

AN ORDINANCE AMENDING THE CODE OF ORDINANCES FOR THE TOWN OF FORT MILL; CHAPTER 16, ENVIRONMENT; ARTICLE III, STORMWATER MANAGEMENT AND SEDIMENT CONTROL; SO AS TO AMEND THE ARTICLE IN ITS ENTIRETY; TO ESTABLISH A STORMWATER UTILITY FEE AND CREDIT POLICY; AND OTHER MATTERS RELATED THERETO

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LIST OF APPENDICES

- A – Stormwater Management Program (SWMP)
- B – Stormwater Utility Fee Credit Manual

ACRONYMS

- BMP- Best Management Practice
- CWA- Clean Water Act
- DHEC- Department of Health and Environmental Control
- ERU- Equivalent Residential Unit
- GCP- General Construction Permit
- GP- General Permit
- LCP- Larger Common Plan
- MS4- Municipal Separate Storm Sewer System
- NOI- Notice of Intent
- NPDES- National Pollutant Discharge Elimination System
- OHSA- Occupational Safety and Health Administration
- PCA- Pollution Control Act
- POTW- Publicity Owned Treatment Works
- SWAC- Stormwater Advisory Committee
- SWMP- Stormwater Management Program
- SWPPP- Stormwater Pollution Prevention Plan

DIVISION 1. GENERAL PROVISIONS

Sec. 16-100. Title

This ordinance shall be known as the "Stormwater Management and Sediment Control Ordinance of the Town of Fort Mill, South Carolina" (Ordinance).

Sec. 16-101. Regulations

This Ordinance is adopted pursuant to the authority conferred upon the Town of Fort Mill (the Town) by the South Carolina Constitution, the South Carolina General Assembly and in compliance with the requirements imposed upon the Town by the National Pollutant Discharge Elimination System (NPDES) regulations 40 CFR 122.26 and SC Regulation 61-9.122.26, NPDES General Permit (GP) for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems (MS4s), Permit No. SCR030000, NPDES Construction General Permit (CGP) 100000 and SC Regulation 72-300 issued in accordance with the Federal Clean Water Act (CWA), the South Carolina Pollution Control Act (PCA) and regulations promulgated thereunder. The Town Council hereby confers upon the Town Manager or his designee all powers, including issuance of summons, necessary to enforce this article.

Sec. 16-102. Findings

The Town Council makes the following findings:

- (a) Uncontrolled stormwater runoff may have significant, adverse impact on the health, safety and general welfare of the Town and the quality of life of its citizens by transporting pollutants into receiving waters and by causing erosion or flooding.
- (b) The Town is required by Federal law [33 U.S.C 1342(p) and 40 CFR 122.26] to obtain a NPDES permit from the South Carolina Department of Health and Environmental Control (DHEC) for stormwater discharges from the Town stormwater system. The NPDES permit requires the Town to impose controls to reduce the discharge of pollutants in stormwater to the maximum extent practicable using management practices, control techniques and system, design and engineering methods, and such other provisions which are determined to be appropriate for the control of such pollutants.
- (c) Additionally, certain facilities that discharge stormwater associated with an industrial activity, including land-disturbing activities, are required to obtain NPDES permits. Also, The South Carolina Stormwater Management and Sediment Reduction Act [S.C. Code 48-14-10 et seq.] requires a state permit for certain land disturbing activities.

Sec. 16-103. Purposes

- (a) It is the purpose of this Ordinance to protect, maintain, and enhance the environment of the Town and the short-term and long-term public health, safety, and general welfare of the Town by establishing requirements and procedures to control the potential adverse effects of increased stormwater runoff associated with both future development and existing developed land. Proper management of stormwater runoff will minimize damage to public and private property, ensure a functional drainage system, reduce the effects of development on land and stream channel erosion, attain and maintain water quality standards, enhance the local environment, reduce local flooding, reduce pollutant loading to the maximum extent practicable and maintain to the extent practicable the pre-developed runoff characteristics of the area, and facilitate economic development while mitigating associated pollutant, flooding and drainage impacts.
- (b) It is further the purpose of this Ordinance to comply with the Federal and corresponding State stormwater discharge (NPDES) regulations (40 CFR 122.26 and SC Regulation 61-9.122.26) developed pursuant to the CWA and to assure the Town of the authority to take any action required by it to obtain and comply with its NPDES permit for stormwater discharges. Among other things, these regulations require the Town to establish legal authority, which authorizes or enables the Town at a minimum to:
 - (1) Control the contribution of pollutants to the Town MS4 and receiving waters by stormwater discharges associated with residential, commercial, industrial, and related facilities activities and the quality of stormwater discharged from sites of residential, commercial, industrial, and related facilities activities;
 - (2) Prohibit illicit discharges to the Town MS4 and receiving waters;
 - (3) Control the discharge to the Town MS4 and receiving waters of spills, dumping, or disposal of materials other than stormwater;
 - (4) Control, through intergovernmental agreements, contribution of pollutants from one municipal stormwater system to another;
 - (5) Require compliance with conditions in ordinances, permits, contracts or orders; and
 - (6) Carry out all inspection, surveillance and monitoring procedures necessary to determine compliance and noncompliance with permit conditions including the prohibition on illicit discharges to the Town MS4 and receiving waters.
- (c) The application of this Ordinance and the provisions expressed herein shall be the minimum stormwater management requirements and shall not be deemed a limitation or repeal of any other powers granted by statute. In addition, if site characteristics indicate that complying with these minimum requirements will not provide adequate designs or protection for local property or residents, it is the owner

and operator's responsibility to exceed management practices, control techniques and system, design and engineering methods and such other programs and controls as are required by the Town's NPDES permit.

- (d) This Ordinance is to be construed to further its purpose of controlling and reducing pollutant discharges to the Town MS4 and to the Waters of the State to assure the obligations under its NPDES permit issued by DHEC as required by 33 USC 1342 and 40 CFR 122.26.

Sec. 16-104. Scope

- (a) The provisions of this Ordinance shall apply throughout the incorporated areas of the Town.
- (b) The Town Manager or his designee shall be primarily responsible for the coordination and enforcement of the provisions of this Ordinance, the Town's Stormwater Management Program (SWMP), the Town's NPDES Permit and the Best Management Practices (BMPs) identified for inclusion in this program.

Sec. 16-105. Interpretation

- (a) Meaning and Intent

All provisions, terms, phrases, and expressions contained in this Ordinance shall be construed according to the general and specific purposes set forth in Section 1.4 Purposes. If a different or more specific meaning is given for a term defined elsewhere in any of the Town's other ordinances, the meaning and application of the term in this Ordinance shall control for purposes of application of this Ordinance.

- (b) Text Controls in Event of Conflict

In the event of a conflict or inconsistency between the text of this Ordinance and any heading, caption, figure, illustration, table, or map, the text shall control.

- (c) Authority for Interpretation

The Town Manager has authority to interpret this Ordinance. Any person may request an interpretation by submitting a written request to the Town Manager's designee who shall respond in writing within thirty (30) days. The Town Manager's designee shall keep on file a record of all written interpretations of this Ordinance.

- (d) References to Statutes, Regulations, and Documents

Whenever reference is made to a resolution, ordinance, statute, regulation, manuals, or document, it shall be construed as a reference to the most recent edition of such that has been finalized and published with due provision for notice and comment, unless otherwise specifically stated.

(e) Computation of Time

The time in which an act is to be done shall be computed by excluding the first day and including the last day. If a deadline or required date of action falls on a Saturday, Sunday, or holiday observed by the Town, the deadline or required date of action shall be the next day that is not a Saturday, Sunday or holiday observed by Town. References to days are business days unless otherwise stated.

(f) Delegation of Authority

Any act authorized by this Ordinance to be carried out by the Town Manager's designee of The Town may be carried out by his or her designee.

(g) Usage

(1) Mandatory and Discretionary Terms

The words "shall," "must," and "will" are mandatory in nature, establishing an obligation or duty to comply with the particular provision. The words "may" and "should" are permissive in nature.

(2) Conjunctions

Unless the context clearly indicates the contrary, conjunctions shall be interpreted as follows: The word "and" indicates that all connected items, conditions, provisions or events apply. The word "or" indicates that one or more of the connected items, conditions, provisions or events apply.

(3) Tense, Plurals, and Gender

Words used in the present tense include the future tense. Words used in the singular number include the plural number and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise. Words used in the masculine gender include the feminine gender, and vice versa.

(h) Measurement and Computation

Lot area refers to the amount of horizontal land area contained inside the lot lines of a lot or site.

Sec. 16-106. Effective Date and Transitional Provisions

(a) Effective Date

This Ordinance shall take effect on the date referred to below.

(b) Transitional Provisions

Any violation of the provisions of this Ordinance existing as of June 23, 2014 shall continue to be a violation under this Ordinance and be subject to penalties and enforcement unless the use, development, construction, or other activity complies with the provisions of this Ordinance.

DIVISION 2. ORGANIZATION AND ADMINISTRATION

Sec. 16-200. Town of Fort Mill Storm Water Management Program (SWMP)

The SWMP developed by the Town (as described in Section 3.4) to comply with the NPDES Stormwater Permit serves as the basis for the Town's program implementation and administration. The SWMP, as amended from time to time by the Town, is hereby adopted for the life of the Town's Stormwater System NPDES permit as the official operational program.

Sec. 16-201. Coordination with Other Agencies

The Town Manager's designee shall coordinate the Town's activities with other Federal, State, and local agencies, which manage and perform functions relating to the protection of receiving waters. Authority not expressly reserved for other agencies or restricted by statute is placed with the Town Manager's designee for the protection and preservation of receiving waters. The Town Manager's designee shall coordinate with State and Federal Agencies having jurisdiction.

The Town Manager's designee will consult with the South Carolina Department of Transportation regarding litter control, the management of pesticide and herbicide use, control of runoff, and the use of the BMPs along state roads within the incorporated areas of the Town and shall advise South Carolina Department of Transportation of its recommendations for the construction, operation, and maintenance of state roads within the Town.

Sec. 16-202. Cooperation with Other Governments

The Town may enter into agreements with other governmental and private entities to carry out the purposes of this Ordinance. These agreements may include, but are not limited to educational programs, enforcement, resolution of disputes, cooperative monitoring, and cooperative management of stormwater systems and cooperative implementation of the SWMP.

Nothing in this Ordinance or in this Section shall be construed as limitation or repeal of any ordinances of these local governments or of the powers granted to these local governments by the South Carolina Constitution or South Carolina statutes, including, without limitation, the power to require additional or more stringent stormwater management requirements within their jurisdictional boundaries.

