A RESOLUTION AND ORDINANCE
BY
THE BOARD OF COMMISSIONERS
OF
FORSYTH COUNTY, GEORGIA

Ordinance No. 73

An Ordinance to establish rules and regulations for controlling soil erosion and sedimentation within all development in the County of Forsyth; to repeal the Forsyth County Soil Erosion and Sedimentation Control Ordinance adopted March 22, 1976, and all amendments thereto and Chapter 19, Soil Erosion and Sediment Control, Comprehensive Zoning and Land Use Resolution of Forsyth County adopted December 10, 1979, and amendments thereto; and for other purposes.

WHEREAS, it has long been the policy of the Board of Commissioners of Forsyth County and the intent of this Resolution and Ordinance to strengthen and extend the erosion and sediment control activities and programs of this county and to provide for the establishment and implementation of a county-wide comprehensive soil erosion and sediment control program to conserve and protect the land, water, air, and other resources of this county; and,

WHEREAS, the Board of Commissioners of Forsyth County, Georgia, has determined that soil and sediment deposition onto lands and into waters within the watersheds of Forsyth County are occurring as a result of widespread failure to apply proper soil erosion and sedimentation control practices in land clearing, soil movement, and construction activities and that such erosion and sediment deposition result in pollution of county and state waters and damage to domestic, agricultural, recreational, fish and wildlife, and other resource uses.

NOW, THEREFORE, BE IT RESOLVED AND ORDAINED by the Board of Commissioners of Forsyth County, Georgia, and it is hereby resolved and ordained by the authority of same as follows:

SECTION I: TITLE:

This ordinance will be known as "**Forsyth County Soil Erosion and Sedimentation Control Ordinance;" or "Ordinance 73".**

SECTION II: DEFINITIONS:

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

1. **Best Management Practices (BMPs):** A collection of structural measures and vegetative practices which, when properly designed, installed and maintained, will provide effective erosion and sedimentation control. The term "properly designed" means designed in accordance with the hydraulic design specifications contained in the "Manual for Erosion And Sediment Control in Georgia" specified in O.C.G.A. 12-7-6 (b).

2. **Board:** The Board of Natural Resources.

3. **Buffer:** 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.

4. **Certified Personnel:** A Person who has successfully completed the appropriate certification course approve by the Georgia Soil and Water Conservation Commission.

5. **Coastal Marshlands:** Shall have the same meaning as in O.C.G.A. 12-5-282.

6. **Commission:** The Georgia Soil and Water Conservation Commission (GSWCC).

7. **CPESC:** Certified Professional in Erosion and Sediment Control with current certification by EnviroCert Inc., Design Professionals shall practice in a manner that complies with applicable Georgia law governing professional licensure.

8. **Cut:** 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 the excavated surface; Also known as excavation.

9. **Department:** The Georgia Department of Natural Resources (DNR).

10. **Design Professional:** A professional licensed by the State of Georgia in the field of: engineering, architecture, landscape architecture, forestry, geology, or land surveying, or a person that is a Certified Professional in Erosion and Sediment Control (CPESC) with a current certification by EnviroCert Inc. Design Professionals shall practice in a manner that complies with applicable Georgia law governing professional licensure.

11. **Director:** The Director of the Environmental Protection Division of the Department of Natural Resources.

12. **District:** The Upper Chattahoochee River Soil and Water Conservation District.

13. **Division:** The Environmental Protection Division (EPD) of the Department of Natural Resources.

14. **Drainage Structure:** A device composed of a virtually non erodible 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 storm-water management, drainage control, or flood control purposes.

15. **Ephemeral Stream:** A stream that under normal circumstances has water flowing only during and for a short duration after precipitation events; that has the channel located above the high-water table year round; for which ground water is not a source of water; and for which runoff from precipitation is the primary source of water flow.

16. **Erosion:** The process by which land surface is worn away by the action of wind, water, ice or gravity.

17. **Erosion, Sedimentation and Pollution Control Plan (The Plan):** A plan required by the Erosion and Sedimentation Act, O.C.G.A. Chapter 12-7, that includes, as a minimum, protections at least as stringent as the State General Permit, best management practices, and requirements in section IV.C. of this ordinance.

18. **Fill:** A portion of land surface to which soil or other solid material has been added; the depth above the original ground.

19. **Final Stabilization:** All soil disturbing activities at the site have been completed, and that for unpaved areas and areas not covered by permanent structures and areas located outside the waste disposal limits of a landfill cell that has been certified by EPD for waste disposal, 100% of the soil surface is uniformly covered in permanent vegetation with a density of 70% or greater, or landscaped according to the Plan (uniformly covered with landscaping materials in planned landscape areas), or equivalent permanent stabilization measures as defined in the Manual (excluding a crop of annual vegetation and seeding of target crop perennials appropriate for the region). Final stabilization applies to each phase of construction.

20. **Finished Grade:** The final elevation and contour of the ground after cutting or filling and conforming to the proposed design.

