

ARTICLE 20

SOIL EROSION AND SEDIMENTATION CONTROL

20.1. General Requirements

- 20.1-1. Plan Required. No person shall initiate any land-disturbing activity without an erosion control plan approved by the Jurisdiction, if the land disturbing activity:
- (A) Exceeds one (1) acre;
 - (B) Will take place on highly erodible soils with a "k" factor greater than 0.36 in a watershed critical area;
 - (C) Includes a pond or retention structure in a watershed critical area; and/or
 - (D) Will take place in Tier 1 or Tier 2 of a watershed critical area.
- 20.1-2. Protection of Property. Persons conducting land-disturbing activity shall take all reasonable measures to protect all public and private property from damage or nuisance caused by such activity.
- 20.1-3. More Restrictive Rules Shall Apply. Whenever conflicts exist between federal, state, or local laws, ordinances, or rules, the more restrictive provision shall apply.

20.2. Basic Control Objectives

A soil erosion and sedimentation control plan may be disapproved pursuant to Section 20.12-13, Grounds for Plan Disapproval, of this Ordinance if the plan fails to address the following control objectives:

1. Identify Critical Areas. On-site areas which are subject to severe erosion, and off-site areas which are especially vulnerable to damage from erosion and/or sedimentation, are to be identified and receive special attention;
2. Limit Time of Exposure. All land-disturbing activity is to be planned and conducted to limit exposure to the shortest feasible time;
3. Limit Exposed Areas. All land-disturbing activity is to be planned and conducted to minimize the size of the area to be exposed at any one time;
4. Control Surface Water. Surface water runoff originating upgrate of exposed areas should be controlled to reduce erosion and sediment loss during the period of exposure;
5. Control Sedimentation. All land-disturbing activity is to be planned and conducted so as to prevent off-site sedimentation damage and nuisances to adjacent properties, streets or streams; and
6. Manage Storm Water Runoff. When the increase in the velocity of storm water runoff resulting from a land-disturbing activity is sufficient to cause accelerated erosion of the receiving watercourse, plans are to include

measures to control the velocity at the point of discharge so as to minimize accelerated erosion of the site and increased sedimentation of the stream.

20.3 Mandatory Standards for Land Disturbing Activity

No land-disturbing activity subject to the control of this Ordinance shall be undertaken except in accordance with the following mandatory standards:

- 20.3-1. Buffer Zone. No land-disturbing activity shall be permitted in proximity to a lake or natural watercourse unless a buffer zone is provided along the margin of the watercourse of sufficient width to confine visible siltation within the twenty-five (25%) percent of the buffer zone nearer the land-disturbing activity, provided, that this subsection (A) shall not apply to a land-disturbing activity in connection with the construction of facilities to be located on, over, or under a lake or natural watercourse;
- 20.3-2. Graded Slopes and Fills. The angle for graded slopes and fills shall be no steeper than two (2) to one (1) slope if they are to be stabilized with vegetative cover. Slopes or fills steeper than two (2) to one (1) slope must be protected by structures. In any event, slopes left exposed will, within thirty (30) days of completion of any phase of grading, be planted or otherwise provided with ground cover, devices, or structures sufficient to restrain erosion;
- 20.3-3. Ground Cover. Whenever land-disturbing activity is undertaken on a tract comprising more than-one acre, if more than one contiguous acre is uncovered, the person conducting the land-disturbing activity shall install such sedimentation and erosion control devices and practices as are sufficient to retain the sediment generated by the land-disturbing activity within the boundaries of the tract during construction upon and development of said tract, and shall plant or otherwise provide a permanent ground cover sufficient to restrain erosion after completion of construction or development. Except as provided in Section 20.4-2(E) of this Ordinance, provisions for a ground cover sufficient to restrain erosion must be accomplished within thirty (30) working days or one hundred and twenty (120) calendar days following completion, whichever period is shorter; and
- 20.3-4. Prior Plan Approval. No person shall initiate any land-disturbing activity if more than one contiguous acre is to be uncovered unless, thirty (30) or more days prior to initiating the activity, an erosion and sedimentation control plan for such activity is filed with and approved by the Jurisdiction.

20.4 Design and Performance Standards

- 20.4-1. Design for Ten-year Storm. Except as provided in Section 20.4-2(B) of this Ordinance, soil erosion and sedimentation control measures, structures, and devices shall be so planned, designed, and constructed as to

provide protection from the calculated maximum peak rate of runoff from the ten (10)-year storm. Runoff rates shall be calculated using the procedures in the USDA, Soil Conservation Service's "National Engineering Field Manual for Conservation Practices," or other acceptable calculation procedures.

