

Subject Matter: Adoption of an Ordinance to be codified at Chapter 43, within the Code of Ordinances of the Town of Sharpsburg, entitled "Soil Erosion and Sedimentation Control"

Date First Presented by Council at

Public Meeting: 3-4-02

Date of Public Hearing Before

Town Council: 4-8-02

Date of Adoption: 4-8-02

**TOWN OF SHARPSBURG
COUNTY OF COWETA
STATE OF GEORGIA**

ORDINANCE NUMBER 02-02

TOWN OF SHARPSBURG, GEORGIA

PREAMBLE AND FINDINGS

WHEREAS, the Town of Sharpsburg desires to adopt this Soil Erosion and Sedimentation Control Ordinance to be codified at Chapter 43 of the Town's Code of Ordinances in order to issue land disturbance permits in accordance with Georgia Soil Erosion and Sedimentation Control Act.

WHEREFORE, THE TOWN OF SHARPSBURG HEREBY ADOPTS, ORDAINS AND ENACTS THE FOREGOING AS ITS SOIL EROSION AND SEDIMENTATION CONTROL ORDINANCE CODIFIED AT CHAPTER 43, TITLED, "SOIL EROSION AND SEDIMENTATION CONTROL", OF THE TOWN CODE OF ORDINANCES AS FOLLOWS:

SECTION ONE

The Soil Erosion and Sedimentation Control Ordinance shall be codified as follows:

Sec. 43-1. Definitions.

The following definitions shall apply in the interpretation and enforcement of this chapter, unless otherwise specifically stated:

Best Management Practices (BMP's) means a collection of structural practices and vegetative measures which, when properly designed, installed and maintained, will provide effective erosion and sedimentation control for all rainfall events up to and including a 25-year, 24-hour rainfall event. A minimum criteria for BMP's is set forth in chapter 6 of the "Manual For Erosion And Sediment Control In Georgia".

Board means the Board of Natural Resources.

Buffer means the area of land immediately adjacent to the banks of State waters in its natural state of vegetation, which facilitates the protection of water quality and aquatic habitat. The width of the buffer is measured from the top of the banks of the waters where vegetation has been wrested by normal stream flow or wave action. In the Town of Sharpsburg, the minimum buffer width shall be 25 feet.

Commission means the State Soil and Water Conservation Commission.

Cut means a portion of land surface or area from which earth has been removed or will be removed by excavation; the depth below original ground surface to excavated surface. Also known as excavation.

Department means the Department of Natural Resources.

Director means The Director of the Environmental Protection Division of the Department of Natural Resources.

District means the Soil and Water Conservation District designated by the State to have jurisdiction over the Town of Sharpsburg.

Division means The Environmental Protection Division of the Department of Natural Resources.

Drainage structure means a device composed of virtually nonerodible material such as concrete, steel, plastic, or other such material that conveys water from one place to another by intercepting the flow and carrying it to a release point for stormwater management, drainage control, or flood control purposes.

Erosion means the process by which land surface is worn away by the action of wind, water, ice or gravity.

Erosion and sediment control plan means a plan for the control of soil erosion and sediment resulting from land-disturbing activity. Also known as the "plan."

Existing grade means the vertical location of the existing ground surface prior to cutting or filling.

Fill means a portion of land surface to which soil or other solid material has been added; the depth above the original ground.

Filling means the placement of any soil or other solid material either organic or inorganic on a natural ground surface or excavation.

Final stabilization means that all soil disturbing activities at the site have been completed, and that for unpaved areas and areas not covered by permanent structures, at least 70% of the soil surface is uniformly covered in permanent vegetation or equivalent permanent stabilization measures (such as the use of rip rap, gabions, permanent mulches or geotextiles) and have been installed as per manufacturers instructions or engineering specifications.

Finished grade means the final elevation and contour of the ground after cutting or filling and conforming to the proposed design.

Grading means altering ground surfaces to specified elevations, dimensions, and/or slopes; this includes stripping, cutting, filling, stockpiling and shaping or any combination thereof and shall include the land in its cut or filled condition.

Grinding means grinding all shrubs and trees that are removed from the site, storing these grindings, on site, and using this material for mulch, on site.

Ground elevation means the original elevation of the ground surface prior to cutting or filling.

Issuing authority means the governing authority of the Town of Sharpsburg which has been certified by the Director of the Environmental Protection Division of the Department of Natural Resources as an issuing authority, pursuant to the Erosion and Sedimentation Act of 1975, as amended.

Jobsite Erosion Control Supervisor (JECS) means an employee of the permit holder (owner, developer, or builder) who is qualified through training and education by successfully completing an erosion and sediment control short course eligible for continuing education units, or an equivalent course approved by EPD and the State Soil and Water Conservation Commission, and has a minimum of one years experience in supervising erosion control practices and procedures, who is designated to

serve in that Town. Evidence of such qualifications shall be furnished to the Town Engineer upon request.

