EROSION AND SEDIMENT CONTROL CONCERNS FROM ANY INTERESTED
20 PARTIES AND:

21 (1) CONDUCT AN INITIAL INVESTIGATION WITHIN THREE (3) WORKING DAYS
22 FROM RECEIPT OF THE COMPLAINT;

23 (2) NOTIFY THE COMPLAINANT OF THE INITIAL INVESTIGATION AND FINDINGS
24 WITHIN SEVEN (7) DAYS FROM RECEIPT OF THE COMPLAINT; AND

25 (3) TAKE APPROPRIATE ACTION WHEN VIOLATIONS ARE DISCOVERED DURING
26 THE COURSE OF THE COMPLAINT INVESTIGATION.

27
28 **Section 18.304. Enforcement.**

29 [[(a) *Right of Entry.* The County may enter upon property to ensure compliance with this
30 subtitle. If a permit is revoked, the County may enter the property and perform work in order to

1 stabilize the soil within the construction areas, to construct sediment control measures on the
2 perimeter of the site to control mud and silt, or to provide positive drainage patterns.

3 (b) *Enforcement Procedures:*

- 4 (1) When the County determines that a violation of the approved site development
5 plan or erosion and sediment control plan has occurred, the County shall notify
6 the on-site personnel or the permit holder in writing of the violation, describe the
7 required corrective action and the time period in which to have the violation
8 corrected.
- 9 (2) If the violation persists after the date specified for corrective action in the notice
10 of violation, the County shall take any action necessary to stop work on the site
11 under subsection (c) of this section.
- 12 (3) If reasonable efforts to correct the violation are not undertaken by the permit
13 holder, the County may initiate legal action.
- 14 (4) Any step in the enforcement process may be taken at any time, depending upon
15 the severity of the violation.

16 (c) *Stop-Work Order.* If a person clears or grades land without a grading permit or in violation
17 of the approved site development plan or erosion and sediment control plan, the Department of
18 Public Works may issue a stop-work order banning any or all construction activity on the site
19 except temporary sediment control measures specified by the Department until a grading permit
20 is issued or the violation is abated.]]

21 (A) *ENFORCEMENT AUTHORITY.* THE COUNTY SHALL, THROUGH THE AUTHORITY OF THIS SUBTITLE
22 AND COMAR 26.17.01 AND 26.08.01.01B(20), USE ENFORCEMENT ACTIONS WHEN VIOLATIONS OF
23 THIS SUBTITLE OCCUR. ANY STEP IN THE ENFORCEMENT PROCESS MAY BE TAKEN AT ANY TIME,
24 DEPENDING UPON THE SEVERITY OF THE VIOLATION.

25 (B) *RIGHT OF ENTRY.* THE COUNTY MAY ENTER UPON PROPERTY TO ENSURE COMPLIANCE WITH
26 THIS SUBTITLE. IF A PERMIT IS REVOKED, THE COUNTY MAY ENTER THE PROPERTY AND PERFORM
27 WORK IN ORDER TO STABILIZE THE SOIL WITHIN THE CONSTRUCTION AREAS, TO CONSTRUCT
28 SEDIMENT CONTROL MEASURES ON THE PERIMETER OF THE SITE TO CONTROL MUD AND SILT, OR TO
29 PROVIDE POSITIVE DRAINAGE PATTERNS.

30 (C) *CORRECTIVE ACTION ORDER.* WHEN THE COUNTY DETERMINES THAT A VIOLATION OF THIS
31 SUBTITLE HAS OCCURRED, THE COUNTY SHALL NOTIFY THE ON-SITE PERSONNEL OR THE PERMITTEE

1 IN WRITING OF THE VIOLATION, DESCRIBE THE REQUIRED CORRECTIVE ACTION AND THE TIME
2 PERIOD IN WHICH THE VIOLATION SHALL BE CORRECTED.

3 ~~(D) STOP-WORK ORDER. IF A PERSON CLEARS OR GRADES LAND WITHOUT A GRADING PERMIT, THE
4 COUNTY SHALL ISSUE A STOP-WORK ORDER BANNING ANY OR ALL CONSTRUCTION ACTIVITY ON
5 THE SITE EXCEPT TEMPORARY SEDIMENT CONTROL MEASURES SPECIFIED BY THE COUNTY. IF A
6 PERSON CLEARS OR GRADES LAND IN VIOLATION OF THIS SUBTITLE, THE COUNTY MAY ISSUE A
7 STOP-WORK ORDER BANNING ANY OR ALL CONSTRUCTION ACTIVITY ON THE SITE EXCEPT
8 TEMPORARY SEDIMENT CONTROL MEASURES SPECIFIED BY THE COUNTY, UNTIL THE VIOLATION IS
9 CORRECTED.~~

10 (D) STOP-WORK ORDER. IF A PERSON CLEARS OR GRADES LAND IN VIOLATION OF THE APPROVED
11 SITE DEVELOPMENT PLAN OR EROSION AND SEDIMENT CONTROL PLAN, THE COUNTY MAY ISSUE A
12 STOP-WORK ORDER BANNING ANY OR ALL CONSTRUCTION ACTIVITY ON THE SITE EXCEPT
13 TEMPORARY SEDIMENT CONTROL MEASURES SPECIFIED BY THE COUNTY, UNTIL A GRADING PERMIT
14 IS ISSUED OR THE VIOLATION IS ABATED.

15 (E) *CIVIL CITATION.* WHEN THE COUNTY IDENTIFIES A VIOLATION OF THIS SUBTITLE, THE COUNTY
16 MAY ISSUE A CITATION TO THE OWNER/DEVELOPER OR THE PERMITTEE, OR BOTH, ASSESSING CIVIL
17 PENALTIES IN ACCORDANCE WITH SECTION 18.306 OF THIS SUBTITLE. THE CONTENTS AND
18 ENFORCEMENT OF THE CITATION SHALL BE GOVERNED BY TITLE 24 OF THIS CODE.

19 (F) *INJUNCTIVE RELIEF.* ANY AGENCY WHOSE APPROVAL IS REQUIRED UNDER THIS SUBTITLE OR
20 ANY INTERESTED PERSON MAY SEEK AN INJUNCTION AGAINST ANY PERSON WHO VIOLATES OR
21 THREATENS TO VIOLATE ANY PROVISION OF THIS SUBTITLE.

22 (G) *OTHER LEGAL ACTION.* THE COUNTY MAY TAKE ANY OF THE ENFORCEMENT ACTIONS
23 AUTHORIZED BY THIS SUBTITLE REGARDLESS OF WHETHER ANY OTHER ENFORCEMENT ACTION HAS
24 BEEN TAKEN FOR A VIOLATION AND MAY TAKE OTHER LEGAL ACTION INCLUDING, WITHOUT
25 LIMITATION, REFERRAL FOR CRIMINAL ENFORCEMENT OR A CIVIL ACTION FOR DAMAGES TO
26 RECOVER DOUBLE THE AMOUNT OF COSTS INCURRED BY THE COUNTY FOR ACTIONS TAKEN TO
27 ABATE A VIOLATION. THE COUNTY SHALL USE ANY DAMAGES RECOVERED UNDER THIS SECTION
28 SOLELY FOR THE COUNTY'S EROSION AND SEDIMENT CONTROL PROGRAM, INCLUDING CORRECTING
29 FAILURES TO IMPLEMENT OR MAINTAIN SEDIMENT AND EROSION CONTROLS.

30

1 **SECTION 18.305. DENIAL OF PERMITS.**

2 THE DEPARTMENT OF INSPECTIONS, LICENSES AND PERMITS MAY DENY THE ISSUANCE OF ANY
3 PERMITS TO AN APPLICANT WHEN IT DETERMINES THAT THE APPLICANT IS NOT IN COMPLIANCE
4 WITH THE PROVISIONS OF A BUILDING OR GRADING PERMIT OR APPROVED EROSION AND SEDIMENT
5 CONTROL PLAN.

6
7 **Section ~~[[18.305]] 18.306. Penalties.~~**

8 (a) *Criminal Penalties.* ~~[[A]]~~ANY person who violates any provision of this ~~[[subtitle]]~~
9 SUBTITLE, OR ANY RULE, REGULATION, ORDER OR PERMIT ISSUED UNDER THIS SUBTITLE, is guilty
10 of a misdemeanor and upon conviction is subject to a fine not exceeding \$1,000.00, or
11 imprisonment not exceeding six ~~[[months or both]]~~ MONTHS, OR BOTH, for each violation ~~[[with~~
12 costs imposed in the discretion of the court]]. Each day a violation OCCURS OR continues is a
13 separate offense. COSTS MAY BE IMPOSED AT THE DISCRETION OF THE COURT.

14 (b) *Civil Penalties.* ~~[[Alternatively or in addition to and concurrent with all other remedies, a~~
15 violation of this subtitle may be punished as a civil violation pursuant to the provisions of title
16 24, "civil penalties" of this Code. Each day a violation continues is a separate offense. A first
17 violation of the provisions of this subtitle shall be a Class D offense. Subsequent violations
18 shall be Class B offenses.]] A VIOLATION OF THIS SUBTITLE IS A CLASS A OFFENSE AND ANY
19 PERSON WHO VIOLATES ANY PROVISION OF THIS SUBTITLE, OR ANY RULE, REGULATION, ORDER,
20 OR PERMIT ISSUED UNDER THIS SUBTITLE, IS SUBJECT TO A CIVIL PENALTY UP TO \$1,000 FOR
21 EACH VIOLATION. EACH DAY A VIOLATION OCCURS OR CONTINUES IS A SEPARATE OFFENSE.

22 ~~[[~~(c) *Injunctive Relief.* An agency whose approval is required under this subtitle or any
23 interested person may seek an injunction against any person who violates or threatens to violate
24 any provision of this subtitle.]]

25 ~~[[~~(d) *Damages:*

26 (1) In addition to any other sanction under this subtitle, a person who fails to install or
27 to maintain erosion and sediment controls in accordance with an approved plan
28 shall be liable to Howard County or the State in a civil action, for damages in an
29 amount equal to double the cost of installing or maintaining the controls.

30 (2) Damages recovered in damages in accordance with this subsection shall be
31 deposited in a special fund, to be used solely for:

- 1 (i) Correcting to the extent possible the failure to implement or maintain
2 erosion and sediment controls; and
3 (ii) Administration of the sediment control program.]]
4

5 **SECTION 18.307. SEVERABILITY.**

6 IF ANY PORTION, SECTION, SUBSECTION, SENTENCE, CLAUSE, OR PHRASE OF THIS SUBTITLE IS FOR
7 ANY REASON HELD INVALID OR UNCONSTITUTIONAL BY ANY COURT OF COMPETENT JURISDICTION,
8 SUCH PORTION SHALL BE DEEMED A SEPARATE, DISTINCT, AND INDEPENDENT PROVISION AND
9 SUCH HOLDING SHALL NOT AFFECT THE VALIDITY OF THE REMAINING PORTION OF THIS SUBTITLE,
10 IT BEING THE INTENT OF HOWARD COUNTY THAT THIS SUBTITLE SHALL STAND,
11 NOTWITHSTANDING THE INVALIDITY OF ANY PORTION, SECTION, SUBSECTION, SENTENCE, CLAUSE,
12 OR PHRASE, HEREOF.
13

14 *Section 2. And Be It Further Enacted by the County Council of Howard County, Maryland,*
15 *that this Act shall become effective 61 days after its enactment.*

BY THE COUNCIL

This Bill, having been approved by the Executive and returned to the Council, stands enacted on February 8, 2013.