- 20.4-2. High Quality Water Zones. In High Quality Water (HQW) zones the following design standards shall apply:
- (A) Uncovered areas in HQW zones shall be limited at any time to a maximum total area within the boundaries of the tract to twenty acres. Only this subsection shall govern the portion of the land-disturbing activity within a HQW zone. Larger areas may be uncovered within the boundaries of the tract with the written approval of the Director of the NC Department of Environment and Natural Resources.
 - (B) Soil erosion and sedimentation control measures, structures and devices within HQW zones shall be so planned, designed and constructed to provide protection from the runoff of the twenty-five (25) -year storm which produces the maximum peak rate of runoff as calculated according to procedures in the United States Department of Agricultural Soil Conservation Service's "National Engineering Field Manual for Conservation Practices" or according to procedures adopted by any other agency of this state or the United States or any generally recognized organization or association.
 - (C) Sediment basins within HQW zones shall be designed and constructed such that the basin will have a settling efficiency of at least seventy (70%) percent for the forty (40) micron size soil particle transported into the basin by the runoff of that two-year storm which produces the maximum peak rate of runoff as calculated according to procedures in the United States Department of Agricultural Soil Conservation Service's "National Engineering Field Manual for Conservation Practices" or according to procedures adopted by any other agency of this State or the United States or any generally recognized organization or association.
 - (D) Newly constructed open channels in HQW zones shall be designed and constructed with side slopes no steeper than two (2) horizontal to one (1) vertical if a vegetative cover is used for stabilization unless soil conditions permit a steeper slope or where the slopes are stabilized by using mechanical devices, structural devices, or other acceptable ditch liners. In any event, the angle for side slopes shall be sufficient to restrain accelerated erosion.
 - (E) Ground cover sufficient to restrain erosion must be provided for any portion of a land-disturbing activity in a HQW zone within fifteen (15)

working days or sixty (60) calendar days following completion of construction or development, whichever period is shorter.

20.5 Storm Water Outlet Protection

20.5-1. Intent. Stream banks and channels downstream from any land-disturbing activity shall be protected from increased degradation by accelerated erosion caused by increased velocity of runoff from the land-disturbing activity.

20.5-2. Performance Standard. Persons shall conduct land-disturbing activity so that the post-construction velocity of the ten (10) year storm runoff in the receiving watercourse to the discharge point does not exceed the greater of:

(A) the velocity established by Table 20.5-1; or

(B) the velocity of the ten (10)-year storm runoff in the receiving watercourse prior to development.

If conditions (A) or (B) above cannot be met, then the receiving watercourse to and including the discharge point shall be designed and constructed to withstand the expected velocity anywhere the velocity exceeds the "prior to development" velocity by ten (10%) percent.

20.5-3. Acceptable Management Measures. Measures applied alone or in combination to satisfy the intent of this Section are acceptable if there are no objectionable secondary consequences. The Jurisdiction recognizes that the management of stormwater runoff to minimize or control downstream channel and bank erosion is a developing technology. Innovative techniques and ideas will be considered and may be used when shown to have the potential to produce successful results.

Some alternatives are to:

(A) Avoid increases to surface runoff volume and velocity by including measures to promote infiltration to compensate for increased runoff from areas rendered impervious;

(B) Avoid increases in stormwater discharge velocities by using vegetated or roughened swales and waterways in lieu of closed drains and high velocity paved sections;

(C) Provide energy dissipaters at outlets of storm drainage facilities to reduce flow velocities at the point of discharge. These may range from simple rip-rapped sections to complex structures.

TABLE 20.5-1
 MAXIMUM PERMISSIBLE VELOCITY FOR
 STORMWATER DISCHARGES

Material	Maximum Permissible Velocities	
	F.P.S.	M.P.S.
Fine sand (noncolloidal)	2.5	0.8
Sandy loam (noncolloidal)	2.5	0.8
Silt loam (noncolloidal)	3.0	0.9
Ordinary firm loam	3.5	1.1
Fine Gravel	5.0	1.5
Stiff clay (very colloidal)	5.0	1.5
Graded, loam to cobbles (noncolloidal)	5.0	1.5
Graded, silt to cobbles	5.5	1.7
Alluvial silts (noncolloidal)	3.5	1.1
Alluvial silts (colloidal)	5.0	1.5
Coarse gravel (noncolloidal)	6.0	1.8
Cobbles and shingles	5.5	1.7
Shales and hard pans	6.0	1.8

Source - Adapted from recommendations by Special Committee on Irrigation Research, American Society of Civil Engineers, 1926. For channels with straight alignment. For sinuous channels, multiply allowable velocity by 0.95 for slightly sinuous, by 0.9 for moderately sinuous channels, and by 0.8 for highly sinuous channels.

