

ORDINANCE NO. 15-830

Sumter County, South Carolina, Code of Ordinances

Chapter 14 - ENVIRONMENT

ARTICLE II. - STORMWATER MANAGEMENT AND SEDIMENT CONTROL

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ORDINANCE NO. 15-830

Ordinances Nos. 98-348, 00-394, 01-431, 04-529, 06-614 and 10-714 of the County of Sumter, South Carolina, as previously amended to the date hereof, are hereby amended, combined and restated in their entireties to read as follows:

Sumter County, South Carolina, Code of Ordinances

Chapter 14 - ENVIRONMENT

ARTICLE II. - STORMWATER MANAGEMENT AND SEDIMENT CONTROL

DIVISION 1. - GENERALLY

Sec. 14-19. - Purpose.

In order to protect the general health, safety and welfare of the people of Sumter County, South Carolina and to protect the natural assets and resources of the County for posterity, this Ordinance is enacted to protect the county's lands and waters from the effects of excessive soil erosion and sedimentation, to prevent siltation of streams and lakes, to prevent clogging of drainage channels, to reduce excessive flood damage, and to prevent damages to the property of adjacent landowners.

(Ord. No. 98-348, § 1.1, 5-12-1998)

Sec. 14-20. - Authority.

This Ordinance is adopted under the authority and powers granted by the General Assembly of South Carolina in Chapter 14, Title 48, Code of Laws of South Carolina, 1976, and by other powers granted to local governments by the General Assembly of South Carolina.

(Ord. No. 98-348, § 1.2, 5-12-1998)

Sec. 14-21. - Jurisdiction.

The provisions of this Ordinance shall apply to all lands within the unincorporated areas of Sumter County, South Carolina.

(Ord. No. 98-348, § 1.3, 5-12-1998)

Sec. 14-22. - Rules of language and interpretation.

- (a) The word "shall" is mandatory. The word "may" is permissive.
- (b) The particular shall control the general.
- (c) Words used in present tense shall include the future, and words used in the singular include the plural, and plural the singular, unless the context clearly indicates the contrary.
- (d) State and Federal laws and regulations referenced in this Ordinance shall be interpreted to mean those specific laws and regulations as they may change from time

to time - including re-numbering when a law or regulation with a different number is enacted specifically to substitute for a law or regulation referenced in this Ordinance.

(Ord. No. 98-348, § 2.1, 5-12-1998)

Sec. 14-23. - Definitions.

The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

2-year frequency storm means 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 exceedance probability with a 50-percent chance of being equaled or exceeded in any given year.

10-year frequency storm means a storm that is capable of producing rainfall expected to be equaled or exceeded on the average of once in ten years. It may also be expressed as an exceedance probability with a ten-percent chance of being equaled or exceeded in any given year.

25-year frequency storm means 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 exceedance probability with a four-percent chance of being equaled or exceeded in any given year.

100-year frequency storm means 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 an exceedance probability with a one-percent chance of being equaled or exceeded in any given year.

Adverse impact means a significant negative impact to land, water and 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.

Appeals and Hearing Board means the Stormwater Management Appeals Board, as appointed by the County Council, to hear appeals and conduct administrative hearings associated with the provisions and requirements of this Ordinance.

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

Appropriate plan approval agency means the commission, local government, or conservation district that is responsible in a jurisdiction for review and approval of stormwater management and sediment control plans. For the purposes of this Ordinance, this function shall be carried out by Sumter County.

As-built plans or record documents means a set of engineering or site drawings that delineate the specific permitted stormwater management facility as actually constructed.

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.

Conservation District means the Sumter County Soil and Water Conservation District, created pursuant to S.C. Code 1976, Title 48, Chapter 9.

Construction General Permit (CGP) means the most current version of the South Carolina NPDES General Permit for Stormwater Discharges from Construction Activities (SCR100000).

County means Sumter County.

Detention structure means a permanent stormwater management structure whose primary purpose is to temporarily store stormwater runoff and release the stored runoff at controlled rates.

Develop land means to change the runoff characteristics of a parcel of land in conjunction with residential, commercial, industrial, or institutional construction or alteration.

Developer means a person undertaking, or for whose benefit, activities covered by these regulations are commenced and/or carried out.

Drainage area means that area contributing runoff to a single point.

Easement means a grant or reservation by the owner of land for the use of such land by others for a specific purpose or purposes which grant or reservation runs with the title to the land.

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

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

Exemption means those land disturbing activities that are not subject to the sediment and stormwater requirements contained in these regulations.

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

Implementing agency means the commission, local government, or conservation district 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 action in a specified jurisdiction. For the purposes of this Ordinance, the implementing agency is Sumter County.

Infiltration means the passage or movement of water through the soil profile.

Land disturbing activity means any use of the land by any person that results in a change in the natural cover or topography that may cause erosion and contribute to sediment and alter the quality and quantity of stormwater runoff.

Natural waterways mean 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.

Nonerodible means a material, e.g., natural rock, riprap, concrete, plastic, etc., that will not experience surface wear due to natural forces of wind, water, ice, gravity or a combination of those forces.

Nonpoint source pollution means pollution contained in stormwater runoff from ill-defined, diffuse sources.

Operator, for the purpose of this Ordinance and in the context of stormwater associated with construction activity, means any party associated with a construction project that meets either of the following two criteria:

- (1) The person has operational control over construction plans, SWPPPs, and specifications, including the ability to request modifications to those plans, SWPPPs, and specifications by a qualified individual as defined in the current CGP and as required by Sumter County.; or
- (2) The person has day-to-day operational control of those activities at a construction site, which are necessary to ensure compliance with a SWPPP for the construction site or other CGP conditions. This person is often referred to as the Operator of Day-to-Day Site Activities (ODSA).

Permit means the Sumter County Stormwater Permit or applicable SCDHEC NPDES permits, as noted.

Person means any state or federal agency, individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, 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 means:

- (1) The person who has or represents having financial or operational control over the land disturbing activity; and/or
- (2) 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 approval agency means the Implementing Agency.

Post-development means 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.

Predevelopment means the conditions which existed prior to the initiation of the land disturbing activity in terms of topography, vegetation, land use and rate, volume or direction of stormwater runoff.

Primary Permittee means the person who has operational control over construction plans, SWPPPs, and specifications, including the ability to request modifications to those plans, SWPPPs, and specifications by a qualified individual as defined in the current SCDHEC Construction General Permit and as required by Sumter County. This person is typically the owner or developer of the project or a portion of the project (subsequent builders).

Redevelopment means a land disturbance activity that alters the current use of the land but does not necessarily alter the predevelopment runoff characteristics.

Responsible personnel means any foreman, superintendent, or similar individual who is the on-site person in charge of land disturbing activities.

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

Secondary Permittee means the person who has day-to-day operational control of those activities at a residential development that are necessary to ensure compliance with a SWPPP for the site or other permit conditions. This person is typically an individual lot owner or residential builder.

Sediment means 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.

Sensitive Waters means any waters with approved or established TMDLs, any waters included in the most recent SCDHEC Bureau of Water Clean Water Act (CWA) Section 303(d) list, and/or any waters pursuant to South Carolina's Classification & Standards (R.61-68) and Classified Waters (R.61-69) regulations that are classified as either Outstanding National Resource Waters, Outstanding Resource Waters, Trout Waters, or Shellfish Harvesting Waters.

Single-family residence-separately built means a noncommercial dwelling that is occupied exclusively by one family and not part of a residential and subdivision development.

Stabilization means 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 means an order directing the person responsible for the land disturbing activity to cease and desist all or any portion of the work which violates the provisions of this ordinance.

Stormwater management means, for:

- (1) 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;
- (2) 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 means 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 specification required by an implementing agency.

Stormwater pollution prevention plan (SWPPP) means the same as a stormwater management and sediment control plan.

- (1) *Comprehensive SWPPP (C-SWPPP)* is a SWPPP that has been designed, approved and implemented to meet all applicable requirements of the CGP.
- (2) *On-Site SWPPP (OS-SWPPP)* is a derivative of the C-SWPPP, created after the C-SWPPP has been submitted and approved by the County.

Stormwater runoff means the 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 the precipitation.

Subdivision means all divisions of a tract, parcel or lot of land into two or more lots, building sites, or other divisions, or parcels less than five acres for the purpose, whether immediate or future, of sale, legacy, or building development, or includes all division of land involving a new street or a change in existing streets, and includes re-subdivision of land. Provided, however, pursuant to S.C. Code 1976, § 6-29-1110, and the county subdivision ordinance, certain exempt subdivisions, as defined in Article VII thereof, shall not be considered subdivisions for the purposes of this Ordinance.

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

The act means the South Carolina Stormwater Management and Sediment Reduction Act, as set forth in S.C. Code 1976, § 48-14-10 *et seq.*

Total Maximum Daily Load (TMDL) is a calculation of the maximum amount of a specific pollutant that a waterbody can receive and still meet water quality standards. It is the sum of the allowable loads or allocations of a given pollutant from all contributing point and nonpoint sources. It also incorporates a margin of safety and consideration of seasonal variation. For an impaired waterbody, the TMDL document specifies the level of pollutant reductions needed for waterbody use attainment. TMDLs can be expressed in terms of either mass per time, toxicity, or other appropriate measure.

Variance means 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.

Waiver means the relinquishment from sediment and stormwater management requirements by the appropriate plan approval authority for a specific land disturbing activity on a case-by-case review basis.

Waste Load Allocation (WLA) is the portion of a receiving water's TMDL that is allocated to one of its existing or future point sources of pollution (EPA-823-B-94-005a). See definition of TMDL.

Water quality means those characteristics of stormwater runoff from a land disturbing activity that relate to the physical, chemical, biological, or radiological integrity of water.

Water quantity means those characteristics of stormwater runoff that relate to the rate and volume of the stormwater runoff to downstream areas resulting from land disturbing activities.

Watershed means the drainage area contributing stormwater runoff to a single point.

Watershed master plan means 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 nonpoint 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.