Stephen M. LeGendre
Stephen M. LeGendre, Administrator to the County Council

BY THE COUNCIL

This Bill, having been passed by the yeas and nays of two-thirds of the members of the Council notwithstanding the objections of the Executive, stands enacted on _____, 2013.

Stephen M. LeGendre, Administrator to the County Council

BY THE COUNCIL

This Bill, having received neither the approval nor the disapproval of the Executive within ten days of its presentation, stands enacted on _____, 2013.

Stephen M. LeGendre, Administrator to the County Council

BY THE COUNCIL

This Bill, not having been considered on final reading within the time required by Charter, stands failed for want of consideration on _____, 2013.

Stephen M. LeGendre, Administrator to the County Council

BY THE COUNCIL

This Bill, having been disapproved by the Executive and having failed on passage upon consideration by the Council stands failed on _____, 2013.

Stephen M. LeGendre, Administrator to the County Council

BY THE COUNCIL

This Bill, the withdrawal of which received a vote of two-thirds (2/3) of the members of the Council, is withdrawn from further consideration on _____, 2013.

Stephen M. LeGendre, Administrator to the County Council

Amendment 1 to Council Bill No. 3 -2013

BY: Chairperson at the request
of the County Executive

Legislative Day No. 2
Date: February 4, 2013

Amendment No. 1

(This amendment corrects a grandfathering date to be consistent with State Regulations and corrects an enforcement provision.)

1 On page 13 in lines 21, 24, 26 and 30, in each instance, strike "FEBRUARY 15, 2013" and
2 substitute "JANUARY 9, 2013".

3

4 On page 26, strike lines 3 through 9, inclusive and in their entirety and substitute:

5 "(D) STOP-WORK ORDER. IF A PERSON CLEARS OR GRADES LAND IN VIOLATION OF THE APPROVED

6 SITE DEVELOPMENT PLAN OR EROSION AND SEDIMENT CONTROL PLAN, THE COUNTY MAY ISSUE A

7 STOP-WORK ORDER BANNING ANY OR ALL CONSTRUCTION ACTIVITY ON THE SITE EXCEPT

8 TEMPORARY SEDIMENT CONTROL MEASURES SPECIFIED BY THE COUNTY, UNTIL A GRADING PERMIT

9 IS ISSUED OR THE VIOLATION IS ABATED.".

ADOPTED February 4, 2013

FAILED

SIGNATURE

Stephen M. Hendre

Introduced _____
Public Hearing _____
Council Action _____
Executive Action _____
Effective Date _____

County Council Of Howard County, Maryland

2013 Legislative Session

Legislative Day No. 1

Bill No. 3 -2013

Introduced by: The Chairperson at the request of the County Executive

AN ACT amending sediment and erosion control provisions in accordance with State law; amending certain purposes; defining certain terms; amending certain definitions; requiring the review and approval of certain plans before a grading permit may be issued; maintaining certain exemptions; requiring the Howard Soil Conservation District to review erosion and sediment control plans; requiring that sediment and erosion control plans contain certain information; setting forth the duration of plan approval; allowing a standard erosion and sediment control plan in certain instances; allowing variances under certain conditions; requiring certain inspections; clarifying certain enforcement procedures; providing for certain civil and criminal penalties; and generally related to sediment and erosion control provisions in Howard County.

Introduced and read first time _____, 2013. Ordered posted and hearing scheduled.

By order _____
Stephen LeGendre, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on _____, 2013.

By order _____
Stephen LeGendre, Administrator

This Bill was read the third time on _____, 2013 and Passed _____, Passed with amendments _____, Failed _____.

By order _____
Stephen LeGendre, Administrator

Sealed with the County Seal and presented to the County Executive for approval this ___ day of _____, 2013 at ___ a.m./p.m.

By order _____
Stephen LeGendre, Administrator

Approved/Vetoed by the County Executive _____, 2013

Ken Ulman, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment.

1 **Section 1. Be It Enacted** by the County Council of Howard County, Maryland, that the Howard
2 County Code is amended as follows:

3 By amending:

- 4 1. Title 3 "Buildings"
5 Subtitle 4 "Grading"
- 6
- 7 2. Title 18 "Public Works".
8 Subtitle 3 "Sediment and Erosion Control".
9

10 **Title 3. Buildings.**
11 **Subtitle 4. Grading.**
12

13 **Section 3.400. Purpose and authority.**

14 (a) *Purpose.* The purpose of this subtitle is to regulate the clearing and grading of land AND TO
15 MINIMIZE SOIL EROSION AND PREVENT OFF-SITE SEDIMENTATION by establishing requirements and
16 procedures for erosion and sediment control plans and permits.

17 (b) *Authority.* [[In accordance with title 4, subtitle 1 of the environment article, Annotated Code
18 of Maryland, this subtitle applies to all grading occurring in Howard County.]] THE PURPOSE OF
19 THIS SUBTITLE IS ACHIEVED BY USING SOIL EROSION AND SEDIMENT CONTROL PRACTICES
20 DESIGNED IN ACCORDANCE WITH THE CODE OF MARYLAND REGULATIONS (COMAR) 26.17.01,
21 THE 2011 MARYLAND STANDARDS AND SPECIFICATIONS FOR SOIL EROSION AND SEDIMENT
22 CONTROL (STANDARDS AND SPECIFICATIONS) AND SUBTITLE 4 OF THE ENVIRONMENT ARTICLE OF
23 THE ANNOTATED CODE OF MARYLAND. This subtitle represents the minimum erosion and
24 sediment control requirements and is not intended to limit or repeal any other powers granted to
25 the County under State law.
26

27 **Section 3.401. Definitions.**

28 The following terms USED IN THIS SUBTITLE AND IN TITLE 18, SUBTITLE 3 OF THIS CODE have the
29 meanings indicated:

30 (A) "ADMINISTRATION" MEANS THE MARYLAND DEPARTMENT OF THE ENVIRONMENT ("MDE"),
31 WATER MANAGEMENT ADMINISTRATION.

1 (B) "ADVERSE IMPACT" MEANS ANY DELETERIOUS EFFECT ON WATERS OR WETLANDS, INCLUDING
2 THEIR QUALITY, QUANTITY, SURFACE AREA, SPECIES COMPOSITION, AESTHETICS, OR USEFULNESS
3 FOR HUMAN OR NATURAL USES, WHICH ARE OR MAY POTENTIALLY BE HARMFUL OR INJURIOUS TO
4 HUMAN HEALTH, WELFARE, SAFETY OR PROPERTY, BIOLOGICAL PRODUCTIVITY, DIVERSITY, OR
5 STABILITY OR THAT UNREASONABLY INTERFERE WITH THE ENJOYMENT OF LIFE OR PROPERTY,
6 INCLUDING OUTDOOR RECREATION.

7 ([[a]]C) *[[Agricultural land management practices]]* "AGRICULTURAL LAND MANAGEMENT
8 PRACTICES" means those methods and procedures used in the cultivation of land in order to
9 further crop and livestock production and conservation of related soil and water resources.
10 *[[Agricultural land management practices does not include logging]]* LOGGING and timber
11 removal operations ARE NOT INCLUDED IN THIS DEFINITION.

12 (D) "APPLICANT" MEANS ANY PERSON, FIRM, OR GOVERNMENT AGENCY THAT EXECUTES THE
13 NECESSARY FORMS TO APPLY FOR A PERMIT OR APPROVAL TO CARRY OUT CONSTRUCTION OF A
14 PROJECT REQUIRING A GRADING PERMIT.

15 (E) "BEST MANAGEMENT PRACTICE" ("BMP") MEANS A STRUCTURAL DEVICE OR NONSTRUCTURAL
16 PRACTICE DESIGNED TO TEMPORARILY STORE OR TREAT STORMWATER RUNOFF IN ORDER TO
17 MITIGATE FLOODING, REDUCE POLLUTION, AND PROVIDE OTHER AMENITIES.

18 ([[b]]F) *[[Clear]]* "CLEAR" means *[[any activity which removes]]* TO REMOVE THE vegetative
19 ground cover *[[from land]]* WHILE LEAVING THE ROOT MAT INTACT, BUT SHALL NOT INCLUDE THE
20 ORDINARY MOWING OF GRASS.

21 (G) "CONCEPT STAGE" MEANS THE FIRST STAGE OF THE SEDIMENT AND EROSION CONTROL DESIGN
22 PROCESS.

23 (H) "COUNTY" MEANS HOWARD COUNTY, MARYLAND.

24 (I) "DISCHARGE" MEANS:

- 25 (1) THE ADDITION, INTRODUCTION, LEAKING, SPILLING, OR EMITTING OF ANY
26 POLLUTANT TO WATERS OF THIS STATE; OR
- 27 (2) THE PLACING OF A POLLUTANT IN A LOCATION WHERE THE POLLUTANT IS LIKELY TO
28 POLLUTE.

29 (J) "DRAINAGE AREA" MEANS THAT AREA CONTRIBUTING RUNOFF TO A SINGLE POINT MEASURED IN
30 A HORIZONTAL PLANE THAT IS ENCLOSED BY A RIDGE LINE.

1 (K) "ENVIRONMENTAL SITE DESIGN" ("ESD") MEANS USING SMALL-SCALE STORMWATER
2 MANAGEMENT PRACTICES, NONSTRUCTURAL TECHNIQUES, AND BETTER SITE PLANNING TO MIMIC
3 NATURAL HYDROLOGIC RUNOFF CHARACTERISTICS AND MINIMIZE THE IMPACT OF LAND
4 DEVELOPMENT ON WATER RESOURCES.

5 (L) "EROSION" MEANS THE PROCESS BY WHICH THE LAND SURFACE IS WORN AWAY BY THE ACTION
6 OF WIND, WATER, ICE, OR GRAVITY.

7 ([[c]]M) [[*Erosion and sediment control*]] "EROSION AND SEDIMENT CONTROL" means a system
8 of structural and vegetative measures that [[minimizes]] MINIMIZES soil erosion and off-site
9 sedimentation.

10 (N) "EROSION AND SEDIMENT CONTROL PLAN" MEANS THE CONSTRUCTION DRAWINGS DEPICTING A
11 STRATEGY OR PLAN TO MINIMIZE EROSION AND PREVENT OFF-SITE SEDIMENTATION BY CONTAINING
12 SEDIMENT ON-SITE BY PASSING SEDIMENT-LADEN RUNOFF THROUGH A SEDIMENT CONTROL
13 MEASURE, PREPARED AND APPROVED IN ACCORDANCE WITH THE SPECIFIC REQUIREMENTS OF THE
14 HOWARD SOIL CONSERVATION DISTRICT, THIS SUBTITLE, AND TITLE 18, SUBTITLE 3 OF THIS
15 CODE, AND DESIGNED IN ACCORDANCE WITH THE STANDARDS AND SPECIFICATIONS.