Land-disturbing activity means any activity which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands within the state, including, but not limited to, clearing, dredging, grading, excavating, transporting, and filling of land but not including agricultural practices as described in section 42-138(3) and (4).

Manual means the current edition of the Georgia Soil and Water Conservation Commission's "Manual For Erosion And Sediment Control In Georgia".

Metropolitan River Protection Act (MRPA) means a state law referenced as O.C.G.A. § 12-5-440 et seq., which addresses environmental and developmental matters in certain metropolitan river corridors and their drainage basins.

Natural ground surface means the ground surface in its original state before any grading, excavation or filling.

Nephelometric turbidity units (NTU) means numerical units of measure based upon photometric analytical techniques for measuring the light scattered by finely divided particles of a substance in suspension. This technique is used to estimate the extent of turbidity in water in which colloiddally dispersed particles are present.

One-hundred-year floodplain means land in the floodplain subject to a one percent or greater statistical occurrence probability of flooding in any given year.

Permit means the authorization necessary to conduct a land-disturbing activity under the provisions of this chapter.

Permit Board means a covered board with sufficient area for posting land-disturbing or building permits, inspection slips, and any placard, which may be posted by the Town. This board shall be placed within three feet of the C/O Entrance Pad and within three (3) feet of the front of the property line. The board shall be a minimum of 16''x16'' and shall be mounted five (5) feet in height above grade.

Person means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, state agency, municipality or other

political subdivision of this state, any interstate body or any other legal entity.

Project means the entire proposed development project regardless of the size of the area of land to be disturbed.

Roadway drainage structure means a device such as a bridge, culvert, or ditch, composed of a virtually nonerodible material such as concrete, steel, plastic, or other such material that conveys water under a roadway by intercepting the flow on one side of a traveled way consisting of one or more defined lanes, with or without shoulder areas, and carrying water to a release point on the other side.

Sediment means solid material, both organic and inorganic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, ice, or gravity as a product of erosion.

Sedimentation means The process by which eroded material is transported and deposited by the action of water, wind, ice, or gravity.

Soil and Water Conservation District approved plan means an erosion and sedimentation control plan approved in writing by the Towaliga Soil and Water Conservation District.

Stabilization means the process of establishing an enduring soil cover of vegetation and/or mulch or other ground cover and/or in combination with installing temporary or permanent structures for the purpose of reducing to a minimum the erosion process and the resultant transport of sediment by wind, water, ice or gravity.

State waters means any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of the state, which are not entirely confined and retained completely upon the property of a single individual, partnership, or corporation.

Structural Erosion and Sediment Control Practices means practices for the stabilization of erodible or sediment-producing areas by utilizing the mechanical properties of matter for the purpose of either changing the surface of the land or storing, regulating, or disposing of runoff to prevent excessive sediment loss. Examples of structural erosion and sediment control practices are riprap, sediment basins, dikes, level spreaders waterways or outlets, diversions, grade stabilization structures, sediment traps, land grading, etc. Such practices can be found in the publication Manual for Erosion and Sediment Control in Georgia.

Topsoiling means stripping off the more fertile topsoil, storing it onsite, then re-spreading it over the disturbed area, after construction activities, to enhance seed, sod, and/or other growth in achieving final stabilization.

Trout streams means all streams or portions of streams within the watershed as designated by the game and fish division of the Georgia Department of Natural Resources under the provisions of the Georgia Water Quality Control Act, O.C.G.A. § 12-5-20 et seq. Streams designated as primary trout waters are defined as water supporting a self-sustaining population of rainbow, brown, or brook trout. Streams designated as secondary trout waters are those in which there is no evidence of natural trout reproduction, but are capable of supporting trout throughout the year. First order trout waters are streams into which no other streams flow except springs.

Vegetative Erosion and Sediment Control Measures means measures for the stabilization of erodible or sediment-producing areas by covering the soil with:

- (1) Permanent seeding, sprigging or planting, producing long-term vegetative cover; or
- (2) Temporary seeding, producing short-term vegetative cover; or
- (3) Sodding, covering areas with a turf of perennial sod-forming grass.

Such measures can be found in the publication Manual for Erosion and Sediment Control in Georgia.

Watercourse means any natural or artificial watercourse, stream, river, creek, channel, ditch, canal, conduit, culvert, drain, waterway, gully, ravine, or wash in which water flows either continuously or intermittently and which has a definite channel, bed and banks, and including any area adjacent thereto subject to inundation by reason of overflow or floodwater.

Wetlands means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

Sec. 43-2. Exemptions.

