

**BOARD OF SUPERVISORS  
COUNTY OF NEW KENT  
VIRGINIA**

**O-02-16**

At the regular meeting of the Board of Supervisors of the County of New Kent in the Boardroom of the Administration Building in New Kent, Virginia, on the 14<sup>th</sup> day of March, 2016:

<u>Present:</u>	<u>Vote:</u>
C. Thomas Tiller, Jr.	Aye
Patricia A. Paige	Aye
W.R. Davis, Jr.	Aye
Thomas W. Evelyn	Aye
Ron Stiers	Aye

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Motion was made by Evelyn, which carried 5:0, to adopt the following ordinance:

**AN ORDINANCE TO APPROVE OA-01-16  
TO AMEND SECTION 82-116 OF THE NEW KENT COUNTY CODE**

WHEREAS, pursuant to Virginia Code Section 15.2-400 et. seq., the New Kent County Board of Supervisors has the authority to amend the County Code; and

WHEREAS, the Planning Commission scheduled and conducted a formal and duly advertised public hearing on the 16<sup>th</sup> day of February, 2016 and voted 8:0:1 to forward a favorable recommendation to the Board of Supervisors to amend Section 82-116 of the County Code; and

WHEREAS, the Board of Supervisors scheduled and conducted a formal and duly advertised public hearing on the 14<sup>th</sup> day of March, 2016; and

WHEREAS, the Board of Supervisors finds the amendment of Section 82-116 to the County Code will address, protect, and promote public convenience, necessity, general welfare, and good zoning practices in the County and the health, safety, and general welfare of the citizens in the County;

NOW THEREFORE, BE IT ORDAINED by the New Kent County Board of Supervisors this 14<sup>th</sup> day of March, 2016, that Chapter 82, Section 116 of the New Kent County Code be adopted as follows:

**Sec. 82-116. - Plan submission; requirements and approval; bonding.**

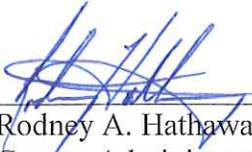
- (a) Erosion and sediment control plans shall be prepared and certified by a Virginia licensed professional engineer, architect, certified landscape architect or land surveyor.

- (b) Five copies of the erosion and sediment control plan shall be submitted to the administrator, and be accompanied by the following information:
  - (1) Name, address and phone number of applicant.
  - (2) Name, address and phone number of landowner of record.
  - (3) Name, address and phone number of the person preparing the plan.
  - (4) Location of the site including, but not limited to, road number, tax map reference and lot number.
  - (5) Other information as determined by the administrator, which may include, but is not limited to, units of clearing and grading, wood lines, tree size, topography, soils, boundaries of areas designated as RPAs and/or RMAs pursuant to Chapter 94 of this Code.
- (c) Upon submission of an erosion and sediment control plan to the administrator:
  - (1) The plan approving authority shall, within 45 days, approve any such plan if it determines the plan meets the conservation standards adopted by this article and if the person responsible for carrying out the plan certifies that he will properly perform the erosion and sediment control measures included in the plan and will conform to the provisions of this article.
  - (2) The plan approving authority shall act on all plans submitted within 45 days from their receipt by either approving such plan in writing or by disapproving such plan in writing and giving the specific reasons for its disapproval. When a plan submitted for approval under this article is found, upon review, to be inadequate, the plan approving authority shall specify such modifications, terms and condition as will permit approval of the plan and communicate those requirements to the applicant within 45 days.
  - (3) If no action is taken by the plan approving authority within the time specified in this section, the plan shall be deemed approved and the person authorized to proceed with the proposed activity.
- (d) Surety. All control measures required by this article shall be undertaken at the expense of the owner or his agent; and pending actual compliance with the terms of this article, the owner or his agent shall execute and file with the administrator prior to the issuance of the land-disturbing permit a reasonable performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement acceptable to the county attorney, to pay the approximate total cost of providing the erosion and sediment control improvements and a reasonable allowance for estimated administrative costs and inflation which shall not exceed ten percent of the estimated cost of the conservation action. The surety required by this section must be in a form approved by the county attorney, guaranteeing that the required control measures will be properly and satisfactory undertaken and maintained. Should it be necessary for the county to take such conservation action and call upon the Surety to pay for the control measures undertaken, due to the owner's failure, after proper notice, within the time specified in section 82-120 to initiate or maintain appropriate conservation action, the county may also collect from the applicant any cost in excess of the amount of the surety held. The minimum performance bond with surety, cash escrow, letter of credit, or any combination thereof required under this section shall be \$500.00. Within 60 days of permanent the

adequate stabilization of the land-disturbing activity such performance bond with surety, cash escrow, or letter of credit, or the unexpended or unobligated portion thereof, shall be released or refunded to the owner or his agent or terminated as the case may be. Permanent Adequate stabilization shall be considered established when a ground cover is achieved that is uniform, mature enough to survive and will inhibit erosion. will consist of at least 85 percent vegetative cover. The administrator shall have the sole authority to determine whether permanent adequate vegetation exists.

(Ord. No. O-09-14, 6-23-2014, Ord. No. OA-01-16, 03-14-2016)

Adopted this 14th day of March, 2016



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Rodney A. Hathaway  
County Administrator



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Ron Stiers  
Chairman of the Board of Supervisors