

Chapter 17 SOIL EROSION AND SEDIMENTATION CONTROL*

*Cross references: Buildings and building regulations, Ch. 4; planning, Ch. 15; streets and sidewalks, Ch. 18; excavations, § 18-1; subdivisions, Ch. 19.

State law references: Soil erosion and sediment control, G.L. 1956, § 45-46-1 et seq.

Sec. 17-1. Findings.

The town council hereby finds that excessive quantities of soil are eroding from certain areas that are undergoing development for nonagricultural 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, road ditches and muddies streams, leaves deposits of silt in ponds and reservoirs and is considered a major water pollutant. Construction debris, litter and spills also clog the storm water management system and contaminate surface and ground water.

(Ord. of 9-8-87, § 1)

Sec. 17-2. Purpose.

The purpose of this chapter is to control wastes, including but not limited to, discarded building materials, concrete truck wash out, chemicals, litter, and sanitary wastes, and to prevent soil erosion and sedimentation from occurring as a result of nonagricultural development within the town, by requiring proper provisions for water disposal, construction waste management, and the protection of soil surfaces during and after construction, in order to promote the safety, public health and general welfare of the town.

(Ord. of 9-8-87, § 1)

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. 17-3. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Applicant shall mean any person corporation, or public or private organization proposing a development which would involve disturbance to the natural terrain.

Best Management Practices (BMPs) schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to storm water, receiving waters, or storm water conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials.

Building Official shall mean the appointed Town Building Official and/or his or her designee, including but not limited to the Highway Director, Department of Public Works Director and Consulting Town Engineer.

Coastal feature Coastal beaches and dunes, barrier beaches, coastal wetlands, coastal cliffs, bluffs, and banks, rocky shores, and manmade shorelines as defined in "The State of Rhode Island Coastal Resources Management Program" as amended.

Construction wastes shall mean solid and/or liquid wastes generated from the construction/site development process. This includes, but is not limited to discarded building materials, fill material containing asphalt, concrete, discarded building materials or stumps, concrete truck washout, chemicals, litter, and sanitary wastes.

Cut shall mean an excavation, the difference between a point on the original ground and a designated point of lower elevation on the final grade, also, the material removed in excavation.

Development project shall mean any construction, reconstruction, demolition, or removal of structures, roadways, parking, or other paved areas; utilities, or other similar facilities, including any action requiring permit by the town.

Erosion shall mean the removal of mineral and/or organic matter by the action of wind, water, and/or gravity.

Excavate shall mean any act by which earth, sand, gravel, rock, or any other similar material is dug into, cut, quarried, uncovered, removed, displaced, relocated, or bulldozed, and shall include the conditions resulting there from.

Fill shall mean any act by which earth, sand, or other material is placed or moved to a new location aboveground. The fill is also the difference in elevation between a point of existing undisturbed ground and a designated point of higher elevation of the final grade.

Land-disturbing activity shall mean any physical land development activity which included such actions as clearance of vegetation; moving or filling of land; removal or excavation of soil or mineral resources; or similar activities.

Runoff shall mean the surface water discharge or rate of discharge of a given watershed after a fall of rain or snow and including seepage flows that do not enter the soil but run off the surface of the land. Also, that portion of water that is not absorbed by the soil, but runs off the land surface.

Sediment shall mean solid material, both mineral and/or organic, that is in suspension, is being transported, or has been moved from its site of origin by wind, water or gravity as a product of erosion.

Site shall mean the land or water area where any water pollution control practice is physically located or conducted including adjacent land used in connection with the facility or activity.

Soil amendment shall mean any material, such as compost, lime, gypsum, sawdust, or synthetic conditioner that is worked into the soil to make it more amenable to plant growth.

Soil Erosion and Sediment Control Plan shall mean the approved document required before any person may cause a disturbance to the natural terrain within the town as herein regulated; also, herein referred to as the “plan.” A storm water pollution prevention plan, which has been approved by the Rhode Island Department of Environmental Management (RIDEM), can be considered acceptable for the purposes of this ordinance, provided that the plan has also been reviewed and approved by the town pursuant to this ordinance.

Watercourse The term watercourse means any tidewater or coastal wetland at its mean high water level, and any freshwater wetland at its seasonal high water level, including, but not limited to, any river, stream, brook, pond, lake, swamp, marsh bog, fen, wet meadow, or any other standing or flowing body of water. The edge of the watercourse shall be used for delineation purposes.

Sec. 17-4. Applicability.

