

CODE OF ALLEGANY COUNTY MARYLAND

CHAPTER 141  
PART 2  
SEDIMENT CONTROL  
[ADDED 3-22-1985]

ARTICLE VII  
General Provisions

**§ 141-29. Legislative purpose.**

- A. Purpose. This Part 2 is adopted to establish measures and requirements to control soil erosion and sedimentation and to establish procedures by which these requirements and measures are to be administered and enforced. The purpose of this Part 2 is to safeguard the natural resources of the county and prevent damage to public and private property by establishing minimum requirements for control of grading and earthmoving.
- B. Authority. This Part 2 is adopted under the authority of and in compliance with Title 4, Environmental Article, Subtitle 1, of the Annotated Code of Maryland.
- C. Jurisdiction. This Part 2 shall apply to the unincorporated area of Allegany County and any municipality which may enter into an agreement with the county to enforce sediment and erosion control regulations within municipal boundaries. [Amended 6-10-1992]
- D. Applicability. Any person or entity proposing to do any development which includes grading must first obtain a permit for that development from the local permitting agency and must comply with all provisions of this Part 2. [Added 6-10-1992]

**§ 141-30. Definitions.**

For the purpose of this Part 2, the following definitions describe the meanings of the terms used in this Part 2:

AGRICULTURAL LAND MANAGEMENT PRACTICES - Those methods used in the cultivation of land in order to further crop and livestock production and conservation of related soil and water resources. Logging and timbering operations are not considered "agricultural practices."

APPLICANT - Any person, firm or government agency who executes the necessary forms to procure official approval of a project or a permit to carry out construction of a project.

CLEAR - Any activity which removes the vegetative land cover.

COUNTY PLANNING COMMISSION - The Allegany County Planning and Zoning Commission or any of its employees.

DEVELOPMENT - Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, dredging, filling, clearing, excavation, dumping, extraction or storage of equipment or materials. "Development" includes subdivision of land. [Added 6-10-1992]

EASEMENT - A grant or reservation by the owner of land for the use of such land by others for a specific purpose or purposes and which must be included in the conveyance of land affected by such easement.

EROSION - The process by which the land surface is worn away by the action of wind, water, ice or gravity.

EROSION AND SEDIMENT CONTROL PLAN - A set of drawings or other document submitted by a person as a prerequisite to obtaining a grading or other type of permit, which contains all of the information and specifications pertaining to erosion and sediment control.

GRADING - Any act by which soil, earth or rock is cleared, stripped, stockpiled, excavated, scarified, filled or any combination thereof.

INSPECTOR - An employee of Allegany County or a county-funded employee of the Soil Conservation District whose duties include the inspection and enforcement of Sediment Control Measures at the direction of the local permitting official. [Added 6-10-1992]

LOCAL PERMITTING OFFICIAL - An employee designated by the Allegany County Commissioners to have the authority and responsibility to implement the terms of this Part 2. [Added 6-10-1992]

SEDIMENT - Soils or other surficial materials transported or deposited by the action of wind, water, ice or gravity as a product of erosion.

SITE - Any tract, lot or parcel of land or combination of tracts, lots or parcels of land which are in one (1) ownership or are contiguous and in diverse ownership when development is to be performed as part of a unit, subdivision or product.

SOIL CONSERVATION DISTRICT - The Allegany Soil Conservation District or any of its employees. The "Soil Conservation District" is the approving authority for all erosion and sediment control plans.

STANDARDS AND SPECIFICATIONS - The 1983 Maryland Standards and Specifications for Soil Erosion and Sediment Control, or any subsequent revisions.

START OF CONSTRUCTION - The date of issue of the permit for any development. provided that the actual start of grading, construction or improvement was within one hundred eighty (180) days of permit issuance. [Added 6-10-1992]

SURFACE MINING - The strip or open pit mining of coal by those methods approved by the State Bureau of Mines. "Surface mining" of materials other than coal are subject to Water Resources Administration approval and regulations.

WATERCOURSE - Any natural or man-made stream, river, creek, ditch, channel, canal, conduit, culvert, drain, waterway, gully, ravine or wash, in and including any area adjacent thereto which is subject to inundation by reason of overflow of floodwater.