DIVISION 3. WATER QUALITY/QUANTITY CONTROL

Sec. 16-300. Authority

- (a) The Town Council, may, at its discretion, amend or change this Ordinance or adopt additional regulations or resolutions to implement this Ordinance to comply with the NPDES permit, to implement the Town's SWMP, or to otherwise further the goal of protecting the quality of the waters into the Town MS4.
- (b) The Town Manager's designee shall be responsible for day-to-day coordination, implementation and enforcement of this Ordinance and the SWMP. This includes but is not limited to, the SWMP's programs for commercial and residential activities, construction site runoff, industrial and related facilities, and illicit discharges and improper disposal. Without limitation of the foregoing, the Town Manager's designee shall have the following specific powers and duties:
 - (1) To issue any permit, certification or license that may be required to comply with this Ordinance.
 - (2) To deny a facility connection to the Town MS4 or discharge to Waters of the State if State, Federal, or Stormwater Ordinances and Regulations are not met.
 - (3) To approve Stormwater Pollution Prevent Plans (SWPPPs), and to require as a condition of such approvals structural or non-structural controls, practices, devices, or operating procedures, required under the SWMP.
 - (4) To require performance bonds as necessary of any person to secure that person's compliance with any SWPPP, permit, certificate, license or authorization issued or approved by the Town Manager's designee pursuant to this Ordinance, the SWMP and Federal and State laws.
 - (5) To comply with all Federal and State regulatory requirements, promulgated or imposed pursuant to the Clean Water Act and the SC Stormwater Management Act, applicable to the management of stormwater discharges to or from the Town MS4.
 - (6) To conduct all activities necessary to carry out the SWPPP and other requirements included in the Town's NPDES permit, this Ordinance, and to pursue the necessary means and resources required to properly fulfill this responsibility.
 - (7) To enter into agreements with other governmental entities or private persons or entities to provide or procure services to conduct and carry out stormwater management activities.

- (8) To maintain the stormwater system consistent with the provisions of the Town's NPDES permit, the SWMP and this Ordinance.
- (9) To direct, review and recommend for approval by the Town Council the Stormwater Management operating budget.
- (10) To direct, review and recommend for approval by the Town Council necessary changes to the existing SWMP.
- (11) To determine appropriate fees, to impose penalties, and to take necessary and appropriate actions to collect any fee or enforce any penalty assessed pursuant to this Ordinance.

Sec. 16-301. Stormwater Management Program

The Town Manager's designee shall implement and conduct the Town's operations according to the Town's Stormwater Management Program (SWMP) (See Appendix A). The SWMP serves as the basis for compliance with the NPDES Stormwater Permit granted to the Town under the provisions of the Water Quality Act of 1987 and 40 CFR122.26. This SWMP is more fully described in "Small Municipal Separate Storm Sewer System (MS4) Phase II Stormwater Management Program (2014)" as mandated by the NPDES Stormwater Permit which defines the terms and conditions of the Town's authority to operate its stormwater system. By way of summary only, the SWMP includes the following mandated BMP elements:

(a) Public Education and Outreach on Stormwater Impacts

A program to educate and involve the general public of the stormwater system and details regarding the SWMP that can relate to them;

(b) Public Involvement/Participation

A program to allow the general public to be involved and participate in stormwater prevention and clean-up activities;

(c) Illicit Discharges/Detection and Elimination

A program, including an investigative schedule, to detect and remove illicit discharges and improper disposal into the stormwater system or to require the discharger to the stormwater system to obtain a separate NPDES permit;

(d) Construction Site Stormwater Runoff Control

A program to implement and maintain structural and non-structural BMPs to reduce pollutants in stormwater runoff from construction sites to the stormwater system;

(e) Post-Construction Stormwater Management in New Development and Redevelopment

A program to minimize water quality impacts and attempt to maintain pre-development conditions and to provide the Town with the necessary authority to implement and enforce program elements which address post-construction runoff from new development or redevelopment projects.

(f) Pollution Prevention/Good Housekeeping for Municipal Operations

A program to control pollutants in stormwater discharges to the stormwater system from Town municipal operations and Town disposal and recovery facilities. This program will also focus on updating and placing more emphasis on municipal maintenance practices, such as increasing street-sweeping frequency to problem-prone areas and provide inspection and installation of adequate controls at the Town's municipal facilities

Sec. 16-302. Land Disturbance Activities

(a) To obtain a land disturbance permit, the following general requirements must be met:

- (1) To ensure the protection of the Town's stormwater drainage system, public health and water quality, a Land Disturbance Permit must be issued prior to any land disturbing activities of over 5,000 square feet for all new single family residential construction, new development, and redevelopment projects except those development activities that are exempt from the provisions of this Ordinance under Sec. 16-302(b).
- (2) It will be the responsibility of the project site operators to complete a Land Disturbance Permit application and to ensure that a sufficient construction plan, including a SWPPP is completed and submitted to the Town in accordance with this Ordinance.
- (3) It will be the responsibility of the project site operators to ensure compliance with this Ordinance, to implement the SWPPP during the construction activity, and to notify the Town of project initiation and termination. However, all parties engaging in construction and land disturbing activities on a permitted project site must comply with the requirements of this Ordinance.
- (4) In developing plans for residential subdivisions, individual lots in a residential subdivision development that are part of a Larger Common Plan (LCP) are regulated regardless of lot size or ownership. If the Primary Permittee obtains coverage under this permit for the development and then sells lots within the development, then coverage under this permit shall continue with the Primary Permittee. The residential subdivision development, as a whole, shall be considered to be a single land disturbing activity requiring a permit. Hydrologic

parameters that reflect the ultimate subdivision development shall be used in all engineering calculations.

- (5) Land disturbance plans will consider both pre- and -post construction use and are required for both New Development and Redevelopment activities. Special emphasis will be placed on Redevelopment activities with the intention of slowing runoff velocities within the system to non-erosive velocities for the 10-year, 24-hour storm event. The Town promotes "Planned neighborhood development districts". The purposes of these districts include directing growth to identified areas, protecting sensitive areas such as wetlands and riparian areas, maintaining and/or increasing open space (including a dedicated funding source for open space acquisition), providing buffers along sensitive water bodies, minimizing impervious surfaces, and minimizing disturbance of soils and vegetation. See the Town's Zoning Ordinance "Section 5 Planned cluster development district and Section 6 Planned neighborhood development district". The Town is actively engaged in efforts with developers to encourage creative and site sensitive developments by allowing increased overall density in exchange for planned neighborhood development.
 - (6) The Town has adopted BMPs for good housekeeping, preventative maintenance, and spill prevention at its currently permitted wastewater treatment facilities. Through the adoption of these BMPs the Town will promote the extension of these good housekeeping practices to its other Municipal Operations.
- (b) The following development activities are exempt from the provisions of this Ordinance:
- (1) Construction or improvement of single family residences or their accessory buildings which are separately built and not part of multiple construction of a subdivision development and which are anticipated to disturb an area of less than 5,000 square feet.
 - (2) Land disturbing activities on agricultural land for production of plants and animals useful to man, including but not limited to: forages and sod crops, grains and feed crops, tobacco, cotton, and peanuts; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horses ponies, mules, or goats, including the breeding and grazing of these animals; bees; fur animals and aquaculture, except that the construction of an agricultural structure of one or more acres, such as broiler houses, machine sheds, repair shops and other major buildings and which require the issuance of a building permit shall require the submittal and approval of a SWPPP prior to the start of the land disturbing activity.
 - (3) Land disturbing activities undertaken on forestland for the production and harvesting of timber and timber products.
 - (4) Activities undertaken by persons who are otherwise regulated by the provisions of Chapter 20 of Title 48, the South Carolina Mining Act.

- (5) Certain land disturbing activities undertaken by persons who are exempt from the provisions of the Stormwater Management and Sediment Reduction Act as set forth in Section 48-14-40 of the Code of Laws of South Carolina (1976) as amended.
- (6) Development of new phases of existing subdivisions that were not previously approved shall comply with the provisions of this Ordinance.
- (c) Responsibilities of Exempt Developments:

The exemptions listed above shall not be construed as exempting these developments and redevelopments from onsite drainage improvements that may be required in accordance with building and construction codes, nor from providing adequate erosion prevention and sediment control measures to protect adjoining property owners and the public right-of-way. Specific requirements regarding the SWPPP will be described in Sec. 16-304.

Sec. 16-303. Permit Application and Approval Process

(a) Permit Classification

The Land Disturbance Permit has been developed such that the level of permitting required matches the scope of work:

- (1) Less than 1 Acre of Land Disturbance and are not part of a Larger Common Plan (LCP)

For construction activities that disturb less than 1 acre and are not part of a LCP, the following need to be submitted:

- Notification Form for Sites Disturbing Less than 1-Acre (DHEC Form 2628)
- Construction Plans
- Narrative SWPPP

- (2) 1 to 2 Acres of Land Disturbance and are not part of a LCP

For construction activities that disturb 1 to 2 acres and are not part of a LCP, the following need to be submitted:

- Notice of Intent (NOI) Application (DHEC Form 2617)
- Construction Plans
- Simplified SWPPP

- (3) Greater than 2 Acres of Land Disturbance

For construction activities that disturb more than 2 acres, including smaller sites in a LCP of development or sale, for which combined total disturbed area is more than 2 acres, to submit an NOI for permit coverage approval prior to beginning any land disturbing activities.

- NOI Application (DHEC Form 2617)
- Construction Plans
- C-SWPPPP

(b) Exceptions

When the land disturbing activity consists of the construction of a pond, lake or reservoir which is singly built and not part of a permitted land disturbing activity, the following procedures will apply:

- (1) A SWPPP will not be required if the pond, lake or reservoir is permitted under the S.C. Dams and Reservoirs Safety Act or has received a Certificate of Exemption from the S.C. Dams and Reservoirs Safety Act. BMPs should be used to minimize the impact of erosion and sediment.
- (2) A SWPPP will be required for the construction of all ponds, lakes or reservoirs not meeting the conditions in R.72-305(B)(5)(a) (previous number above) that otherwise meet the size requirements for stormwater management and sediment control plan approval.

(c) Categories and Responsibilities of Construction Site Operators

Applications required under this Ordinance may be initiated by the operators as defined below and shall be submitted in a format and in such numbers as required by the Town Manager's designee. Applications that meet the requirements of this Ordinance, the SWMP, and State and Federal regulations are considered complete. The categories of operators, who have day-to-day operational control over construction activities at a specific construction site, include Primary Permittees, Secondary Permittess, Contractors and Landing or Other Institutions (Section 2.2 of CGP). Each category is specified by the operator's ownership, responsibilities and/or development of a construction site. Construction site operators must complete and submit, if required, the appropriate NOI form as specified below.

(1) Primary Permittees

This type of operator would be the initial owner, operator or developer of the site who is responsible for preparation of the C-SWPPP as described previously in this Ordinance and who has the ability to request modifications to those documents. These operators obtain the initial permit coverage for any construction site and are held liable for compliance with the CGP. They may rely on, or require, Secondary Permittess and/or contractors to assist with project activities necessary to ensure compliance with this permit and

implementation of the OS-SWPPP. The NOI will be required to be submitted by the direction of the Primary Permittee.

(2) Secondary Permittees

This type of operator includes individual lot owners or residential builders that conduct land-disturbing activity at a construction site and is limited to an individual lot or a group of lots that are part of a previously approved Large Common Plan (LCP). For Secondary Permittees seeking coverage of individual lots at a residential subdivision, the Individual lot NOI will need to be submitted. This application is a simplified version of the NOI and may require additional documents.

(3) Contractors

This type of operator replaces the term "Co-Permittee" in the 2006 CGP, and is employed by either the Primary or Secondary Permittee and will be implementing the approved SWPPP and plans. All Contractors must complete a Contractor Certification Form and attend a Pre-Construction Conference prior to performing any work at each site.

(4) Lending or Other Institutions

If a lending institution, government entity, etc. takes operational control of a construction site due to foreclosure, permittee filing for bankruptcy, abandonment, etc., then that entity is responsible for the construction site's stormwater discharges. Coverage is required under this permit prior to the entity initiating construction activity at the site. The entity shall contact DHEC within fourteen (14) business days of taking title to the property. If stabilization of the inherited construction site is required, DHEC or Town may issue a compliance agreement.