- (D) Protect watercourses subject to accelerated erosion by improving cross sections and/or providing erosion-resistant lining.

20.5-4 Exceptions. This rule shall not apply where it can be demonstrated that stormwater discharge velocities will not create an erosion problem in the receiving watercourse.

20.6 Borrow and Waste Areas

When the person conducting the land-disturbing activity is also the person conducting the borrow or waste disposal activity, areas from which borrow is obtained and which are not regulated by the provisions of the Mining Act of 1971, any waste areas for surplus materials other than landfills regulated by the Department's, Division of Soil Waste Management, shall be considered as part of the land-disturbing activity where the borrow material is being used or from which the waste material originated. When the person conducting land-disturbing activity is not the person obtaining the borrow and/or disposing of the waste, these areas shall be considered a separate land-disturbing activity.

20.7 Access and Haul Roads

Temporary access and haul roads, other than public roads, constructed or used in connection with any land-disturbing activity shall be considered a part of such activity.

20.8 Operations in Lakes or Natural Watercourses

Land-disturbing activity in connection with construction in, on, over, or under a lake or natural watercourse shall be planned and conducted in such a manner as to minimize the extent and duration of disturbance of the stream channel. The relocation of a stream, where relocation is an essential part of the proposed activity, shall be planned and executed so as to minimize changes in the stream flow characteristics, except when justification for significant alteration to flow characteristic is provided. The U.S. Army Corps of Engineers shall be notified by the developer of any planned operation in lakes or natural watercourses for possible issuance of Section 404 or other permits.

20.9 Responsibility for Maintenance

During the development of a site, the person conducting the land-disturbing activity shall install and maintain all temporary and permanent erosion and sedimentation control measures as required by the approved plan, by any provision of this Ordinance, or by any ordinance adopted pursuant to this Ordinance. After site development, the land owner or person in possession or control of the land shall install and/or maintain all necessary permanent erosion and sediment control measures, except those measures installed within a road or street right-of-way or easement accepted for maintenance by a governmental agency.

20.10 Additional Measures

Whenever the Town determines that significant sedimentation is occurring as a result of land-disturbing activity, despite application and maintenance of protective practices, the person conducting the land-disturbing activity will be required to and shall take additional protective action.

20.11 Existing Uncovered Areas

20.11-1. Applicability. All uncovered areas existing on the effective date of this Ordinance which are the result of land-disturbing activity, which exceed one (1) contiguous acre, which are subject to continued accelerated erosion, and which are causing off-site damage from sedimentation, shall be provided with a ground cover or other protective measures, structures, or devices sufficient to restrain accelerated erosion and control off-site sedimentation.

20.11-2. Notice of Violation. The Jurisdiction will serve upon the

landowner a written notice of violation by registered or certified mail, return receipt requested. The notice will set forth the measures needed to comply and will state the time within which such measures must be completed. In determining the measures required and the time allowed for compliance, the authority serving notice shall take into consideration the economic feasibility, technology, and quantity of work required, and shall set reasonably attainable time limits for compliance.

20.11-3. Requiring Erosion Control Plan. The Jurisdiction reserves the right to require preparation and approval of an erosion control plan in any instance where extensive control measures are required.

20.11-4. Exemption. This rule shall not require ground cover on cleared land forming the future basin of a permitted reservoir.

20.12 Erosion and Sedimentation Control Plans

20.12-1. Applicability. An erosion control plan shall be prepared for all land-disturbing activities subject to this Ordinance whenever the proposed activity is to be undertaken on a tract comprising more than one (1) acre, if more than one (1) contiguous acre is to be uncovered.

20.12-2. Preparation of Plan. The erosion control plan shall be prepared by, and shall bear the seal and signature of a registered professional engineer, architect, landscape architect, or a registered surveyor to the extent permitted by North Carolina laws, at a scale not smaller than one (1) inch equals one hundred (100) feet. The plan shall be filed with the Jurisdiction, and the Cabarrus Soil and Water Conservation District, thirty (30) days prior to the commencement of the proposed activity.