(Ord. No. 98-348, § 2.2, 5-12-1998; Ord. No. 04-529, § 2.2, 5-11-2004; Ord. No. 06-614, § 2.2, 10-10-2006)

Sec. 14-24. - Acronyms. The following acronyms, when used in this Ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

BMP Best Management Practice
CEPSCI Certified Erosion Prevention and Sediment Control Inspector
CFM Certified Floodplain Manager
CGP Construction General Permit
CIP Capital Improvement Project
CSPR Certified Stormwater Plan Reviewer
EPA Environmental Protection Agency
FY Fiscal Year
GIS Geographic Information Systems
GPS Global Positioning Systems
I&I Inflow and Infiltration
IDDE Illicit Discharge, Determination and Elimination
IGP Industrial General Permit
LID Low Impact Development
MCM Minimum Control Measure
MEP Maximum Extent Practicable
MS4 Municipal Separate Storm Sewer System
NOI Notice of Intent
NOV Notice of Violation
NPDES National Pollutant Discharge Elimination System
NPS Non-Point Source
QA/QC Quality Assurance/Quality Control
SC South Carolina
SCDHEC South Carolina Department of Health and Environmental Control
SCDOT South Carolina Department of Transportation
SFHA Special Flood Hazard Areas
SOP Standard Operating Procedure
SSO Sanitary Sewer Overflow
SWMP Stormwater Management Plan
SWPPP Stormwater Pollution Prevention Plan
TMDL Total Maximum Daily Load
WLA Wasteload Allocation
WWTP Wastewater Treatment Plant

DIVISION 2. - PERMITTING PROCEDURES, EXEMPTIONS AND WAIVERS

Sec. 14-25. - Permit.

Unless otherwise provided within this Ordinance, the surface of land in the unincorporated areas of the County shall not be disturbed or altered for any purpose whatsoever, except in accordance with this Ordinance.

(Ord. No. 98-348, § 3.1, 5-12-1998)

Sec. 14-26. - Exemptions.

- (a) The provisions of the Ordinance that require the preparation and approval of erosion and sediment control and stormwater management plans shall not apply to the following activities or conditions. However, the County encourages all persons engaged in land disturbing activities in the county, even if such activities are exempt from the provisions of this Ordinance, to carry out such activities in a manner to achieve the objectives of erosion and sediment reduction and stormwater management through the use of applicable best management practices (BMPs).
- (b) The following activities are exempt from both the sediment control and stormwater management requirements established by these regulations:
 - (1) 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, 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 or structures which, singularly or collectively total 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 stormwater management and sediment control plan prior to the start of the land disturbing activity.
 - (2) Land disturbing activities undertaken on forestland for the production and harvesting of timber and timber products.
 - (3) Activities undertaken by persons who are otherwise regulated by the provisions of the South Carolina Mining Act, S.C. Code 1976, Title 48, Chapter 20.
 - (4) Construction or improvement of single-family residences or their accessory buildings that are separately built and not part of multiple construction in a subdivision development, and is less than one acre of total disturbance.
 - (5) Land disturbing activities, other than activities identified in *Section 14-26(b)(6)*, that are conducted under another certification program where the

state or federal environmental permit, license, or certification is conditioned in compliance with the minimum standards and criteria developed under this Ordinance.

- (6) Certain land disturbing activities undertaken by any person who provides gas, electrification, or communications services, subject to the jurisdiction of the state public service commission, or corporations organized and operating pursuant to S.C. Code 1976, § 33-49-10, such activities being delineated in S.C. Code 1976, § 48-14-40(F).
- (7) Activities relating to the routine maintenance and/or repair or rebuilding of the tracks, rights-of-way, bridges, communication facilities and other related structures and facilities of a railroad company.
- (8) Activities undertaken on state-owned or managed lands that are otherwise regulated by the provisions of S.C. Code 1976, Title 48, Chapter 18, the Erosion and Sediment Reduction Act.
- (9) Activities undertaken by local governments or special purpose or public service districts relating to the repair and maintenance of existing facilities and structures.

(Ord. No. 98-348, § 3.2, 5-12-1998; Ord. No. 04-529, §3.2, 5-11-2004)

Sec. 14-27. - Waivers.

Waivers may be granted from the stormwater management requirements of these regulations for individual land disturbing activities provided that 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 which would alter the approved stormwater runoff characteristics to a land disturbing activity receiving a waiver.

- (a) A project may be eligible for a waiver of stormwater management for both quantitative and qualitative control if the applicant can demonstrate that the proposed project will return the disturbed area to a predevelopment runoff condition and the predevelopment land use is unchanged at the conclusion of the project.
- (b) A project may be eligible for a waiver or variance of stormwater management for water quantity control if the applicant can demonstrate that:
 - (1) The proposed project will have no significant adverse impact on the receiving natural waterway or downstream properties; or
 - (2) The imposition of peak control requirements for rates of stormwater runoff would aggravate downstream flooding.
- (c) Small construction activities (sites 1-5 acres) may be waived from the NPDES permitting requirements if one of three scenarios exists. These waivers are

applicable only to small construction activities and are predicated on certain criteria being met and proper notification procedures being followed, including submittal and approval of waiver certifications prior to commencement of construction activities. The three scenarios are:

(1) Rainfall Erosivity Waiver.

A project may qualify for the Rainfall Erosivity Waiver if the rainfall erosivity factor ("R" in the Revised Universal Soil Loss Equation) is less than five (5) during the period of construction activity, in accordance with *the CGP, Appendix B*.

(2) TMDL Waiver

A project may qualify for the TMDL Waiver, in accordance with *the CGP, Appendix B*, if the approved TMDL addresses the pollutant(s) of concern and has determined that controls on stormwater discharges from a small construction activity are not needed to protect water quality. The pollutant(s) of concern include sediment (such as total suspended solids, turbidity, or siltation) and any other pollutant that has been identified as a cause of impairment of any waterbody that will receive a discharge from the construction activity.

(3) Equivalent Analysis Waiver

A project may qualify for the Equivalent Analysis Waiver if the discharge is to non-impaired waters, and the Operator has developed an equivalent analysis that determines allocations for the small construction site for the pollutant(s) of concern, or determines that such allocations are not needed to protect water quality, in accordance with *the CGP, Appendix B*.

- (d) The implementing agency will conduct its review of the request for waiver within ten working days. Failure of the implementing agency to act by the end of the tenth working day will result in the automatic approval of the waiver.

(Ord. No. 98-348, § 3.3, 5-12-1998)

Sec. 14-28. - Variances.

The County may grant a written variance from any requirement of these regulations if there are exceptional circumstances applicable to the site such that strict adherence to the provisions of these regulations will result in unnecessary hardship and not fulfill the intent of these regulations. A written request for variance shall be provided to the Plan Approval Agency and shall state the specific variance sought and the reasons with supporting data for their granting. The plan approval agency shall not grant a variance unless and until sufficient specific reasons justifying the variance are provided by the applicant. The Implementing Agency will conduct its review of the request for variance within ten working days. Failure of

the Implementing Agency to act by the end of the tenth working day will result in the automatic approval of the variance.

(Ord. No. 98-348, § 3.4, 5-12-1998)

Sec. 14-29. - Existing disturbed areas.

- (a) All disturbed areas which existed on May 27, 1992, as a result of a land disturbing activity and which are resulting in off-site damage from sediment and stormwater runoff, must be provided with ground cover or other protective measures, structures, or devices sufficient to control off-site sediment and nonpoint source pollution.
- (b) The County shall serve a notice to comply upon the landowner or other person in possession or control of the land by depositing in the mail a certified letter. The notice must state the measures needed and the time allowed for compliance. The County shall consider the economic feasibility, technological expertise, and quality of work required, and shall establish reasonable time limits.

(Ord. No. 98-348, § 3.5, 5-12-1998)

Sec. 14-30. - Application for permit.

The person responsible for the land disturbing activity shall apply for a stormwater permit in writing, on forms provided by Sumter County. Such application shall include a complete and accurate NOI and shall be accompanied by five (5) copies of the Stormwater Management and Sediment Control Plan prepared in accordance with the provisions of *Sections 14-55 and 14-56*, the most current version of the CGP, or as directed by Sumter County.

(Ord. No. 98-348, § 3.6, 5-12-1998)

Sec. 14-31. - Fee schedule.

The application for a permit to disturb or change land in the unincorporated areas of the county shall be accompanied by a nonrefundable fee according to the following schedule:

- (a) The fee for any Type 1 application for any permit or plan approval required by this Ordinance shall be \$125.00 per disturbed acre and the fee for any Type 2 application for any permit or plan approval shall be a set fee of \$100.00, each to be adjusted as needed to maintain program self-sufficiency as approved by SCDHEC.
- (b) The fee for any determination or documentation of any waiver or exemption from any requirements of this Ordinance shall be \$100.00.

(Ord. No. 98-348, § 3.7, 5-12-1998; Ord. No. 00-394, 7-11-2000; Ord. No. 04-529, § 3.7, 5-11-2004; Ord. No. 06-614, § 3.7, 10-10-2006)

Sec. 14-32. - Types of stormwater management and sediment control plans.

For the purpose of this Ordinance, stormwater management and sediment control plans shall be divided into two types: Type 1 and Type 2. The designs, presentations and submittals shall be the responsibility of the person responsible for the land disturbing activity.

- (a) **Type 1** stormwater management and sediment control plans shall be submitted for all land disturbing activities with disturbed areas of one acre or greater, or the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one acre, or for sites larger than one-half acre in a TMDL watershed. A Type 1 plan shall be prepared in accordance with the requirements of *Section 14-55*.
- (b) **Type 2** stormwater management and sediment control plans shall be submitted for all land disturbing activities of less than one acre which are not part of a larger common plan of development or sale. A Type 2 plan shall be prepared in accordance with the requirements of *Section 14-56*.

(Ord. No. 98-348, § 3.8, 5-12-1998; Ord. No. 04-529, § 3.8, 5-11-2004; Ord. No. 06-614, § 3.8, 10-10-2006)

Sec. 14-33. - Approval or disapproval of application.

- (a) Specific requirements of the permit application and approval process are generally based on the extent of the land disturbing activity. The permit application and approval procedure is as follows:
 - (1) For land disturbing activities involving less than one acre of actual land disturbance which are not part of a larger common sale, the person responsible for the land disturbing activity shall submit a Type 2 stormwater management and sediment control plan. This plan does not require preparation or certification by the designers specified in subsections (f) and (g) of this section.
 - (2) For land disturbing activities disturbing one acre or more, or one-half acre or more in a TMDL watershed, a Type 1 stormwater management and sediment control plan is required. However, the use of measures other than ponds to achieve water quality improvements is recommended on sites containing less than ten disturbed acres. Plans and specifications for these activities will be prepared by the designers specified in subsections (f) and (g) of this section. Upon receipt of a completed application for sediment and stormwater management, the County shall accomplish its review and have either the approval or review comments transmitted to the applicant within 20 working days. If notice is not given to the applicant or if action is not taken by the end of the 20-day working period, the applicant's plan will be considered approved.