(d) Approval Process

(1) Upon submittal of a completed Land Disturbance Permit application and the accompanying documents, the application packet will be placed in queue for review. If, after review, the plan conforms to the requirements of this Ordinance, the Town Manager's designee shall approve the plan. The Town Manager's designee will review these submissions within twenty (20) business days from the date of the receipt of the complete application. Upon approval by the Town's Town Manager's designee, the application will be forwarded to DHEC for NPDES permit approval.

(2) A Land Disturbance Permit will not be issued or modified without the following:

- Right-of-entry for emergency maintenance, if necessary.
- Right-of-entry for inspections.

- Recorded easements for stormwater management facilities.
 - Certification by the persons responsible for the land disturbing activity that the land disturbing activity will be accomplished pursuant to the plan.
 - Any off-site easements needed.
 - Evidence of a receipt of all other required permits.
- (3) The Land Disturbance Plan shall not be considered approved without the inclusion of an approval stamp with a signature and date on the plans by the Town Manager's designee. The stamp of approval on the plans is solely an acknowledgement of satisfactory compliance with the requirements of these regulations. The approval stamp does not constitute a representation or warranty to the applicant or any other person concerning the safety, appropriateness or effectiveness of any provision, or omission from the Land Disturbance plan.
- (4) Approved Land Disturbance Plans and accompanying permits remain valid for five (5) years from the date of an approval under the provisions of this Ordinance. If no work on the site in furtherance of the plan has commenced within the five-year period, the permit and plan approval will become null and void and a new application will be required to develop the site. If work on the site in furtherance of the plan has commenced that involves any utility installations or street improvements except grading, the permit and plan shall remain valid and in force and the project may be completed in accordance with the approved plan. Extensions or renewals of the plan approvals will be granted by the Town Manager's designee upon written request by the person responsible for the land disturbing activity.
- (5) A copy of the approved Land Disturbance Plan should be reasonably available to the job site and issued Land Disturbance Permit shall be posted at the job site in a conspicuous place.
- (6) Approvals of plans approved prior to the effective date of this Ordinance shall remain in effect for the original terms of the approval. If the term of the permit expires before the land disturbing activities are initiated, the applicant shall resubmit the Land Disturbance Plan for review in accordance with the requirements of this section.
- (7) In addition to the plans and permits required from the Town, applicants shall obtain all state and Federal permits required for the proposed development.

(e) Fee Schedule

The application for a Land Disturbance Permit to disturb in the Town shall be accompanied by a non-refundable fee according to the following:

- (1) For each acre of disturbance, a fee of \$200.00 per acre, will be assessed, with no limitations on assessment.
- (2) For projects disturbing over 1 acre, in addition to the fees outlined above, a non-refundable fee of \$125.00 made payable to DHEC shall also be submitted along with the Land Disturbance Permit. The Town Manager's designee will forward this fee along with the permit application to DHEC. An additional review fee of \$100.00 per disturbed acre, up to a maximum of \$2,000.00 may be assessed if DHEC elects to review the entire application package.

(f) Termination of Coverage

A Notice of Termination (NOT) shall be submitted on all active coverage approvals under this Ordinance and the NPDES permitting program when one or more of the conditions outlined in the Section of 5.1 of the GCP have been met.

Sec. 16-304. SWPPP

(a) Overview:

- (1) A SWPPP is a sediment and erosion control plan that describes all of the construction site operator's activities to prevent stormwater contamination, control sedimentation and erosion, and comply with the requirement of the Clean Water Act. The SWPPP shall be prepared in accordance with, at a minimum, the standards listed in SC R. 72-307 and requirements outlined in the Section 3 of the NPDES General Permit, unless specifically exempted by SC R. 72-302.A. While under review, the SWPPP will be labeled as Comprehensive SWPPP (C-SWPPP), which after approval, this document will be labeled as On-Site SWPPP (OS-SWPPP) as described below.

(2) Comprehensive SWPPP (C-SWPPP)

The C-SWPPP must be prepared prior to submission of each NOI requesting coverage under the NPDES General Permit. It shall include the following contents pursuant to the Section 3.2 of the GCP:

- i. Narrative
- ii. Stormwater Management and Sediment Control
- iii. Sequence of Construction
- iv. Site Features and Sensitive Areas (Buffer Zones)
- v. Sources of Pollution
- vi. Best Management Practices (BMPs)

- vii. Maps
- viii. Engineering Reports
- ix. Construction Site Plans
- x. Non-Numeric Effluent Limitations
- xi. Management of Non-Stormwater Discharges
- xii. Documentation of Permit Eligibility Related to TMDLs

(3) On-Site SWPPP (OS-SWPPP)

Upon approval, the C-SWPPP will be condensed and labeled as the OS-SWPPP before undergoing implementation. The OS-SWPPP will act as the construction site's living documentation and will be followed as the stormwater pollution prevention plan is implemented, undated as modifications are made, and used as a record log as stages of the approved OS-SWPPP are completed until the construction site has been permanently stabilized and covered and coverage under the NPDES General Permit has been terminated.

The OS-SWPPP shall include all items required for the C-SWPPP except the Engineering Reports. The purpose of OS-SWPPP is to track the progress, compliance, modifications and those associated with the construction site. Therefore, logs including, but not limited to, pre-construction conference log, inspection log, stabilization log, rain log and contractor log and/or any additional record keeping as deemed necessary by the Permittee, Contractor, DHEC, Town or an entity delegated under R. 72-300 are required and must be maintained on site at all times.

(b) Design and Engineering Standards:

- (1) Land Disturbance Plans shall include appropriate measures and practices for Stormwater Management and Sediment Control, installed in a timely sequence during the land disturbing activity process, and maintained to ensure their proper function. Measures shall be designed, installed and maintained in accordance with requirements set forth in the South Carolina DHEC Stormwater Management BMP Handbook, latest edition. This BMP Handbook shall serve as guidance for the design, construction and maintenance of facilities which discharge stormwater. Erosion and sediment control measures and practices shall be selected, to allow for the achievement of the stormwater management and water quality objectives identified as the following:
 - i. Identify areas which are subject to severe erosion, and off-site areas which are especially vulnerable to damage from erosion and/or sedimentation;
 - ii. Identify and evaluate potential erosion, sediment and stormwater problems, and select appropriate control measures;

- iii. Expose the smallest practical area of land for the least possible time during land disturbing activity;
- iv. Retain and protect natural vegetation when feasible;
- v. Place emphasis on conservation of existing on-site soil;
- vi. Save topsoil, where practical for replacing on graded areas;
- vii. Use temporary vegetation cover, geotextiles, mulching, grassed or surfaced waterways and outlets, straw and silt traps, to control runoff, protect areas subject to erosion and remove heavy sediment loads from runoff; and
- viii. Provide for the management of increased runoff caused by changed soil conditions and surface conditions (including the use of diversion ditches, detention and retention basins, enlarged and protected drainage channels, grade control structures, and effective use of street gutters and storm sewers).

Although the intention of the Handbook is to establish uniform design practices, it neither replaces the need for engineering judgment nor precludes the use of information not presented. In addition, reference to the DHEC requirements shall not limit the Town from the opportunity to develop additional design and engineering standards for the achievement of stormwater management and water quality objectives. These standards shall be the minimum stormwater management requirements and may be supplemented by standards and requirements developed by the Town at a later date.

(2) Relationship of BMP Handbook to Other Laws and Regulations

If the specifications or guidelines of the BMP Handbook are more restrictive or apply a higher standard than other laws or regulations, that fact shall not prevent application of the specifications or guidelines in the BMP Handbook.

(3) Changes to Standards and Specifications

Standards, specifications, guidelines, policies, criteria, or other information in the BMP Handbook in effect at the time of acceptance of a complete application shall control and shall be utilized in reviewing the application and in implementing this Ordinance with regard to the application.

(4) Responsibility to Comply

It shall be the responsibility of the owner, developer, builders, lot owners, contractors, lending institutions, or other person responsible for land disturbing activities to provide adequate controls to meet the design and engineering standards.

(c) Contents of Land Disturbance Plans

- (1) Land Disturbance Plans shall be prepared in accordance with the applicable requirements of R.72-307, the Town Land Disturbance Permit Application, as amended to date, and include details pertaining to the location of the site drainage features, the erosion control measures proposed, site drainage features, permanent water quality, vegetative stabilization, construction waste removal and additional information necessary for a complete review as deemed appropriate by the Town.
- (2) Land Disturbance Plans shall include designation of all easements needed for inspection and maintenance of the drainage system and stormwater management facilities. As a minimum, easements shall have the following characteristics.
 - i. Provide adequate access to all portions of the drainage system and structures.
 - ii. Provide sufficient land area for maintenance equipment and personnel to adequately and efficiently maintain the system with a minimum of ten (10) feet along both sides of all drainage ways, streams, channels, ditches, and around the perimeter of all detention and retention facilities, or sufficient land area for equipment access for maintenance of all storm water management facilities. This distance shall be measured from the top of the bank or toe of the dam whichever is applicable.
 - iii. Restriction on easements shall include prohibiting all fences and structures which would interfere with access to the easement areas and/or the maintenance function of the drainage system.
- (3) To prevent water quality degradation and to improve the water quality aspects of the drainage system, the Disturbance Plan shall include best management practices to control the water quality of the runoff during the land disturbing activities and during the life of the development. The Disturbance Plan shall include all engineering calculations needed to design the system and associated structures including pre- and post-development velocities. Peak rates of discharge, and inflow and outflow hydro- graphs of stormwater runoff at all existing and proposed points of discharge from the site. These results of the analysis shall be included in a hydrologic-hydraulic study included with the application package and shall include but not be limited to the following:
 - i. All stormwater management facilities and all major portions of the conveyance system through the proposed development (i.e., channels, culverts) shall be analyzed, using the design and 100-year storms, for design conditions and operating conditions which can reasonably be expected during the life of the facility.
 - ii. For all stormwater management facilities, a hydrologic-hydraulic study shall be done showing how the drainage system will function with and without the

proposed facilities. For such studies the following land use conditions shall be used. Existing land use data shall be taken from the most recent aerial photograph and field checked and updated.

- For the design of the facility outlet structure, use developed land use conditions for the area within the proposed development and existing land use conditions for upstream areas draining to the facility.
 - For any analysis of flood flows downstream from the proposed facility, use existing land use conditions for all downstream areas.
 - All stormwater management facilities emergency spillways shall be checked using the 100-year storm and routing flows through the facility and emergency spillways. For this analysis, developed land use conditions shall be used for all areas within the analysis.
 - The effects of existing upstream detention facilities can be considered in the hydrologic-hydraulic study.
- iii. The expected timing of flood peaks through the downstream drainage system shall be assessed when planning the use of detention facilities.
- iv. In determining downstream effects from stormwater management structures and the development, hydrologic-hydraulic engineering studies shall extend downstream to a point as determined by the Town Manager's designee.
- v. If the Land Disturbance Plan and/or design report indicates that there may be a drainage or flooding problem at the exit to the proposed development or at any point downstream as determined by the Town Manager's designee, the Town Manager's designee may require:
- Water surface profiles plotted for the conditions of pre- and post-development for the 2-year through 100-year design storm; and
 - Elevations of all structures potentially damaged by the 2-year through 100-year flows.
- (4) All Land Disturbance Plans must outline requirements for construction site operators to implement appropriate erosion and sediment control BMPs and to control waste at construction sites that may cause adverse impacts to water quality. Such waste includes material delivery sites, discarded building materials, concrete truck washouts, chemicals, litter and sanitary waste. All materials are to be disposed of in accordance with OSHA/DHEC guidelines for storage of hazardous materials and disposal of waste.
- (5) All Land Disturbance Plans submitted for approval shall contain certification by the person responsible for the land disturbing activity that the land disturbing activity will be accomplished pursuant to the approved plan and that responsible

personnel will be assigned to the project. Any and all site Land Disturbance Permits may be revoked at any time if the construction of stormwater management facilities is not in strict accordance with approved plans.