20.12-3. Submission of Plan. Persons conducting land-disturbing activity which covers one or more contiguous acres shall file five (5) copies of the erosion control plan with the Jurisdiction, at least thirty (30) days prior to beginning of such activity, and shall keep another copy of the plan on file at the job site. If the Jurisdiction, either upon review of such plan or on inspection of the job site, determines that a significant risk of accelerated erosion or off-site sedimentation exists, the Jurisdiction will require a revised plan. Pending the preparation of the revised plan, work shall cease or shall continue under conditions outlined by the appropriate authority.

20.12-4. Financial Responsibility Statement. Erosion control plans may be disapproved unless accompanied by an authorized statement of financial responsibility and ownership. The person financially responsible for the land-disturbing activity or his attorney shall sign this statement in fact. The statement shall include the mailing and street addresses of the principal place of business of the person financially responsible and of the

owner of the land or their registered agents. If the person financially responsible is not a resident of North Carolina, a North Carolina agent must be designated in the statement for the purpose of receiving notice of this compliance or non-compliance with the plan, this Ordinance, or rules or orders adopted or issued pursuant to this Ordinance.

- 20.12-5. Conservation District Review. The Cabarrus Soil and Water Conservation District within twenty (20) days of receipt of any plan shall review such plan and submit its comments and recommendations to the Jurisdiction. Failure of the Soil and Water Conservation District to submit its comments and recommendations within these twenty (20) days will not delay final action on the plan.
- 20.12-6. Local Jurisdiction Review. The Jurisdiction will review each plan submitted to them and within thirty (30) days of receipt thereof will notify the person submitting the plan that it has been approved, approved with modifications, approved with performance reservations, or disapproved. Failure to approve or disapprove a complete erosion and sedimentation control plan within thirty (30) days of receipt shall be deemed approval. Denial of a plan must specifically state in writing the reasons for denial. The jurisdiction must approve or deny a revised plan within fifteen (15) days of receipt, or it is deemed to be approved. If, following commencement of a land-disturbing activity pursuant to an approved plan, the Jurisdiction determines that the plan is inadequate to meet the requirements of this Ordinance, the Jurisdiction may require such revisions as are necessary to comply with this Ordinance.
- 20.12-7. Plan Requirements. The plan required by this Section shall contain architectural and engineering drawings, maps, assumptions, calculations, and narrative statements as needed to adequately describe the proposed development of the tract and the measures proposed to ensure compliance with the requirements of this Ordinance. Plan content may vary to meet the needs of specific site requirements.
- 20.12-8. Application Amendments. Applications for amendment of an erosion control plan in written and/or graphic form may be made at any time under the same conditions as the original application. Until such time as said amendment is approved by the Jurisdiction, the land-disturbing activity shall not proceed except in accordance with the erosion control plan as originally approved.
- 20.12-9. Work Conducted from Approved Plan. Any person engaged in land-disturbing activity who fails to file a plan in accordance with this Ordinance, or who conducts a land disturbing activity except in accordance with provisions of an approved plan shall be deemed in violation of this Ordinance.

- 20.12-10. Plan Approval Required for Permit. No building or location permits, approvals or other documents relating to land or building development or improvement shall be issued or granted under applicable zoning, building, subdivision and other laws and ordinances of the Jurisdiction, unless and until an erosion control plan, as required by this Ordinance, has been submitted to the Jurisdiction, a grading permit has been issued, and a Certificate of Erosion Control Performance has been issued by jurisdiction, indicating that initial erosion control devices have been installed and are functioning properly.
- 20.12-11. Work Completed Before Final Subdivision Approval. No final subdivision plat approval nor any Certificate of Occupancy shall be issued or granted where required under applicable zoning, building, subdivision and other laws and ordinances unless and until work at the site has been completed in accordance with a valid grading permit, or an improvement security or performance bond has been approved and accepted as required by this Ordinance.
- 20.12-12. Surety. The applicant for a grading permit to grade one acre or more may be required to file with the Jurisdiction an improvement security or bond in the form of an escrow account or other instruments satisfactory to the Jurisdiction attorney in the amount deemed sufficient by the Jurisdiction to cover all costs of protection of the site against erosion and off-site sedimentation according to requirements of this Ordinance. The amount of such surety requirement shall be determined by the Jurisdiction in consultations with the Soil and Water Conservation District and with disinterested private contractors. Such surety shall be valid until the work is completed in accordance with the grading permit and until same is released by the Jurisdiction. Applicable surety shall be forfeited upon violation of this Ordinance and shall be used to establish protective cover on the site, to control the velocity of runoff, and/or prevent off-site sedimentation. Any monies in excess of the cost of providing protective measures shall be refunded to the applicant. Surety shall be released when the Jurisdiction has certified that the requirements of this Ordinance have been met.
- 20.12-13. Grounds for Plan Disapproval. A soil erosion and sedimentation control plan may be disapproved upon a finding that an applicant, or any parent or subsidiary corporation if the applicant is a corporation:
- (A) Is conducting or has conducted land-disturbing activity without an approved plan, or has received notice of violation of a plan previously approved by the State Sedimentation Control Commission and/or the Town of Midland and has not complied with the notice within the time specified in the notice;

