



NOTICE OF PUBLIC HEARING

The following is intended to amend Section 22 of the Code of Ordinances in the Town of Jamestown. A public hearing to solicit public input is scheduled on Tuesday December 6, 2005 at 7:00 p.m. in the large conference room of the Jamestown Philomenian Library, 26 North Road.

AN ORDINANCE AMENDING CHAPTER 22 OF THE CODE OF ORDINANCES OF THE TOWN OF JAMESTOWN

THE TOWN OF JAMESTOWN HEREBY ORDAINS AS FOLLOWS:

Section 1. Article V of Chapter 22 of the Jamestown Code of Ordinances is hereby amended by adding the following new Division thereto

Division 2. Soil Erosion and Sediment Control

Sec. 22-226. Purpose.

(a) The town council finds that excessive quantities of soil are eroding from certain areas that are undergoing development for non agricultural uses such as housing developments, industrial areas, recreational facilities, and roads. This erosion makes necessary costly repairs to gullies, washed out fills, roads, and embankments. The resulting sediment clogs the storm sewers and road ditches, muddies streams, leaves deposits of silt in ponds and reservoirs, and is considered a major water pollutant.

(b) The purpose of this ordinance is to prevent soil erosion and sedimentation from occurring as a result of non agricultural development within the town by requiring proper provisions for water disposal, and the protection of soil surfaces during and after construction, in order to promote the safety, public health, and general welfare of the town.

Sec. 22-227. Applicability.

This ordinance is applicable to any situation involving any disturbance to the terrain, topsoil or vegetative ground cover upon any property within the town of Jamestown after determination of applicability by the building official or his or her designee based upon criteria outlined in Section 22-228 hereof. Compliance with the requirements as described in this ordinance shall not be construed to relieve the owner/applicant of any obligations to obtain necessary state or federal permits.

Sec. 22-228. Determination of applicability.

(a) (1) It is unlawful for any person to disturb any existing vegetation, grades, and contours of land in a manner which may increase the potential for soil erosion, without first applying for a determination of applicability from the building official or his or her designee. Upon determination of applicability, the owner/applicant shall submit a soil erosion and sediment control plan for approval by the building official or his or her designee, as provided in Section 22-229 hereof. The application for determination of applicability shall describe the location, nature, character, and time schedule of the proposed land disturbing activity in sufficient detail to allow the building official or his or her designee to determine the potential for soil erosion and sedimentation resulting from the proposed project. In determining the applicability of the soil erosion and sediment control ordinance to a particular land disturbing activity, the building official or his or her designee shall consider site topography, drainage patterns, soils, proximity to watercourses, and other information deemed appropriate by the building official or his or her designee. A particular land disturbing activity shall not be subject to the requirements of this ordinance if the building official or his or her designee finds that erosion resulting from the land disturbing activity is insignificant and represents no threat to adjacent properties or to the quality of any coastal feature or watercourse, as defined in Section 234 hereof. The current "Rhode Island Soil Erosion and Sediment Control Handbook," U.S. department of agriculture soil conservation service, R.I. department of environmental management, and R.I. state conservation committee shall be consulted in making this determination.

(2) This ordinance shall not apply to existing quarrying operations actively engaged in excavating rock but shall apply to sand and gravel extraction operations.

(b) No determination of applicability is required for the following:

(1) Construction, alteration, or use of any additions to existing single family or duplex homes or related structures; provided, that the grounds coverage of addition is less than one thousand (1,000) square feet, and construction, alteration and use does not occur within one hundred (100') feet of any watercourse or coastal feature, and the slopes at the site of land disturbance do not exceed ten percent (10%).

(2) Use of a home garden in association with onsite residential use.

(3) Accepted agricultural management practices such as seasonal tilling and harvest activities associated with property utilized for private and/or commercial agricultural or silvacultural purposes.

(4) Excavations for improvements other than those described in subsection (b)(1) of this section which exhibit all of the following characteristics:

(i) Does not result in a total displacement of more than fifty (50) cubic yards of material;

(ii) Has no slopes steeper than ten feet (10') vertical in one hundred feet (100') horizontal or approximately ten percent (10%); and

(iii) Has all disturbed surface areas promptly and effectively protected to prevent soil erosion and sedimentation.

(5) Grading, as a maintenance measure, or for landscaping purposes on existing developed land parcels or lots; provided, that all bare surface is immediately seeded, sodded or otherwise protected from erosive actions, and all of the following conditions are met:

(i) The aggregate area of activity does not exceed two thousand (2,000) square feet; and

(ii) The change of elevation does not exceed two feet (2') at any point; and

(iii) The grading does not involve a quantity of fill greater than eighteen (18) cubic yards; except where fill is excavated from another portion of the same parcel and the quantity does not exceed fifty (50) cubic yards.