16 (O) "EXEMPTION" MEANS THOSE LAND DEVELOPMENT ACTIVITIES THAT ARE NOT SUBJECT TO THE
17 EROSION AND SEDIMENT CONTROL REQUIREMENTS CONTAINED IN THIS SUBTITLE AND TITLE 18,
18 SUBTITLE 3 OF THIS CODE.

19 (P) "FINAL EROSION AND SEDIMENT CONTROL PLAN" MEANS THE FINAL STAGE OF THE SEDIMENT
20 AND EROSION CONTROL DESIGN PROCESS. THE PLAN SHALL BE PREPARED AND APPROVED IN
21 ACCORDANCE WITH THE SPECIFIC REQUIREMENTS OF THE HOWARD SOIL CONSERVATION DISTRICT,
22 THIS SUBTITLE, AND TITLE 18, SUBTITLE 3 OF THIS CODE, AND DESIGNED IN ACCORDANCE WITH
23 THE STANDARDS AND SPECIFICATIONS.

24 ([[d]]Q) [[*Grade*]] "GRADE" means to [[cause disturbance of land]] DISTURB EARTH BY, including
25 BUT NOT LIMITED TO, excavating, filling, [[stock-piling of earth materials]] STOCKPILING,
26 grubbing, REMOVING root mat or topsoil [[disturbance]], or any combination thereof.

27 (R) "GRADING UNIT" MEANS THE MAXIMUM CONTIGUOUS AREA ALLOWED TO BE GRADED AT A
28 GIVEN TIME. FOR THE PURPOSES OF THIS SUBTITLE, A GRADING UNIT IS 20 ACRES OR LESS.

29 (S) "HIGHLY ERODIBLE SOILS" MEANS THOSE SOILS WITH A SLOPE GREATER THAN 15 PERCENT OR
30 THOSE SOILS WITH A SOIL ERODABILITY FACTOR, K, GREATER THAN 0.35 AND WITH SLOPES
31 GREATER THAN 5 PERCENT.

1 (T) "INSPECTION AGENCY" MEANS THE HOWARD COUNTY DEPARTMENT OF PUBLIC WORKS.
2 (U) "OWNER/DEVELOPER" MEANS A PERSON UNDERTAKING, OR FOR WHOSE BENEFIT, ACTIVITIES
3 COVERED BY THIS SUBTITLE ARE CARRIED ON. GENERAL CONTRACTORS OR SUBCONTRACTORS, OR
4 BOTH, WITHOUT A PROPRIETARY INTEREST IN A PROPERTY ARE NOT INCLUDED WITHIN THIS
5 DEFINITION.
6 (V) "PERMITTEE" MEANS ANY PERSON TO WHOM A GRADING PERMIT HAS BEEN ISSUED.
7 ([[e]]W) *Person* "PERSON" [[means]] INCLUDES THE FEDERAL GOVERNMENT, THE STATE, ANY
8 COUNTY, MUNICIPAL CORPORATION, OR OTHER POLITICAL SUBDIVISION OF THE STATE, OR ANY OF
9 THEIR UNITS, OR AN INDIVIDUAL, RECEIVER, TRUSTEE, GUARDIAN, *personal representative* EXECUTOR,
10 ADMINISTRATOR, FIDUCIARY, OR REPRESENTATIVE OF ANY KIND *and*, OR ANY PARTNERSHIP, FIRM,
11 ASSOCIATION, PUBLIC OR PRIVATE CORPORATION, OR ANY OF THEIR AFFILIATES, OR ANY OTHER ENTITY.
12 ([[f]] X) *Responsible person* "RESPONSIBLE PERSON" OR "RESPONSIBLE PERSONNEL" MEANS *a*
13 *foreman, superintendent or project engineer* ANY PERSON WHO HAS SUCCESSFULLY COMPLETED
14 THE MARYLAND DEPARTMENT OF THE ENVIRONMENT RESPONSIBLE PERSONNEL CERTIFICATION
15 PROGRAM AND WHO IS IN CHARGE OF ON-SITE CLEARING AND GRADING OPERATIONS OR THE
16 IMPLEMENTATION AND MAINTENANCE OF AN EROSION AND SEDIMENT CONTROL *associated with*
17 *earth changes or disturbances* PLAN.
18 ([[g]]Y) *Sediment* "SEDIMENT" MEANS SOILS OR OTHER SURFICIAL MATERIALS TRANSPORTED OR
19 DEPOSITED BY THE ACTION OF WIND, WATER, ICE, GRAVITY, OR ARTIFICIAL MEANS.
20 (Z) "SITE" MEANS ANY TRACT, LOT, OR PARCEL OF LAND, OR COMBINATION OF TRACTS, LOTS OR
21 PARCELS OF LAND THAT ARE IN ONE OWNERSHIP, OR ARE CONTIGUOUS AND IN DIVERSE
22 OWNERSHIP, WHERE DEVELOPMENT IS TO BE PERFORMED AS PART OF A UNIT, SUBDIVISION, OR
23 PROJECT.
24 (AA) "SITE DEVELOPMENT STAGE" MEANS THE SECOND STAGE OF THE SEDIMENT AND EROSION
25 CONTROL DESIGN PROCESS. THIS STAGE IS DESCRIBED IN COMAR 26.17.02.
26 ([[h]]BB) *Stabilization* "STABILIZATION" MEANS THE *prevention* PROTECTION OF *soil*
27 *movement* EXPOSED SOILS FROM EROSION BY *any of various* THE APPLICATION OF SEED AND
28 MULCH, SEED AND MATTING, SOD, OTHER VEGETATIVE MEASURES, AND/OR STRUCTURAL MEANS.
29 ([[i]]CC) *Standards and specifications* "STANDARDS AND SPECIFICATIONS" MEANS THE *1994*
30 "2011 Maryland Standards and Specifications for Soil Erosion and Sediment *Control*
31 CONTROL" OR ANY SUBSEQUENT REVISIONS *thereto*.

1 (DD) "STORMWATER MANAGEMENT SYSTEM" MEANS NATURAL AREAS, ESD PRACTICES,
2 STORMWATER MANAGEMENT MEASURES, AND ANY OTHER STRUCTURE THROUGH WHICH
3 STORMWATER FLOWS, INFILTRATES, OR DISCHARGES FROM A SITE.

4 (EE) "VARIANCE" MEANS THE MODIFICATION OF THE MINIMUM EROSION AND SEDIMENT CONTROL
5 REQUIREMENTS FOR EXCEPTIONAL CIRCUMSTANCES SUCH THAT STRICT ADHERENCE TO THE
6 REQUIREMENTS WOULD RESULT IN UNNECESSARY HARDSHIP AND NOT FULFILL THE INTENT OF THIS
7 SUBTITLE AND TITLE 18, SUBTITLE 3 OF THIS CODE.

8 (FF) "WATERSHED" MEANS THE TOTAL DRAINAGE AREA CONTRIBUTING RUNOFF TO A SINGLE
9 POINT.

10
11 **Section 3.402. Grading permit.**

12 (a) *Permit Required.* Except as provided in subsection (b) of this section, a person may not clear
13 or grade land in Howard County without a grading permit from the Department of Inspections,
14 Licenses and Permits. BEFORE A GRADING PERMIT FOR ANY SITE IS ISSUED, THE COUNTY SHALL
15 REVIEW AND APPROVE A FINAL EROSION AND SEDIMENT CONTROL PLAN FOR THE SITE.

16 (b) *Exemptions [[to Requirement for Permit]].* [[A grading permit is not required for grading or
17 clearing associated with]]THE FOLLOWING ACTIVITIES ARE EXEMPT FROM THE PROVISIONS OF THIS
18 SUBTITLE:

- 19 (1) Agricultural land management practices and [[construction of]] agricultural
20 [[structures]]BMPs;
- 21 (2) Construction of a single-family residence or accessory buildings thereto that
22 disturbs an area of less than 0.5 acres and occurs on a lot of two acres or more;
- 23 (3) Clearing or grading activities that disturb less than 5,000 square feet of land area
24 and disturb less than 100 cubic yards of earth;
- 25 (4) The laying of gas, electrical, telephone, or cable television lines which disturbs
26 less than 100 linear feet; or
- 27 (5) Clearing or grading activities that are subject exclusively to State approval and
28 enforcement under State law[.]AND REGULATIONS.

29 (C) *DENIAL OF PERMITS.* THE DEPARTMENT OF INSPECTIONS, LICENSES AND PERMITS MAY DENY
30 THE ISSUANCE OF ANY PERMITS TO AN APPLICANT WHEN IT DETERMINES THAT THE APPLICANT IS
31 NOT IN COMPLIANCE WITH THE PROVISIONS OF A BUILDING OR GRADING PERMIT OR APPROVED

1 EROSION AND SEDIMENT CONTROL PLAN.

2
3 **Section 3.403. Erosion and ~~[[sediment control plans]]~~ SEDIMENT CONTROL PLANS.**

4 (a) *Approval of Erosion and Sediment Control Plans Required.* ~~[[An Applicant for a grading~~
5 permit shall submit]] SUBJECT TO SECTION 3.402 OF THIS SUBTITLE, A PERSON MAY NOT CLEAR OR
6 GRADE LAND WITHOUT an erosion and sediment control plan approved by the Howard Soil
7 Conservation District.

8 (b) *Submission of Erosion and Sediment Control Plan to Howard Soil Conservation District.* An
9 Applicant shall submit an erosion and sediment control plan and any required supporting
10 documentation to the Howard Soil Conservation District for review and approval. ~~[[The plan~~
11 shall contain sufficient information, drawings, and notes to describe how soil erosion and off-site
12 sedimentation will be minimized. The plan shall serve as a basis for all subsequent grading and
13 stabilization.]] THE HOWARD SOIL CONSERVATION DISTRICT SHALL REVIEW EROSION AND
14 SEDIMENT CONTROL PLANS TO DETERMINE COMPLIANCE WITH THIS SUBTITLE AND THE STANDARDS
15 AND SPECIFICATIONS PRIOR TO APPROVAL. IN APPROVING THE PLAN, THE HOWARD SOIL
16 CONSERVATION DISTRICT MAY IMPOSE SUCH CONDITIONS THAT MAY BE DEEMED NECESSARY TO
17 ENSURE COMPLIANCE WITH THE PROVISIONS OF THIS SUBTITLE, COMAR 26.17.01, THE
18 STANDARDS AND SPECIFICATIONS, AND THE PRESERVATION OF PUBLIC HEALTH AND SAFETY.