**§ 141-31. Violations and penalties.** [Amended 6-10-1992]

- A. Any violation of this Part 2 will be deemed a misdemeanor, and the person, corporation or other entity found guilty of such a violation shall be subject to a fine of no more than five thousand dollars (\$5,000.) and, upon conviction of the misdemeanor offense, is subject to one (1) year of imprisonment.
- B. Each day the violation continues may be deemed a separate offense. In addition to any other sanction under this Part 2, a person who fails to install or to maintain erosion and sediment controls in accordance with an approved plan shall be liable to Allegany County or the state in a civil action, for damages in an amount up to double the cost of installing or maintaining the controls.
- C. As an alternative the county may pursue civil fines or penalties to ensure compliance with this Part 2 and may institute injunction, mandamus or other appropriate action or proceeding at law or equity for the enforcement of violations or to correct violations, and any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions or mandamus or other appropriate forms of remedy or relief.

**§ 141-32. Severability.**

If any section, subsection, sentence, clause or phrase of this Part 2 is for any reason held to be unconstitutional or contrary to the laws of Maryland, such decision shall not affect the validity of the remaining portions of this Part 2.

**§ 141-33. Effective date; amendments.** [Amended 6-10-1992]

- A. This Part 2 is hereby enacted and shall become effective June 10, 1992, and shall replace any previously adopted Sediment and Erosion Control Ordinance.
- B. This Part 2 shall be amended as required by the Maryland Department of the Environment in compliance with Title 4, Subtitle 1, Environment Article, of the Annotated Code of Maryland.

**ARTICLE VIII**  
**Permit Requirements**

**§ 141-34. Application; monitoring of projects.**

- A. General procedure. Prior to the start of any land development or construction within the unincorporated area of Allegany County, including subdivision, building construction, grading, clearing, filling or other earth or contour change, including surface mining, gob pile removal and borrow pits, an individual, firm, corporation, agency or other entity must first make application to the Allegany County Planning and Zoning Commission for a land use permit (grading permit). This permit must be in conformance with Part 4, Zoning, and Part 1, Subdivision Regulations, of this chapter.

- B. Surface mining projects will be regulated and monitored by the State Bureau of Mines and/or the Water Resources Administration following the approval of the Soil Conservation District and the other reviewing agencies and the issuance of the county land use permit.

**§ 141-35. Exemptions.**

- A. The following activities are exempt from the provisions of this Part 2:
  - (1) Clearing or grading activities that are subject exclusively to state approval and enforcement under state law and regulation. [Amended 6-10-1992]
  - (2) Agricultural land management practices as defined in § 141-30.
- B. Additional exemptions.
  - (1) The following activities are exempt from this Part 2 so long as natural slopes of twenty-five percent (25%) or greater grade are not disturbed, and so long as areas within fifty (50) feet of the bank of a stream having a watershed greater than four hundred (400) acres, or any area within twenty-five (25) feet of other streams or drainways, or areas within mapped floodplains, are not disturbed. The county reserves the right to require erosion and sediment control plans and measures where grading activities would have an impact on downslope properties. Any exemption does not relieve the applicant or developer, from meeting county stormwater management requirements. [Amended 6-10-1992]
    - (a) Single-family dwellings or accessory structures on individual lots of two (2) acres or greater, provided that the area of earth disturbance is less than twenty thousand (20,000) square feet.
    - (b) Additions or modifications to existing single-family dwellings where less than one hundred (100) cubic yards of earth or less than five thousand (5,000) square feet of surface area are disturbed.
    - (c) Accessory structures associated with existing single-family dwellings where less than one hundred (100) cubic yards of earth or less than five thousand (5,000) square feet of surface area are disturbed.
  - (2) The county reserves the right to require erosion and sediment control plans and measures where grading activities would have an impact on downslope properties.
  - (3) Any exemption does not relieve the applicant or developer from meeting county stormwater management requirements.

**ARTICLE IX**  
**Control Plans**

**§ 141-36. Minor standard plans** [Amended 6-10-1992]

- A. Any application for a single-family dwelling in an approved major subdivision, approved minor subdivision or lot of record, or for any other development on a lot which does not result in the movement of more than two hundred fifty (250) cubic yards of earth, or disturb

twenty thousand (20,000) square feet of surface area, or which is more than fifty (50) feet from the bank of any stream having a basin of more than four hundred (400) acres or which is more than twenty-five (25) feet from the center line of any other natural or artificial drainageway in Allegany County; shall be accompanied by a standard plan signed by the applicant. This plan shall be prepared according to the guidelines set forth in Article XI. This plan may be prepared in conjunction with a minor plan for stormwater management and, where applicable, may be part of a site plan prepared according to the standards of Part 4, Zoning, of this chapter or a subdivision plat.

- B. The Soil Conservation District with the advice of the County Engineer may require the preparation of a major plan in place of a standard plan where field conditions are such that a standard plan would be insufficient to control sediment.