21. **Grading:** Altering the shape of ground surfaces to a predetermined condition; this includes stripping, cutting, filling, stockpiling, and shaping or any combination thereof and shall include the land in its cut or filled condition.

22. **Ground Elevation:** The original elevation of the ground surface prior to cutting or filling.

23. **Intermittent Stream:** A stream that flows in a well-defined channel during the wet seasons of the year, but not for the entire year.

24. **Land-Disturbing Activity:** 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 III, (5) of this ordinance.

25. **Larger Common Plan of Development or Sale:** A contiguous area where multiple separate and distinct construction activities are occurring under one plan of development or sale. For the purposes of this paragraph, "plan" means an announcement; piece of documentation such as a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, or computer design; or physical demarcation such as boundary signs, lot stakes, or surveyor markings, indicating that construction activities may occur on a specific plot.

26. **Local Issuing Authority:** The governing authority of any county or municipality which is certified pursuant to subsection (a) O.C.G.A. 12-78. For purposes of this ordinance, the Local Issuing Authority is Forsyth County, Georgia.

27. **Metropolitan River Protection Act (MRPA):** 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.

28. **Natural Ground Surface:** The ground surface in its original state before any grading, excavation, or filling.

29. **Nephelometric Turbidity Units (NTU):** Numerical units of measure based upon photometric analytical techniques for measuring the light scattered by finely divided particles of a substance in suspension.

30. **NOI:** A Notice of Intent form provided by EPD for coverage under the State General Permit.

31. **NOT:** A Notice of Termination form provided by EPD to terminate coverage under the State General Permit.

32. **Operator:** The party or parties that have: (A) operational control of construction project plans and specifications, including the ability to make modifications to those plans and specifications; or (B) day-to day operational control of those activities that are necessary to ensure compliance with a storm-water pollution prevention plan for the site or other permit conditions, such as a person authorized to direct workers at a site to carry out activities required by the Erosion, Sedimentation, and Pollution Control Plan or to comply with other permit conditions.

33. **Outfall:** The location where storm water in a discernible, confined, and discrete conveyance, leaves a facility or site or, if there is a receiving water on site, becomes a point source discharging into that receiving water.

34. **Owner:** The legal title holder to the real property on which is located the facility or site where construction activity takes place.

35. **Perennial Stream:** A stream that flows in a well-defined channel throughout most of the year under normal climatic conditions.

36. **Permit:** The authorization necessary to conduct a land-disturbing activity under the provisions of this ordinance.

37. **Person:** 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.

38. **Phase or Phased:** Sub-parts or segments of construction projects where the sub-part or segment is constructed and stabilized prior to completing construction activities on the entire construction site.

39. **Project:** The entire proposed development project regardless of the size of the area of land to be disturbed.

40. **Properly Designed:** Designed in accordance with the design requirements and specifications contained in the "Manual for Erosion and Sediment Control in Georgia" (Manual) published by the Georgia Soil and Water Conservation Commission as of January 1 of the year in which the land disturbing activity was permitted and amendments to the Manual as approved by the Commission up until the date of NO I submittal.

41. **Roadway Drainage Structure:** A device such as a bridge, culvert, or ditch, composed of a virtually non-erodible 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.

42. **Sediment:** 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.

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

44. **Soil and Water Conservation District approved plan:** An Erosion, Sedimentation, and Pollution Control plan approved in writing by the Upper Chattahoochee River Soil and Water Conservation District.

45. **Stabilization:** The process of establishing an enduring soil cover of vegetation by the installation of 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.

46. **State General Permit:** The National Pollution Discharge Elimination System (NPDES) General Permit for Construction Activity (GAR 100001, GAR 100002 or GAR 100003) for storm-water runoff from construction activities as is now in effect or as may be amended or reissued in the future pursuant to the State's authority to implement the same through federal delegation under the Federal Water Pollution Control Act, as amended, 33 U.S.C. Section 1251, et seq., and 12-5-30 (f).

47. **State Waters:** Any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface or subsurface water, natural and 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.

48. **Structural Erosion and Sedimentation Control Practices:** Measures 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, and land grading, and such measures can be found in the publication Manual for Erosion and Sediment Control in Georgia.

49. **Trout Streams:** All streams or portions of streams within the watershed as designated by the Wildlife Resources 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, in the rules and regulations for Water Quality Control, Chapter 391-3-6 at www.epd.georgia.gov. 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.

50. **Vegetative Erosion and Sediment Control Practices:** Practices for the stabilization of erodible or sediment-producing areas by covering the soil with:

    a. Permanent seeding, sprigging, or planting, producing long-term vegetative cover; or

b. Temporary seeding, producing short-term vegetative cover; or
c. 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.

51. **Watercourse:** 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.

52. **Wetlands:** 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.

SECTION III: EXEMPTIONS

The Exemption Section of this ordinance addresses only the need for a land disturbance permit as determined by the Local Issuing Authority. Any persons, corporations, groups, or entities claiming an exemption or an exception from a definition must prove an entitlement to this exemption or exception to the Local Issuing Authority.