(a) This chapter shall apply to any land-disturbing activity undertaken by any person on any land except for the following:

- (1) Surface mining, as the same is defined in O.C.G.A. § 12-4-72;
- (2) Granite quarrying and land clearing for such quarrying;
- (3) Such minor land-disturbing activities as home gardens and individual home landscaping, repairs, maintenance work, and other related activities which result in minor soil erosion;
- (4) Agricultural operations as defined in O.C.G.A. 1-3-3, “definitions”, to include raising, harvesting, or storing of products of the field or orchard; feeding, breeding, or managing livestock or poultry; producing or storing feed for use in the production of livestock, including but not limited to cattle, calves, swine, hogs, goats, sheep, and rabbits or for use in the production of poultry, including but not limited to chickens, hens, and turkeys; producing plants, trees, fowl, or animals; the production of aqua culture, horticultural, dairy, livestock, poultry, eggs, and apiarian products; farm buildings and farm ponds;
- (5) Forestry land management practices, including harvesting; provided, however, that when such exempt forestry practices cause or result in land-disturbing or other activities otherwise prohibited in a buffer, as established in paragraphs (15) and (16) of Section 43-7(c) of this ordinance, no other land-disturbing activities, except for normal forest management practices, shall be allowed on the entire property upon which the forestry practices were conducted for a period of three years after completion of such forestry practices;
- (6) Any project carried out under the technical supervision of the Natural Resources Conservation Service of the United States Department of Agriculture;
- (7) Construction or maintenance projects, or both, undertaken or financed in whole or in part, or both, by the Department of Transportation, the Georgia Highway Authority, or the Georgia Tollway Authority; or any road construction or maintenance project, or both, undertaken by any county or municipality; provided, however, that such projects shall conform to the minimum requirements set forth in section 42-143 of this ordinance; provided further that maintenance or construction projects of the Department of Transportation or the State Tollway Authority which

disturb five or more contiguous acres of land shall be subject to provisions of O.C.G.A Section 12-7-7-1;

- (8) Any land-disturbing activities conducted by any electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the Public Service Commission, provided that any such land-disturbing activity shall conform to the minimum requirements set forth in section 43-7 of the Chapter.
- (9) The construction of single-family residences, when such are constructed by or under contract with the owner for his or her own occupancy, or the construction of single-family residences not a part of a platted subdivision, a planned community, or an association of other residential lots consisting of more than two lots and not otherwise exempted under this paragraph; provided, however, that construction of any such residence shall conform to the minimum requirements as set forth in section 43-7 of this chapter. For single-family residence construction covered by the provisions of this paragraph, there shall be a buffer zone between the residence and any state waters classified as trout streams pursuant to Article 2 of Chapter 5 of the Georgia Water Quality Control Act. In any such buffer zone, no land-disturbing activity shall be constructed between the residence and the point where vegetation has been wrested by normal stream flow or wave action from the banks of the trout waters. For primary trout waters, the buffer zone shall be at least 50 horizontal feet, and no variance to a smaller buffer shall be granted. For secondary trout waters, the buffer zone shall be at least 50 horizontal feet, but the Director may grant variances to no less than 25 horizontal feet. Regardless of whether a trout stream is primary or secondary, for first order trout waters, which are streams into which no other streams flow except for springs, the buffer shall be at least 25 horizontal feet, and no variance to a smaller buffer shall be granted. The minimum requirements of section 43-7 of this chapter and the buffer zones provided by this section shall be enforced by the issuing authority.

(b) Where this section requires compliance with the minimum requirements set forth in section 43-7 of this chapter, issuing authorities shall enforce compliance with the minimum requirements as if a permit has been issued and violations shall be subject to the same penalties as violations by permit holders.

Sec. 43-3. Inspection and Enforcement.

(a) The Town of Sharpsburg will periodically inspect the sites of land-disturbing activities for which permits have been issued to determine if the activities are being conducted in accordance with the plan and if the measures required in the plan are effective in controlling erosion and sedimentation. If, through inspection, it is deemed that a person engaged in land-disturbing activities as defined herein has failed to comply with the approved plan, with permit conditions, or with the provisions of this chapter, a written notice to comply shall be served upon that person. The notice shall set forth the measures necessary to achieve compliance and shall state the time (not to exceed five days) within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified he shall be deemed in violation of this ordinance, a "Stop Work" order shall be issued, and a citation may be served upon the responsible person(s). Upon issuing a third notice to comply for the same or similar deficiencies, the person shall be deemed in violation of this chapter and;

- 1) A "Stop Work" order shall be issued
- 2) A citation shall be served upon the responsible person(s)
- 3) A bond may be required as per Sec. 43-8(b)(5)b

(b) The Town of Sharpsburg shall have the power to conduct such investigations as it may reasonably deem necessary to carry out duties as prescribed in this chapter, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigation and inspecting the sites of land-disturbing activities.