- (B) Has failed to pay a civil penalty assessed pursuant to the Act or this Ordinance which is due and for which no appeal is pending;
- (C) Has been convicted of a misdemeanor pursuant to NCGS §113A-64(b) or any criminal provision of this Ordinance; and
- (D) Has failed to substantially comply with State rules adopted pursuant to the Act or regulations of this Ordinance.

For purposes of this subsection an applicant's record may be considered for only the two years prior to the application date.

20.12-14. Environmental Document Required. Any plan submitted for a land-disturbing activity for which an environmental document is required by the North Carolina Environmental Policy Act (NCGS §113A-1, et seq.) shall be deemed incomplete until a complete environmental document is available for review. The Planning, Zoning and Subdivision Administrator shall promptly notify the person submitting the plan that the thirty (30) day time limit for review of the plan pursuant to Section 20.12-6 of this Ordinance shall not begin until a complete environmental document is available for review.

20.13. Amendments to Soil Erosion and Sedimentation Control Requirements

The State Sedimentation Control Commission must approve all revisions to the soil erosion and sedimentation control requirements of this Ordinance. The Town of Midland shall incorporate revisions required by the Commission within eight (8) months following receipt of the required revisions. If standards of this Ordinance currently meet or exceed the required revisions, the Commission shall be so notified within ninety (90) days of their receipt.

20.14 Civil Penalties - Soil Erosion and Sedimentation Control

20.14-1 General. Any person who violates any provisions of this Article or the Act, or rules or orders adopted or issued pursuant to this Ordinance, or who initiates or continues a land disturbing activity for which an erosion and sedimentation control plan is required, not in accordance with the terms, conditions, and provisions of an approved erosion and sedimentation control plan, shall be subject to a civil penalty. No civil penalty shall accrue in excess of \$500 per day, in addition to the penalty for failure to submit an erosion and sedimentation control plan provided in Section 20.14-5 (Erosion and Sedimentation Control Plan).

20.14-2 Notice of Violation. No penalty shall be assessed until the person alleged to be in violation has been notified of the violation by registered or certified mail, return receipt requested, or other means reasonably

calculated to give actual notice. The notice shall describe the violation with reasonable particularity, set forth the measures necessary to achieve compliance with the plan, specify a reasonable time period within which the violation must be corrected, and warn that failure to correct the violation within the time period will result in the assessment of a civil penalty or other enforcement action. However, no time period for compliance need be given for failure to submit a soil erosion and sedimentation control plan for approval or for obstructing, hampering or interfering with an authorized representative while in the process of carrying out his official duties. Each day of continuing violation shall constitute a separate violation.

20.14-3 Notice of Assessment. The Enforcement Officer shall determine the amount of the civil penalty to be assessed under this subsection, shall make written demand for payment upon the person in violation, and shall set forth in detail a description of the violation for which the penalty has been imposed. In determining the amount of the penalty the Enforcement Officer shall consider the degree and extent of harm caused by the violation and the cost of rectifying the damage. Notice of the assessment shall be by registered or certified mail or other means reasonably calculated to give actual notice. If payment is not received or equitable settlement reached within thirty (30) days after demand for payment is made, the matter shall be referred to the Town Attorney for institution of a civil action in the appropriate division of the General Courts of Justice for recovery of the penalty.