(6) Grading, filling, removal, or excavation activities and operations undertaken by the town under the direction and supervision of the director of public works for work on streets, roads, or rights-of-ways dedicated to public use; provided, that adequate and acceptable erosion and sediment controls are incorporated, in engineering plans and specifications, and employed. Appropriate controls apply during construction as well as after the completion of these activities. All work shall be undertaken in accordance with the performance principles provided for in Section 22-230, Subsection (c) and the standards and definitions that may be adopted to implement the performance principles.

22-229. Provisions of plan – Procedures.

(a) Plan

(1) To obtain approval for a land disturbing activity as found applicable by the building official or his or her designee under Section 22-228 hereof, an applicant shall first file an erosion and sediment control plan signed by the owner of the property, or authorized agent, on which the work subject to approval is to be performed. The plan or drawings, as described in Section 22-230 hereof, shall include proposed erosion and sediment control measures to be employed by the applicant or the applicant's agent.

(2) R.I. Freshwater Wetlands Permit: Where any portion of a proposed development requires approval under any provision of the general laws approved by the general assembly or where the approval contains provisions for soil erosion and sediment controls, that approved plan shall be a component of the overall soil erosion and sediment control plan required under this ordinance for the development.

(b) Fees

The town may collect fair and reasonable fees from each applicant requesting approval of a soil erosion and sediment control plan for the purposes of administering this ordinance.

(c) Plan Review

(1) Within five (5) working days of the receipt of a completed plan, the building official or his or her designee shall send a copy of the plan to the review authorities which may include the public works department, the planning department, and conservation commission for the purpose of review and comment. The building official or his or her designee may also, within five (5) working days, submit copies of the plan to other local departments or agencies, including the conservation district that services Newport county, in order to

better achieve the purposes of this chapter. Failure of these review authorities to respond within twenty-one (21) days of their receipt of the plan shall be deemed as no objection to the plan as submitted.

(2) The time allowed for plan review shall be commensurate with the proposed development project, and shall be done simultaneously with other reviews.

(d) Plan Approval

(1) The building official or his or her designee shall take action in writing, either approving or disapproving the plan, with reasons stated within ten (10) days after the building official has received the written opinion of the review authorities.

(2) In approving a plan, the building official or his or her designee may attach conditions deemed reasonably necessary by the review authorities to further the purposes of this ordinance. The conditions pertaining to erosion and sediment control measures and/or devices, may include, but are not limited to, the erection of walls, drains, dams, and structures, planting vegetation, trees and shrubs, furnishings, necessary easements, and specifying a method of performing various kinds of work, and the sequence or timing of the work. The applicant/owner shall notify the building inspector, or his or her designee, in advance of his or her intent to begin clearing and construction work described in the erosion and sediment control plan. The applicant shall have the erosion and sediment control plan on the site during grading and construction.

(e) Appeals

(1) Administrative procedures: (A) If the ruling made by the building official or his or her designee is unsatisfactory to the applicant/owner, the applicant/owner may file a written appeal. The appeal of plans for soil erosion and sediment control shall be to the zoning board of review.

(B) Appeal procedures shall follow current requirements for appeal to the zoning board of review from a decision of the building official.

(C) During the period in which the request for appeal is filed, and until the time that a final decision is rendered on the appeal, the decision of the building official or his or her designee remains in effect.

(2) Expert opinion: The official, or his or her designee, or the zoning board of review may seek technical assistance on any soil erosion and sediment control plan. The expert opinion must be made available in the office of the building official, or his or her designee, as a public record prior to the appeals hearing.

Sec. 22-230. Soil Erosion and Sediment Control Plan.

(a) Plan preparation.

The erosion and sediment control plan shall be prepared by a registered engineer, or landscape architect or a soil and water conservation society certified erosion and sediment control specialist, and copies of the plan shall be submitted to the building official or his or her designee.

(b) Plan contents.

The erosion and sediment control plan shall include sufficient information about the proposed activities and land parcels to form a clear basis for discussion and review and to assure compliance with all applicable requirements of this chapter. The plan shall be consistent with the data collection, data analysis, and plan preparation guidelines in the current "Rhode Island Soil Erosion and Sediment Control Handbook," prepared by the U.S. department of agriculture, soil conservation service, R.I. department of environmental management, R.I. state conservation committee, and at a minimum, shall contain:

(1) A narrative describing the proposed land disturbing activity and the soil erosion and sediment control measures and stormwater management measures to be installed to control erosion that could result from the proposed activity. Supporting documentation, such as a drainage area, existing site, and soil maps shall be provided as required by the building official or his or her designee.

(2) Construction drawings illustrating in detail existing and proposed contours, drainage features, and vegetation; limits of clearing and grading, the location of soil erosion and sediment control and stormwater management measures, detail drawings of measures; stock piles and borrow areas; sequence and staging of land disturbing activities; and other information needed for construction.

(3) Other information or construction plans and details as deemed necessary by the building official or his or her designee for a thorough review of the plan

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