Recipients of an exemption or exception shall be subject to Section IV "Minimum Requirements for Erosion and Sedimentation Control Using Best Management Practices. "

1. Surface mining, as the same is defined in O.C.G.A. 12-4-72, "The Georgia Surface Mining Act of 1968".

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, fences, and other related activities which result in minor soil erosion;

4. The construction of single-family residences, when such construction disturbs less than one (1) acre and is not a part of a larger common plan of development or sale with a planned disturbance of equal to or greater than one (1) acre 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 O.C.G.A. 12-7-6 and this paragraph. 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 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 subsection (b) of O.C.G.A. 12-7-6 and the buffer zones provided by this paragraph shall be enforced by the Local Issuing Authority;

5. 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 (specifically excluding the raising and/or boarding of horses); 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;

6. 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 (16,17, and 18) of Section IV 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 (3) years after completion of such forestry practices;

7. Any project carried out under the technical supervision of the Natural Resources Conservation Service (NRCS) of the United States Department of Agriculture;

8. Any project involving less than one (1) acre of disturbed area; provided, however, that this exemption shall not apply to any land-disturbing activity within a larger common plan of development or sale with a planned disturbance of equal to or greater than one (1) acre or within 200 feet of the bank of any state waters, and for purposes of this paragraph, “State Waters” excludes channels and drainage ways which have water in them only during and immediately after rainfall events and intermittent streams which do not have water in them year-round; provided, however, that any person responsible for a project which involves less than one (1) acre, which involves land-disturbing activity, and which is within 200 feet of any such excluded channel or drainage way, must prevent sediment from moving beyond the boundaries of the property on which such project is located and provided, further, that nothing contained herein shall prevent the Local Issuing Authority from regulating any such project which is not specifically exempted by paragraphs 1, 2, 3, 4, 5, 6, 7, 9 or 10 of this section;

9. 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 State Road and Tollway Authority; or any road construction or maintenance project, or both, undertaken by any county or municipality; provided, however, that construction or maintenance projects of the Department of Transportation or the State Road and Tollway Authority which disturb one or more contiguous acres of land shall be subject to provisions of O.C.G.A. 12-7-7.1; except where the Department of Transportation, the Georgia Highway Authority, or the State Road and Tollway Authority is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case a copy of a notice of intent

under the state general permit shall be submitted to the Local Issuing Authority, the Local Issuing Authority shall enforce compliance with the minimum requirements set forth in O.C.G.A. 12-7-6 as if a permit had been issued, and violations shall be subject to the same penalties as violations by permit holders;

10. 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, any utility under the regulatory jurisdiction of the Federal Energy Regulatory Commission, any cable television system as defined in O.C.G.A. 36-18-1, or any agency or instrumentality of the United States engaged in the generation, transmission, or distribution of power; except where an electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the Public Service Commission, any utility under the regulatory jurisdiction of the Federal Energy Regulatory Commission, any cable television system as defined in O.C.G.A. 36-18-1, or any agency or instrumentality of the United states engaged in the generation, transmission, or distribution of power is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case the Local Issuing Authority shall enforce compliance with the minimum requirements set forth in O.C.G.A. 12-7-6 as if a permit had been issued, and violations shall be subject to the same penalties as violations by permit holders; and

11. Any public water system reservoir.

SECTION IV: MINIMUM REQUIREMENTS FOR EROSION, SEDIMENTATION AND POLLUTION CONTROL USING BEST MANAGEMENT PRACTICES

A. GENERAL PROVISIONS

Excessive soil erosion and resulting sedimentation can take place during land-disturbing activities if requirements of the ordinance and the NPDES General Permit are not met. Therefore, plans for those land-disturbing activities which are not exempted by this ordinance shall contain provisions for application of soil erosion, sedimentation and pollution control measures and practices. The provisions shall be incorporated into the erosion, sedimentation and pollution control plans. Soil erosion, sedimentation and pollution control measures and practices shall conform to the minimum requirements of Section IV B. & C. of this ordinance. The application of measures and practices 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, sedimentation and pollution during all stages of any land-disturbing activity in accordance with requirements of this ordinance and the NPDES General Permit.

B. MINIMUM REQUIREMENTS/ BMPs

1. Best management practices as set forth in Section IV B. & C. of this ordinance 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 storm water issued pursuant to subsection (f) of O.C.G.A. 12-5-30, the "Georgia Water Quality Control Act". As used in this subsection the terms "proper design" and "properly designed" mean designed in accordance with the hydraulic design specifications contained in the "Manual for Erosion and Sediment Control in Georgia" specified in O.C.G.A. 12-7-6 subsection (b).

2. A discharge of storm water 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 of any state general permit issued by the Division pursuant to subsection (f) of O.C.G.A. 12-5-30, the "Georgia Water Quality Control Act", for each day on which such discharge results in the turbidity of receiving waters being increased by more than twenty-five (25) nephelometric turbidity units for waters supporting warm water fisheries or by more than ten (10) 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. This paragraph shall not apply to any land disturbance associated with the construction of single family homes which are not part of a larger common plan of development or sale unless the planned disturbance for such construction is equal to or greater than five (5) acres.