- (3) Discharging water into a receiving water with an approved TMDL requires a SWPPP (stormwater pollution prevention plan) that includes measures or controls that are consistent with the assumptions and requirements of such TMDL. When a TMDL has specified a general Waste Load Allocation applicable to construction stormwater discharges, but no specific requirements for construction sites have been identified in the TMDL, adherence to a SWPPP that meets the requirements of the CGP which is consistent with the TMDL must be confirmed to the County. If the TMDL specifically precludes such discharges, the operator will not be eligible for coverage under the CGP.
- (4) These requirements may be modified on a case-by-case basis to address specific stormwater quantity or quality problems or other regulatory requirements. Requests for waivers or variances from these requirements will be made in accordance with the provisions of *Sections 14-27 and 14-28*.
- (5) 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:
 - a. A stormwater management and sediment control plan will not be required if the pond, lake or reservoir is permitted under the South Carolina Dams and Reservoirs Safety Act or has received a certificate of exemption from the South Carolina Dams and Reservoirs Act. Best management practices should be used to minimize the impact of erosion and sediment and a permanent maintenance agreement is required.
 - b. A stormwater management and sediment control plan will be required for the construction of all ponds, lakes or reservoirs not meeting the conditions in *Section 14-33(a)(5)a* that otherwise meet the size requirements for stormwater management and sediment control plan approval.
- (b) A stormwater management and sediment control plan or an application for a waiver shall be submitted to the County by the person responsible for the land disturbing activity for review and approval for a land disturbing activity, unless otherwise exempted. The stormwater management and sediment control plan shall contain supporting computations, drawings, and sufficient information describing the manner, location, and type of measures in which stormwater runoff will be managed from the entire land disturbing activity. The appropriate plan approval agency shall review the plan to determine compliance with the requirements of these regulations prior to approval. The approved stormwater management and sediment control plan shall serve as the basis for water quantity and water quality control on all subsequent construction.

- (c) All stormwater management and sediment control 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.
- (d) All stormwater management and sediment control plans shall contain certification by the person responsible for the land disturbing activity of the right of the County to conduct on-site inspections.
- (e) The stormwater management and sediment control plan shall not be considered approved without the inclusion of an approval stamp with a signature and date on the plans by the County. The stamp of approval on the plans is solely an acknowledgement of satisfactory compliance with the requirements of this Ordinance. 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 stormwater management and sediment control plan.
- (f) All Type 1 stormwater management and sediment control plans submitted to the County for approval shall be certified by the designer. The following disciplines may certify and stamp/seal plans as allowed by their respective licensing act and regulations.
 - (1) Registered professional engineers as described in S.C. Code 1976, Title 40, Chapter 22.
 - (2) Landscape architects as described in S.C. Code 1976, § 40-28-10(b).
 - (3) Tier B land surveyors as described in S.C. Code 1976, Title 40, Chapter 22.
 - (4) Federal government employees as described by Title 40, Chapter 22, Section 280(A)(3).
- (g) Pursuant to S.C. Code 1976, § 40-22-460, stormwater management and sediment control plans may be prepared by employees of the federal government and submitted by the person responsible for the land disturbing activity to the appropriate plan approval agency for approval. This Ordinance does not prohibit other disciplines or certified professionals, including, but not limited to, certified professional erosion and sediment control specialists, which have appropriate background and experience from taking active roles in the preparation of the plan and design process. All plans and specifications submitted to the appropriate plan approval agency for approval shall be stamped/sealed by those listed in subsection (f) of this section or prepared by employees of the federal government under this subsection.

- (h) Approved plans remain valid for five years from the date of an approval. Extensions or renewals of the plan approvals will be granted by the plan approval agency upon written request by the person responsible for the land disturbing activity.
- (i) Approvals of land disturbing activities which were approved by the County or SCDHEC prior to the effective date of this Ordinance shall remain in effect for the original term of the approval.

(Ord. No. 98-348, § 3.9, 5-12-1998; Ord. No. 00-394, 7-11-2000; Ord. No. 06-614, § 3.9, 10-10-2006)

Sec. 14-34. - Requirements for different types of operators.

- (a) Any party may meet one or both of the operational control components in the definition of *Operator* found in *Section 14-23*. Subsection (c) of this section applies to all applicants having control over only a portion of a construction site.
- (b) If an operator has "operational control over construction plans and specifications," as defined in the definition of *Operator* in *Section 14-23*, the operator must ensure that:
 - (1) The specifications for the BMPs meet the minimum requirements of this Ordinance and all other applicable permit conditions;
 - (2) The SWPPP indicates the areas of the site where the operator has operational control over specifications, including the ability to make modifications in specifications and plans including the SWPPP;
 - (3) All other co-permittees implementing portions of the SWPPP (or their own SWPPP) who may be impacted by a change to the construction plan are notified of such changes in a timely manner;
 - (4) The SWPPP indicates the name of the operator with day-to-day operational control of those activities necessary to ensure compliance with the SWPPP or other permit conditions;
 - (5) For nonlinear projects that disturb ten acres or more, the operator must conduct a preconstruction conference with each co-permittee in person at the site prior to that co-permittee or contractor performing construction related work intended to disturb soils at the site that may affect the implementation of the SWPPP unless it is justified in the SWPPP and approved by the County, to conduct the conference off site. This preconstruction conference can be with all contractors or the preconstruction conference may be conducted separately with one or more contractors present so that all contractors who perform land disturbing activities or construction activities are aware of the requirements of the SWPPP before they start construction.

- (c) If the operator has "operational control over day-to-day activities," as defined in the definition of *Operator* in *Section 14-23*, at the project that are necessary to ensure compliance with the SWPPP or other permit conditions, the operator must ensure that:
- (1) The SWPPP identifies the parties responsible for implementation of control measures identified in the plan;
 - (2) The SWPPP indicates areas of the project where the operator has operational control over day-to-day activities;
 - (3) The SWPPP indicates the name of the parties with operational control over project specifications (including the ability to make modifications in specifications); and
 - (4) All appropriate contractors have signed either the co-permittee or non-co-permittee certification and copies of these certifications are in the SWPPP.
- (d) If an operator has operational control over only a portion of a larger project (e.g., one of four homebuilders in a subdivision), the operator is responsible for compliance with all applicable terms and conditions of the most current version of the CGP as it relates to the operator's activities on the operator's portion of the construction site, and implementation of BMPs and other controls required by the SWPPP. The operator must ensure either directly or through coordination with other responsible parties that the operator's activities do not render another party's pollution control ineffective. The operator must either implement the operator's portion of a common SWPPP or develop and implement the operator's own SWPPP.
- (e) For more effective coordination of BMPs and opportunities for cost sharing, a cooperative effort by the different operators at a site to prepare and participate in a comprehensive SWPPP is encouraged. Individual operators at a site may, but are not required to, develop separate SWPPPs that cover only their portion of the project provided reference is made to other operators at the site. In instances where there is more than one SWPPP for a site, cooperation between the permittees is encouraged to ensure the stormwater discharge controls and other measures are consistent with one another.
- (f) Contractor certifications and co-permittee status. The owner of a project, as the applicant for the stormwater permit, is responsible for compliance with all the terms and conditions of the most current version of the CGP and the SWPPP. The owner may rely on other persons to assist in compliance with the CGP and the SWPPP. As such, the project owner and contractors and subcontractors who will conduct construction activities intended to disturb soils may elect to be co-permittees. Further, all contractors who will conduct construction related work intended to disturb soils at the site that may affect implementation of the SWPPP, regardless of whether or not they are co-permittees, must be listed in the SWPPP

and attend a pre-construction conference before they can conduct construction activity at the site.

(Ord. No. 06-614, § 3.10, 10-10-2006)

Sec. 14-35. - Other authorization or requirement.

Where any authorization, bonds, permits or other securities are required by applicable federal, state or local laws, regulations or ordinances for any part of the proposed work to be done under the plan, the applicant shall, upon request, furnish the County with satisfactory evidence that such requirements have been met before the commencement of work under an approved application.

(Ord. No. 98-348, § 3.10, 5-12-1998)

Sec. 14-36. - Extension of time.

If the applicant is unable to complete the work within the time specified in the approved plan and stormwater permit, the applicant may, prior to the expiration of such time, present in writing a request for an extension of time, setting forth the reasons for the requested extension. The County shall respond to this request within ten working days of submission.

(Ord. No. 98-348, § 3.11, 5-12-1998)

Sec. 14-37. - Responsibility of applicant.

The applicant shall be responsible for carrying out the proposed work in accordance with the approved stormwater management and sediment control plan and stormwater permit, and in compliance with the requirements of this Ordinance.

(Ord. No. 98-348, § 3.12, 5-12-1998)

Sec. 14-38. - Appeals and administrative hearings.

- (a) The County Council shall appoint a five-member Appeals and Hearing Board to carry out the provisions of this section. The Appeals and Hearing Board shall be constituted as follows, and shall serve staggered three-year terms:
 - (1) Two grading contractors, or persons who have experience in grading or similar field;
 - (2) One design professional meeting the requirements as defined in the current CGP;
 - (3) Two members at-large;

In order to provide continuity in the composition and operation of this board, the initial appointments of the grading contractors referenced above shall be one such

contractor for an initial one-year term, and one such contractor for an initial two-year term. The design professional referenced above shall be appointed for an initial one-year term. Upon expiration of such initial terms, the appointments thereafter shall be for three- year terms;

- (4) The County Engineer shall serve *ex officio*, as an advisory, non-voting member of the board;
- (5) The Appeals and Hearing Board shall select a Chairperson at its inception. The Chair shall be rotated among the members by election on an annual basis.

