

ORANGE COUNTY EROSION & SEDIMENT CONTROL BOND PACKET & GENERAL POLICIES



DEPARTMENT OF DEVELOPMENT SERVICES

Memo - Re. erosion control permit and bond requirements.....	2
Bond amounts and bond release policy.....	3,4
(Form) Irrevocable letter of credit for erosion & sediment control.....	5
(Form) Erosion and sediment control performance bond.....	6
(Form) Orange County surety agreement for cash escrow.....	7

MEMORANDUM

TO: Erosion & sediment (E&S) control permit applicants
FROM: Orange County E&S Program Administrator
DATE: April 8th, 2015 (revised March 15th, 2017; December 13th, 2022)
SUBJ: Erosion and sediment (E&S) control permit and bond requirements

Pursuant to the Code of Virginia and Chapter 26 of the Orange County Code of Ordinances, property owners engaging in non-exempt land disturbance of $\geq 10,000$ square feet within the county (2,500 square feet within either town or on residentially-zoned property) must first obtain a Land Disturbance Permit and post a bond for the project. Projects disturbing ≥ 1 acre must also obtain permit coverage for stormwater management through the Virginia Dept. of Environmental Quality.

For all non-exempt land disturbance, engineered E&S control plans must be submitted to and approved by the County prior to permitting. Non-engineered plans may be accepted by the Program Administrator for unique situations. Single-family residential construction that does not involve any major grading or filling operations may be issued a document known as an Agreement in Lieu of an E&S Plan. This takes the place of a Land Disturbance Permit, which is what is issued for any other type of project involving land disturbance. Projects disturbing ≥ 1 acre must also have stormwater management plans submitted to and approved by DEQ. The county however is the ultimate authority over projects involving land disturbance and/or stormwater management.

A bond must accompany any issued Agreement in Lieu of an E&S Plan or any Land Disturbance Permit, and may be posted as cash/check/money order, a letter of credit from a lending institution (i.e. a bank), or a performance bond (typically issued by insurance agencies). The last 3 pages of this packet provide the appropriate forms to accompany a bond for a project depending on how it is to be posted. Letters of credit and performance bonds are original documents and need to be provided to the county at the time permits are issued. Issuers of these sureties must also provide proof that they are licensed to conduct business in Virginia. Due to the interrelatedness of stormwater management and erosion and sediment control, all facilities and activities related to both are bonded together (if applicable). Refer to page 3 for bond amounts and the County's bond release policy.

Please also refer to the Application for an Agreement in Lieu of an E&S Control Plan OR the Application for Land Disturbance Permit (available on the department's webpage at orangecountyva.gov). The fee schedule is also available on the department's webpage.

A Responsible Land Disturber (RLD) certification issued by the state (DEQ) is required for the issuance an Agreement in Lieu of a Plan or for a Land Disturbance Permit.

**EROSION & SEDIMENT CONTROL BOND AMOUNTS
& GENERAL BOND RELEASE REQUIREMENTS**

A bond (cash/check/money order, letter of credit, or performance bond) must be posted prior to the issuance of an Agreement in Lieu of an Erosion Control Plan or a Land Disturbance Permit in accordance with the following schedule:

For Agreements in Lieu of Erosion Control Plans	
<u>Amount of Land Disturbance:</u>	<u>Bond Amount Required:</u>
2,500 – 10,000 sq. ft. (non-exempt)	\$1,500
10,000 – 22,000 sq. ft.	\$2,000
22,001 – 43,560 sq. ft. (1 acre)	\$3,000
Each additional square foot over 1 acre	\$3,000 + \$0.15/sq. ft. additional

For Land Disturbance Permits
An itemized bond estimate should be submitted by the erosion control plan-preparer or a contractor who is knowledgeable of the approved plan requirements. This itemized estimate should cover the installation of all erosion control measures shown on the approved plan AND all stormwater facilities and measures to be installed. The estimate should also include a contingency amount (between 10% - 25%; at the discretion of the Program Administrator) to cover project overruns and inflation (in the event the county must pull the bond and complete the work).

BOND RELEASE REQUIREMENTS:

The following conditions constitute the County’s bond release policy. These conditions must be met, along with any other reasonable condition established by the Program Administrator. The owner is responsible for scheduling the bond release inspection; fees are assessed for failed inspections.