19 (c) *Contents of the erosion and sediment control plan.* An Applicant shall submit an erosion and
20 sediment control plan that meets the requirements of the Howard Soil ~~[[Conversation]]~~
21 CONSERVATION District, this subtitle, ~~[[the Maryland Sediment Control Regulations (COMAR~~
22 26.17.01),]] TITLE 18, SUBTITLE 3 OF THIS CODE, THE STANDARDS AND SPECIFICATIONS, AND
23 TITLE 4 OF THE ENVIRONMENT ARTICLE OF THE ANNOTATED CODE OF MARYLAND. ~~[[the~~
24 "standards and specifications.']] The plan shall include sufficient information to evaluate the
25 environmental characteristics of the affected areas, the potential impacts of the proposed grading
26 on water resources, and the effectiveness and acceptability of measures proposed to minimize
27 soil erosion and ~~[[off-site sedimentation. The Applicant shall certify on the drawings that all~~
28 clearing, grading, drainage, construction, and development shall be conducted in strict
29 accordance with the plan. Applicants shall submit the following information:]] OFF SITE
30 SEDIMENTATION. AT A MINIMUM, APPLICANTS SHALL SUBMIT THE FOLLOWING INFORMATION:

- 31 (1) A letter of ~~[[transmittal]]~~ TRANSMITTAL, AN APPLICATION, OR BOTH;

- 1 (2) NAME, ADDRESS, AND TELEPHONE NUMBER OF:
- 2 (i) THE OWNER OF THE PROPERTY WHERE THE GRADING IS PROPOSED;
- 3 (ii) THE DEVELOPER; AND
- 4 (iii) THE APPLICANT;
- 5 ([[2]]3) A vicinity [[sketch]] MAP indicating north arrow, scale, SITE LOCATION, and other
6 information necessary to easily locate the property;
- 7 [[(3)] A plan at an appropriate scale indicating at least:
- 8 (i) Name, address, and telephone number of:
- 9 a. The owner of the property where the grading is proposed;
- 10 b. The developer; and
- 11 c. The Applicant;
- 12 (ii) The existing and proposed topography;
- 13 (iii) The proposed grading and earth disturbance, including:
- 14 a. Surface area involved;
- 15 b. Volume of spoil material;
- 16 c. Volume of borrow material; and
- 17 d. Limits of grading, including limitation of mass clearing and
18 grading whenever possible.
- 19 (iv) Storm drainage provisions, including:
- 20 a. Velocities and quantities of flow at outfalls; and
- 21 b. Site conditions around points of all surface water discharge from
22 the site.
- 23 (v) Erosion and sediment control provisions to minimize on-site erosion and
24 prevent off-site sedimentation, including:
- 25 a. Provisions to preserve topsoil and limit disturbance;
- 26 b. Details of grading practices;
- 27 c. Design details for structural controls; and
- 28 d. Details of temporary and permanent stabilization measures,
29 including placement of the following statement on the plan.
30 Following initial soil disturbance or redisturbance, permanent or
31 temporary stabilization shall be completed within:

1. Seven calendar days as to the surface of all perimeter dikes, swales, ditches, perimeter slopes, and all slopes greater than three horizontal to one vertical (3:1); and
2. Fourteen days as to all other disturbed or graded areas on the project site.]]

(4) DRAINAGE AREA MAP(S) AT A 1 INCH = 200 FEET MINIMUM SCALE SHOWING EXISTING, INTERIM, AND PROPOSED TOPOGRAPHY, PROPOSED IMPROVEMENTS, STANDARD SYMBOLS FOR PROPOSED SEDIMENT CONTROL FEATURES, AND PERTINENT DRAINAGE INFORMATION INCLUDING PROVISIONS TO PROTECT DOWNSTREAM AREAS FROM EROSION FOR A MINIMUM OF 200 FEET DOWNSTREAM OR TO THE NEXT CONVEYANCE SYSTEM;

(5) THE LOCATION OF NATURAL RESOURCES, WETLANDS, FLOODPLAINS, HIGHLY ERODIBLE SOILS, SLOPES 15 PERCENT AND STEEPER, AND ANY OTHER SENSITIVE AREAS;

(6) A GENERAL DESCRIPTION OF THE PREDOMINANT SOIL TYPES ON THE SITE, AS DESCRIBED BY THE APPROPRIATE SOIL SURVEY INFORMATION AVAILABLE THROUGH THE HOWARD SOIL CONSERVATION DISTRICT OR THE USDA NATURAL RESOURCES SOIL CONSERVATION SERVICE;

(7) PROPOSED STORMWATER MANAGEMENT PRACTICES;

(8) EROSION AND SEDIMENT CONTROL PLANS INCLUDING:

(I) THE EXISTING TOPOGRAPHY AND IMPROVEMENTS AS WELL AS PROPOSED TOPOGRAPHY AND IMPROVEMENTS AT A SCALE BETWEEN 1 INCH = 10 FEET AND 1 INCH = 50 FEET WITH 2 FOOT CONTOURS OR OTHER APPROVED CONTOUR INTERVAL AND, FOR PROJECTS WITH MORE THAN MINOR GRADING, INTERIM CONTOURS MAY ALSO BE REQUIRED;

(II) SCALE, PROJECT AND SHEET TITLE, AND NORTH ARROW ON EACH PLAN SHEET;

(III) THE LIMIT OF DISTURBANCE (LOD) INCLUDING:

A. LIMIT OF GRADING (GRADING UNITS, IF APPLICABLE); AND

B. INITIAL, INTERIM, AND FINAL PHASES;

(IV) THE PROPOSED GRADING AND EARTH DISTURBANCE, INCLUDING:

- 1 A. TOTAL DISTURBED AREA;
- 2 B. VOLUME OF CUT AND FILL QUANTITIES; AND
- 3 C. VOLUME OF BORROW AND SPOIL QUANTITIES;
- 4 (V) STORM DRAINAGE FEATURES, INCLUDING:
- 5 A. EXISTING AND PROPOSED BRIDGES, STORM DRAINS, CULVERTS,
- 6 OUTFALLS, ETC.;
- 7 B. VELOCITIES AND PEAK FLOW RATES AT OUTFALLS FOR THE TWO-
- 8 YEAR AND TEN-YEAR FREQUENCY STORM EVENTS; AND
- 9 C. SITE CONDITIONS AROUND POINTS OF ALL SURFACE WATER
- 10 DISCHARGE FROM THE SITE;
- 11 (VI) EROSION AND SEDIMENT CONTROL PRACTICES TO MINIMIZE ON-SITE
- 12 EROSION AND PREVENT OFF-SITE SEDIMENTATION, INCLUDING:
- 13 A. THE SALVAGE AND REUSE OF TOPSOIL;
- 14 B. PHASED CONSTRUCTION AND IMPLEMENTATION OF GRADING UNIT(S)
- 15 TO MINIMIZE DISTURBANCES, BOTH IN EXTENT AND DURATION;
- 16 C. LOCATION AND TYPE OF ALL PROPOSED SEDIMENT CONTROL
- 17 PRACTICES;
- 18 D. DESIGN DETAILS AND DATA FOR ALL EROSION AND SEDIMENT
- 19 CONTROL PRACTICES; AND
- 20 E. SPECIFICATIONS FOR TEMPORARY AND PERMANENT STABILIZATION
- 21 MEASURES INCLUDING, AT A MINIMUM:
- 22 I. THE "STANDARD STABILIZATION NOTE" ON THE PLAN
- 23 STATING: "FOLLOWING INITIAL SOIL DISTURBANCE OR RE-
- 24 DISTURBANCE, PERMANENT OR TEMPORARY STABILIZATION
- 25 SHALL BE COMPLETED WITHIN:
- 26 1. THREE CALENDAR DAYS AS TO THE SURFACE OF ALL
- 27 PERIMETER DIKES, SWALES, DITCHES, PERIMETER
- 28 SLOPES, AND ALL SLOPES STEEPER THAN 3
- 29 HORIZONTAL TO 1 VERTICAL (3:1); AND

1 K. APPROVAL OF THE APPROPRIATE ENFORCEMENT AUTHORITY PRIOR
2 TO REMOVAL OF SEDIMENT CONTROLS; AND

3 [[h]]L. Removal of controls AND STABILIZATION OF AREAS THAT ARE
4 DISTURBED BY REMOVAL OF SEDIMENT CONTROLS.

5 ([[vii]]VIII) A statement [[placed on the plan indicating that the Applicant shall
6 request]] REQUIRING THE OWNER/DEVELOPER OR REPRESENTATIVE TO
7 CONTACT the Department of Public Works [[to inspect and approve work
8 completed]] OR ITS AGENT AT THE FOLLOWING STAGES OF THE PROJECT OR
9 in accordance with the approved erosion and sediment control plan, [[the]]
10 grading permit, [[and this subtitle]] OR BUILDING PERMIT:

11 a. [[On all sites with disturbed areas in excess of two acres, approval
12 of the inspection agency shall be requested upon completion of
13 installation of perimeter erosion and sediment controls, but before
14 proceeding with any other earth disturbance or grading. Other
15 building or grading inspection approvals may not be authorized
16 until this initial approval by the inspection agency is made; and]]
17 PRIOR TO THE START OF EARTH DISTURBANCE;

18 B. UPON COMPLETION OF THE INSTALLATION OF PERIMETER EROSION
19 AND SEDIMENT CONTROLS, BUT BEFORE PROCEEDING WITH ANY
20 OTHER EARTH DISTURBANCE OR GRADING;

21 [[b. Approval shall be requested upon final stabilization of all sites
22 with disturbed areas in excess of two acres before removal of
23 controls;]]

24 C. PRIOR TO THE START OF ANOTHER PHASE OF CONSTRUCTION OR
25 OPENING OF ANOTHER GRADING UNIT; AND

26 D. PRIOR TO THE REMOVAL OF SEDIMENT CONTROL PRACTICES;

27 ([[viii]]IX) [[Certification by the Applicant that any clearing, grading,
28 construction, or development will be done pursuant to the plan and that a
29 responsible person involved in the construction project will have, before
30 beginning the project, a certification of training at a program approved by
31 the Maryland Department of the Environment for the Control of Sediment

1 and Erosion. The requirement for certification of training for a responsible
2 person may be waived by the Howard Soil Conservation District on a
3 project involving four or fewer residential units; and]] CERTIFICATION BY
4 THE OWNER/DEVELOPER THAT ANY CLEARING, GRADING, CONSTRUCTION,
5 OR DEVELOPMENT WILL BE DONE PURSUANT TO THE APPROVED EROSION
6 AND SEDIMENT CONTROL PLAN. THE CERTIFICATION SHALL ALSO REQUIRE
7 THAT THE RESPONSIBLE PERSONNEL INVOLVED IN THE CONSTRUCTION
8 PROJECT HAVE A CERTIFICATE OF TRAINING AT AN MDE APPROVED
9 TRAINING PROGRAM FOR THE CONTROL OF EROSION AND SEDIMENT PRIOR
10 TO BEGINNING THE PROJECT. THE CERTIFICATE OF TRAINING FOR
11 RESPONSIBLE PERSONNEL MAY BE WAIVED BY THE DEPARTMENT OF PUBLIC
12 WORKS ON ANY PROJECT INVOLVING FOUR OR FEWER RESIDENTIAL LOTS.