(c) No person shall refuse entry or access to any authorized representative or agent of the Issuing Authority, the Conservation Commission, the District, or Division who requests entry for the purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out his official duties.

(d) The Districts or Commission or both shall periodically review the actions of the Town as certified as Issuing Authority pursuant to O.C.G.A. § 12-7-8(a). The Districts or the Commission or both may provide technical assistance to the Town for the purpose of improving the effectiveness of the Town's erosion and sedimentation control program. The Districts or the Commission shall notify the Division and request investigation by the Division if any deficient or ineffective local program is found.

(e) The Division may periodically review the actions of the Town as certified as issuing authority pursuant to O.C.G.A. § 12-7-8(a). Such review may include, but shall not be limited to, review of the administration and enforcement of the Town's and review of conformance with an agreement, if any, between the District and the Town. If such review indicates that the Town certified pursuant to O.C.G.A. § 12-7-7(d), the division shall notify the Town in writing. The Town so notified shall have 30 days in which to

take the necessary corrective action to retain certification as an issuing authority. If the Town does not take necessary corrective action within 30 days after notification by the Division, the Division may revoke the certification of the Town as an Issuing Authority.

Sec. 43-4. Penalties and Incentives.

(a) Failure to obtain a permit for land-disturbing activity. If any person commences any land-disturbing activity requiring a land-disturbing permit as prescribed in this chapter without first obtaining said permit, the person shall be subject to revocation of his business license, work permit or other authorization for the conduct of a business and associated work activities within the jurisdictional boundaries of the issuing authority.

(b) Stop-work orders. The following procedures shall apply to the issuances of Stop Work Orders:

(1) For first and second violations of the provisions of this chapter, the director or issuing authority shall issue a written warning, or notice to comply, to the violator. The violator shall be given a specified time (not to exceed five days) to correct the violation. If the violation is not corrected within the specified time, a Stop Work Order shall be issued until necessary corrective action or mitigation has occurred; provided, however, that, if the violation presents an imminent threat to public health or waters of the state, an immediate Stop Work Order shall be issued in lieu of a warning.

(2) For a third and each subsequent violation, the director or issuing authority shall issue an immediate Stop Work Order; and

(3) All Stop Work Orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred.

(c) Bond forfeiture. If, through inspection, it is determined that a person engaged in land-disturbing activities has failed to comply with the approved plan, a written notice to comply shall be served upon that person. The notice shall set forth the measures necessary to achieve compliance with the plan and shall state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, he shall be deemed in violation of this chapter and, in addition to other penalties, shall be deemed to have forfeited his performance bond, if required to post one under the provisions of section 43-8(b)(5). The issuing authority may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance.

(d) (1) Civil penalties. Any person violating any provisions of this chapter, permitting conditions, falsifying any required documents, or stop-work order shall be liable for a civil penalty not to exceed \$2,500.00 per day, by a sentence of imprisonment not exceeding 60 days in jail or both fine and jail. Each day the violation continues shall constitute a separate violation.

(2) The Director or Issuing Authority shall assess and collect a minimum penalty of \$250.00 per day for each violation involving the construction of a single-family dwelling by or under contract with the owner for his or her own occupancy.

(3) The Director or Issuing Authority shall assess and collect a minimum penalty of \$1000.00 per day for each violation involving land-disturbing activities other than as provided in paragraph (2) above.

Sec. 43-5. Liability of persons complying with this Chapter.

(a) Neither the approval of a plan under the provisions of this chapter, nor compliance with the provisions of this chapter shall relieve any person from the responsibility for damage to any person or property otherwise imposed by law nor imposed upon the Town of Sharpsburg for damages to any persons or property.

(b) The fact that a land-disturbing activity for which a permit has been issued results in injury to the property of another shall neither constitute proof of nor create a presumption of a violation of the standards provided for in this chapter or the terms of the permit.

(c) No provision of this ordinance shall permit any persons to violate the Georgia Erosion and Sedimentation Act of 1975, the Georgia Water Quality Control Act or the rules and regulations promulgated and approved thereunder or pollute any Waters of the State as defined thereby.

Sec. 43-6. Effect of other Ordinances.

Whenever any other ordinance of the city provides for a greater or stricter requirement than this chapter, the greater or stricter requirement shall control.

Sec. 43-7. Requirement for best management practices; including minimum requirements for erosion and sedimentation control.

(a) General provisions. Excessive soil erosion and resulting sedimentation can take place during land-disturbing activities. Therefore, plans for those land-disturbing activities which are not excluded by this chapter shall contain provisions for application of soil erosion and sediment control measures. The provisions shall be incorporated into

the erosion and sediment control plans. Soil erosion and sediment control measures shall conform to the requirements of this chapter. The application of measures shall apply to all features of the site, including street and utility installations, drainage facilities and other temporary and permanent improvements. Measures shall be installed to prevent or control erosion and sediment pollution during all stages of any land-disturbing activity.