3. 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 of any state general permit issued by the Division pursuant to subsection (f) of Code Section 12-5-30, the "Georgia Water Quality Control Act", for each day on which such failure occurs.

4. 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.

5. Undisturbed State Waters Buffers shall be applied in accordance with the Unified Development Code Chapter 18.11.2.

C. Land-disturbing activities shall require, as a minimum, protections at least as stringent as the State General Permit; and 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, regrading, and other development activities shall be conducted in a manner so as to minimize erosion;

2. Cut-fill operations must be kept to a minimum. Maximum cut slopes shall be 2 horizontal to 1 vertical. Continuous fill slopes 10 feet in height or less may be 2 horizontal to 1 vertical. All continuous fill slopes that exceed 10 feet in height must be 3 horizontal to 1 vertical unless:

a. A mechanically engineered stabilized slope is approved by the Director of Engineering; or

b. The designed and constructed slopes are certified by a registered professional engineer in the State of Georgia with experience with geotechnical engineering.

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. Disturbed areas shall be covered with either temporary or permanent stabilization as soon as practicable upon achieving final grade or in any area on which land disturbing activities have occurred that is to remain undisturbed for more than seven (7) days. In any event, 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;

7. Temporary vegetation or mulching shall be employed to protect exposed critical areas during development;

8. Permanent vegetation and structural erosion control measures shall be installed as soon as practicable;

9. To the extent necessary, sediment in run-off 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 O.C.G.A. 12-7-1 *et.seq;*

10. Adequate provisions must be provided to minimize damage from surface water to the cut face of excavations or the sloping 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 means of bridges or culverts except when such methods are not feasible and provided, in any such case, that such crossings are kept to a minimum;

14. Sediment Barriers must be removed from projects where land disturbing activities have occurred; but only when the project has undergone final stabilization in accordance with the State General Permit;

15. Land-disturbing activity plans for erosion, sedimentation and pollution control shall include provisions for control or treatment of any source of sediments and adequate sedimentation control facilities to retain sediments on site or preclude sedimentation of adjacent streams beyond the levels specified in Section IV B. 2;

16. Except as provided in paragraphs (17) and (18) 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, 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; or where bulkheads and sea walls are installed to prevent shoreline erosion on Lake Oconee and Lake Sinclair; or along any ephemeral stream. As used in this provision, the term 'ephemeral stream' means a stream: that under normal circumstances has water flowing only during and for a short duration after precipitation events; that has the channel located above the ground-water table year round; for which ground water is not a source of water; and for which runoff from precipitation is the primary source of water flow, Unless exempted as along an ephemeral stream, the buffers of at least 25 feet established pursuant to part 6 of Article 5, Chapter 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:

    a. 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 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; and

    b. The buffer shall not apply to the following land-disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within 25 degrees of perpendicular to the stream; cause a width of disturbance of not more than 50 feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented: (i) Stream crossings for water lines; or (ii) Stream crossings for sewer lines; and

17. 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 classified as trout 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 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 such buffer:

a. 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 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; and

b. The buffer shall not apply to the following land-disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within 25 degrees of perpendicular to the stream; cause a width of disturbance of not more than 50 feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented: (i) Stream crossings for water lines; or (ii) Stream crossings for sewer lines; and

18. There is established a 25 foot buffer along coastal marshlands, as measured horizontally from the coastal marshland-upland interface, as determined in accordance with Chapter 5 of Title 12 of this title, the "Coastal Marshlands Protection Act of 1970." And the rules and regulations promulgated thereunder, 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 Code Section 12-2-8, where an alteration within the buffer area has been authorized pursuant to Code Section 12-5-286, for maintenance of any currently serviceable structure, landscaping, or hardscaping, including bridges, roads, parking lots, golf courses, golf cart paths, retaining walls, bulkheads, and patios; provided, however, that if such maintenance requires any land-disturbing activity, adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented, where a drainage structure or roadway drainage structure is constructed or maintained; provided, however, that if such maintenance requires any land-disturbing activity, adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented, on the landward side of any currently serviceable shoreline stabilization structure, or for the maintenance of any manmade storm-water detention basin, golf course pond, or impoundment that is located entirely within the property of a single individual,

partnership, or corporation; provided, however, that adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented. For the purposes of this paragraph maintenance shall be defined as actions necessary or appropriate for retaining or restoring a currently serviceable improvement to the specified operable condition to achieve its maximum useful life. Maintenance includes emergency reconstruction of recently damaged parts of a currently serviceable structure so long as it occurs within a reasonable period of time after damage occurs. Maintenance does not include any modification that changes the character, scope or size of the original design and serviceable shall be defined as usable in its current state or with minor maintenance but not so degraded as to essentially require reconstruction.

a. 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; 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 protective vegetative cover remains to protect water quality and aquatic habitat; and

b. The buffer shall not apply to crossings for utility lines that cause a width of disturbance of not more than 50 feet within the buffer, provided, however, that adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented.

