

Fauquier County Administrative Policy for Early Grading

In order to facilitate development of commercial, industrial and governmental projects, Fauquier County may approve a Land Disturbing Permit for Early Grading (hereinafter termed Early Grading Permit, EGP), in accordance with the provisions of DSM 208.7(d) and (e).

Whether a project may be considered for the issuance of an Early Grading Permit shall be at the sole discretion of the Director of Community Development. The Director shall make such determination based on considerations such as, but not limited to, the likelihood the project can proceed forward in a timely manner, the complexity of the project, the public need to have the project move forward expeditiously, and the prior performance of the applicant and the prospective contractor in compliance with E&S laws.

An applicant's intent to apply for Early Grading Permit processing should be established early in the planning stages of the project. Typically a concept is developed prior to preparing and submitting the first submission of a Major Site Plan or Infrastructure Plan for the project site. A discussion of the applicability of the EGP process to a particular project should occur prior to or during the pre-application meeting for the project.

An Early Grading Permit will be limited to elements shown on the approved Phase I and/or Phase IA Erosion and Sediment Control (E&S) Plan (see definitions on page 5), and may include site clearing and grading, open-ended culverts to facilitate positive drainage, temporary sediment trapping devices for erosion and sediment control, temporary and permanent stabilization and retaining walls associated with necessary cut and fill operations. A separate building permit for any retaining walls, if required, shall be obtained prior to construction activity.

In accordance with Section 208.7(e) of the Design Standards Manual, an application may only occur under one of the following circumstances:

- A major site plan for development of the property is currently under review.
- An infrastructure plan, with an approved plan of development, is currently under review for the full design of infrastructure associated with a given project, and a Type 1 Soil Survey has been performed for the entire development site.

In addition, the proposed project shall have received pre-authorization from the Director of Community Development for submission of the project under this EGP opportunity.

Procedures for Submission and Approval

1. A concept scoping meeting with Community Development and John Marshall Soil and Water Conservation District shall be conducted prior to the submission of an EGP application and preferably, prior to the first submission of the site or infrastructure plan.
2. It is preferable that the Phase IA E&S Plan be incorporated as part of the first submission of the site or infrastructure plan for review as part of the full project prior to submission of an EGP application.
3. Submission for EGP processing may occur at any time during the final site plan or infrastructure plan review. The plan shall address temporary and/or permanent stabilization of the site for each phase of site preparation and/or conversion. The Phase II E&S Plan must accompany the EGP submittal and must have a note in bold lettering clearly stating: “FOR INFORMATION PURPOSES ONLY; NOT FOR CONSTRUCTION.”

An Early Grading Plan shall not be approved until such time as there will be no further significant project modifications related to the overall building and site layout, clearing or grading of the site, the preservation of existing vegetative or environmental areas, or the location of temporary sediment trapping devices relative to permanent stormwater management facilities.

4. While submission for EGP processing may occur as set forth in #3 above, issuance of an EGP may not occur until after the full project has undergone a Technical Review Committee meeting to solicit comments from outside review agencies.
5. The scope of the EGP is represented by the Phase I and/or Phase IA E&S Plan only and shall address all drainage, E&S, grading comments, and other pertinent issues contained in the First Submission Comment Letter.
6. The applicant shall submit four (4) copies of the Early Grading Plans to the Department of Community Development, accompanied by a Land Development Application. Each plan sheet shall indicate “Early Grading only.”
7. Provided the Phase IA E&S Plan for early grading was incorporated into the first submission of the major site or infrastructure plan, the review of the subsequent submission of the EGP Application shall occur within fifteen business (15) days of submittal by the County to John Marshall Soil and Water Conservation District. Additional plan submittals will be processed at an accelerated time schedule provided there is commitment on the design engineer’s part to make the required changes in an equivalent accelerated time frame. Submission of an EGP application made independent of the major site or infrastructure plan review will

likely require additional time for the initial review and may take up to 45 days, depending on the work load of the review agencies.

8. If applicable and unless it is shown that all work required to complete the early grading operation has absolutely no impact on a floodplain or wetlands, wetlands and other federal/state permits shall be required, and any necessary flood plain studies shall be approved and complied with prior to the issuance of an Early Grading Permit.
9. If applicable, any necessary off-site drainage easements shall be obtained or evidence provided that the necessary easements will be granted.
10. All special exception conditions and rezoning proffers that could be affected by the EGP as determined by the Director of Community Development shall be met prior to the issuance of the EGP.
11. Prior to approval of the Early Grading Permit, the applicant must submit evidence of filing the registration statement for the Virginia Stormwater Management Permit (VSMP) if applicable to the project.
12. The plan review fee for the Early Grading Permit, and the bond review fee and permit fee for the entire project will be \$4,000.00/acre, based on total disturbed acreage, with a fee cap of \$25,000. This fee is inclusive of all land disturbing review, permit, and bond review fees associated with the project, but does not include the overall site plan review fee, and shall be paid prior to the issuance of the EGP.
13. An E&S performance guarantee in the form of a cash deposit or letter of credit shall be required to ensure the successful and proper execution of the Early Grading Plan. The amount shall be based upon the total disturbed acreage of the project and shall be bonded at a rate of \$35,000 per acre. As an alternative to the flat bond fee, the owner shall have the option of providing a full bond estimate based on the County's per-unit cost listing and participate in the County's standard bond estimate review process, including payment of the bond estimate review fee, with the required bond amount established through that process. Irrespective of the alternative chosen, the per-acre fee amount as outlined in #12 above shall apply. The early grading performance bond will be released once the total site bond is in place.
14. The project owner shall execute a land developers agreement for early grading, with provisions as determined appropriate by the County to ensure performance under the agreement. As part of this agreement, the Developer will acknowledge that the work undertaken with the Early Grading Permit will be limited strictly to the work shown on the approved Phase I and/or Phase IA E&S Plans and is undertaken at the Developer's own risk. The Developer will further acknowledge understanding that there may be additional expenses and