(b) Best management practices, as set forth in subsection (c) of this Code section shall be required for all land-disturbing activities. Proper design, installation, and maintenance of best management practices shall constitute a complete defense to any action by the director or to any other allegation of noncompliance with paragraph (2) of this subsection or any substantially similar terms contained in a permit for the discharge of stormwater issued pursuant to O.C.G.A. § 12-5-30(f). As used in this subsection, the terms "proper design" and "properly designed" mean designed to control soil erosion and sedimentation for all rainfall events up to and including a 25-year rainfall event.

- (1) A discharge of stormwater runoff from disturbed areas where best management practices have not been properly designed, installed, and maintained shall constitute a separate violation of any land-disturbing permit issued by a local Issuing Authority or by the Division or of any general permit for construction activities issued by the Division pursuant to subsection (f) of O.C.G.A. Section 12-5-30, "Georgia Water Quality Control Act", for each day on which discharge results in the turbidity of receiving waters being increased by more than 25 nephelometric turbidity units for waters supporting warm water fisheries or by more than ten nephelometric turbidity units for waters classified as trout waters. The turbidity of the receiving waters shall be measured in accordance with guidelines to be issued by the director.
- (2) Failure to properly design, install, or maintain best management practices shall constitute a violation of any land-disturbing permit issued by a local Issuing Authority or by the Division or of any general permit for construction activities issued by the Division pursuant to O.C.G.A. § 12-5-30(f) for each day on which such failure occurs.
- (3) The Director may require, in accordance with regulations adopted by the Board, reasonable and prudent monitoring of the turbidity level of receiving waters into which discharges from land-disturbing activities occur.

(c) Requirements. The rules and regulations, ordinances, or resolutions adopted pursuant to this chapter for the purpose of governing land-disturbing activities shall require, as a minimum, best management practices, including sound conservation and engineering practices to prevent and minimize erosion and resultant sedimentation, which are consistent with, and no less stringent than, those practices contained in the "Manual for Erosion and Sediment Control in Georgia" published by the Georgia Soil

and Water Conservation Commission as of January 1 of the year in which the land-disturbing activity was permitted, as well as the following:

- (1) Stripping of vegetation, re-grading and other development activities shall be conducted in such a manner so as to minimize erosion.
- (2) Cut-fill operations must be kept to a minimum.
- (3) Development plans must conform to topography and soil type, so as to create the lowest practical erosion potential.
- (4) Whenever feasible, natural vegetation shall be retained, protected and supplemented.
- (5) The disturbed area and the duration of exposure to erosive elements shall be kept to a practicable minimum.
- (6) Disturbed soil shall be stabilized as quickly as practicable.
- (8) Permanent vegetation and structural erosion control measures must be installed as soon as practicable, but not later than thirty (30) days after final grading activities have been completed. Permanent vegetation shall consist of: planted trees, shrubs, perennial vines; a crop of perennial vegetation appropriate for the region, such that within the growing season a 70% coverage by perennial vegetation shall be achieved. Final stabilization must be accomplished in each phase of construction.

Until this standard is satisfied and permanent control measures are operational, Final Plats or Certificates of Occupancy shall not be issued.

- (9) To the extent necessary, sediment in runoff water must be trapped by the use of debris basins, sediment basins, silt traps, or similar measures until the disturbed area is stabilized. As used in this paragraph, a disturbed area is stabilized when it is brought to a condition of continuous compliance with the requirements of this chapter.
- (10) Adequate provisions must be provided to minimize damage from surface water to the cut face of excavations or the sloping surface of fills.
- (11) Cuts and fills may not endanger adjoining property.
- (12) Fills may not encroach upon natural watercourses or constructed channels in a manner so as to adversely affect other property owners.

- (13) Grading equipment must cross flowing streams by the means of bridges or culverts except when such methods are not feasible and provided, in any case, that such crossings must be kept to a minimum.
- (14) Land-disturbing activity plans for erosion and sedimentation control shall include provisions for treatment or control of any source of sediments and adequate sedimentation control facilities to retain sediments on-site or preclude sedimentation of adjacent waters beyond the levels specified in subsection (b) of this code section.
- (15) Except as provided in paragraph (16) of this subsection, there is established a 25 foot buffer along the banks of all state waters, as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, except where the Director determines to allow a variance that is at least as protective of natural resources and the environment, where otherwise allowed by the Director pursuant to O.C.G.A. § 12-2-8, or where a drainage structure or a roadway drainage structure must be constructed, provided that adequate erosion control measures are incorporated in the project plans and specifications and are implemented; provided, however, the buffers of at least 25 feet established pursuant to part 6 of Article 5 of Title 12, the “Georgia Water Quality Control Act” shall remain in force unless a variance is granted by the Director as provided in this paragraph. The following requirements shall apply to any such buffer; no land-disturbing activities shall be conducted within a buffer and a buffer shall remain in its natural, undisturbed, state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a buffer at any time as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed.
- (16) There is established a 50 foot buffer as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, along the banks of any state waters classified as “trout streams” pursuant to Article 2 of Chapter 5 of Title 12, the “Georgia Water Quality Control Act”, except where a roadway drainage structure must be constructed; provided, however, that small springs and streams which discharge an average annual flow of 25 gallons per minute or less shall