- (6) All Land Disturbance Plans shall contain certification by the person responsible for the land disturbing activity of the right of the Town Manager's designee to conduct on-site inspections.

Sec. 16-305. Minimum Design Requirements

Provisions for stormwater runoff control during the land disturbing activity and during the life of the facility shall meet the minimum requirements:

- (a) Post development peak discharge rates shall not exceed pre-development discharge rates for the two (2) and ten (10) year frequency twenty-four (24) hour duration storm events. Design, construct, and maintain stormwater management practices that manage rainfall on-site, and prevent the off-site discharge of the precipitation from the first one inch of rainfall from a 24-hour storm preceded by 48 hours of no measurable precipitation. Discharge volume reduction can be achieved by canopy interception, soil amendments, evaporation, rainfall harvesting, engineered infiltration, extended filtration and/or evapotranspiration and any combination of the aforementioned practices. This first one inch of rainfall must be 100% managed with no discharge to surface waters.
- (b) The requirements, or portions thereof, of item (a) may be waived by the Town Manager's designee if it can be shown by detailed engineering calculations and analysis which are acceptable to the Town Manager's designee that one of the following exists:
 - (1) the installation of stormwater management facilities would have insignificant effects on reducing downstream flood peaks; or
 - (2) stormwater management facilities are not needed to protect downstream developments and the downstream drainage system has sufficient capacity to receive any increase in runoff for the design storm; or
 - (3) it is not necessary to install stormwater management facilities to control developed peak discharge rates at the exit to a proposed development and installing such facilities would increase flood peaks at some downstream locations; or
 - (4) the Town Manager's designee determines that stormwater management facilities are not needed to control developed peak discharge rates and installing such facilities would not be in the best interest of water quality.
- (c) The requirements, or portions thereof, of item (a.) may not be waived if the Town Manager's designee determines that not controlling downstream flood peaks would

increase known flooding problems, or exceed the capacity of the downstream drainage system.

- (d) A waiver shall only be granted after a written request is submitted by the applicant containing descriptions, drawings, and any other information that is necessary to evaluate the proposed land disturbing activity. A separate written waiver request shall be required if there are subsequent additions, extensions, or modifications that would alter the approved stormwater runoff characteristics to a land disturbing activity receiving a waiver. The Town Manager's designee will conduct a review of the request for a waiver within twenty (20) business days from receipt of the waiver. Failure of the Town Manager's designee to act by the end of the twentieth business day will result in the automatic approval of the waiver.
- (e) Off-site discharges of closed storm sewers or improve open channels will be permitted only at natural streams or man-made drainage channels. Discharge velocities shall be reduced to provide a non-erosive velocity flow from a structure, channel, or other control measure or the velocity of the ten (10) year twenty-four (24) –hour storm runoff in the receiving waterway prior to the land disturbing activity, whichever is greater.
- (f) Design criteria for channel modification will be as followed:
 - (1) Open Channels

Open channels shall be provided with an improved cross section that will carry the runoff from the appropriate design rainfall and preclude the creation of backwater inundation of any area outside dedicated drainage easements.
 - (2) Closed Storm Sewer and Culverts

Closed storm sewers and culverts shall be constructed of prefabricated pipe or box design, in conformance with standards adopted by the Town. They shall be sized to carry the runoff from the appropriate design rainfall and to preclude the creation of backwater inundation of any area outside dedicated drainage easements.
- (g) When work in a live waterway is performed, precautions shall be taken to minimize encroachment, to control sediment transport, and to stabilize the work area to the greatest extent possible during construction.
- (h) Vehicle tracking of sediments from land disturbing activities onto paved roads shall be minimized and cleaned up daily.
- (i) The Stormwater Management and Sediment Control plan shall not be implemented until all Federal and State permits regarding wetlands management have been obtained.
- (j) Ease of maintenance must be considered as a site design component. Access to the stormwater management structure must be provided.

- (k) Sediment basins and traps shall be designed to achieve an eighty percent (80%) efficiency in removing suspended solids from the discharge effluent from a site or 0.5 ML/L peak settleable solids concentration, whichever is less. The efficiency shall be calculated for disturbed conditions for the ten (10) year and twenty-four (24) – hour design storm.
- (l) Stormwater runoff and drainage to a single outlet from land disturbing activities which disturb ten (10) acres or more shall be controlled during the land disturbing activity by a sediment basin where sufficient space and other factors allow these controls to be used until the final inspection. The outfall device or system design shall take into account the total drainage area flowing through the disturbed area to be served by the basin.
- (m) A regional approach to stormwater management is an acceptable alternative to site specific requirements and is encouraged.
- (n) Mosquito Control

All stormwater management and sediment control practices shall be designed, constructed and maintained with consideration for the proper control for mosquitoes and other vectors. These requirements shall be part of the required inspection and maintenance agreement, and include, but are not limited to:

- (1) The bottom of retention and detention ponds should be graded and have a slope not less than 0.5 percent. There should be no depressions in a normally dry detention facility where water might pocket when the water level is receding.
- (2) Normally dry swales and detention pond bottoms should be utilized in permanently wet structures to prevent an overgrowth of vegetation in the pond. Manual harvesting is preferred.
- (3) Fish may be stocked in permanently wet retention and detention ponds.
- (4) Normally dry swales and detention pond bottoms should be constructed with a gravel blanket or other measures to minimize the creation of tire ruts during maintenance activities.

(o) Use of Ponds

- (1) The use of measures other than ponds to achieve water quality improvement is recommended on sites containing less than ten acres.
- (2) Where ponds are the proposed method of control, the person responsible for the land disturbing activity shall submit to the approving agency, when required, an analysis of the impacts of stormwater flows downstream in the watershed for the ten (10) and one hundred (100) year frequency storm events. The analysis shall include hydrologic and hydraulic timing modifications of the proposed land disturbing activity, with and without the pond. The results of the analysis will

determine the need to modify the pond design or to eliminate the pond requirement. If a clearly defined downstream point of constriction is not available, the downstream impacts shall be established with the concurrence of the Town Manager's designee.

- (3) When ponds are used for water quality protection, the ponds shall be designed as both quantity and quality control structures. Sediment storage volume shall be calculated considering the clean out and maintenance schedules specified by the designer during the land disturbing activity. Sediment storage volumes may be predicted by the Universal Soil Loss equation.

(p) Infiltration Practices

Infiltration practices have certain limitations on their use on certain sites. These limitations include the following items:

- (1) Permanent infiltration practices, when used, shall be designed to accept, at a minimum, the first inch of runoff from all impervious surfaces.
- (2) Areas draining to these practices must be stabilized and vegetative filters established prior to runoff entering system. Infiltration practices shall not be used if a suspended solids filter system does not accompany the practice. If vegetation is the intended filter, there shall be, at least a twenty (20) foot length of vegetative filter prior to stormwater runoff entering the infiltration practice;
- (3) The bottom of the infiltration practice shall be at least 0.5 feet above the seasonal high water table, whether perched or regional, determined by direct piezometer measurements which can be demonstrated to be representative of the maximum height of the water table on an annual basis during years of normal precipitation, or by the depth in the soil at which mottling first occurs;
- (4) The infiltration practice shall be designed to completely drain water within seventy-two (72) hours;
- (5) Soils must have adequate permeability to allow water to infiltrate. Infiltration practices are limited to soils having an infiltration rate of at least 0.3 inches per hour. Initial consideration will be based on a review of the appropriate soil survey, and the survey may serve as a basis for rejection. On-site soil borings and textural classifications must be accomplished to verify the actual site and seasonal high water table conditions when infiltration is to be utilized;
- (6) Infiltration practices greater than three (3) feet deep shall be located at least ten (10) feet from basement walls;
- (7) Infiltration practices designed to handle runoff from impervious parking areas shall be a minimum of one hundred fifty (150) feet from any public or private water supply well;

- (8) The design of an infiltration practice shall provide an overflow system with measures to provide a non-erosive velocity of flow along its length and at the outfall;
- (9) The slope of the bottom of the infiltration practice shall not exceed five percent (5%). Also, the practice shall not be installed in fill material as piping along the fill/natural ground interface may cause slope failure;
- (10) An infiltration practice shall not be installed on or atop a slope whose natural angle of incline exceeds twenty percent (20%).
- (11) Provide clean outs at minimum of every one hundred (100) feet along the infiltration practice to allow for access and maintenance.
- (q) Where detention and retention structures are used, designs which consolidate these facilities into a limited number of large structures will be preferred over designs which utilize a large number of small structures.
- (r) Stormwater management facilities may include both structural and non-structural elements. Natural swales and other natural runoff conduits shall be retained where practicable.
- (s) Land Disturbance Plans may be rejected by the Town Manager's designee if they incorporate structures and facilities that will demand considerable maintenance, will be difficult to maintain, or utilize numerous small structures if other alternatives are physically possible.
- (t) Discharge velocities shall be reduced to provide a non-erosive velocity flow from a structure, channel, or other control measure or the velocity of the 2-year 24 hour design storm runoff in the receiving waterway prior to the land disturbing activity, whichever is greater.

Sec. 16-306. Ownership and Town Participation

- (a) All stormwater management facilities shall be privately owned and maintained unless the Town accepts the facility for Town ownership and maintenance. The owner of all private facilities shall grant to the Town, a perpetual, non-exclusive easement which allows for public inspection and emergency repair.
- (b) All stormwater management measures relying on designated vegetated areas or special site features shall be privately owned and maintained as defined on the Land Disturbance Plan.
- (c) When the Town Manager's designee determines that additional storage capacity beyond that required by the applicant for on-site stormwater management is necessary in order to enhance or provide for the public health, safety and general

welfare, to correct unacceptable or undesirable existing conditions or to provide protection in a more desirable fashion for future development, the Town may:

- (1) Require that the applicant grant any necessary easements over, through or under the applicant's property to provide access to or drainage for such a facility;
 - (2) Require that the applicant attempt to obtain from the owners of property over, through or under where the stormwater management facility is to be located, any easements necessary for the construction and maintenance of same (and failing the obtaining of such easement the Town may, at its option, assist in such matter by purchase, condemnation, dedication or otherwise, and subject to (d) below, with any cost incurred thereby to be paid by the Town); and/or
 - (3) Participate financially in the construction of such facility to the extent that such facility exceeds the required on-site stormwater management as determined by the Town Manager's designee.
- (d) To implement this provision both the Town and developer must be in agreement with the proposed facility that includes the additional storage capacity and jointly develop a cost sharing plan which is agreeable to all parties.

Sec. 16-307. Implementation, Inspection and Maintenance

(a) Pre-Construction Conference

A pre-construction conference must be held for each construction project or site with an approved OS-SWPPP pursuant to the Section 4.1 of the GCP.