- (b) A meeting of the Appeals and Hearing Board shall be called when the County receives appeals. No business shall be conducted at such meeting without a quorum. A quorum shall consist of three of the five board members. A simple majority of those members present and voting at any meeting shall be required to carry any motion or action.
- (c) A hearing before the Appeals and Hearing Board may be initiated by any applicant or citizen, provided that a written request is received within 30 days after notice is given to the applicant or citizen of the adverse action.
- (d) A hearing by the Appeals and Hearing Board is available following a request to determine the propriety of:
 - (1) The denial or revocation of a stormwater permit;
 - (2) A citizen complaint concerning program operation;
 - (3) The issuance of a notice of violation or noncompliance with the plan;
 - (4) An interpretation of the regulations included in this Ordinance;
 - (5) The issuance of fines pursuant to the provisions of this Ordinance; and/or
 - (6) The issuance of a stop work order pursuant to the provisions of this Ordinance.
- (e) All hearings shall be scheduled by correspondence approved by the Appeals and Hearing Board, which shall give notice to all parties of the hearing.
 - (1) All parties must receive notice of the hearing not less than 30 days in advance;
 - (2) The notice shall be sent by the Chairperson of the Appeals and Hearing Board;
 - (3) The notice shall include:
 - a. A statement of the time, place, and nature of the hearing;

- b. A statement of the legal authority and jurisdiction under which the hearing is to be held;
 - c. A reference to the particular sections of the statutes, ordinance and rules involved;
 - d. A short and plain statement of the matters asserted. If the hearing officers are unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the known issues involved. Thereafter, upon application, a more definite and detailed statement shall be furnished.
- (f) All hearings shall be conducted by the Chairperson of the Appeals and Hearing Board.
 - (g) All hearings shall be conducted in accordance with S.C. Code 1976, § 1-23-10 *et seq.*
 - (h) The Appeals and Hearing Board shall issue a proposal for decision which shall be mailed to the parties.
 - (i) Within 20 days after mailing of the proposal for decision, any party may file exceptions to the Appeals and Hearing Board's proposal for decision.
 - (1) Such exceptions shall be in written form, addressed to the Chairperson of the Appeals and Hearing Board, and served upon all adverse parties;
 - (2) The exceptions shall list all the grounds upon which the exceptions are based.
 - (j) If the Appeals and Hearing Board receives no exceptions within the 20-day period following the mailing of the proposal for decision, the Appeals and Hearings Board shall issue a final decision.

If timely exceptions are received, the Appeals and Hhearing Board shall send notice to the parties that the appealing party has 30 days to submit a brief. Following the service of the appealing party's brief, or upon the expiration of the 30-day period, whichever shall occur first, the other party shall have 30 days to submit a brief. All briefs must be served on the opposing parties and filed with the Appeals and Hearing Board.
 - (k) Following receipt of all briefs, the Appeals and Hearing Board shall schedule an oral argument if any party requests one.
 - (l) The request for an oral argument must be in writing addressed to the Chairperson of the Appeals and Hearing Board, and submitted with that party's brief.
 - (m) The oral argument shall be scheduled within 30 days of the filing of the last brief filed.

- (n) The oral argument shall be heard by the members of the Appeals and Hearing Board and shall be held in accordance with the following format:
 - (1) The appealing party shall be given 20 minutes to present his/her case;
 - (2) The opposing party shall be given 20 minutes to present his/her case;
 - (3) The appealing party shall be given a rebuttal period of five minutes.
- (o) The final order shall be issued by the Appeals and Hearing Board, and the decision of such board shall be made in accordance with this ordinance.
- (p) The final order shall be written and shall comply with the provisions of S.C. Code 1976, § 1-23-10 *et seq.*
- (q) In lieu of the procedures set forth in subsections (i) – (p), the parties, by written stipulation, may agree that the Appeals and Hearing Board's proposal for decision issued pursuant to subsection (h) above shall be final and binding upon the parties.

(Ord. No. 98-348, § 3.13, 5-12-1998; Ord. No. 01-431, 4-10-2001; Ord. No. 04-529, § 3.13, 5-11-2004)

Sec. 14-39. - Reserved.

DIVISION 3. - AUTHORIZATION FOR DISCHARGES OF STORMWATER FROM CONSTRUCTION ACTIVITY

Sec. 14-40. - Operator requirements.

In order to receive coverage under the CGP as regulated by SCDHEC and Sumter County, Construction Site Operators must complete, and submit to the County, the appropriate NOI form in accordance with the current CGP and as required by Sumter County.

Sec. 14-41. - NOTICE OF INTENT (NOI)

Applicants seeking coverage under a Sumter County stormwater permit must use the NOI forms provided by Sumter County.

Sec. 14-42. - NOTICE OF TERMINATION (NOT)

The Permittee must submit a Notice of Termination (NOT) in accordance with the current CGP and as required by Sumter County.

Secs. 14-43 – 14-54. – Reserved.

DIVISION 4. - PLAN AND APPLICATION REQUIREMENTS

Sec. 14-55. - Standards and requirements for preparation of Type 1 stormwater management and sediment control plans.

General submission requirements for all projects requiring Type 1 stormwater management and sediment control plan approval will include a standard application form and must meet all the requirements of *Division 5 – Stormwater Pollution Prevention Plans* of this Ordinance.

Sec. 14-56. - Standards and requirements for preparation of Type 2 stormwater management and sediment control plans.

- (a) The stormwater management and sediment control plan required for land disturbing activities of less than one acre, or less than one-half acre in a TMDL watershed, which are not part of a larger common plan of development or sale shall contain the following information, as applicable:
 - (1) An anticipated starting and completion date of the various stages of land disturbing activities and the expected date the final stabilization will be complete;
 - (2) A narrative description of the stormwater management and sediment control plan to be used during land disturbing activities;
 - (3) General description of topographic and soil conditions of the tract from the local soil and water conservation district;
 - (4) A general description of adjacent property and a description of existing structures, buildings, and other fixed improvements located on surrounding properties;
 - (5) A sketch plan (engineer's, Tier B surveyor's or landscape architect's seal not required) to accompany the narrative which shall contain:
 - a. A site location drawing of the proposed project, indicating the location of the proposed project in relation to roadways, jurisdictional boundaries, streams and rivers;
 - b. The boundary lines of the site on which the work is to be performed;
 - c. A topographic map of the site if required by the implementing agency;
 - d. The location of temporary and permanent vegetative and structural stormwater management and sediment control measures.
 - (6) Stormwater management and sediment control plans shall contain certification by the person responsible for the land disturbing activity that the land disturbing activity will be accomplished pursuant to the plan.

(7) All stormwater management and sediment control plans shall contain certification by the person responsible for the land disturbing activity of the right of the commission or implementing agency to conduct on-site inspections.

(b) The requirements contained in subsection (a) of this section may be indicated on one plan sheet. More detailed hydrologic or soils information may be required on a case-by-case basis by the County. Stormwater detention/retention may be required if excessive water problems are known to exist in the area.

(Ord. No. 98-348, § 4.2, 5-12-1998; Ord. No. 04-529, § 4.2, 5-11-2004; Ord. No. 06-614, § 4.2, 10-10-2006)

Secs. 14-57 – 14-59. – Reserved.

DIVISION 5. - STORMWATER POLLUTION PREVENTION PLANS

Sec. 14-60. - General Information.

- (a) A Stormwater Pollution Prevention Plan (SWPPP) is a requirement for coverage under a Sumter County stormwater permit, pursuant to the requirements set forth in the most current version of the CGP. The applicant shall submit a complete Comprehensive SWPPP (C-SWPPP) for County and SCDHEC review and approval. The C-SWPPP shall be prepared in accordance with the current CGP and as required by Sumter County.
- (b) The Permittee must implement the approved C-SWPPP at the construction site as written from commencement of construction activities until final stabilization has been reached. The On-Site SWPPP (OS-SWPPP) must be kept at the construction site until final stabilization is reached and coverage under the Sumter County stormwater permit has been terminated.

Secs. 14-61 – 14-69. – Reserved.

DIVISION 6. - IMPLEMENTATION, INSPECTION AND MAINTENANCE REQUIREMENTS AND OFF-SITE DAMAGE CORRECTION

Sec. 14-70. - Pre-construction conferences.

- (a) A pre-construction conference must be held for each construction project or site with an approved On-Site Stormwater Pollution Prevention Plan (OS-SWPPP) in accordance with the current CGP and as specified by Sumter County. Each contractor, subcontractor, blanket utility provider, etc., who will work at a site must attend this conference in person.

Sec. 14-71. - Inspections.

- (a) Construction Site Inspections shall be conducted on a routine basis in accordance with the current CGP and as required by Sumter County.

Sec. 14-72. - Maintenance requirements.

- (a) Sumter County shall provide procedures to ensure that deficiencies indicated by inspections are rectified. The procedures shall include the following:
 - (1) Notification to the person responsible for maintenance of deficiencies including a time frame for repairs;
 - (2) Subsequent inspection to ensure completion of repairs; and
 - (3) Effective enforcement procedures or procedures to refer projects to the SCDHEC if repairs are not undertaken or are not done properly.
- (b) **Construction Maintenance.** All BMPs and other protective measures identified in the OS-SWPPP must be maintained in effective operating condition. If site inspections required by *Section 14-71* identify BMPs that are not operating effectively, maintenance must be performed within seven (7) calendar days, before the next inspection, or as reasonably possible, and before the next storm event whenever practicable to maintain the continued effectiveness of stormwater controls. If periodic inspection or other information indicates that a BMP has been used inappropriately, or incorrectly, the necessary replacement or modification required to correct the BMP must be addressed within a time frame of 48 hours of identification. If existing BMPs need to be modified or if additional BMPs are necessary to comply with the requirements of the Sumter County stormwater permit, CGP and/or SC's Water Quality Standards, implementation must be completed before the next storm event whenever practicable. If implementation before the next storm event is impracticable, the situation must be documented in the OS-SWPPP and alternative BMPs must be implemented as soon as reasonably possible. Sediment from sediment traps or sedimentation basins must be removed as indicated in the OS-SWPPP or when the design capacity has been reduced by 50 percent, whichever occurs first. Sediment collected by silt fence, or another sediment control measure, must be removed when the deposited sediment reaches 1/3 of the height of the above-ground portion of these BMPs, or before it reaches a lower height based on the manufacturer's specifications.