c. The buffer shall not apply to any land-disturbing activity conducted pursuant to and in compliance with a valid and effective land-disturbing permit issued subsequent to April 22, 2014, and prior to December 31, 2015; provided, however, that adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented or any lot for which the preliminary plat has been approved prior to December 31, 2015 if roadways, bridges, or water and sewer lines have been extended to such lot prior to the effective date of this Act and if the requirement to maintain a 25 foot buffer would consume at least 18 percent of the high ground of the platted lot otherwise available for development; provided, however, that adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented.

d. Activities where the area within the buffer is not more than 500 square feet or that have a “Minor Buffer Impact” as defined in 391-3-7-.01(r), provided that the total area of buffer impacts is less than 5,000 square feet are deemed to have an approved buffer variance by rule. Bank stabilization structures are not eligible for coverage under the variance by rule and notification shall be made to the Division at least 14 days prior to the commencement of land disturbing activities.

19. Clearing and grading required for construction of streets, drainage, and utilities is not considered mass grading; therefore mass grading shall not be allowed in RES 1 and RES2 zoning districts; however, mass grading may be allowed for commercial and institutional uses permitted in the RES 1 and RES2 zoning districts. Mass grading may be allowed in the RES3 zoning district if the Department of Engineering determines that the topography and configuration of the property reasonably require mass grading. Mass grading is allowed in R-4 and R-6 zoning districts provided that all mass grading activities shall be kept to a practicable minimum.

D. Nothing contained in O.C.G.A. 12-7-1 et. seq. shall prevent any Local Issuing Authority from adopting rules and regulations, ordinances, or resolutions which contain stream buffer requirements that exceed the minimum requirements in Section IV B. & C. of this ordinance.

E. In addition to the stream buffer requirements in Section IV. B & C. of this ordinance, the Forsyth County Board of Commissioners has adopted a 50 foot undisturbed buffer with an additional 25 foot impervious setback as outlined in Chapter 18.11.2 of the Unified Development Code.

F. The fact that 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**.**

SECTION V: APPLICATION/PERMIT PROCESS

A. General:

The Local Issuing Authority shall review the general development plans and detailed plans of the property owner, developer and/or designated planner(s) that affect the tract to be developed and the area surrounding it in conjunction with the zoning ordinance, storm water management ordinance, subdivision ordinance, flood damage prevention ordinance, this ordinance, and other ordinances which regulate the development of land within the boundaries of the Local Issuing Authority. However, the owner or operator are the only parties that can obtain a Permit.

B. Application Requirements:

Beginning January 1, 2007, persons applying for any permit involving land disturbance activities shall submit proof of compliance with all requirements of O.C.G.A. 12-7-19. For additional information, please see Section VIII. Exemptions or exceptions may apply pursuant to Section III of this ordinance; exemptions subject to Local Issuing Authority regulations.

1. No person shall conduct any land-disturbing activity within the jurisdictional boundaries of Forsyth County without first obtaining a permit from Forsyth County to perform such activity.

2. The application for a Permit shall be submitted to the Local Issuing Authority and must include the applicant's Erosion, Sedimentation, and Pollution Control Plan with supporting data, as necessary to allow the Local Issuing Authority to evaluate. Said plans shall include, as a minimum, the data specified in Section V. C. of this ordinance. The Plan shall conform to the provisions of Section IV B. & C. of this ordinance. Applications for a Permit will not be accepted unless accompanied by ten copies of the applicant's soil erosion and sedimentation control plans. All applications shall contain a certification stating that the plan preparer or the designee thereof visited the site prior to creation of the plan or that such a visit was not required in accordance with rules and regulations established by the Board.

3. Plan review fees shall be in such amounts as may be established from time to time by the Board of Commissioners. A fee shall be assessed for each application.

4. In addition to the local permitting fees and plan review fees, fees will also be assessed pursuant to O.C.G.A. 12-5-23(a) (5) (B), provided that such fees shall not exceed $80.00 per acre of land-disturbing activity, and these fees shall be calculated and paid by the primary permittee as defined in the State General Permit for each acre of land-disturbing activity included in the planned development or each phase of development. All applicable fees shall be paid prior to issuance of the land disturbance permit. In a jurisdiction that is certified pursuant to O.C.G.A. 12-7-8 (a), half of such fees levied shall be submitted to the division; except that any and all fees due from an entity which is required to give notice pursuant to O.C.G.A. 12-7 - 17 (9) or (10), shall be submitted in full to the Division, regardless of the existence of a Local Issuing Authority in the jurisdiction.

5. If a permit applicant has had two or more violations of previous permits, this ordinance section, or the Erosion and Sedimentation Act, as amended within three years prior to the date of filing of the application under consideration, the Local Issuing Authority may deny the permit application.