(b) Inspection

- (1) Prior to the approval of the Disturbance Plan, the applicant shall submit a proposed staged construction and inspection control schedule. This plan shall indicate a phase line for approval otherwise the construction and inspection control schedule will be for the entire drainage system.
- (2) No stage work, related to the construction of stormwater management facilities, shall proceed until the next preceding stage of work, according to the sequence specified in the approved staged construction and inspection control schedule, is inspected and approved.
- (3) The permittee shall notify the Town Manager's designee before commencing any work to implement the Disturbance Plan and upon completion of the work.
- (4) After construction activities begin, inspections shall be conducted by permittees at a minimum of at least once every calendar week and must be conducted until

final stabilization is establish for the entire site as required in the NPDES General Permit for Stormwater Discharges from Construction Activities (SCR100000).

- (5) For sites over 2 acres the inspection shall be conducted by a third party inspector. The third party inspector shall be an individual who has been certified through a Construction Site Inspector Certification Course that has been approved by DHEC.
- (6) The permittee shall provide record drawings certified by a registered professional engineer to be submitted upon the completion of the stormwater management facilities included in the Disturbance Plan. The Registered Professional Engineer/Landscape Architect/Tier B Land Surveyor shall certify that:
 - i. The facilities have been constructed as shown on the approved plan, and
 - ii. The facilities meet the approved Disturbance Plan and specifications or achieves the function for which they were designed.
- (7) Acceptable record plans shall be submitted prior to:
 - i. The use or occupancy of any commercial or industrial site.
 - ii. Final acceptance of any road for maintenance by the Town.
 - iii. Release of any bond held by the Town.
 - iv. Approval and/or acceptance for recording of map, plat or drawing, the intent of which is to cause a division of a single parcel of land into two (2) or more parcels.
 - v. A final inspection shall be conducted by the Town Manager's designee upon completion of the work included in the approved Disturbance Plan to determine if the completed work is constructed in accordance with the plan.
- (8) Inspection reports (developed and maintained by Town) shall be maintained in a permanent file located in the Town Manager's designee's office.
- (9) Inspections by the Town may be conducted or established on any reasonable basis, including but not limited to routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to, reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in BMPs; and evaluating the condition of BMPs.

(c) Right-of-Entry

- (1) The Town Manager's designee, or his or her designee, bearing proper credentials and identification, may enter and inspect all properties for regular

inspections, periodic investigations, monitoring, observation measurement, enforcement, sampling and testing, to effectuate the provisions of this ordinance and to help ensure the requirements of the SWPPP are implemented. The Town Manager's designee shall duly notify the owner of said property or the representative on site and the inspection shall be conducted at reasonable times.

- (2) Upon refusal by any property owner to permit an inspector to enter or continue an inspection, the inspector shall terminate the inspection or confine the inspection to areas which no objection is raised. The inspector shall immediately report the refusal and the grounds to the Town Manager's designee. The Town Manager's designee may proceed to obtain an administrative search warrant pursuant to South Carolina Law or its successor. No person shall obstruct, hamper or interfere with the Town Manager's designee (or his or her designee) while carrying out his or her official duties.
- (3) In the event that the Storm Water Manager or the designee reasonably believes that discharges from the property into the Town's MS4 may cause an imminent and substantial threat to human health or the environment, the inspection may take place at any time and without notice to the owner of the property or a representative on site. The inspector shall present proper credentials upon reasonable request by the owner or representative.

(d) Maintenance

- (1) A permanent maintenance plan for each stormwater management facility shall be included in the Disturbance Plan. As part of the maintenance plan, the owner of such facility shall specifically agree to be responsible for permanent maintenance. In order to transfer maintenance responsibility, a letter of acceptance by the entity accepting permanent maintenance responsibility shall be filed with the Town Manager's designee
- (2) Post development maintenance inspections should also be performed on stormwater management systems and facilities throughout their useful life. For each system or facility installed or retrofitted during an approved construction project, the applicant must have submitted a maintenance schedule or plan. The Town inspectors will be checking for adherence to this plan and any necessary changes that may arise after installation.

(e) Performance Bonds

- (1) A person is required to obtain a surety or cash bond, irrevocable letter of credit, or other means of security acceptable to the Town Manager's designee, made payable to the Town, prior to the issuance of any building and/or Land Disturbance Permit for construction of a development requiring a permanent stormwater management facility. The amount of the security shall not be less than three thousand (\$3,000) dollars per acre of disturbed area or amended in the Town Manager's designee's fee schedule as published and approved by the Town Council. The bond so required in this section shall include provisions relative to forfeiture for failure to complete work specified in the approved Land Disturbance Plan, compliance with all the provisions of this Article and other

applicable laws and regulations, and any time limitations. The bond shall not be fully released without a final inspection of completed work by the Town Manager's designee, submission of record plans, and certification of completion by the owner/developer of the stormwater management facility as being in compliance with the approved plan and the provisions of this Article. A provision may be made for partial release of the amount of the bond pro-rata upon completion and acceptance of the various stages of development as specifically delineated, described, and scheduled on the required plans and specifications. The developer shall notify the Town Manager's designee upon completion of each stage that is ready for inspection.

DIVISION 4. ILLICIT CONNECTIONS, ILLICIT DISCHARGES AND IMPROPER DISPOSAL

Sec. 16-400. Illicit Connections, Illicit Discharges and Improper Disposal

- (a) It is unlawful for any person to connect any pipe, open channel, or any other conveyance system that discharges anything except stormwater or unpolluted water into receiving waters.
- (b) It is unlawful for any person to continue the operation of any such illicit connection regardless of whether the connection was permissible when constructed. Improper connections in violation of this Ordinance must be disconnected and redirected, if necessary, to the satisfaction of the Town Manager's designee and any other Federal, State, or local agencies or departments regulating the discharge.
- (c) It is unlawful for any person to throw, drain, run or otherwise discharge to any component of the Town MS4 or to the Waters of the State or to cause, permit or allow to suffer to be thrown, drained, run, or allow to seep or otherwise discharge into such system or receiving water all matter of any nature excepting only such storm or surface water as herein authorized.

Sec. 16-401. Allowable Discharges

- (a) The Town Manager's designee may require controls for or exempt (such exemption does not relieve requirements of other State and Federal regulations) from the prohibition provision in (a), (b) and (c) above the following, provided he/she determines they are not a significant source of pollution:
 - (1) Unpolluted industrial cooling water, but only under the authorization and direction of the Town Manager's designee and appropriate NPDES permit.
 - (2) Water line flushing performed or required by a government agency, diverted stream flows, rising ground waters, and unpolluted pumped ground waters, and unpolluted ground water infiltration.
 - (3) Unpolluted pumped ground water.
 - (4) Discharges from portable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual car washing, residential pool back-washing, flows from riparian habitats and wetlands, and street wash water.
 - (5) Discharges or flows from firefighting.
 - (6) Other unpolluted water.

- (b) All non-stormwater discharges authorized by this Ordinance shall not cause erosion of soil or the stream bank and shall not cause or contribute to violations of water quality standards.
- (c) In the event of an accidental discharge or an unavoidable loss to the Town MS4 of any pollutant, the person concerned shall inform the Town's Town Manager's designee as soon as possible, but not to exceed 24 hours, of the nature, quantity and time of occurrence of the discharge. The person concerned shall take immediate steps to contain the waste, treat the waste or other actions to minimize effects of the discharge on the MS4 and receiving waters. The person shall also take immediate steps to ensure no recurrence of the discharge.

Sec. 16-402. Detection and Elimination of Illicit Connections and Improper Disposal

- (a) The Town Manager's designee shall take appropriate steps to detect and eliminate illicit connections to the Town's Stormwater System, including the adoption of a program to screen illicit discharges and identify their source or sources.
- (b) The Town Manager's designee shall take appropriate steps to detect and eliminate improper discharges, including programs to screen for disposal and programs to provide for public education, public information, and other appropriate activities to facilitate the proper management and disposal of used oil, toxic materials and household hazardous waste.

DIVISION 5. ENFORCEMENT, PENALTIES AND ABATEMENT

Sec. 16-500. Violations

Upon determination that a violation of any of the provisions of this Ordinance or the Town's SWMP has occurred, the Town Manager's designee may give timely actual notice at the property where the violation has occurred or at the address of the permit holder and shall give written notice to the violator within fifteen (15) calendar days. This notice shall specify the nature of the violation, the proposed penalty, and the amount of time in which to correct deficiencies, if appropriate. It shall be sufficient notification to deliver the notice to the person to whom it is addressed, or to deposit a copy of such in the United States Mail, properly stamped, certified and addressed to the address used for tax purposes.

Sec. 16-501. Corrective Action

In the event a violation of this Ordinance has not been corrected within the applicable time period for correction, the Town, or its contractor, may enter upon the lot or parcel of land and correct the violation, and the costs incurred as a result of such action (including inspection, administration, labor and equipment costs) shall be collected from the bond, if in place, and sufficient to cover such costs, or shall become a lien upon the property and shall be collected in the same manner as Town taxes are collected.

Sec. 16-502. Stop Work

Any person who shall proceed with any work which requires a SWPPP hereunder without first submitting a plan and obtaining a permit, where applicable, shall have automatically placed on the subject property a stop work order, shall pay to the Town a fee of \$200.00 per acre, up to a maximum of \$5,000.00, double the normal amount of applicable bond and fees, and payment of any other applicable penalties, prior to lifting of the stop work order. The stop work order may allow or require correction of violations, but no other project related activities. Any person in violation of a stop work order is subject to impoundment of any and all equipment on the property, and payment of all fees, bonds, penalties and payment of impoundment charges prior to retrieving such equipment.

Sec. 16-503. Civil Penalties

- (a) If violations remain uncorrected or if a stop-work order is not obeyed, the violator is subject to criminal penalties of not more than \$25,000.00 and civil penalties of not more than \$10,000.00, not to exceed the maximum allowed under South Carolina State Law. No penalty may be assessed until the person alleged to be in violation has been notified in writing of the violation. Each day any such violation shall

continue to exist shall constitute a separate offense. The Town Council may authorize the Town Manager's designee to obtain injunctive relief to enjoin violations or continuing violations of this Ordinance.

- (b) The Town shall determine the amount of the civil penalty to be assessed under this section for violations under its jurisdiction. It shall make written demand for payment upon the person responsible for the violation and set forth in detail the violation for which the penalty has been invoked. If payment is not received or equitable settlement reached within thirty (30) days after demand for payment is made, a civil action may be filed in the Court of competent jurisdiction to recover the amount of the penalty. Local governments shall refer the matters under their jurisdiction to their respective attorneys for the institution of a civil action in the name of the local government in the circuit court in the county in which the violation is alleged to have occurred for recovery of the penalty.
- (c) This Ordinance anticipates that a notice of violation will be issued when violations are found. If the violations remain uncorrected, then a fine may be levied. Notices of violation may be issued for the following violations if appropriate actions are not taken to correct said violations:

<u>Violation</u>	<u>Fine per Day</u>
Failure to submit "as-built" drawings	\$500
Failure to follow the required notes on the plan	\$500
Failure to record deed of easements	\$500
Failure to implement corrective measures	\$500
Failure to comply with the plan	\$500
Failure to comply with notice of violation	\$500
Failure to comply with stop-work order	\$500

Sec. 16-504. Additional Legal Measures

- (a) Where the Town is fined and/or placed under a compliance schedule by the State or Federal government for a violation(s) of its NPDES permit, and the Town can identify the person(s) who caused such violation(s) to occur, the Town may pass through the penalty and cost of compliance to that person(s).
- (b) The Town Attorney may institute injunctive, mandamus or other appropriate action or proceedings at law or equity, including criminal conviction, for the enforcement of this Ordinance or to correct violations of this Ordinance, and any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions, mandamus or other appropriate forms of remedy or relief.