1. This chapter shall be applicable in any situation involving any disturbance to the natural terrain, topsoil or vegetative ground cover upon any property within the town except as so specified in section 17-5 including but not limited to the following specific situations:
 - a. For any development project subject to the obtaining of a building permit pursuant to the building code;
 - b. For any development project subject to the approval of a subdivision plan pursuant to the subdivision regulations; however, the preliminary and final plats approved by the town planning commission shall constitute the plan;
 - c. All plans for projects undertaken by the town through private contractors shall include in the specifications and in the contract documents the requirements of this chapter;
 - d. All projects undertaken directly by the department of public works and by its several divisions shall be undertaken in accordance with the performance principles provided for in this Ordinance and such standards and definitions as may be adopted to implement such performance principles.
(Ord. of 9-8-87, § 2)

2. Determination of Applicability

It shall be 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 or other storm water pollutants, without first applying for and receiving a Soil Erosion and Sedimentation Control permit or a notice of non applicability from the Building Official.

The application 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 shall consider site topography, drainage patterns, soils, proximity to watercourses, and other information deemed appropriate by the building official or his or her designee. Where less than one acre is disturbed, 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. The current *Rhode Island Soil Erosion and Sediment Control Handbook* shall be consulted in making this determination.

In making this determination, the building official will also take into consideration the sensitivity of the waterbody to which the site drains. A waterbody and its watershed will be considered sensitive if a total maximum daily load or special area management plan is written or under development for it, or it is included on RIDEM's 303(d) list, or is included on RIDEM's list of special resource protection waters (Appendix D of the *Rhode Island Water Quality Regulations*), or has been noted by the town to be of special concern.

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

17-5 Exemptions

The requirements of this chapter are not applicable to the following:

- (1) Construction, alteration, or use, of any additions to existing single family or two-family homes or related structures, provided that the grounds coverage of addition is less than one thousand (1,000) square feet, does not occur within 100 feet of any watercourse or coastal feature, and the slopes at the site of land disturbance do not exceed 10%;
- (2) Accepted agricultural management practices such as seasonal tilling and harvest activities associated with property utilized for private or commercial agricultural or silvicultural purposes;
- (3) An excavation which exhibits all of the following characteristics:
 - a. Is less than four (4) feet in vertical depth at its deepest point as measured from the average elevation of the natural ground surface; and
 - b. Does not result in a total displacement of more than fifty (50) cubic yards of material on any lot, land, parcel or subdivision; and
 - c. Has no slopes steeper than ten (10) feet vertical in one hundred (100) feet horizontal or approximately ten (10) percent; and

d. Has all disturbed surface areas promptly and effectively protected to prevent soil erosion and sedimentation from occurring including seeding or sodding, and provided that all disturbed surface areas which will be exposed for a period of time in excess of thirty (30) days shall be covered with a suitable temporary protective ground cover until permanent ground cover is in place.

(4) Grading, as a maintenance measure, or for landscaping purposes on existing developed land parcels or lots, provided that all of the following conditions are met:

- a. The aggregate area of activity does not exceed one thousand (1,000) square feet; and
- b. The change of elevation does not exceed two (2) feet at any point; and
- c. All bare surface area is promptly seeded, sodded, or otherwise effectively protected from erosive actions;
- d. 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.

(5) 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-way dedicated to public use; provided, however, that adequate and acceptable erosion and sediment controls are incorporated in engineering plans and specifications and employed. Appropriate controls shall apply during construction as well as after the completion of such activities.

(6) Use of a home garden in association with residential use.
(Ord. of 9-8-87, § 3)

Cross references: Licenses and business regulations, Ch. 11.

Sec. 17-6. Permit application.

1. To obtain approval for a permit under the provisions of this chapter, for a land disturbing activity found applicable by the Building Official, the applicant shall first file a soil 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 shall include proposed erosion and sediment control and waste management measures to be employed by the applicant or his agent.
2. Rhode Island Department of Environmental Management Freshwater Wetlands Permit: Where any portion of a proposed development requires approval under the state freshwater wetlands act, section 2-1-15 et seq. of the General Laws, and where such 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 by this chapter for the development. If such a permit is required by RIDEM, the applicant will also submit a copy of the permit.
(Ord. of 9-8-87, § 4(a))

3. Rhode Island Department of Environmental Management Rhode Island Pollution Discharge Elimination Systems Permit: If such a permit is required by RIDEM, the applicant will also submit a copy of the Notice of Intent or approved individual permit.