13 (X) ADDITIONALLY, THE OWNER/DEVELOPER SHALL ALLOW A RIGHT OF ENTRY
14 FOR PERIODIC ON-SITE EVALUATION BY THE HOWARD SOIL CONSERVATION
15 DISTRICT, THE DEPARTMENT OF INSPECTIONS, LICENSES AND PERMITS, THE
16 DEPARTMENT OF PUBLIC WORKS, AND THE MARYLAND DEPARTMENT OF
17 THE ENVIRONMENT; AND

18 (XI) CERTIFICATION BY A PROFESSIONAL ENGINEER, LAND SURVEYOR,
19 LANDSCAPE ARCHITECT, ARCHITECT, OR FORESTER (FOR FOREST HARVEST
20 OPERATIONS ONLY) REGISTERED IN THE STATE THAT THE PLANS HAVE BEEN
21 DESIGNED IN ACCORDANCE WITH EROSION AND SEDIMENT CONTROL LAWS,
22 REGULATIONS, AND STANDARDS, IF REQUIRED BY THE HOWARD SOIL
23 CONSERVATION DISTRICT OR THE ADMINISTRATION.

24 ([[ix]]9) Any additional information or data deemed appropriate by the Howard Soil
25 Conservation District.

26 [[(d) *Exception.* The requirements of subsection (c)(3)(v)d. of this section do not apply to those
27 areas which are shown on the plan and are currently being used for incidental and minimal
28 material storage, or for those areas on which actual construction activities are currently being
29 performed or to interior areas of a surface mine sited where the stabilization material would
30 contaminate the recoverable resource. Maintenance shall be performed as necessary to ensure

1 that the stabilized areas continuously meet the appropriate requirements of the "standards and
2 specifications."]]

3 [[(e) *Review and Approval by Howard Soil Conservation District.*

- 4 (1) *Requirements of State law.* Title 8, subtitle 3, of the agriculture article of the
5 Annotated Code of Maryland and title 4, subtitle 1, environment article of the
6 Annotated Code of Maryland require the Howard Soil Conservation District to
7 review and approve plans for clearing, transporting, or otherwise disturbing soil.
- 8 (2) *Review of plan.* In reviewing the plan, the Howard Soil Conservation District shall
9 consider the plan's compliance with this subtitle, the Maryland Sediment Control
10 Regulations, the Code of Maryland Regulations, the "standards and
11 specifications," and the requirements of the Howard Soil Conservation District.
- 12 (3) *Variations.* The Howard Soil Conservation District may grant a written variance
13 from the requirements of the "standards and specifications" if strict adherence to
14 the specifications will result in unnecessary hardship and not fulfill the intent of
15 this subtitle. In order to obtain a variance, the Applicant shall submit a written
16 request for a variance to the Howard Soil Conservation District stating the
17 specific variances sought and reasons for requesting the variances.]]

18 (D) *PLAN APPROVAL DURATION.* APPROVED PLANS REMAIN VALID FOR TWO YEARS FROM THE DATE
19 OF APPROVAL UNLESS EXTENDED OR RENEWED BY THE HOWARD SOIL CONSERVATION DISTRICT.

20 (E) *GRANDFATHERING OF APPROVED PLANS.*

- 21 (1) ANY PLANS THAT RECEIVE FINAL APPROVAL AFTER FEBRUARY 15, 2013 SHALL BE
22 IN COMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION AND THE STANDARDS
23 AND SPECIFICATIONS.
- 24 (2) A PLAN THAT RECEIVES FINAL APPROVAL BY FEBRUARY 15, 2013 MAY BE
25 REAPPROVED UNDER ITS EXISTING CONDITIONS IF GRADING ACTIVITIES HAVE
26 BEGUN ON THE SITE BY FEBRUARY 15, 2015, WITH THE EXCEPTION OF
27 STABILIZATION REQUIREMENTS.
- 28 (3) STABILIZATION PRACTICES ON ALL SITES SHALL BE IN COMPLIANCE WITH THE
29 REQUIREMENTS OF THIS SECTION OF THIS CODE, AND THE STANDARDS AND
30 SPECIFICATIONS BY FEBRUARY 15, 2013, REGARDLESS OF WHEN AN APPROVED
31 EROSION AND SEDIMENT CONTROL PLAN WAS APPROVED.

1 (F) *REVIEW AND APPROVAL BY HOWARD SOIL CONSERVATION DISTRICT.* THE REVIEW AND APPROVAL
2 PROCESS SHALL BE IN ACCORDANCE WITH THE COMPREHENSIVE AND INTEGRATED PLAN APPROVAL
3 PROCESS DESCRIBED IN THE STANDARDS AND SPECIFICATIONS, TITLE 18, SUBTITLE 9 OF THIS
4 CODE, AND TITLE 4 OF THE ENVIRONMENT ARTICLE OF THE ANNOTATED CODE OF MARYLAND.

5 (G) AT A MINIMUM, THE CONCEPT STAGE SHALL INCLUDE THE MAPPING OF NATURAL RESOURCES
6 AND SENSITIVE AREAS INCLUDING HIGHLY ERODIBLE SOILS AND SLOPES GREATER THAN 15
7 PERCENT AS WELL AS INFORMATION REQUIRED UNDER TITLE 18, SUBTITLE 9 OF THIS CODE. THESE
8 AREAS ARE TO REMAIN UNDISTURBED OR AN EXPLANATION SHALL BE INCLUDED DURING THE
9 CONCEPT OR SITE DEVELOPMENT STAGE DESCRIBING ENHANCED PROTECTION STRATEGIES FOR
10 THESE AREAS DURING CONSTRUCTION.

11 (H) THE SITE DEVELOPMENT STAGE SHALL INCLUDE ALL CONCEPT STAGE INFORMATION AND
12 INFORMATION ABOUT HOW PROPOSED EROSION AND SEDIMENT CONTROL PRACTICES WILL BE
13 INTEGRATED WITH PROPOSED STORMWATER MANAGEMENT PRACTICES. THE LATTER MAY BE
14 ACCOMPLISHED THROUGH A NARRATIVE AND MAY BE SHOWN ON AN OVERLAY PLAN SHOWING
15 BOTH ESD AND EROSION AND SEDIMENT CONTROL PRACTICES. AN INITIAL SEQUENCE OF
16 CONSTRUCTION AND PROPOSED PROJECT PHASING TO ACHIEVE THE GRADING UNIT RESTRICTION
17 SHOULD BE SUBMITTED AT THIS TIME. A CONSTRUCTION DRAWING INCLUDED IN THIS STAGE SHALL
18 CONTAIN SUFFICIENT INFORMATION, DRAWINGS, AND NOTES TO DESCRIBE HOW SOIL EROSION AND
19 OFF-SITE SEDIMENTATION WILL BE MINIMIZED. THE CONCEPT AND SITE DEVELOPMENT STAGES
20 SHALL SERVE AS A BASIS FOR ALL SUBSEQUENT GRADING AND STABILIZATION.

21 (I) AN APPLICANT SHALL SUBMIT A FINAL EROSION AND SEDIMENT CONTROL PLAN TO THE
22 HOWARD SOIL CONSERVATION DISTRICT FOR REVIEW AND APPROVAL. THE RELATED DRAWINGS
23 SHALL INCLUDE ALL OF THE INFORMATION REQUIRED BY THE CONCEPT AND SITE DEVELOPMENT
24 STAGE AS WELL AS ANY INFORMATION REQUIRED BY THIS SUBTITLE BUT NOT ALREADY SUBMITTED.

25 (J) *Approval.* *[[The Howard Soil Conservation District shall indicate its approval of*
26 *a plan by signing and dating the plan. A plan is]]* A FINAL EROSION AND SEDIMENT
27 CONTROL PLAN SHALL NOT BE CONSIDERED APPROVED WITHOUT THE INCLUSION OF THE
28 *[[this]]* SIGNATURE AND DATE OF SIGNATURE OF THE HOWARD SOIL CONSERVATION
29 DISTRICT ON THE CONSTRUCTION DRAWING. In approving the plan, the Howard
30 Soil Conservation District may impose conditions it deems necessary to ensure
31 compliance with the provisions of this subtitle, the Maryland Sediment Control

1 Regulations, the "standards and specifications," requirements of the Howard Soil
2 Conservation District or the preservation of public health and safety.

3 ~~[(5) *Validity of plans.* Approved plans remain valid for two years from the date of
4 approval. The Howard Soil Conservation District may extend the approval time at
5 its discretion.]]~~

6 ~~[[f]]K) *Modifications to Approved Erosion and Sediment Control Plans.*~~

7 (1) The Howard Soil Conservation District may revise approved plans as necessary.
8 Modifications may be requested by ~~[[an Applicant, permit holder]]~~ THE
9 PERMITTEE, THE OWNER/DEVELOPER, THE INSPECTION AGENCY, or the Department
10 of ~~[[Public Works]]~~ INSPECTIONS, LICENSES AND PERMITS IN ACCORDANCE WITH
11 COMAR 26.17.01.09(H), PLAN MODIFICATIONS.

12 (2) THE HOWARD SOIL CONSERVATION DISTRICT MAY DEVELOP A LIST OF MINOR
13 MODIFICATIONS THAT MAY BE APPROVED AS FIELD REVISIONS BY THE INSPECTION
14 AGENCY. THE LIST OF MINOR MODIFICATIONS SHALL NOT BE IMPLEMENTED UNLESS
15 IT HAS BEEN APPROVED BY THE ADMINISTRATION.

16 ~~[[g]]L) *Notification by Howard Soil Conservation District.* Within 30 days of submission of the
17 completed erosion and sediment control plan, the Howard Soil Conservation District shall notify
18 the Applicant of approval, approval with modifications, or the reasons for disapproval. If a
19 decision is not made within 30 days, the Howard Soil Conservation District shall inform the
20 Applicant of the status of the review process and the anticipated completion date.~~

21 ~~(M) *STANDARD PLAN.*~~

22 (1) THE HOWARD SOIL CONSERVATION DISTRICT MAY ADOPT A STANDARD EROSION
23 AND SEDIMENT CONTROL PLAN FOR ACTIVITIES WITH MINOR EARTH DISTURBANCES,
24 SUCH AS SINGLE-FAMILY RESIDENCES, SMALL COMMERCIAL AND OTHER SIMILAR
25 BUILDING SITES, MINOR MAINTENANCE GRADING, AND MINOR UTILITY
26 CONSTRUCTION.

27 (2) A STANDARD EROSION AND SEDIMENT CONTROL PLAN SHALL MEET THE
28 REQUIREMENTS OF THIS SUBTITLE AND THE STANDARDS AND SPECIFICATIONS.

29 (3) MDE SHALL REVIEW AND APPROVE A STANDARD PLAN PRIOR TO ITS ADOPTION.