Sec. 16-505. Permit Suspension and Revocation

A Land Disturbance Permit may be suspended or revoked if one or more of the following violations have been committed:

- (a) Violations of the conditions of the SWPPP approval;
- (b) Construction not in accordance with the letter or intent of the approved plans;
- (c) Non-compliance with correction notice(s) or stop work order(s); or
- (d) The existence of an immediate danger in a downstream area in the judgment of the Town Manager's designee.

DIVISION 6. APPEALS & VARIANCES

Sec. 16-600. Powers and Duties of the Stormwater Advisory Committee

The Stormwater Advisory Committee, hereinafter referred to as SWAC, shall have the following powers and duties:

(a) Administrative Review

To hear and decide appeals according to the procedures set forth in this Section, where it is alleged there is an error in any order, decision, determination, or interpretation made by the Town Manager's designee in the enforcement of this Ordinance, including assessments of remedies and/or penalties.

(b) Variances

To grant variances in specific cases from the terms of this Ordinance according to the standards and procedures herein.

Sec. 16-601. Petition to SWAC for Appeal or Variance

An appeal may be initiated by any aggrieved person affected by any decision, order, requirement, or determination relating to the interpretation or application of this Ordinance. A petition for variance from the requirements of this Ordinance may be initiated by the owner of the affected property, an agent authorized in writing to act on the owner's behalf, or a person having written contractual interest in the affected property.

(a) Filing of Notice of Appeal

A notice of appeal shall be filed with the Town Manager's designee contesting any order, decision, determination or interpretation within 30 calendar days of the day of the order, decision, determination or interpretation made or rendered by the Town Manager's designee in the enforcement of this Ordinance, including assessments of remedies and penalties. SWAC may waive or extend the 30 day deadline only upon determining that the person filing the notice of appeal received no actual or constructive form of notice of the order, decision, determination or interpretation being appealed. The notice filed with the Town Manager's designee shall be accompanied by a nonrefundable filing fee as established by SWAC as well as a list of adjoining properties including tax parcel numbers and the name and address of each owner. Failure to timely file such notice and fee shall constitute a waiver of any rights to appeal under this Ordinance.

Upon receipt of a notice of appeal, the Town Manager's designee shall transmit to SWAC copies of all administrative papers, records, and other information regarding the subject matter of the appeal.

The filing of such notice shall stay any proceedings in furtherance of the contested action, except the Town Manager's designee may certify in writing to SWAC that because of facts stated in the certificate, a stay imposes an imminent peril to life or property or would seriously interfere with the enforcement of this Ordinance. SWAC shall then review such certificate and may override the stay of further proceedings.

(b) Filing a Variance Petition

A petition for variance, in the form prescribed by SWAC, shall be filed with the Town Manager's designee accompanied by a nonrefundable filing fee as established by SWAC as well as a list of adjoining properties including tax parcel numbers and the name and address of each owner. Upon receipt of a variance petition, the Town Manager's designee shall transmit to SWAC copies of all information regarding the variance.

(c) Notice and Hearing

SWAC shall, in accordance with the rules adopted by it for such purposes, hold public hearings on any appeal or variance petition which comes before it. SWAC shall, prior to the hearing, mail written notice of the time, place and subject of the hearing to the person or persons filing the notice of appeal or variance petition, to the owners of the subject property and to the owners of property adjacent to the subject property. The hearing shall be conducted in the nature of a quasi-judicial proceeding with all findings of fact supported by competent, material evidence.

(d) Standards for Granting an Appeal

SWAC shall reverse or modify the order, decision, determination or interpretation under appeal only upon finding an error in the application of this Ordinance on the part of the Town Manager's designee. In modifying the order, decision, determination or interpretation, SWAC shall have all the powers of the Town Manager's designee from whom the appeal is taken.

If SWAC finds that a violation of this Ordinance has occurred, but that in setting the amount of the penalty the Town Manager's designee has not considered or given appropriate weight to either mitigating or aggravating factors, SWAC shall either decrease or increase the per day civil penalty within the range allowed by this Ordinance. Any decision of SWAC that modifies the amount of a civil penalty shall include, as part of the findings of fact and conclusions of law, findings as to which mitigating or aggravating factors exist and the appropriate weight that should have been given to such factors by the Town Manager's designee in setting the amount of the civil penalty levied against the Petitioner.

(e) Standards for Granting a Variance

Before granting a variance, SWAC shall have made all the following findings:

- (1) Unnecessary hardships would result from the strict application of this Ordinance.
- (2) The hardships result from conditions that are peculiar to the property, such as the location, size or topography of the property.
- (3) The hardships did not result from actions taken by the petitioner.
- (4) The requested variance is consistent with the spirit, purpose, and intent of this Ordinance; will secure public safety and welfare; and will preserve substantial justice.

(f) Variance Conditions

SWAC may impose reasonable and appropriate conditions and safeguards upon any variance it grants.

(g) Technical Assistance

The SWAC may secure outside technical assistance regarding issue relating to an appeal or petition that are technical in nature. The Town will procure these services at the request of the SWAC.

(h) Action by SWAC

SWAC bylaws will determine the number of concurring votes needed to grant an appeal or request for variance. SWAC shall grant or deny the variance or shall reverse, affirm or modify the order, decision, determination or interpretation under appeal by recording in the minutes of the meeting the reasons that SWAC used and the findings of fact and conclusions of law made by SWAC to reach its decision.

(i) Rehearing

SWAC shall refuse to hear an appeal or variance petition which has been previously denied unless it finds there have been substantial changes in the conditions or circumstances relating to the matter.

Sec. 16-602. Review by Circuit Court

Every decision of SWAC shall be subject to Circuit Court review by proceedings in the nature of certiorari. Petition for review by the Circuit Court shall be filed with the Clerk of Circuit Court within thirty (30) days after the later occurring of the following:

- (a) The decision of SWAC is filed; or

- (b) A written copy thereof is delivered to every aggrieved party who has filed a written request for such copy with SWAC at the time of its hearing of the case.

Division 7. CHARGES AND FEES

Sec. 16-700. Funding

In addition to all other charges, fees, and penalties, the Town shall have the right to develop and impose a Stormwater Service Fee to fund implementation of this Stormwater Management and Sediment Control Ordinance and its associated programs and plans.

Sec. 16-701. Connection to Conveyances

The Town Manager's designee shall have the right to establish a schedule of appropriate fees for any person or property owner establishing a new discharge to Waters of the State within the Town or to a wet weather conveyance. Such fee shall be payable as part of any permit application or submission, regulating the discharge of stormwater runoff. Permit fees shall be established on the basis of facility classes relating to the quantity and quality of permitted discharge.

Sec. 16-702. Field Inspection

For landowners and developers, costs associated with field inspection of land development or construction activities other than those routinely performed by the Town Manager's designee as part of compliance monitoring shall be assessed, a fee representing the cost in labor, equipment, and materials expended in the conduct of the inspection may be assessed.

DIVISION 8. Stormwater Utility Fee Structure and Policy

Sec. 16-800. Overview

The Stormwater Utility will provide the funds necessary to provide for the administration, maintenance, and improvement of the Town's stormwater systems. Fees collected through the Stormwater Utility will fund the following activities:

- State and Federal regulatory compliance
- Watershed planning
- Water quality monitoring of local waterways
- Capital improvement
- Public education and outreach
- Illicit Discharge Detection and Elimination
- Construction inspection
- System routine inspection and maintenance within the Town owned right-of-way.

Sec. 16-801. Exemptions

Undeveloped properties and public roadways are exempted from the Stormwater Utility fees.

Sec. 16-802. Classifications of Property and Determination of the Utility Fee

For purposes of determining the fee, all properties in the Town are classified as follows:

1. Single family residential properties (includes detached and attached single family residential); and
2. All other properties (including commercials, schools, churches, apartments, state and Town-owned properties, etc.).

Sec. 16-803. Determination of the Utility Fee

A. Equivalent Residential Unit (ERU):

One commonly accepted rate unit for stormwater utilities is the Equivalent Residential Unit (ERU). The Town measures the amount of impervious surface (roofs, sidewalks, driveway, parking lot, etc.) using the number of ERU per property. 1 ERU is equal to the median amount of impervious area found on a typical single-family residential property.

B. Billing Schedule:

The billing unit shall be \$6.0 per month, or \$72 per year, for each ERU, initially and thereafter determined by the Town Council each year. The utility fee for the current calendar year will be placed on the County's annual tax notice send out in October for that year.

C. Monthly Fees:

Monthly fees for all property, whether occupied or vacant, shall be as follows:

1. Single Family Residential Property – All single-family residential properties are charged one ERU.
2. Non- Single Family Residential /Commercial Property – All other properties are charged in proportion to the billing unit based on the calculated number of ERUs for the existing impervious area multiplied by the ERU rate.

D. Computation of Stormwater Utility Fee:

Computation of Stormwater Utility Fee follows procedures below:

1. Measure the total amount of impervious area on a property.
2. Calculate the number of ERUs for the property in question.
3. Calculate the monthly fee by multiplying the billing unit by the number of ERUs

E. Example Calculation:

Determine monthly fee for a commercial property with 13,892 square feet of impervious area:

1. Total amount of impervious area = 13,892 square feet
2. Number of ERUs = $13,892 \text{ square feet} / 3,473 \text{ square feet per ERU} = 4$
3. Monthly Utility fee = $4 \times \$6.00 = \$24.0/\text{month}$

The impervious surface area of a property may be measured based on the aerial photos available from the York County GIS Department. Where the area photo for the subject property is ambiguous, unavailable or dated, a physical measurement of the lot shall be conducted.

Sec. 16-804. Adjustment of Utility Fee

- A. In cases where the a property owner believes the fee to be inappropriate based on the actual impervious area of the property in which he has interest, a request for reconsideration may be filed with the Town Manager's designee.

- B. The Town Manager's designee and the property owner shall mutually agree on the general area of improvement. In cases where a mutual agreement cannot be reached, the property owner may file an appeal with the Town Council.

Sec. 16-805. Duration of Fees

The fees established by this Ordinance shall apply only until such time as Town Council adopts a new rate structure and schedule of fees for the Stormwater Utility.

Sec. 16-806. Credit System

A credit is an ongoing reduction in the amount of stormwater fees assessed to a parcel in recognition of on-site systems, facilities, or other activities taken to reduce the impact of stormwater runoff, in compliance with the Stormwater Utility Fee Credit Manual (See Appendix B).

Property owners may qualify for credit when they can demonstrate that their existing or new stormwater facility provides cost savings the Town would otherwise incur as part of Town stormwater management efforts.

Any property that is subject to the stormwater utility fee may be eligible for a reduction in the fee through stormwater fee credits. In order for a property to be eligible to receive a stormwater fee credit, the credit must apply to developed land containing a Town-approved Stormwater Control Measure (SCM) eligible for the credit.