4. Contents of Plan

- a. The soil erosion and sediment control plan shall be prepared by a registered professional engineer, or land surveyor on standard eight and one-half (8-1/2) inch by eleven (11) inch, eleven (11) inch by seventeen (17) inch, or twenty-four (24) inch by thirty-six (36) inch sheets at a suggested scale of one (1) inch equals forty (40) feet. A key sheet shall be included if a plan consists of more than two (2) sheets. The soil erosion and sediment control plan shall include sufficient information about the proposed activities and land parcel(s) to form a clear basis for discussion and review and to comply with all applicable requirements of this chapter. ~~The plan shall qualify as a Class I survey. (DELETE)~~
- b. A minimum of three (3) copies, plus any additional copies that may be required by the building official, shall be submitted.
- c. A brief narrative describing the proposed land disturbing activity and the soil erosion and sediment control measures, waste management measures, construction-site chemical control measures, and storm water management measures to be installed to control erosion and storm water pollution that could result from the proposed activity. The narrative shall also provide a description of any potential sources of pollution that may be expected to affect the quality of storm water discharges from the site.
- d. 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.
- e. Construction drawings in detail commensurate with the size of the project, sensitivity of the potentially affected waterbody and distance to water and/or storm sewer system. These drawings will illustrate existing and proposed contours, drainage features, and vegetation; limits of clearing and grading, the location of soil erosion and sediment control and storm water management measures, detail drawings of measures; stock piles and borrow areas; waste collection; concrete truck wash out sites; sequence and staging of land disturbing activities; and other information needed for construction.
- f. A schedule showing the sequence of construction and inspection and maintenance of erosion and sediment control measures.
- g. All applicants shall provide 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 prior to action being taken as prescribed in this chapter. Withholding or delay of information may be reasons for the building official or his or her designee to judge the application as incomplete and providing grounds for disapproval of the application.

- h. This information may be drafted on the plans or may be included as attachments and shall consist of the following:
 - i. Locus plan;
 - ii. The name and address of the owner of the site, and, if different, the applicant, the designer, and the developer;
 - iii. The location, extent, and type of all proposed work to be performed, including all existing and proposed buildings, structures, utilities, sewers, water mains, and storm drains on the site;
 - iv. Topographic mapping with elevations keyed to the municipal base showing existing contours at intervals of not more than two (2) feet and contours at two (2) foot intervals of the finished grade of all disturbed land areas at the conclusion of the construction and/or land disturbance activities;
 - v. A description of the general topographic and soil conditions at the project site, including all significant limitations such as rock outcrops, existing alterations to natural drainage, and any other site characteristics pertinent to the work to be performed;
 - vi. The location and size of all parking and loading areas and driveways, both public and private;
 - vii. The location of all existing and proposed buildings or structures, utilities including drainage facilities, and all significant natural features within one hundred (100) feet of the proposed work to be performed;
 - viii. The name, location, right-of-way width, and pavement width of all streets, roads and highways within one hundred (100) feet of the site;
 - ix. The location and names, if applicable, of any streams, wetlands, water bodies, drainage swales, watercourses, and areas subject to periodic flooding, both on and within one hundred (100) feet of the site on which the work is to be performed. Included shall be a delineation of any areas designated as flood hazards by the Federal Emergency Management Agency or other state or federal agencies;
 - x. The names and addresses of all owners of abutting parcels and the location of all adjoining lot boundaries according to the latest assessor's records;
 - xi. The approximate total quantity of earthwork involved in the proposed work, with appropriate breakdown as to cut and fill;
 - xii. The location and extent of the removal of existing topsoil, trees, and other vegetation; quantities and location of any material to be removed from the site;

xiii. The estimated time of exposure for all disturbed land area(s) on the site prior to the completion of effective temporary or permanent erosion and sediment control measures and facilities. This shall include planting and seeding dates and application rates, and the phasing plan indicating the anticipated starting and completion dates of all phases of proposed site work;

xiv. Details of all proposed drainage provisions to be employed on the site including the location and type of all proposed erosion and sediment control measures and storm water runoff controls of both a permanent and temporary nature and specifications for the maintenance of each;

xv. The type, location, and extent of all proposed temporary and permanent vegetation and mulching that will be used to protect exposed areas of the project site;

xvi. Prompt submittal of such other information or construction plans and details as deemed necessary by the building official or his designated agent for a thorough review of the plan prior to action being taken as prescribed in this chapter. Withholding or delay of such information may be reason for the building official to judge the application as incomplete and grounds for disapproval;

xvii. Performance principles:

a. The contents of the soil erosion and sediment control plan shall clearly demonstrate how the principles, outlined below, have been met in the design and are to be accomplished by the proposed development project.