have a 25 foot buffer or they may be piped, at the discretion of the landowner, pursuant to the terms of a rule providing for a general variance promulgated by the Board, so long as any such pipe stops short of the downstream landowner's property and the landowner complies with the buffer requirement for any adjacent trout streams. The Director may grant a variance from such buffer to allow a land-disturbing activity, provided that adequate erosion control measures are incorporated in the project plans and specifications and are implemented. The following requirements shall apply to any such buffer; no land-disturbing activities shall be conducted within a buffer and a buffer shall remain in its natural, undisturbed, state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a buffer at any time as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed.

- (17) The permit holder (owner, developer, or builder) shall designate, prior to beginning any work, a Jobsite Erosion Control Supervisor (JECS) who shall be responsible for initiating, properly installing, and maintaining all erosion control measures and devices as required by this ordinance.

The JECS, or his approved representative, shall be available on a twenty-four (24) basis with access to all equipment, personnel, and materials needed to maintain erosion control and handle flooding related situations. The JECS must inspect the site on a weekly basis and shall insure that deficiencies needing immediate attention are corrected within a twenty-four (24) hour period and that all other deficiencies must be corrected within five days. Additionally, in periods of heavy rain the JECS shall have the construction area patrolled regardless of the time of day or night or the day of the week for the purpose of early detection and correction of erosion or flooding problems before they interfere with traffic flow, safety, or endanger other property or waterways. In emergency situations corrections shall begin immediately. The JECS shall be available on site within two hours after notification of any emergency situation, prepared to positively respond to the emergency. If deemed necessary, the Town of Sharpsburg reserves the right to take action to remedy emergency situations without prior notification to the permit holder. The Town shall recover its cost for such action from the permit holder prior to approval of Final Plat or the issuing of a Certificate of Occupancy.

Failure to comply with the requirements of these specifications shall be grounds for dismissal of the JECS from his duties. Failure to maintain a

designated JECS or failure to comply with these specifications will result in a “Stop Work” order on the site, except for erosion control, until compliance is accomplished.

- (18) The JECS shall report on the Town of Sharpsburg’s form E. C. 1 the status of erosion control measures and devices on a weekly basis. These reports shall be prepared on the date the inspection is made by the JECS. These reports shall remain on the jobsite until retrieved by the Town Engineer or his designee to become part of the permanent records of the project. The Town Engineer or his designee will review the E. C. 1 report and inspect the site for compliance and notify the JECS of any additional deficiencies needing correction.
- (19) A Permit Board shall be posted on the site before the first inspection is made.
- (20) Construction debris shall be disposed of properly. Bury pits for disposal of inert material shall comply with the rules of solid waste management as currently outlined in the Georgia Department of Natural Resources, Environmental Protection Division, chapter 391-3-4-06(3)(c). If brick, concrete, or inert materials are buried at a home site, you are required to report the location and contents of the buried pit to the Environmental Protection Division and record it on the property deed. No portion of a bury pit or waste disposal area can be located within 100 feet of any property lines or enclosed structures.

(d) The fact the land-disturbing activity for which a permit has been issued results in injury to the property of another shall neither constitute proof of nor create a presumption of a violation of the standards provided for in this ordinance or the terms of the permit.

(e) Nothing contained in this chapter shall prevent the Town from adopting rules and regulations, ordinances, or resolutions which contain requirements that exceed the minimum requirements in section 43-7 of this chapter.

Sec. 43-8. Application/permit process.

(a) General. The landowner, developer and designated planners and engineer shall review the general development plans and detailed plans of the issuing authority that affect the tract to be developed and the area surrounding it. They shall review the zoning ordinance, subdivision ordinance, tree protection and landscaping ordinance, this chapter, and other ordinances which regulate the development of land within the boundaries of the issuing authority.

(b) Application requirements.

(1) No person shall conduct any land-disturbing activity within the confines of the Town of Sharpsburg, except those exempted under section 43-2, without first obtaining a permit from the issuing authority of the Town of Sharpsburg to perform such activity. Any land-disturbing activity involving tree protection and /or landscaping , shall be reviewed by the Town Council.