30 ~~(N) *VARIANCES.* THE HOWARD SOIL CONSERVATION DISTRICT MAY ONLY GRANT A WRITTEN
31 VARIANCE FROM THE REQUIREMENTS OF THIS SUBTITLE WHEN STRICT ADHERENCE WILL RESULT IN~~

1 EXCEPTIONAL HARDSHIP AND NOT FULFILL THE INTENT OF THIS SUBTITLE. THE OWNER/DEVELOPER
2 SHALL SUBMIT A WRITTEN REQUEST FOR A VARIANCE TO THE HOWARD SOIL CONSERVATION
3 DISTRICT. THE REQUEST SHALL STATE THE SPECIFIC VARIANCE SOUGHT AND THE REASONS FOR THE
4 REQUEST. THE HOWARD SOIL CONSERVATION DISTRICT SHALL NOT GRANT A VARIANCE UNLESS
5 AND UNTIL SUFFICIENT INFORMATION IS PROVIDED DESCRIBING THE UNIQUE CIRCUMSTANCES OF
6 THE SITE THAT JUSTIFY THE VARIANCE
7

8 **Section 3.404. Permits.**

9 (a) *Issuance.* The Department of Inspections, Licenses and Permits shall issue a grading permit
10 if:

- 11 (1) The Applicant submits an erosion and sediment control plan for the site
12 [[approved by]] TO the Howard Soil Conservation District AND THE HOWARD SOIL
13 CONSERVATION DISTRICT HAS APPROVED THE EROSION AND SEDIMENT CONTROL
14 PLAN FOR THE SITE;
- 15 (2) The Applicant certifies in writing that any construction or development will be
16 done pursuant to the approved erosion and sediment control plan;
- 17 (3) Where applicable, the Applicant submits an approved stormwater management
18 plan in accordance with the requirements of section 18.902 of this Code. Where
19 applicable, the Applicant shall submit an executed developer agreement for the
20 stormwater management work and any required maintenance agreement for the
21 maintenance of a private stormwater management system;
- 22 (4) The Applicant is developing a golf course for redevelopment, as defined in section
23 16.129, and has complied with section 16.129 of this Code;
- 24 (5) The Applicant provides the surety required by section 3.405 of this subtitle; and
25 (6) The Applicant pays the grading permit fee.

26 (b) *Permit [[Duration]] EXPIRATION and Renewal.*

27 [[A]] THE grading permit [[is valid for work that begins within 12 months]] SHALL EXPIRE TWO
28 YEARS FROM THE DATE of issuance [[and for work that occurs within 12 months after the initial
29 work has begun. Except as otherwise provided by law,]] UNLESS EXTENDED OR RENEWED BY the
30 Department of Inspections, Licenses and Permits [[may grant, for reasonable cause and on the

1 recommendation of the Department of Public Works, one or more extensions. Each extension
2 may be for a period of up to six months]].

3 [[(c) *Display of Permit.* The permit holder shall post the approved grading permit in a
4 conspicuous place on the site during construction.]]

5 ([[d]]C) *Permit Fee.* A permit fee schedule may be established by resolution of the Howard
6 County Council for the administration and management of the erosion and sediment control
7 program. [[Work on County-owned property, including capital improvement projects, refuse
8 disposal areas, sanitary landfills, and Public Works projects,]] THE COUNTY is exempt from the
9 permit fee.

10 ([[e]]D) *Permit Suspension and Revocation.* The Department of Inspections, Licenses and
11 Permits may suspend or revoke [[a]]ANY grading [[permit]]OR BUILDING PERMITS after providing
12 written notification to the [[permit holder for:]] PERMITTEE BASED ON ANY OF THE FOLLOWING
13 REASONS:

14 (1) [[A]] ANY violation of the terms or conditions of the approved erosion and
15 sediment control plan[[, stormwater management plan or grading permit;]] OR
16 PERMITS;

17 (2) Noncompliance with [[a]]ANY violation notice or stop work order;

18 (3) Changes in site characteristics upon which plan approval and permit issuance
19 [[was]] WERE based; or

20 (4) [[A]] ANY violation of this subtitle or any rules and regulations adopted under it.

21 ([[f]]E) *Permit Conditions.* In issuing a grading permit, the Department of Inspections, Licenses
22 and Permits may impose such conditions [[thereon as]] THAT may be deemed necessary to ensure
23 compliance with the provisions of this subtitle or the preservation of the public health and safety.
24

25 **Section 3.405. Surety required.**

26 (a) *Form.* Except as provided in subsection (c) of this section, the Applicant shall provide the
27 County with surety in the form of a letter of credit or cash to guarantee the cost of stabilizing the
28 soil within the construction area[[,]] AND the costs of [[constructing sediment control measures
29 on the perimeter of the site to control mud and silt and the costs of achieving positive drainage
30 patterns]] THE INSTALLATION, MAINTENANCE, AND REMOVAL OF THE EROSION AND SEDIMENT
31 CONTROLS SHOWN ON THE APPROVED PLAN.

1 (b) *Amount*. The County shall determine the amount of the surety based on the size of the area to
2 be disturbed and the type of construction.

3 (c) *Exemptions*. An Applicant performing grading for the following types of construction is
4 exempt from the surety requirements:

- 5 (1) Residential subdivisions of four or fewer lots;
- 6 (2) Individual single-family residential lots;
- 7 (3) Grading-spoils operations on lots of three acres or less;
- 8 (4) Laying of less than ½ mile of gas, electric, telephone or cable television lines
9 within public rights-of-way; or
- 10 (5) Laying of less than 300 feet of gas, electric, telephone or cable television lines
11 outside of the public right-of-way.

12
13 **Section 3.406. - Enforcement.**

14 [[(a) *Right of Entry*. The County may enter upon property to ensure compliance with this
15 subtitle. If a permit is revoked, the County may enter the property and perform work in order to
16 stabilize the soil within the construction areas, to construct sediment control measures on the
17 perimeter of the site to control mud and silt, or to provide positive drainage patterns.

18 (b) *Stop-Work Order*. If a person clears or grades land without a grading permit or in violation
19 of the approved site development plan or erosion and sediment control plan, the County may
20 issue a stop-work order banning any or all construction activity on the site except temporary
21 sediment control measures specified by the County until a grading permit is issued or the
22 violation is abated.]]

23 (A) *ENFORCEMENT AUTHORITY*. THE COUNTY SHALL, THROUGH THE AUTHORITY OF THIS SUBTITLE
24 AND COMAR 26.17.01 AND 26.08.01.01B(20), USE ENFORCEMENT ACTIONS WHEN VIOLATIONS OF
25 THIS SUBTITLE OCCUR. ANY STEP IN THE ENFORCEMENT PROCESS MAY BE TAKEN AT ANY TIME,
26 DEPENDING UPON THE SEVERITY OF THE VIOLATION.

27 (B) *RIGHT OF ENTRY*. THE COUNTY MAY ENTER UPON PROPERTY TO ENSURE COMPLIANCE WITH
28 THIS SUBTITLE. IF A PERMIT IS REVOKED, THE COUNTY MAY ENTER THE PROPERTY AND PERFORM
29 WORK IN ORDER TO STABILIZE THE SOIL WITHIN THE CONSTRUCTION AREAS, TO CONSTRUCT
30 SEDIMENT CONTROL MEASURES ON THE PERIMETER OF THE SITE TO CONTROL MUD AND SILT, OR TO
31 PROVIDE POSITIVE DRAINAGE PATTERNS.

1 (C) *CORRECTIVE ACTION ORDER*. WHEN THE COUNTY DETERMINES THAT A VIOLATION OF THIS
2 SUBTITLE HAS OCCURRED, THE COUNTY SHALL NOTIFY THE ON-SITE PERSONNEL OR THE PERMITTEE
3 IN WRITING OF THE VIOLATION, DESCRIBE THE REQUIRED CORRECTIVE ACTION AND THE TIME
4 PERIOD IN WHICH THE VIOLATION MUST BE CORRECTED.

5 (D) *STOP-WORK ORDER*. IF A PERSON CLEARS OR GRADES LAND WITHOUT A GRADING PERMIT, THE
6 COUNTY SHALL ISSUE A STOP-WORK ORDER BANNING ANY OR ALL CONSTRUCTION ACTIVITY ON
7 THE SITE EXCEPT TEMPORARY SEDIMENT CONTROL MEASURES SPECIFIED BY THE COUNTY. IF A
8 PERSON CLEARS OR GRADES LAND IN VIOLATION OF THIS SUBTITLE, THE COUNTY MAY ISSUE A
9 STOP-WORK ORDER BANNING ANY OR ALL CONSTRUCTION ACTIVITY ON THE SITE EXCEPT
10 TEMPORARY SEDIMENT CONTROL MEASURES SPECIFIED BY THE COUNTY, UNTIL THE VIOLATION IS
11 CORRECTED.

12 (E) *CIVIL CITATION*. WHEN THE COUNTY IDENTIFIES A VIOLATION OF THIS SUBTITLE, THE COUNTY
13 MAY ISSUE A CITATION TO THE OWNER/DEVELOPER OR THE PERMITTEE, OR BOTH, ASSESSING CIVIL
14 PENALTIES IN ACCORDANCE WITH SECTION 3.407 OF THIS SUBTITLE. THE CONTENTS AND
15 ENFORCEMENT OF THE CITATION SHALL BE GOVERNED BY TITLE 24 OF THIS CODE.

16 (F) *INJUNCTIVE RELIEF*. ANY AGENCY WHOSE APPROVAL IS REQUIRED UNDER THIS SUBTITLE OR
17 ANY INTERESTED PERSON MAY SEEK AN INJUNCTION AGAINST ANY PERSON WHO VIOLATES OR
18 THREATENS TO VIOLATE ANY PROVISION OF THIS SUBTITLE.

19 (G) *OTHER LEGAL ACTION*. THE COUNTY MAY TAKE ANY OF THE ENFORCEMENT ACTIONS
20 AUTHORIZED BY THIS SUBTITLE REGARDLESS OF WHETHER ANY OTHER ENFORCEMENT ACTION HAS
21 BEEN TAKEN FOR A VIOLATION AND MAY TAKE OTHER LEGAL ACTION INCLUDING, WITHOUT
22 LIMITATION, REFERRAL FOR CRIMINAL ENFORCEMENT OR A CIVIL ACTION FOR DAMAGES TO
23 RECOVER DOUBLE THE AMOUNT OF COSTS INCURRED BY THE COUNTY FOR ACTIONS TAKEN TO
24 ABATE A VIOLATION. THE COUNTY SHALL USE ANY DAMAGES RECOVERED UNDER THIS SECTION
25 SOLELY FOR THE COUNTY'S EROSION AND SEDIMENT CONTROL PROGRAM, INCLUDING CORRECTING
26 FAILURES TO IMPLEMENT OR MAINTAIN SEDIMENT AND EROSION CONTROLS.

27
28 **Section 3.407. Penalties.**

29 (a) *Criminal Penalties*. ~~[[A]]~~ ANY person who violates any provision of this ~~[[subtle]]~~
30 SUBTITLE, OR ANY RULE, REGULATION, ORDER, OR PERMIT ISSUED UNDER THIS SUBTITLE, is guilty
31 of a misdemeanor and upon conviction is subject to a fine not exceeding \$1,000.00or .