Site Conditions:

- All denuded areas must be graded to final grade such that site allows for positive drainage and ponding of water does not occur.
- The site must be stabilized with uniform vegetation at least two inches in height. If sod is used, there is a 90-day waiting period before a bond release inspection may be scheduled, and there must be evidence that the sod is sufficiently rooted.
- All construction debris and rocks/stone not utilized as pavement must be removed from the site.
- All temporary erosion and sediment control measures (including temporary construction entrance that will not be converted to a permanent driveway) must be removed.

Other Conditions:

- The construction must have passed its final inspection, as performed by the Building Department, before the project is eligible for a bond release inspection.
- If approved via a minor or major site plan, the project must have the Final Certificate of Zoning Compliance issued.

- *(If applicable)* Projects involving the installation of stormwater management facilities must have as-built drawings submitted to and accepted by the county to show that the facilities are built according to the approved plan. As-built plans must:
 - Provide, at a minimum, all the information on the as-built plan checklists in the Virginia Stormwater Management Handbook.
 - Clearly show and note any field modifications that were approved.
 - Include hydrologic and hydraulic computations to verify that the facilities function as intended.
 - Include the following statement near the professional's seal:

"I (submitting professional's name) certify that, to the best of my knowledge, this as-built plan represents the actual condition of the stormwater facilities for this project/site, and conforms with the approved construction/design plan except as shown, and that all aspects of the stormwater facilities were constructed in accordance with the approved plans and the Virginia Stormwater Management Handbook. I further certify that these facilities, in my professional judgement, are functioning as intended."
- The Program Administrator may accept other forms of certification provided these certifications together meet the intent of the county's certification requirement.
- *(If applicable)* A copy of the stormwater BMP maintenance agreement as recorded in the Orange County Circuit Court.
- *(If applicable)* The completed Notice of Termination has been submitted to the Virginia DEQ to satisfy the requirements of the General VPDES Permit for Discharges of Stormwater from Construction Activities (VAR10), and the related requirements have been completed.



IRREVOACABLE LETTER OF CREDIT FOR E&S CONTROL

Beneficiary:
County of Orange
Board of Supervisors
P.O. Box 111
Orange, VA 22960

Date: _____
EACH DRAFT DRAWN RELATIVE HERETO MUST BE MARKED
DRAWN UNDER _____ *LETTER OF CREDIT NUMBER* _____,
AND BE ACCOMPANIED BY THIS ORIGINAL LETTER OF CREDIT.

APPLICANT: _____ AMOUNT: _____
_____ U. S. \$ _____
_____ Expiration Date: _____

SEE BELOW

WE HEREBY OPEN OUR IRREVOCABLE LETTER OF CREDIT NO. _____ IN YOUR FAVOR FOR THE ACCOUNT OF _____ FOR A SUM NOT EXCEEDING U. S. \$ _____ AVAILABLE BY YOUR SIGHT DRAFTS ON US AND ACCOMPANIED BY THE FOLLOWING DOCUMENTS:

A CERTIFIED STATEMENT SIGNED BY AN OFFICIAL OF ORANGE COUNTY STATING THAT _____ HAS NOT SATISFACTORILY PERFORMED ITS OBLIGATION TO THE COUNTY OF ORANGE RELATING TO EROSION AND SEDIMENT CONTROL FOR _____, AND THAT THE PROCEEDS OF THE DRAWING WILL BE USED IN PROVIDING FUNDS FOR COMPLETION OF THE PROJECT.

THIS LETTER OF CREDIT SHALL BE VALID FOR A PERIOD OF TWO YEARS FROM THE DATE HEREON AND SHALL AUTOMATICALLY RENEW FROM YEAR TO YEAR THEREAFTER UNLESS THE GUARANTOR SHALL GIVE NINETY DAYS PRIOR WRITTEN NOTICE TO THE COUNTY OF ORANGE OF ITS INTENT TO TERMINATE SAME AT THE EXPIRATION OF SAID NINETY DAY PERIOD.