**§ 141-37. Major plans.** [Amended 6-10-1992]

Any application for a major subdivision or planned development of any kind, or any other use or development except those exempted in § 141-35 and those subject to § 141-36 shall be accompanied by a major sediment control plan prepared by a registered professional surveyor or landscape architect or engineer licensed to practice in Maryland. This plan shall be prepared according to the guidelines set forth in Article XI. This plan may also be prepared in conjunction with a stormwater management plan and, where applicable, may be part of an overall site plan or subdivision plat according to the provisions of the County Zoning Ordinance and Subdivision Regulations.

**§ 141-38. Waivers.**

- A. The Soil Conservation District, with the consent of the County Engineer, may allow the use of a minor plan in place of a major plan for erosion or sediment control in areas where field conditions are such that a minor plan is sufficient to control erosion and sediment.  
[Amended 6-10-1992]
- B. Waivers can only be granted when the applicant provides written documentation that conclusively show that the proposed development can meet the standards and specifications for soil erosion and sediment control as set forth by the Department of the Environment and that the development will have no adverse impact on downslope properties. [Amended 6-10-1992]
- C. Any waiver which is granted does not relieve the applicant or developer from meeting county stormwater management requirements and other land use regulations.

**§ 141-39. Plan review.** [Amended 6-10-1992]

- A. A person may not clear or grade land without first obtaining an erosion and sediment control plan approved through the following procedure:
  - (1) Minor sediment control plans will be reviewed and approved by the Soil Conservation District prior to issuance of a grading permit.

(2) Major sediment control plans will be reviewed and approved by the Soil Conservation District and the County Engineer prior to issuance of a grading permit.

- B. In approving the plan, the Soil Conservation District may impose such conditions thereto as may be deemed necessary to endure compliance with the provisions of this Part 2, the State Sediment Control Regulations, COMAR 26.09.01, the Standards and Specifications or the preservation of public health and safety.

**§ 141-40. Permit approval and issuance.** [Amended 6-10-1992]

- A. Upon notification of approval by the reviewing agencies, and after approval of the erosion and sediment control plan by the Soil Conservation District, the local permitting official will issue the appropriate permit, provided that all other land use code requirements and ordinances have been met.
- B. Approved plans remain valid for one (1) year from the date of approval unless a written request for an extension is submitted and approved by the approving agencies.

**§ 141-41. Revisions.** [Amended 6-10-1992]

Any revision to either a minor or major sediment control plan must be submitted as a plan amendment to the local permitting official for review and approval by the Soil Conservation District and, when applicable, the County Engineer, and must be so noted on the original permit.

**§ 141-42. Bonding.**

- A. The local permitting official reserves the right to require a performance bond to guarantee completion of any approved sediment control measures with the advice of the Soil Conservation District and the County Engineer who will set the amount of bonding necessary. Following completion of construction activity and final approval by the Soil Conservation District, the bond will be released. [Amended 6-10-1992]
- B. Bonding may be combined with stormwater management measures or subdivision improvements, where applicable.

**ARTICLE X**  
**Inspections and Enforcement**

**§ 141-43. Inspection frequency; reports.**

- A. The permittee shall maintain a copy of the approved erosion and sediment control plan on site.
- B. On all sites with disturbed areas in excess of two (2) acres, the permittee shall request that the County Planning Commission inspect work completed at the stages of construction

specified below to ensure accordance with the approved erosion and sediment control plan, the grading or building permit and this Part 2:

- (1) Upon completion of installation of perimeter erosion and sediment controls, prior to proceeding with any other earth disturbance or grading. Other building or grading inspection approvals may not be authorized until initial approval by the inspection agency is made.
  - (2) Upon final stabilization before to removal of sediment controls.
- C. Every active site having designed erosion and sediment control plan should be inspected for compliance with the plan on the average once every two (2) weeks.
- D. Inspectors shall prepare written reports after every inspection. The inspection report shall describe:
- (1) The date and location of the site inspection.
  - (2) Whether or not the approved plan has been properly implemented and maintained.
  - (3) Any practice deficiencies or erosion and sediment control plan deficiencies.
  - (4) If a violation exists, the type of enforcement action taken.
- E. The County Planning Commission shall notify the on- site personnel or the owner / developer in writing when violations are observed, describing:
- (1) The nature of the violation.
  - (2) The required corrective action..
  - (3) The time period in which to have the violation corrected.

**§ 141-44. Right of entry.** [Amended 6-10-1992]

It shall be a condition of every grading or building permit that the county and the Soil Conservation District have right to enter property periodically to inspect for compliance with this Part 2.