1. The site selected shall show due regard for natural drainage characteristics and topography;

2. To the extent possible, steep slopes (e.g., greater than 10 percent) shall be avoided.

3. The grade of slopes created shall be minimized;

4. When downstream capacities prove to be inadequate, any increase in storm runoff shall be controlled on-site to minimize downstream impact. This increased storm runoff shall be retained and recharged as close as feasible to its place of origin by means of detention ponds or basins, seepage areas, subsurface drains, porous paving, or similar technique;

5. Original boundaries, alignment and slope of watercourses within the project locus shall be preserved to the greatest extent feasible;

6. In general, drainage shall be directed away from structures intended for human occupancy, municipal or utility use, or similar structures;
7. All drainage provisions shall be of such a design and capacity so as to adequately handle storm water runoff, including runoff from tributary upstream areas which may be outside the locus of the project;
8. Drainage facilities shall be installed as early as feasible during construction, prior to site clearance, if possible;
9. Fill located adjacent to watercourses shall be suitably protected from erosion by means of rip-rap, gabions, retaining walls, vegetative stabilization, or similar measures;
10. Temporary vegetation or mulching shall be used to protect bare areas and stockpiles from erosion during construction; the smallest areas feasible shall be exposed at any one (1) time; disturbed areas shall be protected during the nongrowing months, November through March;
11. Permanent vegetation shall be placed immediately following fine grading;
12. Trees and other existing vegetation shall be retained whenever feasible; the area beyond the dripline shall be fenced or roped off to protect trees from construction equipment;
- (13) Construction wastes and construction-site chemicals will be managed to reduce the potential for storm water runoff to mobilize them and contaminate surface or ground water;
- (14) All areas damaged during construction shall be resodded, reseeded, or otherwise restored. Where soil compaction has occurred through storage of materials or use of equipment, soil infiltration shall be restored through use of soil amendments or other means. Monitoring and maintenance schedules, where required, shall be predetermined.

b. In order to comply with the principles set forth above, the building official shall use as a reference in determining the suitability and adequacy of erosion-sediment plans the publication entitled, *Rhode Island Erosion and Sediment Control Handbook*, as amended.
(Ord. of 9-8-87, § 5)

Sec. 17-7. Permit fees.

The Town shall collect a fee of \$250 from each applicant requesting approval of a Soil Erosion and Sedimentation Plan for the purposes of administering this chapter. The applicant shall bear any additional costs for review of the application by the Town's consulting engineer or any expert retained by the Town for purposes of a review of said application.

Sec. 17-8. Plan review by town departments, commissions and local entities.

1. Within five (5) working days of the receipt of a completed plan, the building official shall send a copy of the plan to the appropriate departments or boards for the purpose of review and comment. The building official may also within the above time frame submit copies of the plan to other local departments or agencies, in order to better achieve the purposes of this chapter.
2. The review of plans for single family homes, two family homes or related structures to which this Ordinance is applicable, is limited to a review by the Building Official and Town's Consulting Engineer.
3. The time allowed for plan review shall be commensurate with the proposed development project, and shall be done simultaneously with other reviews.
4. The submittal of plans for review shall amount to acknowledgement and authorization from the applicant for municipal officials to enter upon and inspect private property where work is proposed for the purpose of reviewing site conditions as they relate to soil erosion, surface water runoff, and sediment control.
(Ord. of 9-8-87, § 4(c); Ord. of 5-8-90, § 1)

Sec. 17-9. Plan approval.

1. The building official shall take action in writing either approving or disapproving the Plan with reasons stated within ten (10) days after he has received the written opinion of the appropriate board and departments that reviewed the plan. Failure of these departments or boards to respond within twenty-one (21) working days of the receipt of the plan shall be deemed as no objection to the plan as submitted.
2. In approving a plan, the building official may attach such conditions deemed reasonably necessary by the Town staff to further the purposes of this chapter. The applicant/owner shall notify the building official 48 hours in advance of their intent to begin clearing and construction work described in the soil erosion and sediment control plan. The applicant shall have the soil erosion and sediment control plan on the site during grading and construction. Control measures shall be in place prior to the pouring of any concrete for the project and shall remain in place until grass/vegetation is established on the property.