SCM is an activity, measure or facility that prevents or reduces the transport of pollutants and reduces stormwater runoff (peak flow rate and/or total volume discharged) to the stormwater drainage system or surrounding bodies of water. These measures can include onsite practices such as bioretention and ponds that manage stormwater at its source or offsite activities such as participating in the Town's Adopt-A-Stream program.

Accounts with past-due balances shall not be eligible to apply for stormwater fee credits. Credited accounts not paying stormwater charges will be deemed ineligible, result in revocation of credits.

DIVISION 9. LEGAL STATUS

Sec. 16-900. Relationship with Other Laws, Regulations, and Ordinances

Whenever the provisions of this Ordinance impose more restrictive standards than are required in or under any other law, regulations or ordinance, the requirements herein contained shall prevail. Whenever the provisions of any other law, regulation, or ordinance require more restrictive standards than are required herein, the requirements of such law, regulation, or ordinance shall prevail.

Sec. 16-901. Repeal of Conflicting Regulations

All conflicting sections of Ordinances and Resolutions regulating Stormwater Management and Sediment Control adopted prior to these regulations are hereby repealed.

Sec. 16-902. Separability

If any section, clause, or portion of this Ordinance shall be held by a court of competent jurisdiction to be invalid or unconstitutional, such finding shall not affect any other section, clause, or portion of this Ordinance.

Sec. 16-903. Amendments

This Ordinance may be amended in the same manner as prescribed by law for its original adoption.

DIVISION 10. DEFINITIONS

Accelerated Erosion – Potentially destructive erosion caused to a large extent by non-naturally occurring (man-made) activities. All references to erosion contained within this document refer to accelerated erosion.

Accidental Discharge – A discharge prohibited by this article into the Town's Stormwater System or receiving waters, which occurs by chance and without planning or consideration prior to occurrence.

Adverse Impact – A significant negative impact to land, water or associated resources resulting from a land disturbing activity. The negative impact includes increased risk of flooding; degradation of water quality; increased sedimentation; reduced groundwater recharge; negative impacts on aquatic organisms; negative impacts on wildlife and other resources, and threatened public health.

Applicant – A person, firm, or governmental agency who executes the necessary forms to obtain approval or a permit for a land disturbing activity.

Appropriate Plan Approval Agency – The Town Manager's designee, Local Government, or Conservation District that is responsible in a jurisdiction for review and approval of stormwater management and sediment control plans.

As-Built Plans or Record Documents – A set of engineering or site drawings that delineate the specific permitted stormwater management facility as actually constructed.

Best Management Practice – A wide range of management procedures, schedules of activities, prohibitions on practices and other management practices which have been demonstrated to control effectively the quality, and/or quantity of stormwater runoff and which are compatible with the planned land use. "Best Management Practices" means a wide range of management procedures, schedules of activities, prohibitions on practices and other management practices which have been demonstrated to effectively control the quality and/or quantity of stormwater runoff and which are compatible with the planned land use.

Buffer, man made – A unit of yard that is stabilized with permanent vegetation adjacent to a lake or water course, the width of which is measured from the edge of the normal water elevation to the nearest edge of the disturbed area or as defined by the approved property subdivision plats.

Certified Construction Inspector – A person with the responsibility for conducting inspections during construction. This person is also responsible for maintenance inspections after the land disturbing activity is completed as certified by the Town Manager's designee.

Certified Plan Reviewer – A person with the responsibility for reviewing stormwater management and sediment control plans for an appropriate plan approval agency as certified by the Town Manager's designee.

Clean Water Act – The Federal Water Pollution Control Act, as amended, codified at 33 U.S.C §1251 et. seq.

Commission – Means the South Carolina Land Resources Conservation Commission.

Critical design-storm period – refers to the time frame in which detention volume must be controlled with the pre-development flow volume as a maximum limit. It assumes a design period for an NRCS (formerly SCS) type II design storm.

Delegation – Means the acceptance of responsibility by a Local Government or Conservation District for the implementation of one or more elements of the statewide stormwater management and sediment control program.

Design Storm – A Soil Conservation Service Type II, 24-hour duration storm with a specified return interval or as otherwise specified by the Town Manager's designee.

Designated Watershed – A watershed designated by a local government and approved by the Town Manager's designee, Department of Health and Environmental Control and the South Carolina Water Resources Commission and identified as having an existing or potential stormwater, sediment control, or nonpoint source pollution problem.

Detention Structure – A permanent stormwater management structure whose primary purpose is to store temporarily stormwater runoff and releases the stored runoff at controlled rates.

Development or Develop Land – Means any of the following actions undertaken by any person, including, without limitation, any public or private individual or entity:

- (a) division of a lot, tract, or parcels or other divisions by plat or deed;
- (b) the construction, installation, or alteration of a structure, impervious surface or drainage facility;
- (c) clearing, scraping, grubbing or otherwise significantly disturbing the soil, vegetation, mud, sand or rock of a site; or
- (d) adding, removing, exposing, excavating, leveling, grading, digging, burrowing, dumping, piling, dredging, or otherwise disturbing the soil, vegetation, mud, sand or rock of a site.

Developer – Any person acting in his own behalf, or as an owner, or as an agent for an owner of property, and (1) who makes application for plan approval and a Disturbance permit under the provisions of this Ordinance or (2) a person undertaking or for whose benefit, activities covered by these regulations are commenced and/or carried out.

District – The York Soil and Water Conservation District created pursuant to Chapter 9, Title 48, South Carolina Code of Laws.

Disturbed Areas – Area other than that exempted by Section 3.3(b) of Exceptions, which is designated for land disturbances. Disturbed area relates only to the amount of land actually disturbed on the parcel and not parcel size. Disturbed area is to be measured cumulatively on the parcel.

Drainage – A general term applied to the removal of surface or subsurface water from a given area either by gravity, natural means or by systems constructed so as to remove water and is commonly applied herein to surface water.

Drainage Area – That area contributing runoff to a single point.

Easement – A grant or reservation made by the owner of land for use by others for a specific purpose or purposes and which must be included in the conveyance of land affected by such easement.

Embankment or Fill – A deposit of soil, rock or other material placed by man.

Enforcement Authority – The Town Manager's designee or his designee (a.k.a. 'Program Manager').

Erosion – The wearing away of land surface by the action of wind, water, gravity, ice, or any combination of those forces.

Erosion and Sediment Control – The control of solid material, both mineral and organic, during a land disturbing activity to prevent its transport out of the disturbed area by air, water, gravity, or ice.

Exemption – Those land-disturbing activities that are not subject to the sediment and stormwater requirements contained in these regulations.

Floodway – The channel of a river or other watercourse and the adjacent land areas, the capacity of which shall be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than the peak flow elevation associated with a pre-development one hundred (100) year flood.

Grading – Excavating, filling (including hydraulic fill) or stockpiling of earth material, or any combination thereof, including the land in its excavated or filled condition.

Land Disturbance Permit – A permit issued by the Town pursuant to an approved Stormwater Management and Sediment Control Plan prepared under the provisions of this Ordinance. A Disturbance permit is required prior to initiating a land disturbing activity. Land disturbing activities involving less than 2 acres must have a Type I Permit, while those involving 2 or more acres must have a Type II permit. These categories are further elaborated in Section 3.0 of this Ordinance.

Ground Cover – Any vegetative growth including trees, stone, gravel or other materials which render the soil surface stable against erosion.

Illicit connection – A connection to the Town's Stormwater System which results in a discharge that is not composed entirely of stormwater runoff except discharges pursuant to an NPDES permit (other than the NPDES permit for the Town's Storm Water System).

Illicit discharge – Any activity which results in a discharge to the Town's Stormwater System or receiving waters that is not composed entirely of stormwater except (a) discharge pursuant to an NPDES permit (other than the NPDES for the Town) and (b) discharges resulting from the firefighting activities.

Implementing Agency – The local government (Town of Fort Mill) with the responsibility for receiving stormwater management and sediment control plans for review and approval, reviewing plans, issuing permits for land disturbing activities, or conducting inspections and enforcement actions in a specified jurisdiction.

Improper disposal – Any disposal other than through an illicit connection that results in an illicit discharge, including, but not limited to the disposal of used oil and toxic materials resulting from the improper management of such substances.

Infiltration – The passage or movement of water through the soil profile.

Land Disturbance or Land Disturbing Activity – Any use of the land by any person, involving the removal of trees, clearing, grading, excavation, transporting, filling or any other activities which result in a change in the natural cover or to the topography and will cause land to be exposed or cause erosion, contribute to sediment and alter the quality and quantity of stormwater runoff.

Local Government – Any county, municipality, or any combination of counties or municipalities, acting through a joint program pursuant to the provisions of this chapter.

Maintenance – Any action necessary to preserve stormwater management facilities in proper working condition, in order to serve the intended purposes set forth in this Ordinance and to prevent structural failure of such facilities.

Natural Waterways – Waterways that are part of the natural topography. They usually maintain a continuous or seasonal flow during the year and are characterized as being irregular in cross-section with a meandering course. Construction channels such as drainage ditches shall not be considered natural waterways.

NRCS – National Resources Conservation Service.

Non-erodible – A material, e.g., natural rock, rip-rap, concrete, plastic, etc., that will not experience surface wear due to natural forces of wind, water, ice, gravity, or a combination of those forces.

NPDES – National Pollutant Discharge Elimination System.

NPDES permit – The NPDES permit for stormwater discharges issued to the Town pursuant to the Clean Water Act and the federal stormwater discharge regulations (40 CFR 122.26).

Non-point Source Pollution – Pollution contained in stormwater runoff from ill-defined, diffuse sources.

Operator - The individual who has day-to-day supervision and control of activities occurring at the construction site. This can be the owner, the developer, the general contractor or the agent of one of these parties. It is anticipated that at different phases of a construction project, different types of parties will satisfy the definition of “operator”. See definition for “Person Responsible for the Land Disturbing Activity”

One Hundred Year Frequency Storm – A storm that is capable of producing rainfall expected to be equaled or exceeded on the average of once in 100 years. It also may be expressed as the exceedence probability with a 1 percent chance of being equaled or exceeded in any given year.

Outfall – The point where the Town’s Stormwater System discharges to waters of the United States.

Person – Any State or federal agency, individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, Town Manager’s designee, board, public or private institution, utility, cooperative municipality or other political subdivision of this State, any interstate body or any other legal entity.

Person Responsible for the Land Disturbing Activity:

- (a) The person who has or represents having financial or operational control over the construction or land disturbing activity; and/or
- (b) The landowner or person in possession or control of the land who directly or indirectly allowed the land disturbing activity or has benefited from it or who has failed to comply with any provision of the act, these regulations, or any order or local ordinance adopted pursuant to this act as imposes a duty upon him.

Plan – Stormwater Management and Sediment Control Plan required by this Ordinance to be a prerequisite to obtaining a Land Disturbance permit. The plan will fully indicate necessary land management and treatment measures, including drawings and supporting calculations, BMPs, maintenance guidelines, and a timetable for installation. Implementation of the plan will effectively minimize soil erosion and sedimentation and provide for the successful management of excess stormwater.

Pollutant – Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive

materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.

Pollution – The presence in the environment of any substance, including, but not limited to, sewage, sediment, industrial and other waste, air contaminant, or any combination thereof in such quantity and of such characteristics and duration as may cause the environment to be contaminated, unclean, noxious, odorous, impure or degraded, or which tends to be injurious to human health or welfare; or which damages property, plant, animal or use of property.