**§ 141-45. Required modification of plans**

When inspection of the site indicates that the approved erosion and sediment control plan needs modification, the modification shall be made in compliance with the erosion and sediment control criteria contained in the Standards and Specifications as follows:

- A. The permittee shall submit requests for major modifications to approved erosion and sediment control plans, such as the addition or deletion of a sediment basin, to the plan approval agency to be processed appropriately. This processing includes modifications due to plan inadequacies at controlling erosion and sediment as revealed through inspection.
- B. The inspectors may approve minor modifications to approved erosion and sediment control plans in the field if documented on a field inspection report. The plan approval agencies shall, in conjunction with the local permitting official, develop a list of allowable field modifications for use by the inspector. [Amended 6-10-1992]

**§ 141-46. Complaints.** [Amended 6-10-1992]

The county shall receive complaints and initiate enforcement procedures when violations are confirmed. Any complaint received shall be acted upon routinely within three (3) days, and the complainant shall be notified of any action or proposed action routinely within seven (7) days of receipt of the complaint.

**§ 141-47. Enforcement procedures.**

- A. When the county determines that a violation of the approved erosion and sediment control plan has occurred, the inspector shall notify the on-site personnel or the permittee in writing of the violation, describe the required corrective action and the time period in which to have the violation corrected. [Amended 6-10-1992]
- B. If the violation persists after the date specified for corrective action in the notice of violation, the county shall stop work on the site. The county shall determine the extent to which work is stopped, which may include all work on the site except that work necessary to correct the violation. [Amended 6-10-1992]
- C. If reasonable efforts to correct the violation are not undertaken by the permittee, the county shall refer the violation for legal action. [Amended 6-10-1992]
- D. The county may deny the issuance of any permits to an applicant when it determines that the applicant is not in compliance with the provisions of a building or grading permit or approved erosion and sediment control plan. [Amended 6-10-1992]
- E. Any step in the enforcement process may be taken at any time, depending upon the severity of the violation.
- F. If a person is working without a permit, the county shall stop work on the site except activity necessary to provide erosion and sediment control. [Amended 6-10-1992]

**ARTICLE XI**  
**Control Standards**

**§ 141-48. General standards.**

- A. All finished grading shall match as closely as possible the natural contour of adjacent undisturbed land. Finished slopes in unconsolidated materials should not exceed a ratio of two to one (2: 1), horizontal to vertical. Where bedrock is exposed, a slope ratio of one to one (1:1) should not be exceeded. The Soil Conservation District may vary these slope standards, depending on soil or rock type and condition.
- B. All lots intended for building sites should have a building site where the natural contour, before grading, is less than twenty-five percent (25%) in grade. Slopes with grades steeper than this percentage may be counted as part of the lot area, but are not to be used as part of the building site. The Zoning Administrator may vary this slope standard with the consent

of the Soil Conservation District, depending on slope stability, soil and rock type and condition.

- C. Sediment and erosion control plans will be designed according to the State Sediment Control Regulations, CO MAR 26.09.01 and the criteria set forth in Standards and Specifications for Soil Erosion and Sediment Control published by the Maryland Department of the Environment and available in the Allegany County Soil Conservation District office. [Amended 6-10-1992]

**§ 141-49. Minor plan guidelines.** [Amended 6-10-1992]

A. Minor plans for sediment and erosion control will be prepared according to the standard site plan criteria in § 141-113, Part 4, Zoning, on a worksheet provided by the Planning Commission and signed by the applicant or his agent. This plan will include a plan view of the site and will show the following:

- (1.) A vicinity sketch indicating North arrow, scale and other information necessary to easily locate the site.
- (2.) The location and size of existing and proposed buildings.
- (3.) The volume of grading or earth disturbance involved.
- (4.) Staging of the clearing and grading operation.
- (5.) (5) The depth or height of cut and fill involved.
- (6.) The degree of steepness of any existing slope upon which fill is placed.
- (7.) The degree of steepness of final graded slopes.
- (8.) The proposed manner of handling stormwater runoff.
- (9.) The proposed manner and timing of providing temporary and permanent stabilization such as with vegetation, concrete, blacktop, retaining walls, etc.
- (10.) Proposed erosion and sediment control principles, methods and practices to be employed.
- (11.) A plan view of the site when grading is completed
- (12.) Approximate locations of streams, ditches or other drainageways are to be included.