DURING THE LAST THIRTY DAYS IN WHICH THIS CREDIT IS VALID, THE COUNTY OF ORANGE MAY DRAW UP TO THE FULL AMOUNT WHEN ITS DRAFT IS ACCOMPANIED BY THE FOLLOWING DOCUMENT:

A CERTIFIED STATEMENT SIGNED BY AN OFFICIAL OF ORANGE COUNTY STATING THAT _____ HAS NOT SATISFACTORILY PERFORMED ITS OBLIGATION TO THE COUNTY OF ORANGE RELATING TO EROSION AND SEDIMENT CONTROL FOR _____, THAT _____ HAS NOT PROVIDED AN ACCEPTABLE SUBSTITUTE LETTER OF CREDIT OR DEPOSIT IN ESCROW, AND THAT THE DRAWING WILL BE HELD FOR THE SOLE PURPOSE OF PROVIDING FOR COMPLETION OF THE PROJECT IN ACCORDANCE WITH THE ORANGE COUNTY CODE.

WE HEREBY ENGAGE WITH YOU THAT ALL DRAFTS DRAWN UNDER AND IN COMPLIANCE WITH THE TERMS OF THIS CREDIT SHALL BE DULY HONORED UPON PRESENTATION AND DELIVERY AT THIS OFFICE WITHIN THE VALIDITY OF THE CREDIT.

SINCERELY,

ISSUED BY: _____

ADDRESS: _____

TELEPHONE: _____

AUTHORIZED SIGNATURE

(DATE)



PERFORMANCE BOND FOR E&S CONTROL

KNOW ALL MEN BY THESE PRESENTS, that

Bond # _____

(Hereinafter called Principal), as PRINCIPAL,

(Principal Address) AND

(Hereinafter called Surety), as SURETY,

(Surety Address)

are held and firmly bound unto the County of Orange, Virginia, in the sum of \$_____ good and lawful money of the United States of America, for the payment of which well and truly we bind ourselves, our heirs, executors, and assigns firmly by these presents:

Signed and sealed this _____ day of _____, 20_____.

WHEREAS, PRINCIPAL has filed with the County of Orange, Virginia, a Site Plan and/or Erosion and Sediment Control Plan, approved on the _____ day of _____, 20_____, for a project known as _____, and to be performed at _____.

NOW, THEREFORE, if PRINCIPAL shall conform and comply to all regulations and ordinances pertaining to the aforesaid plan promulgated by the County of Orange, and shall indemnify and save harmless said County, its citizens, residents and property owners against any and all loss arising out of PRINCIPAL's failure to comply or conform with the requirements of regulations and/or ordinances of the County of Orange, now in force or which may hereafter be enacted, or arising by reason of PRINCIPAL's negligence or carelessness in the performance of the work for which said plan was approved, then this obligation shall be null and void, otherwise to remain in full force and effect.

BY: _____
PRINCIPAL SIGNATURE

STATE OF _____
COUNTY / CITY OF _____

PRINT NAME DATE

SUBSCRIBED AND SWORN TO ME THIS _____
DAY OF _____,

BY: _____
SURETY SIGNATURE (MUST BE NOTARIZED) →

IN MY COUNTY / CITY AFORESAID, BY THE
AFOREMENTIONED SURETY.

PRINT NAME DATE

(NOTARY PUBLIC)

APPROVED AS TO FORM:

NOTARY SEAL

COUNTY ATTORNEY DATE



SURETY AGREEMENT FOR CASH ESCROW FOR E&S CONTROL

I, _____ have posted with Orange County a
(Landowner or agent (requires letter of permission to act as agent))

cash escrow in the amount of \$_____ as surety that I will comply with all applicable ordinance requirements as required by plans approved or an agreement in lieu of an erosion and sediment (E&S) control plan as issued for the project known as:

_____.

Once the site work is complete and vegetation sufficient to inhibit erosion is present on site, I understand that this cash escrow will be returned to me at my request upon a successful bond release inspection conducted by Orange County.

Printed Name of Property Owner or Agent (requires letter of permission to act as agent)

Signature of Property Owner or Agent Date

***** This surety will be retained until obligations are satisfied. *****

Cc: Orange County Treasurer
Applicant: Copy
File: Original

PLEASE RETURN SURETY RELEASE TO THE FOLLOWING:

NAME: _____
STREET: _____
P.O. BOX: _____
CITY: _____
STATE: _____ ZIP: _____

Please sign: The above address is true and correct to the best of my knowledge:

Surety Agent (Applicant) Date