(2) (A) The application for a permit shall be submitted to the issuing authority and must include the applicant's Erosion Control Pre-qualification Application form as outlined in sub-paragraph (B), and erosion and sedimentation control plans with supporting data, as necessary. Said plans shall include, as a minimum, the data specified in section 43-8(c). Soil erosion and sedimentation control plans shall conform to the provisions of section 43-7 of this chapter. Applications for a permit will not be accepted unless accompanied by the Erosion Control Pre-qualification Application form and three copies of the applicant's soil erosion and sedimentation control plans.

(B) The application for a permit must include an Erosion Control Pre-qualification Application form that shall provide the following information; 1) Provide a list of experience your company has in design, installation, and maintenance of erosion and sediment control measures/practices. 2) Provide a list of equipment your company has for use in the installation and maintenance of erosion and sediment control measures/practices. 3) Provide a list of personnel your company uses to install and maintain erosion and sediment control measures/practices. 4) Provide information on your company's access to and/or stockpile of erosion and sediment control devices. 5) List all individuals in your company who are qualified to serve as JECS. 6) Indicate how you plan to maintain erosion and sediment control measures/practices and respond to emergencies.

(C) Information provided in the Pre-qualification Application form shall be used to determine, in part, the applicant's ability to comply with this ordinance and may be cause for denial of the permit.

(3) A fee, in the amount established in the Town's current fee schedule, shall be charged for each application.

(4) Immediately upon receipt of an application and plan for a permit, the Issuing Authority shall refer the application and plan to the District for its review and approval or disapproval concerning the adequacy of the erosion and sediment control plan. The results of the District review shall be forwarded to the Issuing Authority. No

permit will be issued unless the plan has been approved by the District and any variances required by section 43-7(c)(15) and (16) and bonding, if required as per section 43-8(b)(5), have been obtained. Such review will not be required if the Issuing Authority and the District have entered into an agreement which allows the Issuing Authority to conduct such review and approval of the plan without referring the application and plan to the District.

- (5) (A) If a permit applicant has had two or more violations of previous permits, this chapter, or the Erosion and Sedimentation Act as amended, within three years prior to the date of filing of the application under consideration, the Town may deny the permit application.
- (B) The Town may require the permit applicant to post a bond in the form of government security, cash, irrevocable letter of credit, or any combination thereof up to, but not exceeding, \$3,000.00 per acre or fraction thereof of the proposed land-disturbing activity, prior to issuing the permit. If the applicant does not comply with this chapter or with the conditions of the permit after issuance, the Town may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance. These provisions shall not apply unless there is in effect an ordinance or statute specifically providing for hearing and judicial review of any determination or order of the Town with respect to alleged permit violations.
- (c) Plan requirements.
 - (1) Plans must be prepared to meet the minimum requirements as contained in section 43-7 of this chapter. Conformance with the minimum requirements may be attained through the use of design criteria in the Manual for Erosion and Sediment Control in Georgia, as the same is revised from time to time, published by the state soil and water conservation commission as a guide; or through the use of alternate design criteria which conform to sound conservation and engineering practices. The Manual for Erosion and Sediment Control in Georgia is hereby incorporated by reference into this chapter. The plan for the land-disturbing activity shall consider the interrelationship of the soil types, geological and hydrological characteristics, topography, watershed, vegetation, proposed permanent structures including roadways, constructed waterways, sediment control and stormwater management facilities, local ordinances and state laws.

- (2) Data required for site plan:
- a. Narrative or notes, and other information: Notes or narrative to be located on the site plan in general notes or in erosion and sediment control notes.
 - b. Description of existing land use at project site and description of proposed project.
 - c. Name, address, and phone number of developer/owner.
 - d. Name and phone number of 24-hour local contact that is responsible for erosion and sediment controls. This person should normally be the JECS.
 - e. Size of project, or phase under construction, in acres.
 - f. Activity schedule. Show anticipated starting and completion dates for project. Include the statement in bold letters, that "The installation of erosion control measures and practices shall occur prior to or concurrent with land disturbing activities."
 - g. Stormwater and sediment management systems. Storage capacity, hydrologic study, and calculations, including off-site drainage area.
 - h. Vegetative plan. For all temporary and permanent vegetative practices, including species, planting dates, and seeding, fertilizer, lime, and mulching rates. Vegetative plan should show options for year-round seeding. The vegetative plan shall be site specific; i. e. for the Southern Piedmont Major Land Resource Area of Georgia.
 - i. Detail drawings for all structural practices. Specifications may follow guidelines set forth in the Manual for Erosion and Sediment Control in Georgia.
 - j. Maintenance statement. "Erosion control measures will be maintained at all times. Additional erosion and sediment control measures will be installed if deemed necessary by on-site inspection."