B. The Soil Conservation District will provide advice to the applicant as necessary during the preparation of this plan.

**§ 141-50. Major plan guidelines** [Amended 6-10-1992]

Major sediment control plans will be prepared by a registered professional surveyor, landscape architect or engineer licensed to practice in the State of Maryland and will bear his seal. Major plans will be drawn on Mylar or some other translucent material at a size of twenty-four by twenty-four (24 x 24) inches according to the major site plan criteria in § 141-114 of Part 4, Zoning. This plan will include a plan view of the site at an appropriate scale and will show the following:

- A. A vicinity sketch indicating North arrow, scale and other information necessary to easily locate the property.
- B. The name, address and telephone number of the owner of the property where the grading is proposed along with the applicant's name and telephone number and the developer's name and telephone number if different from the owner.
- C. The location and size of buildings.
- D. The existing and proposed topography.
- E. The proposed grading and earth disturbance, including:
  - (1) The surface area involved.
  - (2) The volume of spoil material.
  - (3) The volume of borrow material.
  - (4) Limits of grading, including limitations of mass clearing and grading whenever possible.
- F. Storm drainage provisions, including:
  - (1) Velocities and quantities of flow at outfalls.
  - (2) Site conditions around points of all surface water discharge from the site.
- G. Erosion and sediment control provisions to minimize on-site erosion and prevent off-site sedimentation, including:
  - (1) Provisions to preserve topsoil and limit disturbance.
  - (2) Details of grading practices.
  - (3) Design details for structural controls.
  - (4) Details of temporary and permanent stabilization measures, including placement of the following statement on the plan.
    - (a) Following initial soil disturbance or redistribution, permanent or temporary stabilization shall be completed within seven (7) calendar days as to the surface of all perimeter controls, dikes, swales, ditches, perimeter slopes and all slopes greater than three (3) horizontal to one (1) vertical [three to one (3: 1)] and fourteen (14) days as to all other disturbed or graded areas on the project site.
    - (b) The requirements of Subsection G.(4).(a). do not apply to those areas which are shown on the plan and are currently being used for material storage or for those areas on which actual construction activities are currently being performed or to interior areas of a surface mine site where the stabilization material would contaminate the recoverable resource. Maintenance shall be performed as necessary to ensure that the stabilized areas continuously meet the appropriate requirements of the Standards and Specifications for Soil Erosion and Sediment Control.
- H. Sequence of construction describing the relationship between the implementation and maintenance of controls, including permanent and temporary stabilization and the

various stages or phases of earth disturbance and construction. The sequence of construction shall, as a minimum, include a schedule and time frame for the following activities:

- (1) Clearing and grubbing for those areas necessary for installation of perimeter controls.
  - (2) Construction of perimeter controls.
  - (3) Remaining clearing and grubbing.
  - (4) Road grading.
  - (5) Grading for the remainder of the site.
  - (6) Utility installation and whether storm drains will be used or blocked after construction.
  - (7) Final grading, landscaping or stabilization.
  - (8) Removal of controls.
- I. A general description of the predominant soil types on the site, as described by the appropriate soil survey information available through the Soil Conservation District from the United States Soil Conservation Service.
- J. A statement placed on the plan indicating that the developer shall request that the County approve work completed in accordance with the approved erosion and sediment control plan, the grading or building permit and this Part 2.
- (1) On all sites with disturbed areas in excess of two acres, approval of the inspection agency shall be requested upon completion of installation of perimeter erosion and sediment controls, but before proceeding with any other earth disturbance or grading. Other building or grading inspection approvals may not be authorized until this initial approval by the inspection agency is made.
  - (2) Approval shall be requested upon final stabilization of all sites with disturbed areas in excess of two acres before removal of controls.
- K. Certification by the owner or developer that any clearing, grading, construction or development, or all of these, will be done pursuant to this plan and that responsible personnel involved in the construction project will have a certification of training at a Maryland Department of the Environment approved training program for the control of sediment and erosion beginning the project. The certification of training for responsible personnel requirement may be waived by the Soil Conservation District on any residential project involving four or fewer residential units.
- L. Any additional information or data deemed appropriate by the Soil Conservation District.

**History:**

Adopted by the Board of Commissioners of Allegany County 3/22/1985. Amendments noted where applicable.

Amended by the Board of Commissioners of Allegany County 6/10/1992<sup>2</sup>. Amendments noted where applicable.

**General Reference:**

Building Permits - See Chapter 103

Land Development - See Chapter 141, Part 1, Subdivision.

Land Development - See Chapter 141, Part 3, Stormwater.

Land Development - See Chapter 141, Part 4, Zoning.

**Editor's Notes:**

1. This ordinance also provides that it shall take effect 4/1/1985.
2. This ordinance also provides that it shall take effect 6/10/1992.

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