

# **TOWN OF FARMINGTON**

## **Soil Erosion Control & Storm Water Runoff Management Ordinance**

ENACTED: November 18, 1999

CERTIFIED BY: Leanne E. Pinkham

Town Clerk

**Town of Farmington  
Chapter 11 – Land Use  
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**Town of Farmington**  
**Soil Erosion Control & Storm Water Management Ordinance**  
**Chapter 11**  
**Land Use**

**11 – 9.1 Title:**

This Ordinance shall be known and cited as the Town of Farmington Soil Erosion Control & Storm Water Management Ordinance and will be referred to herein as “this Ordinance” and prescribes definitions of earthmoving; provides for permitting and regulation.

**11 – 9.2 Authority and Administration:**

This Ordinance is adopted pursuant to the enabling of Article VIII, Part 2, Section 1, of the Maine Constitution and the provisions of Title 30-A MRSA Section 3001 et. seq. (Home Rule) and Section 4312 et. seq. (Planning and Land Use).

**11 – 9.3 Purpose:**

The purpose of this Ordinance is to conserve soil resources, protect water, maintain public health and safety by regulating earth-moving and other activities resulting in the exposure of soils, and to address the affects of development on both the quantity and quality of storm water runoff.

**11 – 9.4 Applicability:**

This Ordinance shall not exempt any property owner from obtaining other permits or meeting any requirements of any other Town Ordinances, State or federal laws or regulations. Where requirements or conditions of any such permits, ordinances, laws or regulations differ from the provisions of these performance standards, the stricter shall apply.

**11 – 9.5 Conflicts with Other Ordinances:**

Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation or statute, the more restrictive provision shall apply.

**11 – 9.6 Effective Date:**

The effective date of this Ordinance shall be the date this Ordinance is adopted by the voters at Town Meeting.

### **11 – 9.7 Validity:**

If any part of this Ordinance is found to be invalid, the remainder of these performance standards shall remain in effect.

### **11 – 9.8 Definitions:**

**Earth-Moving Activities.** Earth-moving activities means any activity in which earth is moved from one location on a site to a different location on the site, in which earth is removed from a site, or in which earth is brought onto a site, including, but not limited to, any stripping of vegetation or topsoil, or any grading, excavation, filling or storage or disposal of earth or soil.

**Permit.** Permit means a soil erosion control/storm water management permit issued pursuant to this Ordinance.

**Shoreland Zone.** All areas as defined in the Town of Farmington Shoreland Zoning Ordinance.

**Soil.** Soil means sand, silt, clay, gravel, rock, or any combination of any of the foregoing.

### **11 – 9.9 Permit Required:**

No person may engage in any earth-moving activity, as defined in this Ordinance, or perform any activity resulting in exposure of soils, without first obtaining a Soil Erosion Control/Storm Water Management Permit. This Ordinance provides for certain exemptions (see Article 9.10).

**A. Code Enforcement Officer’s Authority.** The Code Enforcement Officer (CEO) shall have the authority to act on soil erosion control/storm water management permit applications for the following earth-moving activities:

1. Any earth-moving activity of ten (10) cubic yards or less within a Shoreland Zone.
2. Any earth-moving activity of greater than twenty-five (25) cubic yards but not exceeding fifty (50) cubic yards outside a Shoreland Zone.

**B. Planning Board Authority.** The Planning Board shall have the authority to act on soil erosion control/storm water management permit applications for the following earth-moving activities:

1. Any earth-moving activity of greater than ten (10) cubic yards within a Shoreland Zone.

2. Any earth-moving activity of greater than fifty (50) cubic yards outside of a Shoreland Zone.
3. Clearing of lots for commercial sale or commercial development.  
(NOTE: The Site Review Ordinance includes additional requirements with regards to clearing of trees, vegetation and/or soil).

### **11 – 9.10 Exemptions:**

The following activities DO NOT require a soil erosion control/storm water management permit:

- A. Any earth-moving activity of twenty-five (25) cubic yards or less outside the Shoreland Zone. (For earth-moving activity of greater than twenty-five (25) cubic yards outside the Shoreland Zone see Articles 9.9 A 2 and 9.9 B 2).
- B. Any earth-moving activity relating to the construction of a single family dwelling or private, residential use projects of less than 5,000 square feet of ground surface area, provided the earth-moving activity is not within the Shoreland Zone and does not adversely impact abutters.
- C. Any earth-moving activity required for the installation of any approved subsurface waste-water disposal system (less than 2,000 GPD in capacity) or sewer connection. (The disturbed area shall be loamed, seeded and mulched within one week from the time it was last actively worked. Per Best Management Practices (BMP's), dormant seeding to be used in the fall.)
- D. Any earth-moving activity for approved solid waste disposal facilities.
- E. Cemetery graves.
- F. Tilling of gardens.
- G. Agricultural activities such as plowing, earth-moving, tilling, and seeding provided the person(s) involved follow appropriate BMP's as described in the manual entitled State of Maine Strategy for Managing Nonpoint Source Pollution from Agricultural Sources and Best Management System Guidelines published by the Nonpoint Source Agricultural Task Force dated October 9, 1991. At least three (3) copies shall be kept on file with the Code Enforcement Office and available for public use, inspection and examination.
- H. Forestry activities, including cutting, logging, thinning, planting, burning, trail and road building, and harvesting, if the person(s) involved follow

appropriate BMP's as described in the Erosion and Sediment Control Handbook for Maine Timber Harvesting Operations dated February 1991 and issued by the Maine Forest Service. At least three (3) copies shall be kept on file with the Code Enforcement Office and available for public use, inspection and examination.

- I. Any earth-moving activities or exposure of soils required in an emergency response involving public health or safety. Subsequent soil stabilization activities at emergency sites are the responsibility of the landowner or the individual or entity responsible for the emergency situation where appropriate.

### **11 – 9.11 Application Procedures:**

#### **A. Code Enforcement Officer Application:** (See Article 9.9 A)

The application package must include all of the following items:

1. A completed application form.
2. A general site location map.
3. A site plan including a landscaping plan, existing vegetation preservation, and buffer areas.
4. A soil erosion control plan and a storm water management plan, which may be presented in a written narrative form without a map.
5. All appropriate fees.

#### **B. Planning Board Application:** (See Article 9.9 B)

The application package must include all of the following items:

1. A completed application form.
2. A general site location map.
3. A site plan including a landscaping plan, existing vegetation preservation, and buffer areas.
4. A topographical map.
5. A soil map.
6. A detailed soil erosion control plan and a storm water management plan including a map and a written narrative.

7. A detailed description of the development plan.
8. All appropriate fees.

**C. Soil Erosion Control Standards:** The soil erosion control plan submitted with an application for a soil erosion control/storm water management permit must include appropriate practices as described in Maine Erosion and Sediment Control Handbook for Construction - Best Management Practices (BMP's) dated March 1991, and published by the Cumberland County Soil and Water Conservation District and the Maine Department of Environmental Protection. At least three (3) copies of this handbook shall be kept on file with the Code Enforcement Office and available for public use, examination and inspection.

Erosion of soil and sedimentation of watercourses and waterbodies shall be minimized by employing the following standards in accordance with the above referenced BMP's:

1. Stripping of vegetation, soil removal, and regrading or other development shall be accomplished in such a way as to minimize erosion.
2. Except for surplus topsoil from road construction, parking areas, and building excavations, topsoil is not to be removed from a development site.
3. The duration of exposure of the disturbed area shall be kept to a practical minimum.
4. Temporary vegetation and/or mulching shall be used to protect exposed erodable areas during development.
5. Permanent (final) vegetation and mechanical erosion control measures shall be installed as soon as feasible after construction ends.
6. Until a disturbed area is stabilized, sediment in run-off water shall be trapped by the use of debris basins, sediment basins, silt traps, or other acceptable methods.
7. The top of a cut or the bottom of a fill section shall not be closer than ten (10) feet to an adjoining property, unless otherwise specified by the Planning Board.
8. During grading operations, methods of dust control shall be employed wherever appropriate.

**D. Storm Water Management Standards:** The storm water management

plan submitted with an application for a soil erosion control/storm water management permit must conform to the standards and practices delineated in the Storm Water Management Best Management Practices (BMP's) as established by the Maine Department of Environmental Protection. At least three (3) copies of the BMP's shall be kept on file with the Code Enforcement Office and available for public use, examination and inspection.

If the estimated post-development peak rate of storm water runoff from the affected land is calculated to be greater than the pre-development peak runoff peak rates, in any watershed within the boundaries of the affected land during any phase of development, then a detention basin or other acceptable engineered disbursement system shall be designed and constructed to maintain pre-development runoff peak rates from the site.