6. The Local Issuing Authority may require the permit applicant to post a bond or irrevocable letter of credit, or any combination thereof, acceptable to the issuing authority prior to the issuance of the permit. The amount of the bond or irrevocable letter of credit, or combination thereof, shall be $3,000.00 per disturbed acre or fraction thereof of the proposed land disturbing activity, except that in the event the Director of Engineering determines that special circumstances exist such as would warrant a need for additional protection, the Director of Engineering shall have the discretion to increase the bond amount up to a total of $5,000.00 per disturbed acre or fraction thereof. If the applicant does not comply with this ordinance or with the conditions of the permit after issuance, the Local 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.

C. Plan Requirements:

1. Plans must be prepared to meet the minimum requirements as contained in Section IV B. & C. of this ordinance. Conformance with the minimum requirements may be attained through the use of design criteria in the current issue of the Manual for Erosion and Sediment Control in Georgia, 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 ordinance. 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 storm water management facilities, local ordinances and State laws. Maps, drawings and supportive computations shall bear the signature and seal of the certified design professional. Persons involved in land development design, review, permitting, construction, monitoring, or inspections of any land disturbing activity shall meet the education and training certification requirements, dependent on his or her involvement with the process, as developed by the Commission and in consultation with the Division and the Stakeholder Advisory Board created pursuant to O.C.G.A.12-7-20.

2. Data required for site plans shall include all the information required from the appropriate Erosion, Sedimentation and Pollution Control Plan Review Checklist established by the Commission as of January 1 of the year in which the land-disturbing activity was permitted.

D. Permits:

1. Permits shall be issued or denied as soon as practicable but in no event not later than forty-five (45) days after receipt by the Local Issuing Authority of a completed application, providing variances and bonding are obtained, where necessary, and all applicable fees have been paid prior to permit issuance. The Permit shall include conditions under which the activity may be undertaken.

2. No Permit shall be issued by the Local Issuing Authority unless the Erosion, Sedimentation, and Pollution Control Plan has been approved by the District and the Local Issuing Authority has affirmatively determined that the plan is in compliance with this ordinance, any variances required by Section IV C. 16, 17, & 18 are obtained, bonding requirements, if necessary, as per Section V B, 5 are met and all ordinances and rules and regulations in effect within the jurisdictional boundaries of the Local Issuing Authority are met. If the permit is denied, the reason for denial shall be furnished to the applicant.

3. Any land-disturbing activities by a Local Issuing Authority shall be subject to the same requirements of this ordinance, and any other ordinances relating to land development, as are applied to private persons and the Division shall enforce such requirements upon the Local Issuing Authority.

4. If the tract is to be developed in phases, then a separate Permit shall be required for each phase.

5. The Permit may be suspended, revoked, or modified by the Local Issuing Authority, as to all or any portion of the land affected by the plan, upon finding that the project is not in compliance the approved erosion and sedimentation control plan.

6. No permit shall be issued unless the applicant provides a statement by the Forsyth County Tax Commissioner certifying that all ad valorem taxes levied against the property and due and owing have been paid. In the event a permit is required to maintain erosion, sedimentation, and pollution control measures, the Director of Engineering may allow for a permit to be issued.

7. The Local Issuing Authority may reject a permit application if the applicant has had two or more violations of previous permits or the Erosion and Sedimentation Act permit requirements within three years prior to the date of the application, in light of O.C.G.A. 12-7-7 (f) (1).

SECTION VI: INSPECTION AND ENFROCEMENT

A. The Local Issuing Authority may periodically inspect the sites of land disturbing activities 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. Also, the Local Issuing Authority shall regulate both primary and secondary permittees as such terms are defined in the State General Permit. Primary permitees shall be responsible for installation and maintenance of best management practices where the primary permittee is conducting land-disturbing activities. Secondary permittees shall be responsible for installation and maintenance of best management practices where the secondary permittee is conducting land-disturbing activities. Tertiary permittees shall be responsible for installation and maintenance of best management practices where the tertiary permittee is conducting land-disturbing activities. 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 ordinance, 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 within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, he and the property shall be deemed in violation of this ordinance.

B. The Local Issuing Authority must amend its ordinance to the extent appropriate within 12 months of any amendments to the Erosion and Sedimentation Act of 1975.

C. The Local Issuing Authority shall have the power to conduct such investigations as it may reasonably deem necessary to carry out duties as prescribed in this ordinance, 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.

D. No person shall refuse entry or access to any authorized representative or agent of the Local Issuing Authority, the 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.

E. The District or the Commission or both shall semi-annually review the actions of counties and municipalities which have been certified as Local Issuing Authorities pursuant to O.C.G.A. 12-7-8 (a). The District or the Commission or both may provide technical assistance to any county or municipality for the purpose of improving the effectiveness of the county's or municipality's erosion, sedimentation and pollution control program. The District or the Commission shall notify the Division and request investigation by the Division if any deficient or ineffective local program is found.