(3) Maps, drawings, and supportive computations shall bear the signature/seal of a registered or certified professional in engineering, architecture, landscape architecture, land surveying, or erosion and sedimentation control.

- a. Graphic scale and north point or arrow indicating magnetic north.
- b. Vicinity maps showing location of project and existing streets.
- c. Boundary line survey.
- d. Delineation of disturbed areas within project boundary.
- e. Existing and planned contours, with contour lines drawn with an interval in accordance with the following:

<u>Map Scale</u>	<u>Ground Slope</u>	<u>Contour Interval, feet</u>
1 inch = 100 ft. or larger scale	Flat 0-2%	0.5 or 1
Steep 8% +	Rolling 2-8%	1 or 2
	2, 5, or 10	

- f. Adjacent areas and features areas such as streams, lakes, residential areas, etc., which might be affected should be indicated on the plan.
- g. Proposed structures or additions to existing structures and paved areas.
- h. Delineate 100-year floodplain. (Reference data used in determination.)
- i. Delineate the 25-foot undisturbed vegetative buffer adjacent to state waters, or the buffer required by the Town's watershed protection ordinance, if greater or larger.
- j. Delineate the 100-foot management zone along designated trout streams where applicable.
- k. Location of erosion and sediment control practices, preferably using uniform coding symbols from the Manual for Erosion and Sediment Control in

Georgia, chapter 6. Practices may include, but are not limited to:

1. Construction exit.
2. Sediment barrier.
3. Sediment basin.
4. Grassed waterway (open swale).
5. Storm drain outlet protection.

(4) Maintenance of all soil erosion and sedimentation control practices, whether temporary or permanent, shall be at all times the responsibility of the owner.

(d) Permits.

(1) Permits shall be issued or denied as soon as practicable but in any event not later than 45 days after receipt by the issuing authority of a completed application, providing variances and bonding are obtained, where necessary.

(2) No permit shall be issued by the issuing authority unless the erosion and sedimentation control plan has been approved by the District and the Issuing Authority has affirmatively determined that the plan is in compliance with this chapter, any variances required by section 43-7(b)(15) and (16) are obtained, bonding requirements, if necessary, as per section 43-8(b)(5) are met and all ordinances and rules and regulations in effect within the Town of Sharpsburg are met. If the permit is denied, the reason for denial shall be furnished to the applicant and the conditions under which the activity may be undertaken shall be specified.

(3) If the tract is to be developed in phases, then a separate permit shall be required for each phase.

(4) The permit may be suspended, revoked, or modified by the issuing authority, as to all or any portion of the land affected by the plan, upon finding that the holder or his successor in the title is not in compliance with the approved erosion and sediment control plan or that the holder or his successor in title is in violation of this chapter. A holder of a permit shall notify any successor in title to him as to all or any portion of the land affected by the approved plan of the conditions contained in the permit.

- (5) No permit shall be issued unless the applicant provides a statement by the Coweta County Tax Commissioner certifying that all ad valorem taxes levied against the property and due and owing have been paid.

Sec. 43-8. Administrative appeal, judicial review.

(a) *Administrative remedies.* The suspension, revocation, modification or grant with condition of a permit by the issuing authority upon finding that the holder is not in compliance with the approved erosion and sediment control plan; or that the holder is in violation of permit conditions; or that the holder is in violation of any chapter; shall entitle the person submitting the plan or holding the permit to a hearing before the city manager within 14 days after receipt by the issuing authority of appeal. The person must file with the city manager the grounds for appeal within ten days of the date of the notice of the suspension, revocation, modification, or conditional permit or a stop-work order.

(b) *Judicial review.* Any person, aggrieved by a decision or order of the issuing authority, after exhausting his administrative remedies, shall have the right to appeal to the superior court of Coweta County

SECTION TWO

This Ordinance shall become immediately effective upon its second reading and adoption by the Town Council.

SECTION THREE

The Preamble of this Ordinance shall be construed to be, and is hereby incorporated by reference as is fully set out herein.

SECTION FOUR

This Ordinance shall be codified within the Code of Ordinances of the Town of Sharpsburg, Georgia at Chapter 43 in a manner consistent with the laws of the State of Georgia and of the Town of Sharpsburg.

SECTION FIVE

The sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any phrase, sentence, paragraph, or section of this Ordinance shall be declared illegal by the valid judgment or decree of any court of competent jurisdiction, such an illegality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance.

SECTION SIX

All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

APPROVED AND ORDAINED BY THE MAYOR AND COUNCIL OF THE TOWN OF SHARPSBURG at a regular meeting of the Mayor and Council on the 8th day of April, 2002, by the following voting for adoption:

Clay Cole, Council Member

Larry Hyde, Council Member

David Mullins, Council Member

Attest:

Alvin Arrowood, Mayor

Robin Spradlin, Clerk