20.14-4 Specific Civil Penalties. Civil penalties for specific violations of Article 20 (Soil Erosion and Sedimentation Control) shall be assessed as follows:

- (A) Grading without Permit: \$500 per day for failure to secure a valid grading permit prior to conducting a land-disturbing activity for which a soil erosion and sedimentation control plan is required.
- (B) Failure to Protect: \$500 per day for failure to take all reasonable measures to protect public property, or private property, including lakes and/or natural watercourses, from damage caused by land-disturbing activities.
- (C) Failure to Follow Plan: \$300 per day for failure to conduct a land-disturbing activity in accordance with the provisions of an approved erosion and sedimentation control plan.
- (D) Failure to Install Devices: \$500 per day for failure, when more than one (1) contiguous acre is disturbed, to install erosion and sedimentation control devices sufficient to retain the sediment generated by the land-disturbing activity within the boundaries of the tract(s) and prevent off-site sedimentation.
- (E) Failure to Maintain Measures: \$300 per day for failure to maintain satisfactory erosion and sedimentation control measures, structures

and/or devices on the site that are designed to provide protection from the calculated maximum peak rate of runoff from the ten (10)-year storm or the twenty-five (25)-year storm in a High Quality Storm (HQW) zone.

- (F) Failure to Maintain Temporary Measures: \$250 per day for failure to maintain temporary erosion and sedimentation control measures and facilities during site development.
- (G) Failure to Maintain Slopes: \$250 per day for failure on graded slopes and fills to maintain an angle sufficient to retain vegetative cover or other adequate erosion and sedimentation control devices or structures.
- (H) Failure to Cover Slopes: \$250 per day for failure within thirty (30) days of completion of any phase of grading to plant or otherwise provide exposed, graded slopes or fills with ground cover, devices, or structures sufficient to restrain erosion.
- (I) Failure to Plant Cover: \$250 per day for failure on a tract when more than one contiguous acre is disturbed, to plant or otherwise provide ground cover sufficient to restrain erosion within thirty (30) working days or one-hundred and twenty (120) calendar days, fifteen (15) working days or sixty (60) calendar days in High Quality Water Zones, whichever is the shorter, following completion of construction or development.
- (J) Failure to Revise Plan: \$250 per day for failure to file an acceptable, revised erosion and sedimentation control plan after being notified of the need to do so.
- (K) Failure to Maintain Buffer: \$250 per day for failure to retain a buffer zone of sufficient width along a lake or natural watercourse to confine visible siltation within the twenty-five (25%) percent of the buffer zone nearest the land-disturbing activity.
- (L) Interference with Official Duties: \$500 per day for obstructing, hampering, or interfering with any authorized agent of the Jurisdiction or the Sedimentation Control Commission while in the process of carrying out his official duties.
- (M) Failure to Provide Control: \$250 per day for failure to install or maintain erosion control devices, or prevent off-site sedimentation on sites of land-disturbing activity not requiring a grading permit and with disturbed area of less than one (1) acre.

20.14-5. Erosion and Sedimentation Control Plan. Any person who fails to submit an erosion and sedimentation control plan as required by this Ordinance shall be subject to a single, non-continuing civil penalty of not more than \$1,000. Any person may be subject to additional civil penalties for violation of any other provision of this Ordinance or rules or orders adopted or issued pursuant to this Ordinance.

20.14-6. Civil Penalty Use. Civil penalties collected for erosion and

sedimentation control violations shall be used or disbursed as directed by NCGS §113A-64(a).

20.15 Criminal Penalty - Soil Erosion and Sedimentation Control

Any person who knowingly or willfully violates any soil erosion and sedimentation control provisions of this Ordinance, or rule or order adopted or issued pursuant to the soil erosion and sedimentation control provisions, or who knowingly or willfully initiates or continues a land disturbing activity for which an erosion and sedimentation control plan is required except in accordance with the terms, conditions, and provisions of an approved plan, shall be guilty of a misdemeanor punishable by imprisonment not to exceed ninety (90) days, or by a fine not to exceed \$5,000, or both.

20.16 Injunctive Relief - Soil Erosion and Sedimentation Control

Whenever the Enforcement Officer has reasonable cause to believe that any person is violating or threatening to violate this Ordinance or any rule or order adopted or issued pursuant to this Ordinance, or any term, condition, or provision of an approved soil erosion and sedimentation control plan the Enforcement Officer may, either before or after the institution of any other action or proceeding authorized by this Ordinance, institute a civil action in the name of the Jurisdiction, for injunctive relief to restrain the violation or threatened violation. The action shall be brought in the Superior Court of Cabarrus County. Upon determination by a court that an alleged violation is occurring or is threatened, it shall enter such orders or judgments as are necessary to abate the violation or to prevent the threatened violation. The institution of an action for injunctive relief under this Section shall not relieve any party to such proceedings from any civil or criminal penalty prescribed for violations of this Ordinance.