requirements needed to comply with the State Erosion and Sediment Control laws due to the staging of the project improvements and/or the timing of the Developer's ability to proceed with the Phase II E&S and other site construction beyond that allowed with the Phase I and Phase IA E&S Plans, including but not limited to the following:

- a. On-going maintenance of E&S controls on the site, including permanent stabilization (permanent seeding) for areas that will not be put to final grade for a year or more,
- b. Construction road stabilization for graded roadways that are not ready for permanent paving, and
- c. Modifications to the configuration of the final site development plan that result in the relocation of drainage structures, less than optimum conversion of sediment basins to permanent stormwater facilities or the loss of tree save areas, conservation areas or drainfields.

15. Prior to the issuance of an Early Grading Permit, the required E&S performance guarantee and associated land developers agreement shall be submitted and approved. An EGP shall be valid for no more than six (6) months from the time of issuance, except that an extension of time may be made by the Director of Community Development to address unusual weather and/or site conditions. In any case where an extension of time has not been granted or the EGP has expired, and the land disturbing permit for the remainder of the project has not been issued, the developer shall be responsible for implementing the contingency site stabilization plan (Phase 1A) within fourteen (14) days of the expiration of the permit. The land developer's agreement shall specifically address the situations under which enforcement action for non-performance will occur.
16. The owner and contractor shall hold a pre-construction meeting on-site with representatives of the John Marshall Soil and Water Conservation District prior to commencement of any land disturbing activity.
17. At any time following approval and release of the major site plan or infrastructure plan, the owner may request the EGP to be incorporated in a land disturbing permit for the full construction of the project, provided that the owner has replaced the original performance guarantee for one that covers the remaining E&S items and project improvements, and has executed a land developers agreement. It is preferable for the County to maintain only one performance guarantee.

DEFINITIONS:

Phase I E&S Plan – A plan that represents existing site conditions (i.e. - vegetative cover, topography, etc.) and reflects proposed perimeter sediment trapping practices/controls (silt fence, sediment traps, diversions berms, sediment basins, etc.). This plan will/may establish the initial mobilization and installation of perimeter controls for the site prior to land clearing/site preparation operations.

Phase 1A E&S Plan (Contingency Site Stabilization Plan) - This plan will serve as an interim phase of the erosion and sediment control Early Grading Permit Plan for site stabilization in the event that the Major Site or Infrastructure Plan has not been approved, bonded and permitted by the County by the time that: 1) perimeter controls have been established, and; 2) initial clearing and grubbing has commenced and/or completed, and/or; 3) rough grading operations have commenced/completed, and/or; 4) basic site-wide drainage conditions have been established. The Phase 1A Plan shall include conversion of natural drainage patterns to facilitate positive drainage (using diversion dikes, cut and/or fill operations, construction of retaining walls, installation of open ended culverts. etc.), the adequacy of all receiving channels on site per Minimum Standard 19, and appropriate vegetative measures. The Contingency Site Stabilization (Phase 1A) Plan along with the Phase 1 E&S Plan must serve as a stand alone plan per the guidelines in the Virginia Erosion and Sediment Control Handbook.

Phase II E&S Plan – A plan that provides for E&S control on the site following installation of hard infrastructure associated with the site or infrastructure plan (i.e. - curb & gutter, storm sewer inlets, permanent surface and subsurface drainage improvements, parking lots, sidewalks, etc.) Depending on the timing of the implementation of either the Phase I E&S and/or Phase IA E&S Plans, the Phase II E&S Plan must contemplate the progression of site improvements required by the Phase II E&S Plan from either the Phase I E&S and/or Phase IA E&S Plans. (In other words, depending on the progress of the site or infrastructure plan approval process, portions of the Phase IA E&S Plan may not be necessary and a transition to the Phase II E&S Plan, directly from the Phase I E&S Plan may be realized. Alternatively, it may be necessary for the Phase IA E&S Plan to be stabilized for a longer period than contemplated. In this case, a different temporary stabilization approach in Phase IA and transition from Phase IA into Phase II will be required. The Phase II E&S Plan should address both scenarios.)