- (c) **Permanent Maintenance.** Permanent stormwater management structures must be routinely maintained to operate according to the design. The County requires inclusion of a permanent stormwater management maintenance agreement and a maintenance plan to ensure proper operation. The preparer should provide a detailed proposed maintenance plan for all permanent stormwater management structures proposed for the project in the Narrative section of the C-SWPPP. The maintenance agreement and maintenance plan must be identified and located in the C-SWPPP.
- (d) **Maintenance Agreements.** Permanent stormwater management maintenance agreements must include the following information as a minimum:
- (1) Signed notarized agreement from the responsible party(ies) or individual(s) accepting ownership and maintenance of each permanent stormwater control device/structure, including any permanent LID and/or proprietary control devices (oil-water separators, etc.), underground detention structures, exfiltration systems and non-traditional stormwater controls (constructed wetlands, bioretention, etc.) incorporated into the construction process.
 - (2) A generic Sumter County maintenance agreement may be found at <http://www.sumtercountysc.org/sites/default/files/department/engineering/pond%20agreement.pdf>, which may be used as a template.
 - (3) This template may be modified to identify each permanent structure(s) for the Applicant's project.
 - (4) The County must be notified in writing of any changes in maintenance responsibility for the stormwater devices at the site (include this statement in agreement).
- (e) **Maintenance Plans.** All maintenance plans must include the following information as a minimum:
- (1) Description of maintenance plan to be used.
 - (2) Any detailed or manufacturer-specific maintenance procedures for any permanent LID and/or proprietary control devices (oil-water separators, etc.), underground detention structures, exfiltration systems and non-traditional stormwater controls (constructed wetlands, bioretention, etc.) incorporated into the construction process should be included.
 - (3) Identification of each maintenance activity (e.g., inspection, mowing, removing debris, etc.) to be completed. Typical maintenance items to be addressed include but not limited to:
 - a. Grass to be mowed;
 - b. Trees to be removed from within the pond and on the embankment;
 - c. Trash and sediment to be removed from inside of and around the pond outlet structure;
 - d. Orifices to be cleaned and unclogged;

- e. Outlet pipe to be cleaned, inspected, and repaired;
 - f. Sediment accumulation to be removed from pond;
 - g. Pond bottom to be regraded to provide proper drainage towards the outlet discharge point;
 - h. Energy dissipater to be cleaned and repaired;
 - i. Emergency spillway, if applicable, to be inspected and repaired; and
 - j. Erosion on side slopes, if present, to be addressed
- (4) A schedule or frequency for completing each maintenance activity or maintenance procedure (e.g., every 6 months).
- (f) **Secondary Permittee Common BMP Maintenance Requirement.** It shall be the responsibility of the Secondary Permittee to either maintain or coordinate the maintenance of any common stormwater BMPs, accepting stormwater discharges from any area associated with their work, with the permit holder or the party responsible for permanent maintenance.

Sec. 14-73. - Off-site damage correction.

The following criteria shall be used by the County in evaluating and correcting off-site damages resulting from the land disturbing activity:

- (a) Determine the extent of damage by sediment resulting from noncompliance with the approved stormwater management and sediment control plan (SWPPP);
- (b) Determine the classification of the impaired water body, if any. For the purposes of administering this Ordinance, off-site damages shall include any restrictions to flow or reduced flow/capacity of stormwater management devices that serve more than a single residential/commercial/industrial lot;
- (c) Determine the impact and severity of the damage resulting from noncompliance with the approved stormwater management and sediment control plan;
- (d) Develop an agreement with landowners for cleanup and corrections, including a schedule of implementation;
- (e) Evaluate the alternatives for correction of the damage and prevention of future damage; and
- (f) Failure to implement the agreement in the required schedule will constitute a violation of these regulations.

(Ord. No. 98-348, § 5.2, 5-12-1998; Ord. No. 06-614, § 5.2, 10-10-2006)

Sec. 14-74. - Notification of persons desiring to conduct land disturbing activity.

Sumter County shall provide proper notification of this ordinance to those persons desiring to conduct a covered land disturbing activity and shall provide the necessary forms required for application for securing approval of the stormwater management and sediment control plan. A copy of this ordinance shall be made available, for a reasonable charge, upon request.

(Ord. No. 98-348, § 6.1, 5-12-1998)

Sec. 14-75. - Enforcement.

- (a) Failure of the contractor or the person engaged in the land disturbing activity to comply with SCDHEC requirements may result in the following actions in addition to other penalties as provided in S.C. Code 1976, § 48-14-10 et seq.
 - (1) SCDHEC shall have the power to request the implementing agency to order any person violating any provision of said S.C. Code 1976, § 48-14-10 et seq., and/or these regulations to cease and desist from any site work activity other than those actions necessary to achieve compliance with any administrative order.
 - (2) SCDHEC may request that the appropriate plan approval agency refrain from issuing any further building or grading permits to the person having outstanding violations until those violations have been remedied.
 - (3) SCDHEC may recommend fines to be levied by the implementing agency.
- (b) Sumter County may utilize "Stop Work" orders as a part of its inspection and enforcement program in accordance with the following procedures:
 - (1) The implementing agency may issue a stop work order if it is found that a land disturbing activity is being conducted in violation of this division or of any regulation adopted or order issued pursuant to, in connection with or otherwise related to this division, that the violation is knowing and willful, and that either:
 - a. Off-site sedimentation resulting from noncompliance with the approved stormwater management and sediment control plan has eliminated or severely degraded a use in a lake or natural waterway or that such degradation is imminent.
 - b. Off-site sedimentation resulting from noncompliance with the approved stormwater management and sediment control plan has caused severe damage to adjacent land.
 - c. Off-site tracking of sediment from land disturbing activities into roadways has created a hazard.
 - d. The land disturbing activity which requires an approved plan under this Ordinance and is being conducted without the required approved plan.

- e. Sediment leaving a site is entering a "common" stormwater control/conveyance device and is restricting design capacity flow.
- (2) The stop work order shall be in writing and shall state what work is to be stopped and/or what measures are required to abate the violation. The order shall include a statement of the findings made by the implementing agency pursuant to subsection (b) (1) of this section and shall list the conditions under which work that has been stopped by the order may be resumed. The delivery of equipment and material which does not contribute to the violation may continue while the stop work order is in effect. A copy of this section shall be attached to the order.
- (3) The stop work order shall be served by the Sumter County Sheriff, any of his officers, the County codes enforcement officers, or by some other person duly authorized by law to serve process, and shall be served on the person at the site of the land disturbing activity who is in operational control of the land disturbing activity. The Sheriff or other person duly authorized by law to serve process shall post a copy of the stop work order in a conspicuous place at the site of the land disturbing activity. The implementing agency shall also deliver a copy of the stop work order to any person that the implementing agency has reason to believe may be responsible for the violation.
- (4) The directives of a stop work order become effective upon service of the order. Thereafter, any person notified of the stop work order who violates any of the directives set out in the order may be assessed a civil penalty as provided in *Section 14-122*. A stop work order issued pursuant to this section may be issued for a period not to exceed three calendar days.
- (5) The implementing agency shall designate an employee to monitor compliance with the stop work order. The name of the employee so designated shall be included in the stop work order. The employee so designated shall rescind the stop work order if all the violations for which the stop work order are issued are corrected, no other violations have occurred, and all measures necessary to abate the violations have been taken. The implementing agency shall rescind a stop work order that is issued in error.
- (6) The issuance of a stop work order shall be a final agency decision subject to judicial review in the same manner as an order in a contested case pursuant to S.C. Code 1976, § 1-23-380. The petition for judicial review shall be filed in the Circuit Court of the county in which the land disturbing activity is being conducted.

(Ord. No. 98-348, § 6.2, 5-12-1998; Ord. No. 04-529, § 6.2, 5-11-2004; Ord. No. 06-614, § 6.2, 10-10-2006)

Sec. 14-76. - Penalties.

- (a) Any person who violates any provisions of this Ordinance or who initiates or continues a land disturbing activity for which a stormwater management and sediment control plan is required except in accordance with the terms, conditions, and provisions of an approved plan, is subject to a civil penalty as provided in Section 49-14-40(A) of *The Code of Laws of South Carolina* (1976, as amended).
- (b) The implementing agency 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 days after demand for payment is made, a civil action may be filed in the Circuit Court in the county in which the violation is alleged to have occurred to recover the amount of the penalty.

(Ord. No. 98-348, § 6.3, 5-12-1998)

Sec. 14-77. - Reserved.

DIVISION 7. – Stormwater Utility

Sec. 14-90. - Findings.

The Sumter County Council makes the following findings of fact:

- (1) The County Council finds that a schedule of stormwater utility service charges is an appropriate means of allocating the cost of stormwater management services and stormwater management systems and facilities throughout the county. Such charges can be complemented by other funding methods which address specific needs, including, but not limited to, allocations of other revenues available to the County, special service fees, special assessments, and other revenues as deemed appropriate by the County Council.
- (2) The County Council finds that credits against stormwater utility service charges are an appropriate means of adjusting fees, rates, rentals, and charges in certain cases, and should be granted for properties providing on-site or off-site services, systems, facilities, activities, or assets which reduce or otherwise mitigate the impact of said property on the county's cost of providing stormwater management services and/or stormwater management systems and facilities, and that such credits should be conditional upon continuing provision of such services, systems, facilities, activities, or assets in a manner complying with the standards and codes as determined by the county administrator or designee. Credits for on-site stormwater management systems and facilities shall be generally proportional to the effect that such systems reduce the peak rate of runoff from the property and increase the volume of on-site stormwater retention.
- (3) The County Council finds that a stormwater utility rate fee has been defined and determined which accurately addresses the current financial needs to manage, maintain, protect, regulate and enhance the stormwater systems and facilities of Sumter County.
- (4) The County Council finds that the application of the utility shall be countywide, in that the stormwater program provides stormwater drainage system maintenance beneficial to all county residents, in addition to the portions of the county that are currently regulated under the coverage of a state or federal stormwater permit, or maintain an intergovernmental agreement with the County to provide stormwater services.
- (5) The County Council finds that it is imperative that all revenues raised or otherwise allocated specifically to stormwater management services and stormwater management systems and facilities be dedicated solely to those purposes and therefore directs that such revenues shall be accounted for and deposited into the special revenue fund of the stormwater utility and shall remain in that fund and be dispersed only for stormwater management capital, operating, and non-operating costs and debt service of bonds for stormwater management purposes. As said revenues shall be used solely for stormwater purposes, the

County shall publically disclose and publish all stormwater related revenue allocations and expenditures annually in the audited annual financial report.

(Ord. No. 10-714, 9-14-2010)

Sec. 14-91. - Authority.

This Division shall be cited as the stormwater utility ordinance and is adopted pursuant to S.C. Code 1976, § 48-14-10 et seq.; the Home Rule Act, S.C. Code 1976, § 4-9-30(5); S.C. Code 1976, § 6-1-330; and South Carolina Land Resources Conservation Commission Regulations 72-300 to 72-316.