1 imprisonment not exceeding six [[months]] MONTHS, OR BOTH, [[or both]] for each violation
2 [[with costs imposed in the discretion of the court]]. Each day a violation OCCURS OR CONTINUES
3 is a separate offense. COSTS MAY BE IMPOSED AT THE DISCRETION OF THE COURT.

4 (b) *Civil Penalties.* [[Alternatively or in addition to and concurrent with all other remedies,
5 a violation of this subtitle may be punished as a civil violation pursuant to the provisions of
6 title 24, "civil penalties," of this Code. Each day a violation continues is a separate offense.
7 A first violation of the provisions of this subtitle shall be a Class D offense. Subsequent
8 violations shall be Class B offenses.]] A VIOLATION OF THIS SUBTITLE IS A CLASS A OFFENSE
9 AND ANY PERSON WHO VIOLATES ANY PROVISION OF THIS SUBTITLE, OR ANY RULE,
10 REGULATION, ORDER, OR PERMIT ISSUED UNDER THIS SUBTITLE, IS SUBJECT TO A CIVIL
11 PENALTY UP TO \$1,000 FOR EACH VIOLATION. EACH DAY A VIOLATION OCCURS OR CONTINUES
12 IS A SEPARATE OFFENSE.

13
14 **SECTION 3.408. SEVERABILITY.**

15 IF ANY PORTION, SECTION, SUBSECTION, SENTENCE, CLAUSE, OR PHRASE OF THIS SUBTITLE IS FOR
16 ANY REASON HELD INVALID OR UNCONSTITUTIONAL BY ANY COURT OF COMPETENT JURISDICTION,
17 SUCH PORTION SHALL BE DEEMED A SEPARATE, DISTINCT, AND INDEPENDENT PROVISION AND SUCH
18 HOLDING SHALL NOT AFFECT THE VALIDITY OF THE REMAINING PORTION OF THIS SUBTITLE, IT
19 BEING THE INTENT OF THE COUNTY THAT THIS SUBTITLE SHALL STAND, NOTWITHSTANDING THE
20 INVALIDITY OF ANY PORTION, SECTION, SUBSECTION, SENTENCE, CLAUSE, OR PHRASE, HEREOF.

21
22 **Title 18. Public Works.**

23 **Subtitle 3. Sediment and Erosion Control.**

24
25 **Section 18.300. Purpose and authority.**

26 (a) *Purpose.* The purpose of this subtitle is to protect, maintain, and enhance the public health,
27 safety, and general welfare by establishing minimum requirements and procedures to control the
28 adverse impacts associated with LAND DISTURBANCE [[accelerated soil erosion and resultant
29 sedimentation. Minimizing soil erosion and off-site sedimentation will minimize damage to
30 public and private property, and assist in the attainment and maintenance of water quality
31 standards]].

1 (b) *Authority*. [[In accordance with title 4, subtitle 1 of the Environment Article, Annotated
2 Code of Maryland, this subtitle applies to all grading occurring in Howard County.]] THE GOAL
3 IS TO MINIMIZE SOIL EROSION AND PREVENT OFF-SITE SEDIMENTATION BY USING SOIL EROSION AND
4 SEDIMENT CONTROL PRACTICES DESIGNED IN ACCORDANCE WITH THE CODE OF MARYLAND
5 REGULATIONS (COMAR) 26.17.01, THE 2011 MARYLAND STANDARDS AND SPECIFICATIONS
6 (STANDARDS AND SPECIFICATIONS) AND TITLE 4 OF THE ENVIRONMENT ARTICLE OF THE
7 ANNOTATED CODE OF MARYLAND. This subtitle represents the minimum erosion and sediment
8 control requirements and is not intended to limit or repeal any other powers granted to the
9 County under State law.

10
11 **Section 18.301. Definitions.**

12 TERMS USED IN THIS SUBTITLE SHALL HAVE THE MEANINGS SET FORTH IN SECTION 3.401 OF THIS
13 CODE.

14 [[The following terms have the meanings indicated:

- 15 (a) *Clear* means any activity which removes the vegetative ground cover.
- 16 (b) *Erosion and sediment control* means a system of structural and vegetative measures that
17 minimize soil erosion and off-site sedimentation.
- 18 (c) *Erosion and sediment control plan* means a strategy or plan to minimize erosion and
19 prevent off-site sedimentation by containing sediment on-site by passing sediment-laden
20 runoff through a sediment control measure, prepared and approved in accordance with
21 the specific requirements of the Howard Soil Conservation District and this subtitle, and
22 designed in accordance with the "standards and specifications."
- 23 (d) *Grade* means to cause disturbance of the earth. This shall include but not be limited to
24 any excavating, filling, stockpiling of earth materials, grubbing, root mat or topsoil
25 disturbance, or any combination of them.
- 26 (e) *Person* means an individual, receiver, trustee, guardian, personal representative,
27 fiduciary, or representative of any kind and any partnership, firm, association,
28 corporation, or other entity.
- 29 (f) *Sediment* means soils or other surficial materials transported or deposited by the action of
30 wind, water, ice, gravity, or artificial means.]]

31

1 **Section 18.302. Applicability.**

2 NO PERSON SHALL DISTURB LAND OR CREATE OR CAUSE A DISCHARGE OF SEDIMENT OR
3 STORMWATER IN VIOLATION OF THIS SUBTITLE WITHOUT IMPLEMENTING SOIL EROSION AND
4 SEDIMENT CONTROLS IN ACCORDANCE WITH THE REQUIREMENTS OF THIS SUBTITLE; TITLE 3,
5 SUBTITLE 4 OF THIS CODE; AND THE STANDARDS AND SPECIFICATIONS, EXCEPT AS PROVIDED
6 WITHIN THIS SUBTITLE. A person may not clear or grade land unless the person obtains a grading
7 permit under section 3.402 of this Code and implements soil erosion and sediment controls in
8 accordance with the requirements of section 3.403 of this Code.

9
10 **Section 18.303. Inspection.**

11 (A) THE ADMINISTRATION IS RESPONSIBLE FOR THE INSPECTION AND ENFORCEMENT OF ALL LAND
12 DISTURBING ACTIVITIES, INCLUDING THOSE SITES REQUIRING AN EROSION AND SEDIMENT CONTROL
13 PLAN AS SPECIFIED BY THIS SUBTITLE AND TITLE 3, SUBTITLE 4 OF THIS CODE. THIS
14 ENFORCEMENT AUTHORITY MAY BE DELEGATED TO THE COUNTY THROUGH A REQUEST BY THE
15 COUNTY OR REQUIRED AS A CONDITION OF A NATIONAL POLLUTANT DISCHARGE ELIMINATION
16 SYSTEM (NPDES) MUNICIPAL SEPARATE STORM SEWER SYSTEM PERMIT. THIS SECTION APPLIES TO
17 THE ADMINISTRATION, OR, THE COUNTY, IF DELEGATED ENFORCEMENT AUTHORITY.

18 *[[a]]B) Inspection; Frequency and Reports:*

- 19 (1) THE OWNER/DEVELOPER *[[A permit holder]]* shall maintain a copy of the approved
20 erosion and sediment control plan *[[on-site]]* ON SITE.
- 21 (2) EVERY ACTIVE SITE HAVING A DESIGNED EROSION AND SEDIMENT CONTROL PLAN
22 SHOULD BE INSPECTED FOR COMPLIANCE WITH THE PLAN ON AVERAGE ONCE
23 EVERY TWO (2) WEEKS.
- 24 (3) A WRITTEN REPORT SHALL BE PREPARED BY THE DEPARTMENT OF PUBLIC
25 WORKS AFTER EVERY INSPECTION. THE REPORT SHALL DESCRIBE:
- 26 (i) THE DATE AND LOCATION OF THE SITE INSPECTION;
 - 27 (ii) WHETHER THE APPROVED PLAN HAS BEEN PROPERLY IMPLEMENTED AND
28 MAINTAINED;
 - 29 (iii) PRACTICE DEFICIENCIES OR EROSION AND SEDIMENT CONTROL PLAN
30 DEFICIENCIES;
 - 31 (iv) IF A VIOLATION EXISTS, THE TYPE OF ENFORCEMENT ACTION TAKEN; AND

1 (v) IF APPLICABLE, A DESCRIPTION OF ANY MODIFICATIONS TO THE PLAN.

2 (4) THE DEPARTMENT OF PUBLIC WORKS SHALL NOTIFY THE ON-SITE PERSONNEL OR
3 THE OWNER/DEVELOPER IN WRITING WHEN VIOLATIONS ARE OBSERVED,
4 DESCRIBING:

5 (i) THE NATURE OF THE VIOLATION;

6 (ii) THE REQUIRED CORRECTIVE ACTION; AND

7 (iii) THE TIME PERIOD IN WHICH TO HAVE THE VIOLATION CORRECTED.

8 ([[2]]5) A [[permit holder]] PERMITEE shall request that the Department of Public Works
9 inspect completed work to ensure compliance with the approved site development
10 plan, erosion and sediment control plan, the grading or building permit, and this
11 subtitle:

12 (i) Upon completion of installation of perimeter erosion and sediment
13 controls, prior to proceeding with any other earth disturbance or grading.

14 (ii) Upon establishment of final grades; and

15 (iii) Upon final stabilization before removal of sediment controls.

16 ([[3]]6) No other building or grading inspection approvals may be authorized until initial
17 approval by the Department of Public Works under paragraph [[(2)]](5) of this
18 subsection is granted.

19 [[(4)] The Department of Public Works shall inspect every active site having a designed
20 erosion and sediment control plan on an average of once every two weeks.

21 (5) An inspector shall prepare a written report after every inspection which includes:

22 (i) The date and location of the site inspection;

23 (ii) Whether or not the approved plan has been properly implemented and
24 maintained;

25 (iii) Any practice deficiencies or erosion and sediment control plan
26 deficiencies; and

27 (iv) If a violation exists, the type of enforcement action taken.

28 (5) The Department of Public Works shall notify the on-site personnel or the permit
29 holder in writing when violations are observed, describing:

30 (i) The nature of the violation;

31 (ii) The required corrective action; and

1 (iii) The time period in which to have the violation corrected.]]

2 [[[6) The Department of Public Works shall inspect the stormwater management
3 facilities pursuant to the inspection schedule set forth in volume 1 of the Howard County
4 Design Manual.]]

5 ([[b]]c) *Modifications to Erosion and Sediment Control Plans.* When inspection of a site
6 indicates that modification of an approved erosion and sediment control plan is appropriate:

7 (1) For a major modification to an approved plan, including a modification due to
8 inadequate control of erosion and sediment as revealed through inspection, the
9 [[permit holder]] PERMITTEE shall submit a request for a modification to the
10 Howard Soil Conservation District; or

11 (2) For a minor modification, an inspector may approve a modification in the field
12 based on a documented field inspection report. The Howard Soil Conservation
13 District, in conjunction with the Department of Public Works, shall maintain a list
14 of allowable field modifications APPROVED BY THE ADMINISTRATION for use by
15 the inspector.