Post-Development – The conditions which exist following the completion of the land disturbing activity in terms of topography, vegetation, land use and rate, volume or direction of stormwater runoff.

Pre-development – The conditions which exist prior to the initiation of the land disturbing activity in terms of topography, vegetation, land use and rate, volume or direction of stormwater runoff.

Receiving Waters – The waters into which the Town's Stormwater System outfalls flow and which are located within the jurisdictional boundaries of the Town and include, without limitation, the lakes, rivers, streams, ponds, wetlands, and groundwater of the Town.

Redevelopment – A land disturbance activity that alters the use of land but does not necessarily alter the pre-development runoff characteristics.

Registered Landscape Architect – A person who is registered by the State of South Carolina pursuant to Chapter 28, Title 10, Code of Laws of South Carolina, 1976, as amended.

Registered Professional Engineer (P.E.) - A person who is registered by the State of South Carolina pursuant to Chapter 22, Title 40, Code of Laws of South Carolina, 1976, as amended.

Registered Tier B Land Surveyor – A person who is registered by the State of South Carolina pursuant to Chapter 22, Title 40, Code of Laws of South Carolina, 1976, as amended.

Regulation – Any regulation, rule or requirement prepared by the Town, and adopted by the Fort Mill Town Council pursuant to this Article.

Responsible Personnel – Any foreman, superintendent, or similar individual who is the on-site person in charge of land disturbing activities.

Retention Structure – A permanent structure whose primary purpose is to store permanently a given volume stormwater runoff. Release of the given volume is by infiltration and or evaporation.

Roadway Drainage System – Measures, structures, facilities, or practices designed to manage and convey stormwater from streets and roads to roadside ditches, drainage easements and other segments of the stormwater management system.

Runoff – That portion of the precipitation which enters the stormwater management system.

Sediment – Solid particulate matter, both mineral and organic, that has been or is being transported by water, air, ice or gravity from its site of origin.

Sediment Control Officer – The individual designated to inspect sites regulated by the Stormwater Management and Sediment Control Ordinance, who is also a certified construction inspector, and who is responsible in part, for the enforcement of the regulations imposed by said ordinance.

Sedimentation – The process or action of depositing sediment, debris and other materials on the ground surface or in water channels.

Single Family Residence-Separately Built – A noncommercial dwelling that is occupied exclusively by one family and not part of a residential subdivision development.

Soil and Water Conservation District or Conservation District – A government subdivision of the State of South Carolina created pursuant to Chapter 9, Title 48, Code of Laws of South Carolina, 1976, as amended; and Soil and Water Conservation District Board means the governing body of the Soil and Water Conservation District.

South Carolina Department of Health and Environmental Control (DHEC) – Among other functions, enforces federal and state environmental laws and regulations; issues permits, licenses and certifications for activities that might affect the environment; responds to complaints on environmental activities; inspects permitted entities; responds to environmental emergencies; and conducts environmental education and outreach activities.

South Carolina DHEC Stormwater Management BMP Handbook – The most recent DHEC manual of design, performance, and review criteria for stormwater management practices.

Stabilization – The installation of vegetative or structural measures to establish a soil cover to reduce soil erosion by stormwater runoff, wind, ice, and gravity.

Stop Work Order - An order directing the person responsible for the land disturbing activity to cease and desist all of any portion of the work which violates the provisions of this act.

Stormwater – The direct runoff response of a watershed to rainfall including the surface and subsurface runoff and any associated material that enters a ditch, stream, or storm sewer during a rainfall event.

Stormwater Advisory Committee (SWAC) – The SWAC for the Town was created to review policies, hear appeals and decide on violations, fee credits, service charges and adjustments, evaluate capital and operational programs and budgets, and make recommendations or comments to elected officials regarding the stormwater programs of the Town. SWAC Membership is by nomination and subsequent appointment by the Town Council.

Town Manager's designee – The Town's Stormwater M or any of that person's duly authorized representatives.

Stormwater Management for:

- (a) Quantitative control, a system of vegetative or structural measures, or both, that control the increased volume and rate of stormwater runoff caused by manmade changes to the land.
- (b) Qualitative control, a system of vegetative structural, or other measures that reduce or eliminate pollutants that might otherwise be carried by stormwater runoff.

Stormwater Management and Sediment Control Plan – A set of drawings, other documents, and supporting calculations submitted by a person as a prerequisite to obtaining a permit to undertake a land disturbing activity, which contains all of the information and specifications required by Stormwater Management and Sediment Control of the Town.

Stormwater Management System – the surface and subsurface system for the removal of water from the land, including both the natural elements of streams, marshes, swales, and ponds, whether of an intermittent or continuous nature, and the manmade element, which includes culverts, retention facilities and the stormwater sewer system.

Stormwater Runoff – Direct response of a watershed to precipitation and includes the surface and subsurface runoff that enters a ditch, stream, storm sewer or other concentrated flow during and following precipitation.

Stormwater Utility – An administrative organization that has been created for the purposes of planning, designing, constructing, and maintaining stormwater management, sediment control and flood control programs and projects.

Structure – Anything constructed or erected, the use of which requires a location on the ground, or attached to something having a location on the ground, including, but not limited to, tennis courts, swimming pools, fences, and buildings.

Subdivision – The division of a tract, parcel or lot into two or more lots or building sites, or other divisions for the purpose, whether immediate or future, of sale, legacy, or building development, and includes all divisions of land involving a new street or a

change in existing street and includes re-subdivision and, where appropriate, relates to the process of subdividing or to the land or area subdivided.

Suspension of Other Work or Stop Work Order – An unappealable order to immediately cease all construction work and land disturbance other than that necessary to bring the project site into conformance with the Stormwater Management and Sediment Control Plan specifications and until conformance is achieved.

Swale – A structural measure with a lining of grass, riprap or other materials, which can function as a detention structure and conveys stormwater runoff without causing erosion.

Ten-Year Frequency Storm - A storm that is capable of producing rainfall expected to be equaled or exceeded on the average of once in 10 years. It may also be expressed as an exceedence probability with a 10 percent chance of being equaled or exceeded in any given year.

Town – The Town of Fort Mill, South Carolina.

The Town of Fort Mill Stormwater System – The conveyance or system of conveyances (including roads with drainage systems, highways, right-of-way, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, storm drains, detention ponds, and other stormwater facilities) which is (a) owned or operated by the Town; (b) designed or used for collecting or conveying stormwater; (c) not a combined sewer system; and (d) not part of a Publicly Owned Treatment Works (POTW).

Town Council – The elected officials of the Town, South Carolina.

Twenty-Five Year Frequency Storm – A storm that is capable of producing rainfall expected to be equaled or exceeded on the average of once in 25 years. It also may be expressed as an exceedence probability with a 4 percent chance of being equaled or exceeded in any given year.

Two-Year Frequency Storm – A storm that is capable of producing rainfall expected to be equaled or exceeded on the average of once in two years. It may also be expressed as an exceedence probability with a 50 percent chance of being equaled or exceeded in any given year.

Variance – The modification of the minimum sediment and stormwater management requirements for specific circumstances where strict adherence of the requirements would result in unnecessary hardship and not fulfill the intent of these regulations.

Vegetation – All plant growth including trees, shrubs, mosses, and grasses.

Waiver – A grant of relief to an applicant for a specific land disturbing activity from part or all of specific provisions of this Ordinance on a case-by-case basis. A waiver may be granted by the Town Manager's designee upon demonstration that a provision should be waived and that the integrity of this Ordinance will not be violated.

Water Quality – The physical, chemical, radiological and biological attributes that affect the suitability of water for agriculture, industry, drinking, recreation, and other uses.

Water Quantity – Those characteristics of stormwater runoff that relate to the rate and volume of stormwater runoff to downstream areas resulting from land disturbing activities.

Watershed – The drainage area contributing stormwater runoff to a single point.

Watershed Master Plan – A plan for a designated watershed that analyzes the impact of existing and future land uses and land disturbing activities in the entire watershed and includes strategies to reduce non-point source pollution, to manage stormwater runoff and control flooding. The plan must be developed for the entire watershed, regardless of political boundaries, and must include appropriate physical, institutional, economic and administrative data needed to justify the plan.

Wetlands – As defined by the appropriate Federal or State permitting agency.

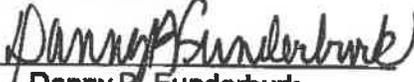
DIVISION 11. REFERENCES

All calculations, formulas and data used in the preparation of Stormwater Management and Sediment control Plans shall be subject to approval by the Town Manager's designee which may require other calculations made, formula used or data supplied. Acceptable standards for the development of Stormwater Management and Sediment Control Plans as required by this Ordinance may be found in the following publications. Whenever the mandatory standards and plan requirements of this Ordinance impose higher standards, the provisions of this Ordinance shall govern.

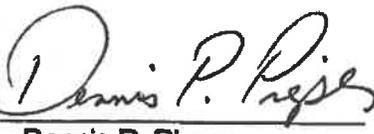
- a) Soil Survey of York County, South Carolina – issued by the U.S. Department of Agriculture, Soil Conservation Service, 13 S. Congress Street, Room 5, York, South Carolina, 29745 – dated April 1965.
- b) Erosion and Sediment Control in Developing Areas; Planning Guidelines and Design Aids – issued by the U.S. Department of Agriculture, Soil Conservation Service, Strom Thurmond Building, 1835 Assembly Street, Columbia, South Carolina 29201 – dated July 1971.
- c) Urban Hydrology for Small Watershed: Technical Release No. 55 (Second Edition) – issued by the U.S. Department of Agriculture, Soil Conservation Service, available from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22151 – dated June 1986.
- d) Erosion and Sediment Control Practices for Developing Areas – issued by S.C. Land Resources Commission, 2221 Devine Street, Columbia, South Carolina, 29205 – latest edition.
- e) Erosion and Sediment Control Planning and Design Manual – issued by the North Carolina Department of Natural Resources and Community Development, Raleigh, North Carolina, 27687 – latest edition.
- f) A Guide to Site Development and Best Management Practices for Stormwater Management and Sediment Control – issued by the South Carolina Department of Land Resources Conservation Commission, Columbia, South Carolina, 29205– latest edition.
- g) South Carolina Department of Health and Environmental Control: Standards for Stormwater Management and Sediment Reduction Regulation 72-300 thru 72-316 – issued by the South Carolina Department of Health and Environmental Control Bureau of Water – dated June 28, 2002.

NOW THEREFORE, BE IT ORDAINED, that the Fort Mill Council adopts the Stormwater Management and Sediment Control Ordinance of Fort Mill, South Carolina and directs that a signed copy of this action be transmitted to the Clerk of Court of York County.

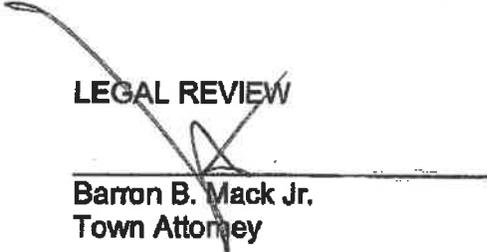
TOWN OF FORT MILL
SOUTH CAROLINA

BY: 
Danny P. Funderburk
MAYOR

First Reading: June 9, 2014
Final Reading: June 23, 2014
Effective Date: June 23, 2014

Attest: 
Dennis P. Pieper
TOWN MANAGER

LEGAL REVIEW


Barron B. Mack Jr.
Town Attorney