F. The Division may periodically review the actions of counties and municipalities which have been certified as Local Issuing Authorities pursuant to Code Section 12-7-8 (a). Such review may include, but shall not be limited to, review of the administration and enforcement of a governing authority's ordinance and review of conformance with an agreement, if any, between the district and the governing authority. If such review indicates that the governing authority of any county or municipality certified pursuant to O.C.G.A. 12-7-8 (a) has not administered or enforced its ordinances or has not conducted the program in accordance with any agreement entered into pursuant to O.C.G.A. 12-7-7 (e), the Division shall notify the governing authority of the county or municipality in writing. The governing authority of any county or municipality so notified shall have 90 days within which to take the necessary corrective action to retain certification as a Local Issuing Authority. If the county or municipality does not take necessary corrective action within 90 days after notification by the division, the division shall revoke the certification of the county or municipality as a Local Issuing Authority.

SECTION VII: PENALTIES AND INCINTIVES

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 ordinance or the State General Permits without first obtaining said permit, the property and person shall be subject to an immediate stop work order, 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 Local Issuing Authority and an administrative fine of $1 ,000.00 as outlined in Section C. below.

B. Stop Work Orders:

1. In accordance with O.C.G.A 12-7-12(c), any person that fails to comply with any provision of this Ordinance 73 shall be provided with a notice to comply before the issuance of a stop work order for the first and second instances of such failures to comply. The notice shall provide 5 days in which to correct the issues of non-compliance. If the issues are not corrected within 5 days of the second notice, the Local Issuing Authority may issue a stop-work order requiring that land disturbing activities be stopped until necessary corrective action or mitigation has occurred; provided, however, that, if the issue presents an imminent threat to public health or waters of the state, the Director or Local Issuing Authority may issue an immediate stop-work order in lieu of a notice to comply. Fines and penalties associated with violations of this paragraph shall be in accord with the provisions of Section VII, (A) and (C).

2. For a third and each subsequent failure to comply with the provisions of this Ordinance on the site in question, the Local Issuing Authority shall issue an immediate stop-work order.

3. All stop-work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action and mitigation have occurred, and all penalties have been paid. No certificate of occupancy or final plats will be issued until the necessary corrective action or mitigation has occurred.

4. Notwithstanding the provisions of section VII(B)(1) above, when a failure to comply occurs in the form of taking action without a permit, failure to maintain a stream buffer, significant amounts of sediment, as determined by the Local Issuing Authority or by the Director or his or her designee, have been or are being discharged into state waters and where best management practices have not been properly designed, installed, and maintained, then an immediate stop work order may be issued by the local issuing authority or by the director or his or her designee. All such stop work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred. Such stop work orders shall apply to all land-disturbing activity on the project with the exception of the installation and maintenance of temporary or permanent erosion and sediment controls. Fines and penalties associated with violations of this paragraph shall be in accord with the provisions of Section VII, (A) and (C).

C. Administrative Penalties:

Any issuance of a stop work order may be accompanied by administrative fines of up to $1,000.00 per day per violation until such time as all issues of non-compliance that constitute a violation are brought into compliance and a site inspection has been conducted by the Department of Engineering. Any administrative fine assessed under this paragraph may be appealed in accord with Section IX, (A). In lieu of a $1,000.00 per day administrative fine, a Magistrate Court citation may be issued with fines up to $2,500.00 per day as outlined in subsection E below.

The following penalties shall apply to land-disturbing activities performed in violation of any provision of this ordinance, any rules and regulations adopted pursuant hereto, or any permit condition or limitation established pursuant to this ordinance, or any activities performed in violation of the State General Permits.

1. There shall be a minimum penalty of$250.00 per day for each violation involving land-disturbing activities involving the construction of a single-family dwelling. There shall be a minimum penalty of $1,000.00 per day for each violation involving land disturbing activities involving the construction of any structure other than a single-family dwelling.

2. There shall be a minimum penalty of $1000.00 per day for each violation involving impacts to the applicable state waters buffer; and a buffer revegetation must be performed in accordance with the Forsyth County State Waters, River, & Tributary Riparian Buffer-Revegetation Checklist.

D. Bond Forfeiture:

If, through inspection, it is determined that a person engaged in land disturbing activities has failed to comply with any provision of this ordinance, any rules and regulations adopted pursuant hereto, or any permit condition or limitation established pursuant to this ordinance, or any activities performed in violation of the State General Permit, then a written notice to comply shall be served upon that person in accordance with Section VII (B) 1. The notice shall set forth the measures necessary to achieve compliance with the non-compliance issues. The stop work order shall provide the owner/operator ten days to achieve compliance with any violations associated with the stop work. If the owner/operator fails to comply with the violations in the time specified then The Local 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.

E. Monetary Penalties:

Any person who violates any provisions of this ordinance, or any permit condition or limitation established pursuant to this ordinance or who negligently or intentionally fails or refuses to comply with any final or emergency order of the Local Issuing Authority issued as provided in this ordinance shall be liable for a civil penalty not to exceed $2,500.00 per day. Notwithstanding any limitation of law as to penalties which can be assessed for violations of county ordinances, any magistrate court or any other court of competent jurisdiction trying cases brought as violations of this ordinance under county ordinances approved under this ordinance shall be authorized to impose penalties for such violations not to exceed $2,500.00 for each violation. Each day during which violation or failure or refusal to comply continues shall be a separate violation. Once a person demonstrates that the land disturbance has been stabilized and a site inspection has been conducted by the Department of Engineering, the court may suspend subsequent monetary penalties.

