

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

O-11-99

At the regular meeting of the Board of Supervisors of the County of New Kent in the boardroom of the County Office Building in New Kent, Virginia, on the 13th day of March 2000:

Present:	Vote:
Julian T. Lipscomb	Aye
Rebecca M. Ringley	Aye
Dean E. Raynes	Aye
W. R. "Ray" Davis Jr.	Aye
James H. Burrell	Aye

Motion was made by Ms. Ringley, which carried 5:0, to adopt the following ordinance:

AN ORDINANCE TO AMEND SECTION 9-5 OF CHAPTER 9, LAND DEVELOPMENT REQUIREMENTS, AS FOLLOWS:

Sec. 9-5. Plan submission, requirements and approval, bonding.

(a) 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 person responsible for carrying out the plan.
4. Name, address and phone number of the person preparing the plan.
5. Location of the site, including but not limited to, road number, tax map reference, and lot number.
6. Other information as determined by the Administrator.

(b) Upon submission of an erosion and sediment control plan to the plan approving authority:

1. The plan approving authority shall within forty-five (45) days approve any such plan if it determines the plan meets the conservation standards required 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. In determining whether any plan meets the required conservation standards the plan approving authority may seek the advice of the District.

2. The plan approving authority shall act on all plans submitted within forty-five (45) days from receipt thereof by either approving said plan in writing or by disapproving said 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 conditions as will permit approval of the plan and communicate those requirements to the applicant within forty-five (45) days.
3. If no action is taken by the plan approving authority within the time specified, the plan shall be deemed approved and the person authorized to proceed with the proposed activity.

(c) Surety.

1. 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 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 of New Kent to take such conservation action, the County of New Kent may 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 five hundred dollars (\$500.00). Within sixty (60) days of 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. Adequate stabilization will consist of at least 85% vegetive cover. The Administrator shall have the sole authority to determine whether adequate vegetation exist.* ~~an agreement for a cash escrow or irrevocable loan commitment, or irrevocable letter of credit in an amount determined by the Administrator to be equal to the approximate total cost of providing the erosion and sediment control improvements and in a form approved by the County Attorney, guaranteeing that the required control measures will be properly and satisfactorily undertaken and maintained. Should it be necessary for the County of New Kent to take such conservation action, the County of New Kent may collect from the applicant any costs in excess of the amount of the surety held. The minimum letter of credit or cash escrow required under this section shall be Five Hundred (\$500.00)~~

~~Dollars. Within sixty (60) days of the adequate stabilization of the land disturbing activity, such cash escrow, letter of credit or other legal arrangement, or the unexpended or unobligated portion thereof shall be refunded to the owner or his agent or terminated as the case may be. Adequate stabilization will consist of at least an 85% vegetative cover. The administrator shall have sole authority to determine whether adequate vegetation exists.~~

2. The ~~surety bond~~ requirement of this paragraph shall not apply to the developer of single lot residential dwellings unless the developer of such lots is engaged in the construction of two or more dwellings on adjacent lots at the same time. (9/8/75) (7/12/82) (11/29/91) (10/1/92) (2/12/96)

R. J. Emerson, Jr., AICP
County Administrator

James H. Burrell
Chairman