16 ([[c]]d) *Complaints.* [[If the County receives a complaint, it shall initiate an investigation within
17 three days and the complainant shall be notified of any action or proposed action within seven
18 days of receipt of the complaint.]] THE INSPECTION AGENCY SHALL ACCEPT AND INVESTIGATE
19 COMPLAINTS REGARDING EROSION AND SEDIMENT CONTROL CONCERNS FROM ANY INTERESTED
20 PARTIES AND:

21 (1) CONDUCT AN INITIAL INVESTIGATION WITHIN THREE (3) WORKING DAYS
22 FROM RECEIPT OF THE COMPLAINT;

23 (2) NOTIFY THE COMPLAINANT OF THE INITIAL INVESTIGATION AND FINDINGS
24 WITHIN SEVEN (7) DAYS FROM RECEIPT OF THE COMPLAINT; AND

25 (3) TAKE APPROPRIATE ACTION WHEN VIOLATIONS ARE DISCOVERED DURING
26 THE COURSE OF THE COMPLAINT INVESTIGATION.

27
28 **Section 18.304. Enforcement.**

29 [[(a) *Right of Entry.* The County may enter upon property to ensure compliance with this
30 subtitle. If a permit is revoked, the County may enter the property and perform work in order to

1 stabilize the soil within the construction areas, to construct sediment control measures on the
2 perimeter of the site to control mud and silt, or to provide positive drainage patterns.

3 (b) *Enforcement Procedures:*

- 4 (1) When the County determines that a violation of the approved site development
5 plan or erosion and sediment control plan has occurred, the County shall notify
6 the on-site personnel or the permit holder in writing of the violation, describe the
7 required corrective action and the time period in which to have the violation
8 corrected.
- 9 (2) If the violation persists after the date specified for corrective action in the notice
10 of violation, the County shall take any action necessary to stop work on the site
11 under subsection (c) of this section.
- 12 (3) If reasonable efforts to correct the violation are not undertaken by the permit
13 holder, the County may initiate legal action.
- 14 (4) Any step in the enforcement process may be taken at any time, depending upon
15 the severity of the violation.

16 (c) *Stop-Work Order.* If a person clears or grades land without a grading permit or in violation
17 of the approved site development plan or erosion and sediment control plan, the Department of
18 Public Works may issue a stop-work order banning any or all construction activity on the site
19 except temporary sediment control measures specified by the Department until a grading permit
20 is issued or the violation is abated.]]

21 (A) *ENFORCEMENT AUTHORITY.* THE COUNTY SHALL, THROUGH THE AUTHORITY OF THIS SUBTITLE
22 AND COMAR 26.17.01 AND 26.08.01.01B(20), USE ENFORCEMENT ACTIONS WHEN VIOLATIONS OF
23 THIS SUBTITLE OCCUR. ANY STEP IN THE ENFORCEMENT PROCESS MAY BE TAKEN AT ANY TIME,
24 DEPENDING UPON THE SEVERITY OF THE VIOLATION.

25 (B) *RIGHT OF ENTRY.* THE COUNTY MAY ENTER UPON PROPERTY TO ENSURE COMPLIANCE WITH
26 THIS SUBTITLE. IF A PERMIT IS REVOKED, THE COUNTY MAY ENTER THE PROPERTY AND PERFORM
27 WORK IN ORDER TO STABILIZE THE SOIL WITHIN THE CONSTRUCTION AREAS, TO CONSTRUCT
28 SEDIMENT CONTROL MEASURES ON THE PERIMETER OF THE SITE TO CONTROL MUD AND SILT, OR TO
29 PROVIDE POSITIVE DRAINAGE PATTERNS.

30 (C) *CORRECTIVE ACTION ORDER.* WHEN THE COUNTY DETERMINES THAT A VIOLATION OF THIS
31 SUBTITLE HAS OCCURRED, THE COUNTY SHALL NOTIFY THE ON-SITE PERSONNEL OR THE PERMITTEE

1 IN WRITING OF THE VIOLATION, DESCRIBE THE REQUIRED CORRECTIVE ACTION AND THE TIME
2 PERIOD IN WHICH THE VIOLATION SHALL BE CORRECTED.

3 (D) *STOP-WORK ORDER*. IF A PERSON CLEARS OR GRADES LAND WITHOUT A GRADING PERMIT, THE
4 COUNTY SHALL ISSUE A STOP-WORK ORDER BANNING ANY OR ALL CONSTRUCTION ACTIVITY ON
5 THE SITE EXCEPT TEMPORARY SEDIMENT CONTROL MEASURES SPECIFIED BY THE COUNTY. IF A
6 PERSON CLEARS OR GRADES LAND IN VIOLATION OF THIS SUBTITLE, THE COUNTY MAY ISSUE A
7 STOP-WORK ORDER BANNING ANY OR ALL CONSTRUCTION ACTIVITY ON THE SITE EXCEPT
8 TEMPORARY SEDIMENT CONTROL MEASURES SPECIFIED BY THE COUNTY, UNTIL THE VIOLATION IS
9 CORRECTED.

10 (E) *CIVIL CITATION*. WHEN THE COUNTY IDENTIFIES A VIOLATION OF THIS SUBTITLE, THE COUNTY
11 MAY ISSUE A CITATION TO THE OWNER/DEVELOPER OR THE PERMITTEE, OR BOTH, ASSESSING CIVIL
12 PENALTIES IN ACCORDANCE WITH SECTION 18.306 OF THIS SUBTITLE. THE CONTENTS AND
13 ENFORCEMENT OF THE CITATION SHALL BE GOVERNED BY TITLE 24 OF THIS CODE.

14 (F) *INJUNCTIVE RELIEF*. ANY AGENCY WHOSE APPROVAL IS REQUIRED UNDER THIS SUBTITLE OR
15 ANY INTERESTED PERSON MAY SEEK AN INJUNCTION AGAINST ANY PERSON WHO VIOLATES OR
16 THREATENS TO VIOLATE ANY PROVISION OF THIS SUBTITLE.

17 (G) *OTHER LEGAL ACTION*. THE COUNTY MAY TAKE ANY OF THE ENFORCEMENT ACTIONS
18 AUTHORIZED BY THIS SUBTITLE REGARDLESS OF WHETHER ANY OTHER ENFORCEMENT ACTION HAS
19 BEEN TAKEN FOR A VIOLATION AND MAY TAKE OTHER LEGAL ACTION INCLUDING, WITHOUT
20 LIMITATION, REFERRAL FOR CRIMINAL ENFORCEMENT OR A CIVIL ACTION FOR DAMAGES TO
21 RECOVER DOUBLE THE AMOUNT OF COSTS INCURRED BY THE COUNTY FOR ACTIONS TAKEN TO
22 ABATE A VIOLATION. THE COUNTY SHALL USE ANY DAMAGES RECOVERED UNDER THIS SECTION
23 SOLELY FOR THE COUNTY'S EROSION AND SEDIMENT CONTROL PROGRAM, INCLUDING CORRECTING
24 FAILURES TO IMPLEMENT OR MAINTAIN SEDIMENT AND EROSION CONTROLS.

25
26 **SECTION 18.305. DENIAL OF PERMITS.**

27 THE DEPARTMENT OF INSPECTIONS, LICENSES AND PERMITS MAY DENY THE ISSUANCE OF ANY
28 PERMITS TO AN APPLICANT WHEN IT DETERMINES THAT THE APPLICANT IS NOT IN COMPLIANCE
29 WITH THE PROVISIONS OF A BUILDING OR GRADING PERMIT OR APPROVED EROSION AND SEDIMENT
30 CONTROL PLAN.

31

1 **Section ~~[[18.305]] 18.306. Penalties.~~**

2 (a) *Criminal Penalties.* ~~[[A]]~~ ANY person who violates any provision of this ~~[[subtitle]]~~
3 SUBTITLE, OR ANY RULE, REGULATION, ORDER OR PERMIT ISSUED UNDER THIS SUBTITLE, is guilty
4 of a misdemeanor and upon conviction is subject to a fine not exceeding \$1,000.00, or
5 imprisonment not exceeding six ~~[[months or both]]~~ MONTHS, OR BOTH, for each violation ~~[[with~~
6 costs imposed in the discretion of the court]]. Each day a violation OCCURS OR continues is a
7 separate offense. COSTS MAY BE IMPOSED AT THE DISCRETION OF THE COURT.

8 (b) *Civil Penalties.* ~~[[Alternatively or in addition to and concurrent with all other remedies, a~~
9 violation of this subtitle may be punished as a civil violation pursuant to the provisions of title
10 24, "civil penalties" of this Code. Each day a violation continues is a separate offense. A first
11 violation of the provisions of this subtitle shall be a Class D offense. Subsequent violations
12 shall be Class B offenses.]] A VIOLATION OF THIS SUBTITLE IS A CLASS A OFFENSE AND ANY
13 PERSON WHO VIOLATES ANY PROVISION OF THIS SUBTITLE, OR ANY RULE, REGULATION, ORDER,
14 OR PERMIT ISSUED UNDER THIS SUBTITLE, IS SUBJECT TO A CIVIL PENALTY UP TO \$1,000 FOR
15 EACH VIOLATION. EACH DAY A VIOLATION OCCURS OR CONTINUES IS A SEPARATE OFFENSE.

16 ~~[[c) *Injunctive Relief.* An agency whose approval is required under this subtitle or any~~
17 interested person may seek an injunction against any person who violates or threatens to violate
18 any provision of this subtitle.]]

19 ~~[[d) *Damages:*~~

20 (1) In addition to any other sanction under this subtitle, a person who fails to install or
21 to maintain erosion and sediment controls in accordance with an approved plan
22 shall be liable to Howard County or the State in a civil action, for damages in an
23 amount equal to double the cost of installing or maintaining the controls.

24 (2) Damages recovered in damages in accordance with this subsection shall be
25 deposited in a special fund, to be used solely for:

26 (i) Correcting to the extent possible the failure to implement or maintain
27 erosion and sediment controls; and

28 (ii) Administration of the sediment control program.]]

29
30 **SECTION 18.307. SEVERABILITY.**

1 IF ANY PORTION, SECTION, SUBSECTION, SENTENCE, CLAUSE, OR PHRASE OF THIS SUBTITLE IS FOR
2 ANY REASON HELD INVALID OR UNCONSTITUTIONAL BY ANY COURT OF COMPETENT JURISDICTION,
3 SUCH PORTION SHALL BE DEEMED A SEPARATE, DISTINCT, AND INDEPENDENT PROVISION AND
4 SUCH HOLDING SHALL NOT AFFECT THE VALIDITY OF THE REMAINING PORTION OF THIS SUBTITLE,
5 IT BEING THE INTENT OF HOWARD COUNTY THAT THIS SUBTITLE SHALL STAND,
6 NOTWITHSTANDING THE INVALIDITY OF ANY PORTION, SECTION, SUBSECTION, SENTENCE, CLAUSE,
7 OR PHRASE, HEREOF.

8
9 *Section 2. And Be It Further Enacted by the County Council of Howard County, Maryland,*
10 *that this Act shall become effective 61 days after its enactment.*

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