If the outflow is to be conveyed into a man-made piped or open drainage system, the applicant shall demonstrate by hydraulic analysis that the downstream channel or system capacity is sufficient to carry the flow without adverse effects. The design of piped or open channel systems shall be based on a 25-year flow frequency without surcharge or flooding of areas not specifically planned for such flooding.

Storm water runoff systems shall be fully cognizant of upstream runoff which must pass over or through the site to be developed. The system shall be designed to pass upstream flows generated by a 25-year frequency through the proposed development without surcharging the system or flooding areas not specifically planned for such flooding.

Storm water runoff systems shall be designed to assure provision of both major and minor components which will serve the combined objectives of access convenience, property protection, erosion control, and pollution control.

**E. Fees:**

1. \$50.00 – permit application fee\*
2. These fees shall be doubled for after-the-fact permits.

\*The Town of Farmington shall be exempt from the application fee.

**F. Performance Guarantee:** The Planning Board may require a performance guarantee based on the projected complexity of the proposed erosion control and/or storm water management measures required of the project, and/or the potential for significant cost to the Town and/or other landowners if the erosion control and/or storm water

management measures are not adequately installed. The performance guarantee may be in the form of a bond issued by a reputable bonding company, or a letter of credit, or cash from the applicant in an amount to cover the estimated cost of installing and completing all erosion control measures specified in the application. Any performance guarantee required by the Planning Board shall remain in place and in effect until all temporary erosion control and/or storm water management measures are removed and permanent erosion and sediment control and/or storm water management measures have been installed and found by the CEO to be operating satisfactorily.

#### **G. Application Procedure:**

1. Submitting an Application: The review process by the CEO or Planning Board begins with the receipt of a completed application form, application fee, and with all the required plans and maps. Within thirty (30) days from the receipt of an application, the Planning Board will notify the applicant in writing whether the application is complete or, if incomplete, which additional information is needed to complete the application.
2. Complete Application: After the CEO or Planning Board has determined that the application is complete, the CEO or Planning Board shall begin review of the permit application to determine its conformance with the provisions of this Ordinance.
3. Public Hearing: The Planning Board may at its discretion, decide to hold a public hearing on an application for a soil erosion control/storm water management permit. In the event that the Planning Board determines to hold a public hearing on a permit application, such a public hearing shall be held within thirty (30) days after receiving a complete application. The Planning Board shall give notice of the date, time and place of such hearing to the applicant and shall publish in a newspaper of general circulation in the town at least two times, the date of the first publication to be at least ten (10) days prior to the hearing. Public hearings will not be held on permit applications reviewed by the CEO.

Within forty-five (45) days after the CEO or the Planning Board determines that it has received a completed application, the CEO or Planning Board shall, in writing, (a) approve the permit application and issue the permit; (b) approve the permit application subject to conditions and issue the permit subject to these conditions; or, (c) disapprove the

permit application, indicating the deficiencies. The applicant shall comply with all terms of the application.

4. The CEO or the Planning Board shall approve an application for a soil erosion control/storm water management permit when it finds that:
  - a. The proposed earth-moving activity will:
    1. be conducted in accordance with soil erosion control and storm water management plans consistent with the requirements of this Ordinance; and
    2. be conducted in accordance with the standards set forth in Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices, dated March 1991, or latest version thereof, and published by the Cumberland County Soil and Water Conservation District and the Maine Department of Environmental Protection; and
    3. be conducted in accordance with the standards and practices delineated in the Storm Water Management Best Management Practices as established by the Maine Department of Environmental Protection; and
    4. not cause unreasonable erosion of earth or soil or unreasonable adverse impacts on water quality; and
    5. be done by an applicant who has the financial capacity and an agent/contractor who has the technical ability to conduct the earth-moving activity in accordance with the approved soil erosion control plan.
  - b. The applicant has filed an acceptable landscape, existing vegetation preservation, and buffer areas plan which is in compliance with the Landscape Performance Standards of the Zoning Ordinance of the Town of Farmington.
  - c. Any aggrieved party wishing to submit additional information, not previously presented, may file a new application.

**H. Other Requirements:** The CEO or the Planning Board may request additional information deemed necessary to meet the provisions of this Ordinance. The requested evidence or documentation, such as the services of a consulting engineer, geologist, or the Franklin County Soil & Water Conservation District (FCSWCD) shall be secured and submitted by the applicant.

The notice of request shall include the reasons justifying the request for the

additional evidence or documentation. The Planning Board in a written agreement from the applicant and at the applicant's expense, may secure a consultant, the District's engineer (FCSWCD), or other qualified person for all or part of the review process. The applicant shall provide the additional information within forty-five (45) days unless agreed otherwise. All costs associated with such review, including the costs of any consultants, hired by the Planning Board will be paid by the applicant prior to issuance of a soil erosion control/storm water management permit.