(Ord. of 9-8-87, § 4(d); Ord. of 5-8-90, § 2)

3. Upon filing of the plan for review, the building official shall make a copy of the plan available for public review. Information submitted by members of the public to the Building Official shall be considered by the public works director, conservation commission, and building official in approval and development of permit conditions at their discretion.

Sec. 17-10. Appeals--Administrative procedures.

1. If the ruling made by the building official is unsatisfactory to the applicant/owner, the applicant/owner may file a written appeal. The appeal of the plan for a soil erosion and sedimentation control permit shall be to the Building Code Board of Appeals.
2. Appeal procedures shall follow current requirements and process for an appeal to the Building Code Board of Appeals.
3. However, under any appeal proceedings, the building official shall notify the departments and boards notified pursuant to section 17-8 of the appeal and the time, date, and place of the hearing. Such reviewers shall submit written comments on the appeal, and such comments, together with the written decision of the building official, shall be read into the official record of the hearing.
4. During the period in which the request for appeal is filed, and until such time as a final decision is rendered on the appeal, the decision of the building official shall remain in effect.

(Ord. of 9-8-87, § 4(e)(1))

Sec. 17-11. Expert opinion.

The building official, the Building Code Board of Appeals, may seek technical assistance on any soil erosion and sediment control plan. Such expert opinion must be made available in the office of the building official as a public record prior to the appeals hearing.

(Ord. of 9-8-87, § 4(e)(2))

Sec. 17-12. Performance bond.

1. Before approving a soil erosion and sediment control plan, the building official may require the applicant/owner to file a surety company performance bond or deposit of money or negotiable securities. When any land-disturbing activity is to take place within one hundred (100) feet of any watercourse or within an identified flood hazard district, or on slopes in excess of ten (10) percent, the filing of a performance bond shall be required. The amount of such bond, as determined by the public works department, shall be sufficient to cover the cost of implementing all erosion and sediment control measures as shown on the plan. The bond or negotiable security filed by the applicant shall be subject to approval of the form, content, amount and manner of execution by the public works director and the town solicitor. A performance bond for an erosion-sediment control plan for a subdivision may be included in the performance bond of the subdivision. The posting of such bond as part of the subdivision performance bond does not, however, relieve the owner of any requirements of this chapter.

2. *Notice of default on performance secured by bond.* Whenever the building official shall find that a default has occurred in the performance of any terms or conditions of the bond or in the implementation of measures secured by the bond, written notice thereof shall be made to the applicant and to the surety of the bond by the town solicitor. Such notice shall state the nature of default, work to be done, the estimated cost thereof, and the period of time deemed by the building official to be reasonably necessary for the completion of such work. Failure of the applicant to acknowledge and comply with the provisions and deadlines outlined in such notice of default shall mean the institution, by the town solicitor, without further notice of proceedings whatsoever, of appropriate measures to utilize the performance bond to cause the required work to be completed by the town, by contract or by other appropriate means as determined by the town solicitor.
3. *Notice of default on performance secured by cash or negotiable securities deposit.* If a cash or negotiable securities deposit has been posted by the applicant, notice and procedure shall be the same as provided for in subsection (b) above.
4. *Release from performance bond conditions.* The performance bonding requirement shall remain in full force and effect until satisfactory completion of the work.
(Ord. of 9-8-87, § 6)

Sec. 17-13. Approval; expiration; renewal.

1. Every approval granted herein shall expire at the end of the time period set forth in the conditions. The developer shall fully perform and complete all of the work required within the specified time period.
2. If the developer is unable to complete the work within the designated time period, he shall, at least thirty (30) days prior to the expiration date, submit a written request for an extension of time to the building official, setting forth the reasons underlying the requested time extension. If the extension is warranted, the building official may grant an extension of time up to a maximum of one (1) year from the date of the original deadline. Subsequent extensions under the same conditions may be granted at the discretion of the building official.
(Ord. of 9-8-87, § 7)

Sec. 17-14. Maintenance of measures.

1. Maintenance of all erosion-sediment control BMPs under this chapter shall be the responsibility of the owner. Such erosion-sediment control BMPs shall be maintained in good condition and working order on a continuing basis.
2. Watercourses originating and located completely on private property shall be the responsibility of the owner to their point of open discharge at the property line or at a communal watercourse within the property.
(Ord. of 9-8-87, § 8)

Sec. 17-15. Liability of applicant.

Neither approval of an erosion and sediment control plan nor compliance with any condition of this chapter shall relieve the owner/applicant from any responsibility for damage to persons or property, nor impose any liability upon the town for damages to persons or property.
(Ord. of 9-8-87, § 9)

Sec. 17-16. Periodic inspections.