(Ord. No. 10-714, 9-14-2010)

Sec. 14-92. - Establishment of utility and enterprise fund.

The County Council hereby establishes a stormwater utility within the Stormwater Department under the direction of public services which shall be responsible for stormwater management throughout the county's unincorporated limits, or incorporated areas agreed to by intergovernmental agreement, and shall provide for the management, maintenance, protection, control, regulation and enforcement, use, and enhancement of stormwater systems and facilities.

The County Council directs that a stormwater special revenue fund be established in the County budget and accounting system for the purpose of dedicating and protecting all funding applicable to the purposes and responsibilities of the utility, including, but not limited to, rentals, rates, charges, fees, and licenses as may be established by the County Council. All revenues and receipts of the stormwater utility shall be placed in the stormwater special revenue fund and all expenses of the utility shall be paid from the stormwater fund, except that other revenues, receipts, and resources not accounted for in the stormwater utility fund may be applied to stormwater management operations and capital investments as deemed appropriate by the County.

The County Council hereby transfers to the stormwater utility the existing stormwater systems and facilities owned and operated by the County and other interests and assets including, but not limited to, easements, rights-of-entry and access, and certain equipment. The County Council declares that the economic value to the County of the stormwater systems, facilities, and other interests and assets hereby transferred to the utility is equal to the economic value to the County of the utility assuming future responsibility for the management, maintenance, protection, control, regulation, use, and enhancement of the stormwater systems, facilities, and programs.

(Ord. No. 10-714, 9-14-2010)

Sec. 14-93. - Boundaries and jurisdiction.

The boundaries and jurisdiction of the stormwater utility shall extend to the unincorporated limits of the county and incorporated areas of the county as agreed to through the establishment of an intergovernmental agreement to provide stormwater services.

(Ord. No. 10-714, 9-14-2010)

Sec. 14-94. - Limitation of the stormwater utility system.

- (a) The stormwater system shall be limited to those drainage ways, channels, ditches, swales, storm sewers, culverts, inlets, catch basins, head walls and other structures which control and/or convey stormwater and which:
 - (1) Are located within public streets, rights-of-way, and easements except in case those facilities are owned by the South Carolina Department of Transportation or are within the South Carolina Department of Transportation's right-of-way;
 - (2) Are subject to rights of entry, rights of access, rights of use, or other permanent provisions for adequate access for operation, maintenance, and/or improvement of systems and facilities; or
 - (3) Are located on public lands to which the County has adequate access for operation, maintenance, and/or improvement of systems and facilities.
- (b) Stormwater systems and facilities which are located on private or public property not owned by the County and which are not subject to public dedication of the systems, facilities, easements, rights-of-way, or other adequate access for operation, maintenance, and/or improvement of the systems and facilities shall be and remain the responsibility of the property owner, except as that responsibility may be affected by the laws of the state and of the United States of America.

(Ord. No. 10-714, 9-14-2010)

Sec. 14-95. - Requirements for on-site stormwater systems; enforcement methods and inspections.

- (a) All property owners and developers of real property to be developed within the county shall provide, manage, maintain, and operate on-site stormwater systems and facilities sufficient to collect, convey, detain, control, and discharge stormwater in a safe manner consistent with all county development regulations and the laws of the state and of the United States of America. Any failure to meet this obligation shall constitute a nuisance if the owner fails to properly abate the failure within a reasonable time as determined by a Court of competent jurisdiction. In such case, the County may enter upon the property and cause such work to be performed as is reasonably necessary to be performed, with the actual cost thereof charged to the owner in the same manner as a stormwater service charge.

- (b) The County shall have the right for its designated officers and employees to enter upon private property and public property owned by parties other than the County, upon reasonable notice to the owner thereof, to inspect the property and conduct surveys and engineering tests thereon in order to assure compliance with this Ordinance.

(Ord. No. 10-714, 9-14-2010)

Sec. 14-96. - Definitions.

The following words, terms, and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Agricultural use properties shall include all properties assessed by the County as agriculture and include farming, livestock, poultry houses, swine activities and other property assessed as pertaining to agriculture. Processing and distribution facilities associated with these activities are considered industrial properties and are not covered under this definition.

Credit shall mean a conditional reduction in the amount of a stormwater service charge or other fees, rates, rentals, charges, fines, and penalties to an individual property based on the provision and continuing presence of an effectively maintained and operational on-site stormwater system or facility; and/or continuing provision of a service or activity that reduces the stormwater utility's cost of providing stormwater management services and stormwater management systems and facilities; and/or on the direct discharge of runoff to a receiving water that is not operated, maintained, improved, and regulated, now or in the future, by the County.

Commercial properties shall include all properties developed initially for the retail of goods and services, or other business activities, office buildings or property otherwise assessed as commercial use, and any multifamily residential structure with three or more dwelling units which structure is taxed as only one structure.

Customers of the stormwater utility shall include those persons, properties, and entities served by and/or benefiting from the utility's acquisition, management, maintenance, extension, and improvement of the public stormwater systems and facilities and regulation of public and private stormwater, stormwater systems, facilities, and activities related thereto, and persons, properties, and entities which will ultimately be served or benefited as a result of the stormwater management program.

Developed land shall mean property altered from its natural state by construction or installation of more than 200 contiguous square feet of impervious surfaces as defined in this division.

Equivalent drainage unit (EDU) is the basis of assessment for the stormwater utility fee, currently defined as 8,000 square feet of impervious surface.

Impervious surfaces are those areas which prevent or impede the infiltration of stormwater into the soil as it entered in natural conditions prior to development. Common

impervious areas include, but are not limited to, rooftops, sidewalks, walkways, patio areas, driveways, parking lots, storage areas, compacted gravel and soil surfaces, awnings and other fabric or plastic coverings, and other surfaces which prevent or impede the natural infiltration of stormwater runoff which existed prior to development.

Industrial properties shall include all properties developed for uses other than residential and commercial properties, as defined in this Division.

Nonprofit properties shall include churches, government buildings or property otherwise assessed as nontaxable due to its use for a nonprofit activity.

Residential properties shall include, but shall not be limited to, the following structures for purposes of this division:

Single-family residences;

Duplexes;

Individually taxed units of townhouses;

Individually taxed units of condominiums;

Mobile homes.

Stormwater management services are those activities and functions conducted by the County that together result in the collection, conveyance, and disposal of stormwater runoff, including support activities and functions necessary to accomplish the mission of the stormwater management program, and shall include, but not be limited to, the administration, engineering, operation and maintenance, regulation and enforcement, and improvement of systems and facilities, review of development proposals and of the installation and maintenance of stormwater systems on private properties, provision of stormwater quality management programs to eliminate or mitigate the impact of pollutants contained in stormwater runoff, and flood emergency response and recovery measures.

Stormwater management systems and facilities include, but are not limited to, rivers, streams, creeks, lakes, ponds, channels, ditches, swales, gutters, other drainage ways, storm sewers, culverts, inlets, catch basins, headwalls, dams, reservoirs and other impoundments, flumes, stormwater detention and retention storage areas, filters, riparian areas, plants, works, instrumentalities, properties, and other structural and nonstructural components that control, capture, collect, convey, route, restrict, store, detain, retain, infiltrate, cleanse, or otherwise affect or influence the flow of stormwater within the county and the quality of stormwater discharged from the county.

Stormwater service charges shall mean the periodic service charge imposed pursuant to this division by the County for the purpose of funding costs related to stormwater management services and stormwater management systems and facilities. The use of the area of impervious surface on each property as a stormwater service charge rate parameter shall not preclude the use of other parameters, or of grouping of properties having similar characteristics into classes

or categories, grouping of properties having similar characteristics through the use of ranges or rounding up or down to a consistent numerical interval, or the use of flat-rate charges for one or more classes of similarly-situated properties whose impact on the County's cost of providing stormwater management services and stormwater management systems and facilities is relatively consistent. Stormwater service charges may also include special charges to individual properties or persons for services, systems, or facilities related to stormwater management, including but not limited to charges for development plan review, inspection of development projects and on-site stormwater control systems, and enhanced levels of stormwater service above and beyond the levels normally provided by the County.

(Ord. No. 10-714, 9-14-2010)

Sec. 14-97. - Stormwater service charge rates.

Stormwater service charge rates may be determined and modified from time to time by the County Council so that the total revenue generated by said charges and any other sources of revenues or other resources allocated by the County Council to the stormwater utility shall be sufficient to meet the cost of stormwater management services, systems, and facilities, including but not limited to the payment of principal and interest on debt obligations, operating expense, capital outlays, non-operating expense, provisions for prudent reserves, and other costs related to stormwater as deemed appropriate by the County Council. The basis of the service charge rate is one EDU as defined in this ordinance. The stormwater service charge for one EDU is \$30.00 per year. The initial stormwater service charge rates shall apply:

- (a) *Residential properties.* Residential properties, as defined by this division, shall be billed for the stormwater service charges, as defined in this Division, of .50 EDU, equivalent to \$15.00 per year. This represents a flat rate for all county residential properties relative to their average contribution to, and use of, roads which are served by the stormwater drainage system.
- (b) *Commercial properties and nonprofit properties.* Commercial properties, as defined by this division, and nonprofit properties, as defined by this division, shall be billed for the stormwater service charges, as defined in this division, of one and one-half EDUs, equivalent to \$45.00 per year. Commercial properties will be evaluated during the initial two-year implementation of the program to define final EDU values based on actual impervious cover, which may result in either an increase or decrease of the EDU value of the individual property. To initiate immediate assessment of a commercial property, see *Section 14-99*.
- (c) *Industrial properties.* Industrial properties, as defined by this division, shall be billed for the stormwater service charges, as defined in this division, of three EDUs, equivalent to \$90.00 per year. Industrial properties will be evaluated during the initial two-year implementation of the program to define final EDU values based on actual impervious cover, which may result in either an increase or decrease of the EDU value of the individual property. To initiate immediate assessment of an industrial property, see *Section 14-99*.