F. Notification of Notices to Comply and Stop Work Orders:

The Local Issuing Authority shall provide official notification of the issuance of Notices to Comply

and Stop Work Orders by posting copies thereof on the property in compliance with the provisions of the State General Permit. In addition to the official notification described above, the Local Issuing Authority may provide additional, unofficial notification of the issuance of Notices to Comply and Stop Work Orders by regular mail, certified mail return receipt requested, facsimile, email or other method to such addresses, phone numbers, or email addresses as may have been provided to the Local Issuing Authority. Official notification for purposes of calculating deadlines in this ordinance, including section IX.A., shall be deemed to occur on the date that official notification is posted on site as described in this paragraph.

SECTION VIII: EDUCATION AND CERTIFICATION

A. Persons involved in land development design, review, permitting, construction, monitoring, or inspection or any land-disturbing activity shall meet the education and training certification requirements, dependent on their level of involvement with the process, as developed by the commission in consultation with the division and the stakeholder advisory board created pursuant to O.C.G.A. 12-7-20.

B. For each site on which land-disturbing activity occurs, each entity or person acting as either a primary, secondary, or tertiary permittee, as defined in the state general permit, shall have as a minimum one person who is in responsible charge of erosion and sedimentation control activities on behalf of said entity or person and meets the applicable education or training certification requirements developed by the Commission present on site whenever land-disturbing activities are conducted on that site. A project site shall herein be defined as any land-disturbance site or multiple sites within a larger common plan of development or sale permitted by an owner or operator for compliance with the state general permit.

C. Persons or entities involved in projects not requiring a state general permit but otherwise requiring certified personnel on site may contract with certified persons to meet the requirements of this ordinance.

D. If a state general permittee who has operational control of land-disturbing activities for a site has met the certification requirements of paragraph (1) of subsection (b) of O.C.G.A. 12-7-19, then any person or entity involved in land-disturbing activity at that site and operating in a subcontractor capacity for such permittee shall meet those educational requirements specified in paragraph (4) of subsection (b) of O.C.G.A 12-7-19 and shall not be required to meet any educational requirements that exceed those specified in said paragraph.

SECTION IX: ADMINISTRATIVE APPEAL, JUDICIAL REVIEW

A. Administrative Remedies:

The suspension, revocation, modification, or grant with condition of a permit by the Local Issuing Authority upon finding that the project is not in compliance with the approved erosion

and sediment control plan; or that the project is in violation of permit conditions; or that the project is in violation of any portion of this ordinance; or that a stop work order is warranted; shall entitle the person submitting the plan or holding the permit to a hearing before the Forsyth County Board of Appeals within thirty (30) days after receipt by the Local Issuing Authority of written notice of appeal. Any such written notice of appeal must be tendered to the Forsyth County Director of Planning and Development within thirty (30) days of the challenged action or determination.

B. Judicial Review:

Any person aggrieved by a decision or order of the Local Issuing Authority, after exhausting all administrative remedies provided pursuant to this ordinance, the Forsyth County Unified Development Code, and the Code of Forsyth County, Georgia, may make an appeal by writ of certiorari to the Superior Court of Forsyth County, Georgia. The appeal shall be a de novo determination of the decision before the judge of the Superior Court without a jury. Any appeal must be filed within thirty (30) days of the Local Issuing Authority taking final action.

SECTION X: REPEALER PROVISION

The Forsyth County Soil Erosion and Sedimentation Control Ordinance adopted March 22, 1976, and all amendments thereto and Chapter 19, Soil Erosion and Sediment Control, Comprehensive Zoning and Land Use Resolution of Forsyth County adopted December 10, 1979 and amendments thereto, along with the Forsyth County Soil Erosion and Sedimentation Control Ordinance adopted December 11, 1989, and any resolution, ordinance, rule, regulation, or other instruction previously approved by the Board of Commissioners or of any other agency of Forsyth County is repealed, revoked and shall be of no further force or effect upon the effective date of this Resolution and Ordinance.

SECTION XI: VALIDITY AND SEPARABILITY:

If any Section, Sub-section, sentence, clause, phrase, or any portion of this Ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, or if the provisions of any part of this Ordinance as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to affect the portions of this Ordinance not so held to be invalid or the application of this Ordinance to other circumstances not so held to be invalid. It is hereby declared to be the intent of the Board of Commissioners to provide for separable and divisible parts and it does hereby adopt any and all parts hereof as may not be held invalid for any reason.

This Soil Erosion and Sedimentation Control Ordinance is hereby adopted this _____ day of _____, 2016, the public health, safety and general welfare demanding it.

FORSYTH COUNTY BOARD OF COMMISIONERS

_____
Ralph J. Amos, Chairman

_____
Cindy J. Mills, Vice Chairman

_____
Brian R. Tam, Secretary

_____
Jim Boff, Member

_____
Todd Levent, Member

Attest:

_____