The provisions of this chapter shall be administered and enforced by the Building Official or his or her designee. All work shall be subject to periodic inspections by the Building Official, or his or her designee. All work shall be performed in accordance with an inspection and construction control schedule approved by the Building Official or his or her designee, who shall maintain a permanent file on all of his or her inspections. Upon completion of the work, the developer or owner shall notify the Building Official or his or her designee that all grading, drainage, erosion and sediment control measures and devices, vegetation and ground cover plantings and controls for other wastes have been completed in conformance with the approval, all attached plans, specifications, conditions, and other applicable provisions of this chapter.

Sec. 17-17. Final inspection.

1. Upon notification of the completion by the owner, the Building Official or his or her designee shall make a final inspection of the site in question, and shall prepare a final summary inspection report of its findings which shall be retained in the Department of Inspections, and in the Department of Public Works' permanent inspections file.
2. The applicant/owner may request the release of his or her performance bond from the Building Official/Town Engineer or his or her designee 12 months after the final site inspection has been completed and approved. In the instance where the performance bond has been posted with the recording of a final subdivision, the bond shall be released after the Building Official/Town Engineer or his or her designee has been notified by the city or Town Planning Director of successful completion of all plat improvements by the applicant/owner.
3. Control measures shall be in place prior to the pouring of any concrete for the project. Certificates of occupancy is contingent upon receiving final inspection and approval shall not be granted until final inspection and approval is granted by the Building Official and his/her designee.
3. If final inspection occurs in the winter months, and final approval is warranted at that time, the Building Official may issue a ~~temporary certificate of occupancy~~ [add; conditional final approval] until such time as vegetation on the property is able to be established. At this time, the Building Official shall revisit his final inspection and approval to determine if the requirements remain satisfied and if so, shall grant the applicant a permanent certificate of occupancy. If the Building Official finds that conditions have changed, he shall notify the applicant in writing and the applicant shall correct the conditions in order to obtain a permanent certificate of occupancy.

Sec. 17-18. Notification of noncompliance.

If, at any stage, the work-in-progress or completed under the terms of an approved erosion and sediment control plan does not conform to such plan, a written notice from the building official to comply shall be transmitted to the owner and a copy of such notice shall be transmitted to RIDEM. Such notice shall set forth the nature of corrections required and the time limit within which corrections shall be completed. Failure to comply with the required corrections within the specified time limit shall be considered in violation of this chapter, in which case the performance bond or cash or negotiable securities deposit shall be subject to notice of default. (Ord. of 9-8-87, § 11)

Sec. 17-19. Revocation or suspension of approval.

The approval of an erosion and sediment control plan under this chapter may be revoked, suspended and work initiated under the plan halted for an indefinite time period by the building official or his authorized agent after written notification is transmitted to the developer for one (1) or more of the following reasons:

- (1) Violation of any condition of the approved plan, conditions or specifications pertaining thereto;
- (2) Violation of any provision of this chapter or any other applicable law, ordinance, rule or regulation related to the work or site of work;
- (3) The existence of any condition or the performance of any act constituting or creating a nuisance, hazard, or endangerment to human life or the property of others, or contrary to the spirit or intent of this chapter.
(Ord. of 9-8-87, § 12(a))

Sec. 17-20. Other penalties.

Whenever there is a failure to comply with the provisions of this chapter, the town shall have the right to notify the applicant/owner that it has five (5) days from the receipt of notice to temporarily correct the violations and thirty (30) days from receipt of notice to permanently correct the violations. Should the applicant/owner fail to take the temporary corrective measures within the five-day period and the permanent corrective measures within the thirty-day period, the town shall then have the right to take whatever actions it deems necessary to correct the violations and to assert a lien on the subject property in an amount equal to the costs of remedial actions. The lien shall be enforced in the manner provided or authorized by law for the enforcement of common law liens on personal property. The lien shall be recorded with the records of land evidence of the municipality, and the lien does incur legal interest from the date of recording. The imposition of any penalty shall not exempt the offender from compliance with the provisions of this chapter, including revocation of the performance bond or assessment of a lien on the property by the town.
(Ord. of 9-8-87, § 12(b))

- (c) In addition to other penalties provided in this section, the town shall have the right to impose fines of not more than two hundred fifty dollars (\$250) for failure to submit plans on or before the date on which the plan must be submitted, as stated in the determination of applicability. Each day that the plan is not submitted constitutes a separate offense.