- (d) *Agricultural use properties.* Poultry houses, swine farrowing and confinement operations and gin operations shall be billed for the stormwater service charges, as defined in this Division, of one and one-half EDUs, equivalent to \$45.00 per year. Poultry houses, swine farrowing and confinement operations and gin operations will be evaluated during the initial two-year implementation of the program to define final EDU values based on actual impervious cover, which may result in either an increase or decrease of the EDU value of the property. All other agriculture use properties as defined by this division shall be exempt from a stormwater service charge. Processing, production and distribution facilities associated with agriculture activities are considered industrial facilities and shall be subject to the stormwater service charge as identified in [subsection] (c).
- (e) *Developed land.* The minimum stormwater service charge for developed land, as defined in this Division, shall be billed for .50 EDU, equivalent to \$15.00 per year, except where exempt from a stormwater service charge as defined in subsection (d).

(Ord. No. 10-714, 9-14-2010)

Sec. 14-98. - Stormwater service charge billing, delinquencies and collections.

A stormwater service charge bill may be sent through the United States mail or by alternative means, notifying the customer of the amount of the bill, the date the payment is due, and the date when past due. These fees shall be levied, collected and paid in the same manner as user fees applied to annual tax bills. The stormwater service charge bill may also be billed and collected along with other charges, including, but not limited to, other county assessments, or property taxes, as deemed most effective and efficient by the County Council. Failure to receive a bill is not justification for nonpayment. Nevertheless, if a customer is underbilled or if no bill is sent for developed land, the County may backbill for a period of up to one year.

(Ord. No. 10-714, 9-14-2010)

Sec. 14-99. - Appeals.

Any commercial, industrial or agricultural use customer aggrieved by a final assessment of the provisions of this division may appeal the decision in the following manner and sequence.

- (a) An appeal must be filed in writing with the County Administrator (or designee). At the discretion of the County, the appeal may require a survey prepared by a registered land surveyor or professional engineer containing information on the total property area, the impervious surface area, and any other features or conditions that influence the hydrologic response of the property to rainfall events. During the two-year initial implementation of the program, the County will assist in the assessment of impervious cover and EDU calculations for commercial, industrial, or agricultural use customers.
- (b) Using information provided by the appellant, a technical committee comprised of the stormwater department director and two other persons appointed by the County Administrator shall conduct a technical review of the conditions on the property and respond to the appeal in writing within 30 days. In response to an appeal, the stormwater department director or designee may adjust the stormwater service charge applicable to the property in conformance with the general purposes and intent of this division. During the two-year initial implementation of the program, the County may waive the technical review requirement.
- (c) A decision of the technical committee that is adverse to an appellant may be further appealed to the County Administrator within 30 days of the adverse decision. Notice of the appeal shall be delivered to the County Administrator by the appellant, stating the grounds for further appeal. The County Administrator shall issue a written decision on the appeal within 30 days. All decisions by the County Administrator shall be served on the customer personally or by registered or certified mail, sent to the billing address of the customer. All decisions of the County Administrator shall be final, except that this provision shall not abridge the right of any person to seek relief in a court of competent jurisdiction.

(Ord. No. 10-714, 9-14-2010)

Sec. 14-100. - Unlawful damage to, alteration of, or tampering with county's stormwater system.

Misdemeanor to damage, alter or tamper with stormwater system. It shall be unlawful and a violation of this chapter for any person to damage, deface, alter, change, or tamper with the County's stormwater system; and upon conviction, said person shall be guilty of a misdemeanor and punished by a fine of up to \$500.00 and/or sentenced to serve up to 30 days; and such person shall be subject to paying full costs incurred by the county as a way of restitution.

(Ord. No. 10-714, 9-14-2010)

Secs. 14-101—14-104. - Reserved.

DIVISION 8. – ILLICIT DISCHARGES AND CONNECTION TO STORMWATER SEWER SYSTEMS AND WATERS OF THE STATE

Sec. 14-105. - Purpose.

The purpose of this Division is to provide for the health, safety and general welfare of the citizens of Sumter County through the regulation of non-stormwater discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This Division establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this Division are:

- (a) To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by stormwater discharges by any user;
- (b) To prohibit Illicit Connections and Discharges to the municipal separate storm sewer system; and
- (c) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this Ordinance.

Sec. 14-106. - Authority, applicability and jurisdiction.

Applicability. This Division shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

(Ord. No. 09-682, § 1, 4-28-2009)

Sec. 14-107. - Definitions.

Definitions. Words used in this Division shall have their customary meanings as determined by the standard dictionary definition except for the following specific words and terms which are herein defined.

Authorized enforcement agency means employees or designees of the Sumter County

Municipal Separate Storm Sewer System (MS4) Operator is the person designated by the Sumter County Administrator to enforce this Ordinance.

Best management practices means a wide range of management procedures, schedules of activities, prohibitions of practices and other management practices which have been demonstrated to effectively control the quality and/or quantity of storm water runoff and which are compatible with the planned land use.

Clean Water Act means the federal Water Pollution Control Act (33 U.S.C. section 1251 et seq.), and any subsequent amendments thereto.

Construction activity means activities subject to NPDES construction permits. Such activities include, but are not limited to, clearing and grubbing, grading, excavating, and demolition.

Hazardous materials means any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Illegal discharge means any direct or indirect non-stormwater discharge to the storm drain system or waters of the state, except as exempted in section 40-94.

Illicit connections means either of the following: any drain or conveyance, whether on the surface or subsurface, free flowing or through a conduit, which allows an illegal discharge including, but not limited to, any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water and any connections to the storm drain system or waters of the state from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or, any drain or conveyance connected from a commercial or industrial land use to the storm drain system or waters of the state which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

Industrial activity means activities subject to NPDES industrial permits as defined in 40 CFR, Section 122.26 (b)(14) and South Carolina Regulation 61-9, Section 122.26(b)(14).

National Pollutant Discharge Elimination System (NPDES) stormwater discharge permit means a permit or certificate of coverage issued by the state that authorizes the discharge of pollutants to waters of the state, whether the permit is applicable to an individual, group, or general area-wide basis.

Non-stormwater discharge means any discharge to the storm drain system or waters of the state that is not composed entirely of stormwater.

Person means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

Pollutant means anything which causes or contributes to pollution.

Premises mean any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

Municipal storm drainage system means publicly-owned facilities by which stormwater is collected and/or conveyed, including, but not limited to, any roads or

streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

Stormwater means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

Stormwater pollution prevention plan (SWPPP) is a document which describes the best management practices and activities to be implemented by a person to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

Wastewater means any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

(Ord. No. 09-682, § 2, 4-28-2009)

Sec. 14-108. - Responsibility for administration.

Sumter County shall administer, implement, and enforce the provisions of this Division. Any powers granted or duties imposed upon the Sumter County MS4 Operator may be delegated in writing by the Sumter County MS4 operator to persons or entities acting in the beneficial interest of or in the employ of Sumter County.

(Ord. No. 09-682, § 3, 4-28-2009)

Sec. 14-109. - Ultimate responsibility.

The standards set forth herein and promulgated pursuant to this Ordinance are minimum standards. Therefore this Ordinance does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

(Ord. No. 09-682, § 4, 4-28-2009)

Sec. 14-110. - Discharge prohibitions.

- (a) *Prohibition of illegal discharges.* No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including, but not limited to, pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water.

The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

- (1) The following discharges are exempt from discharge prohibitions established by this Division: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising groundwater, groundwater infiltration to storm drains, uncontaminated pumped groundwater,

foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, noncommercial washing of vehicles, natural riparian habitat or wetland flows, swimming pools (if de-chlorinated, typically less than 0.5 ppm chlorine), firefighting activities, and any other water source not containing pollutants.

- (2) Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety.
- (3) Dye testing is an allowable discharge, but requires a verbal notification to the authorized enforcement agency prior to the time of the test.
- (4) The prohibition shall not apply to any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

(b) *Prohibition of illicit connections.*

- (1) The construction, use, maintenance or continued existence of illicit connections to the municipal storm drain system is prohibited.
- (2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- (3) A person is considered to be in violation of this Ordinance if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

(Ord. No. 09-682, § 5, 4-28-2009)

- (c) *Illegal dumping.* It shall be unlawful to dispose of any trash or wastes in an unpermitted area or by disposing of such trash or waste into any storm drain or stormwater conveyance. Sumter County shall be allowed on-site if there is suspected illegal dumping for inspection and monitoring as deemed appropriate. In addition, all provisions and authority contained within Chapter 20 (Garbage, Trash and Refuse) of this Code of Ordinances that are applicable to the protection of water quality shall be incorporated by reference to this section.

Sec. 14-111. - Suspension of MS4 access.

- (a) *Suspension due to illicit discharges in emergency situations.* The County may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or waters of the state. If the violator fails

to comply with a suspension order issued in an emergency, the County may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the state, or to minimize danger to persons.

- (b) *Suspension due to the detection of illicit discharge.* Any person discharging to the MS4 in violation of this Ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The County will notify a violator of the proposed termination of its MS4 access. The violator may petition the County for a reconsideration and hearing.
- (c) *Suspension in consideration of the welfare of the MS4.* Any person discharging to the MS4 who, through action or inaction, has reduced the welfare of the MS4 may have their MS4 access terminated, and is in violation of this division. The County will notify a violator of the proposed termination of its MS4 access. The violator may petition the County for a reconsideration and hearing.

It is a violation of this Ordinance for any person to reinstate MS4 access to premises terminated pursuant to this section, without the prior approval of the County.

(Ord. No. 09-682, § 6, 4-28-2009)

Sec. 14-112. - Industrial or construction activity discharges.

Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the County prior to the allowing of discharges to the MS4. Any such person shall, upon request by the County, provide a copy of the stormwater pollution prevention plan necessary for compliance with the NPDES permit.

(Ord. No. 09-682, § 7, 4-28-2009)

Sec. 14-113. - Monitoring of discharges.

- (a) *Applicability.* This section applies to all facilities that have stormwater discharges associated with industrial activity, including construction activity.
- (b) *Access to facilities.*
 - (1) The County shall be permitted to enter and inspect facilities subject to regulation under this Ordinance as often as may be necessary to determine compliance with this Ordinance. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the County.
 - (2) Facility operators shall allow the County ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying

of records that must be kept under the conditions of an NPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.

- (3) The County shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the County to conduct monitoring and/or sampling of the facility's stormwater discharge.
- (4) The County has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure storm water flow and quality shall be calibrated to ensure their accuracy.
- (5) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the County and shall not be replaced. The costs of clearing such access shall be borne by the operator.
- (6) Unreasonable delays in allowing the County access to a permitted facility is a violation of a storm water discharge permit and of this Ordinance. A person who is the operator of a facility with a NPDES permit to discharge stormwater associated with industrial activity commits an offense if the person denies the County reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this Ordinance.
- (7) If the County has been refused access to any part of the premises from which stormwater is discharged, and it is able to demonstrate probable cause to believe that there may be a violation of this Ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this Ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the County may seek issuance of a search warrant from any court of competent jurisdiction.