In the event that the CEO or Planning Board determines that the review of an application requires additional evidence or documentation, the Planning Board shall notify the applicant in writing within ten (10) days following the determination that a complete application has been filed.

- I. Permit Duration:** Any work authorized by this permit shall be completed within one (1) year of the date of the permit unless otherwise specified in the permit. The CEO or the Planning Board may, upon a showing of reasonable cause, renew a soil erosion permit for one (1) additional period, not to exceed one (1) year, provided that the plans have not been substantially changed since the original application, and provided that the applicant has complied with the applicable soil erosion control and storm water management plans and all conditions of the original permit.

#### **11 – 9.12 Enforcement:**

**A. Responsibility:** The CEO shall inspect the project area at any time as necessary to insure compliance with the application, permit, and this Ordinance. The applicant shall notify the CEO promptly once the project area has been finally stabilized. Upon notification of final stabilization, the CEO shall inspect the project area and issue a certificate of final inspection upon determination of full compliance with the application, the permit, and this Ordinance.

**B. Violations:** It shall be a violation of this Ordinance for any person:

1. to engage in any activity requiring an erosion control/storm water management permit without first obtaining a permit;
2. to fail to comply with the terms of an erosion control/storm water management permit or any permit conditions; or
3. to utilize improperly designed or installed erosion controls or storm water management components.

Upon detection of a violation, the CEO shall require immediate measures to temporarily correct the violation. Once such temporary measures have

been completed, the CEO may negotiate an agreement to permanently correct the violation. If a permit has not been obtained, the violator must immediately apply for an after-the-fact permit. The CEO may issue a stop work order if conditions warrant, at which time all earth-moving activities must cease. The violator shall make immediate corrective measures as outlined by the CEO.

When a violator fails to voluntarily correct a violation, the CEO shall send written notification to the violator, stating:

1. what the violation is;
2. the penalties for the violation;
3. means by which to come into compliance and;
4. a deadline for compliance.

Copies of this letter will be sent to the Town Manager and Town Attorney. If the deadline passes without correction, the CEO shall contact Town officials for assistance in pursuing enforcement through legal action.

Each day during which any violation of any of the provisions of this Ordinance is committed or continue shall constitute a separate civil violation. In addition to any other penalty authorized by this section, any person violating any of the provisions of this Ordinance shall be required to restore the site to the condition existing prior to commencement of the violation, or to bear the expense of such restoration. In addition, any other penalty authorized with this section, the Town may seek injunctive relief including restoration of the site to the condition existing prior to the commencement of the violation.

**C. Penalties:** Any person, including but not limited to a landowner, a landowner's agent or a contractor, who orders or conducts any activity in violation of this Ordinance, or upon failure to comply with any of its requirements, shall be penalized in accordance with Title 30-A MRSA Section 4452.

**D. Inadequate Erosion & Sediment Control and/or Storm Water Management Plans:** The CEO may order the submission of supplemental plans and implementation of additional erosion and sediment control and/or storm water management measures deemed necessary to correct conditions or problems not adequately addressed by a previous application or permit. These plans must be submitted to the Planning Board if the Board issued the permit. The permits shall be modified or conditions added as necessary to meet the standards of this Ordinance.

### **11 - 9.13 Appeals:**

Any person aggrieved by the action of the Code Enforcement Officer or Planning Board may appeal to the Board of Appeals by filing a notice of appeal within thirty (30) days after receipt of the Code Enforcement Officer's or Planning Board's notification. Administrative appeals submitted under this Ordinance shall be subject to the standards and procedures established by the Town of Farmington Board of Appeals Ordinance.

### **11 – 9.14 Amendments:**

- A. Initiation of Amendments:** An amendment to this Ordinance may be initiated by:
1. The Board of Selectmen, provided a majority of the Board of Selectmen has so voted;
  2. Written petition of a number of voters equal to at least 10% of the number of votes cast in the municipality at the last gubernatorial elections.
- B. Public Hearing:** The Board of Selectmen shall hold a public hearing on the proposed amendment . Notification of the hearing shall be posted and advertised in a newspaper of general circulation in the municipality at least seven (7) days prior to the hearing.
- C. Adoption of Amendment:** An amendment of this Ordinance shall be adopted by a majority vote of a Town Meeting.