(Ord. No. 09-682, § 8, 4-28-2009)

Sec. 14-114. - Requirement to prevent, control, and reduce stormwater pollutants by the use of best management practices.

The County will adopt requirements identifying best management practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the storm drain system, or waters of the state. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and nonstructural BMPs. Further, any person responsible for a property or premises which is, or

may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and nonstructural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWPPP) as necessary for compliance with requirements of the NPDES permit.

(Ord. No. 09-682, § 9, 4-28-2009)

Sec. 14-115. - Watercourse protection.

Every person owning property through which a watercourse passes, or such person leases, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

(Ord. No. 09-682, § 10, 4-28-2009)

Sec. 14-116. - Notification of spills.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the storm drain system, or water of the state said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of nonhazardous materials, said person shall notify the County in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the County within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

(Ord. No. 09-682, § 11, 4-28-2009)

Sec. 14-117. - Enforcement.

(a) Administrative Remedies.

- (1) Notice of violation. Whenever the Stormwater Department of Sumter County finds that a person has violated a prohibition or failed to meet a requirement

of this Ordinance, the Stormwater Department of Sumter County may serve upon such person a written notice stating the nature of the violation.

- a. Within thirty (30) days from the date of this notice, an explanation for the violation and a plan for the satisfactory correction thereof shall be submitted to the County by the user. Submission of this plan does not relieve the discharger of liability for any violations occurring before or after receipt of notice of violation.
- b. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. All necessary corrective actions to eliminate a non-stormwater discharge should be completed within 30 days of said notice. When, and if, elimination will require longer than 30 days, the Stormwater Department of Sumter County shall order the responsible person to submit a plan with a schedule for elimination. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

(Ord. No. 09-682, § 12, 4-28-2009)

- (2) **Consent Agreements.** The County is hereby empowered to enter into consent agreements, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance.
 - a. Such agreements will include specific action to be taken by the discharger to correct the noncompliance within a time period also specified by such a consent agreement.
 - b. Consent agreements shall have the same force and effect as an administrative order, issued pursuant to subsection (4) below.
- (3) **Show cause hearing.** The County may order any user who has violated the requirements of this division to show cause before the Summary Court for Sumter County why a proposed enforcement action should not be taken.
 - a. In the event the County determines that a show cause order should be issued, a notice shall be served on the user specifying the time and place for the hearing, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken.
 - b. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days before

the hearing. Service may be made on any agent or officer of the corporation.

- c. The Summary Court shall review the evidence presented at the hearing and determine whether the proposed enforcement action is appropriate.
- d. A show cause hearing under this section is not a prerequisite to the assessment of a civil penalty nor is any action or inaction taken by the County under this section subject to an administrative appeal.

(4) Administrative orders.

- a. Immediately comply with all requirements; When the County finds that a user has violated or continues to violate the requirements of this Division, the MS4 Operator may issue an order to cease and desist all such violations and direct those to persons in noncompliance to do any of the following:
- b. Comply in accordance with a compliance time schedule set forth in the order;
- c. Take appropriate remedial or preventive action in the event of a continuing or threatened violation;
- d. Disconnect or suspend access.

(5) Suspension of municipal separate storm sewer (MS4) access. Sumter County may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which represents or may present imminent and substantial danger to the environment, or the health or welfare of persons, or to the MS4 or waters of the United States.

- a. All persons discharging to the MS4 in violation of these regulations may have their MS4 access terminated if such termination would abate or reduce an illicit discharge.
- b. Sumter County will notify a violator of the proposed termination of its MS4 access. The violator may petition the county for a reconsideration and hearing.
- c. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this section, without the prior approval of Sumter County.

- d. If the violator fails to comply with a suspension order, the County may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the United States, or to minimize danger to persons.
- (6) Termination of permit. Any permitted user who violates the following conditions of this division, or applicable state and federal regulations, is subject to having its MS4 encroachment permit terminated:
 - a. Failure to report a pollutant discharge;
 - b. Refusal of reasonable access to the user's premises for the purpose of inspection and monitoring; or
 - c. Violation of any conditions of the permit.
- (b) *Civil penalties.* Any user who is found to have failed to comply with any provisions of this Ordinance, or the orders, rules, regulations and permits issued hereunder, may be fined up to one thousand dollars (\$1,000.00) per day per violation. In addition to the penalties provided herein, the county may recover reasonable attorney's fees, court costs, court reporter's fees, and other expenses of litigation by appropriate suit at law against the person found to have violated this Ordinance or the orders, rules, regulation, and permits issued hereunder.
- (c) *Other available remedies.* Remedies, in addition to those previously identified in this Ordinance, are available to the County which may use any single one or combination against a noncompliance user. Additional available remedies include, but are not limited to:
 - (1) Criminal violation. The Solicitor for the Third Judicial Circuit may, at the request of the county, prosecute noncompliant users who violate the provisions of this division.
 - (2) Injunctive relief. Whenever a user violates the provisions of this division or an Order or permit issued hereunder, the County may petition the South Carolina Circuit Court for the issuance of a restraining order, a preliminary injunction or a permanent injunction to restrain certain activities or for the issuance of a mandamus to compel certain action.
 - (3) Severance of county services. Whenever a user violates the provisions of this Ordinance or an Order or permit issued hereunder, then water, sewer, solid waste, or other county services may be severed and service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability and willingness to comply.

- (4) **Public nuisance.** Any violation of the provisions of this division or of a permit or order issued hereunder, is hereby declared a public nuisance and shall be corrected or abated as directed by the county. Any person(s) creating a public nuisance shall be subject to the provisions of the Sumter County Code governing such nuisances, including reimbursing the county for any costs incurred in removing, abating or remedying said nuisance.
- (d) *Reconnection.* It shall be unlawful for any person to reconnect to the MS4 when access to the same has been cut off for noncompliance with provisions of this division, or for any other reason, until specifically approved in writing by the County. Said approval shall be contingent upon satisfaction of all provisions of this division including, but not limited to, payment of all penalties, charges, claims, damages, judgments, and costs incident thereto.
- (e) *Hearings.*
- (1) **Initial adjudicatory hearing.** An applicant whose MS4 encroachment permit is denied, or is granted subject to conditions the applicant deems unacceptable, a user assessed a civil penalty, or a user issued an administrative order shall have the right to an adjudicatory hearing before the Summary Court upon making such written demand, identifying the specific issues to be contested within thirty (30) days following receipt of the MS4 encroachment permit, civil penalty assessment, or administrative order. Unless such written demand is made within the time specified herein, the action shall be final and binding. The Summary Court shall make a final decision of the contested action within sixty (60) days of the receipt of the demand for a hearing.
- a. **New permits.** Upon appeal, including judicial review in the State Circuit Court, of the terms or conditions of a newly issued permit, the terms and conditions of the entire permit are stayed and the permit is not in effect until either the conclusion of the judicial review or until the parties reach a mutual resolution.
- b. **Renewed permits.** Upon appeal, including judicial review in the State Circuit Court, of the terms or conditions of a renewed permit, the terms and conditions of the existing permit remain in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.
- (2) **Final appeal hearings.** Any decision of the Summary Court made as a result of an adjudicatory hearing may be appealed, to the Circuit Court upon filing a written demand within thirty (30) days of receipt of notice of the decision. Hearings held under this subsection shall be conducted in accordance with the South Carolina Rules of Civil Procedure. Failure to file an appeal in the Circuit Court within the time specified herein shall bar further appeal.

- (3) Official record. When a final decision is issued, the Circuit Court shall prepare an official record of the case that shall include all notices, motions, and other like pleadings, a copy of all documentary evidence introduced, a certified transcript or narrative summary of any testimony taken and a copy of the final decision of the Circuit Court.
- (f) *Annual publication of significant noncompliance.* The County reserves the right to publish, in a newspaper of general circulation that provides meaningful public notice within the County or other public media, a list of those MS4 users which were found to be in significant noncompliance with the provisions of this division during the previous twelve (12) months.

Sec. 14-118. - Compensatory action.

In lieu of enforcement proceedings, penalties, and any remedies authorized by this Ordinance, the County may impose upon a violator alternative compensatory actions, including by not limited to storm drain stenciling, attendance at compliance workshops, creek cleanup.

(Ord. No. 09-682, § 17, 4-28-2009)

Secs. 14-119. – Reserved.

DIVISION 9. - ADMINISTRATION

Sec. 14-120. - 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, regulation, 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.

(Ord. No. 98-348, § 7.1, 5-12-1998)

Sec. 14-121. - Repeal of conflicting regulations.

All ordinances and resolutions regulating erosion and sediment control and stormwater management adopted prior to this Ordinance, which ordinances or resolutions conflict with this Ordinance, are hereby repealed.

Sec. 14-122. - Separability.

If any section, clause, or portion of this ordinance shall be held by a court of competent jurisdiction to be invalid or unconstitutional or otherwise unenforceable, such finding shall not affect any other section, clause, or portion of this Ordinance, and the remaining portions of this Ordinance shall be valid and shall be enforced to the fullest extent provided by law.

Sec. 14-123. - Amendments.

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

Sec. 14-124. - Effective date.

This ordinance shall take effect and be enforced from and after March 24, 2015.

Sec. 14-125. - Civil liability.

Neither the approval of a plan under the provisions of this ordinance, nor compliance with the provision herein shall relieve any person from the responsibility for damage to any person or property otherwise imposed by law or equity, nor shall such approval and / or compliance operate to impose any liabilities upon Sumter County for damage to any person or property.

Sec. 14-126. - Adoption.

Now therefore, be it ordained, that the County Council of Sumter County, South Carolina, in Council duly assembled, adopts the Stormwater Management and Sediment Control Ordinance, this 24th day of March, 2015. This ordinance shall take effect upon its adoption.

Secs. 14-127 – 14-133. – Reserved.

DONE IN COUNCIL ASSEMBLED this 24th day of March, 2015.

THE COUNTY COUNCIL FOR SUMTER COUNTY,
SOUTH CAROLINA (SEAL)

BY: Naomi D. Sanders
ITS: Chairman

ATTEST:

By: Mary W. Blanding
Mary W. Blanding
Its: Clerk of County Council