

ORDINANCE NO. 2016-022

AN ORDINANCE TO AMEND CHAPTER 38, ARTICLE V, SECTION 38-523 OF THE ANDERSON COUNTY CODE RELATED TO THE FEE SCHEDULE FOR MATTERS INVOLVING STORMWATER MANAGEMENT AND SEDIMENTATION CONTROL, AND OTHER MATTERS RELATED THERETO.

WHEREAS, Anderson County has responsibility under Federal and State law to maintain and manage a stormwater and sedimentation control program;

WHEREAS, the current Anderson County Code has a fee schedule for the stormwater and sedimentation control program; and

WHEREAS, the Anderson County Council desires to amend the fee schedule in order to provide for appropriate operation of the stormwater management and sedimentation control program.

NOW, THEREFORE, be it ordained by Anderson County Council, in meeting duly assembled, that:

1. Section 3-523(a)(1) of the Code of Ordinances, Anderson County, South Carolina, is hereby amended to read as follows:

(1) Fee for all Land Disturbing Activity requiring the submission of a Stormwater Management and Sediment Control Plan. An application fee of a set dollar amount consisting of a base fee plus a fee per disturbed acre for any application submitted. No application fee will be charged for land disturbing activities which disturb less than one (1) acre and are not part of a LCP.

2. The Code of Ordinances, Anderson County, South Carolina, is hereby amended by adding a section, to be numbered Section 38-523(a) (8), which section reads as follows:

(8) A compliance inspection fee will be assessed prior to conducting an inspection following the issuance of a notice to comply where site activities were requested to cease and desist.

3. The remaining terms and provisions of the Code of Ordinances, Anderson County, South Carolina not amended or affected hereby remain in full force and effect.

4. Should any part or provision of this Ordinance be deemed unconstitutional or unenforceable by any court of competent jurisdiction, such determination shall not affect the rest and remainder of this Ordinance, all of which is hereby deemed separable.

5. All Ordinances, Orders, Resolutions, and actions of Anderson County Council inconsistent herewith are, to the extent of such inconsistency only, hereby repealed, revoked, and rescinded.

This Ordinance shall take effect and be in full force upon the Third Reading and enactment by Anderson County Council.

ORDAINED in meeting duly assembled this 9th day of August, 2016.

ATTEST:

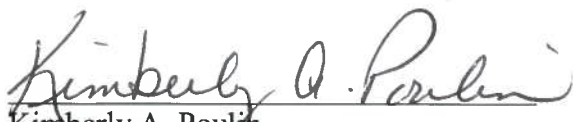
FOR ANDERSON COUNTY



Rusty Burns
Anderson County Administrator



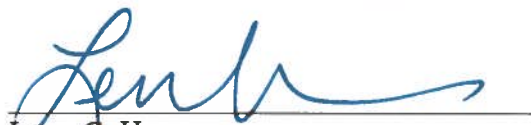
Tommy Dunn, Chairman
Anderson County Council



Kimberly A. Poulin
Clerk to Council

APPROVED AS TO FORM:

First Reading: June 21, 2016
Second Reading: July 19, 2016
Third Reading: August 9, 2016
Public Hearing: July 19, 2016



Leon C. Harmon
County Attorney

ARTICLE V. STORMWATER MANAGEMENT AND SEDIMENTATION CONTROL

DIVISION 1. GENERALLY

Sec. 38-511. Purpose, authority and jurisdiction.

(a) *Purpose.* In order to protect the general health, safety and welfare of the people of the county, to enhance the quality of water of the county and to protect the natural assets and resources of the county for posterity, this Stormwater Management and Sediment control article is enacted to protect the lands and waters from the effects of excessive soil Erosion and Sedimentation, to prevent siltation of streams and lakes, to prevent clogging of draining channels, to prevent excessive flood damage and to prevent damage to the property of adjacent landowners.

(b) *Permit Compliance.* It is further the purpose of this article to comply with the federal and corresponding state Stormwater discharge regulations (40 CFR 122.26 and SC Regulation 61-9.122.26) developed pursuant to the Clean Water Act (CWA) and to grant the county the authority to take any action required by it to obtain and comply with its National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges from Regulated Small Separate Storm Sewer Systems (SMS4), SCR030000. Among other things, these regulations require the county to establish legal authority which authorizes or enables the county at a minimum to attempt to:

- (1) Control the contribution of Pollutants to the county's Small Municipal Separate Storm Sewer System (SMS4) by Stormwater discharges associated with residential, commercial, industrial and related facilities activity and the quality of Stormwater discharged from sites of residential, commercial, industrial and related facility activity;
- (2) Prohibit illicit connections and discharges to the SMS4;
- (3) Control the discharge of spills and prohibit dumping or disposal of materials other than Stormwater into the SMS4;
- (4) Control through intergovernmental agreements, contribution of Pollutants from one municipal Stormwater system to another;
- (5) Require compliance with conditions in ordinances, permits, contracts or orders;
- (6) Require installation, implementation, and maintenance of control measures for owners/operators of construction sites, new development and redevelopment to minimize the discharge of pollutants to the MEP and to protect water quality;
- (7) Request from operators of construction sites, new or redeveloped land, including industrial and commercial facilities information including, but not limited to, specific requirements to control construction and post-construction discharges of pollutants in Stormwater, and enforce, penalize, stop work, and require compliance for controlling pollutants from these sources;
- (8) Enter private property for the purpose of inspecting any facilities, equipment, practices, or operations related to Stormwater discharges to determine whether there is compliance with conditions in ordinances, permits, contracts or orders;

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(9) Require that violators cease and desist illicit discharges or discharges of Stormwater in violation of any ordinances, permits, contracts or orders;

(10) Carry out all inspection, surveillance and monitoring procedures necessary to determine compliance and noncompliance with permit conditions including the prohibition on illicit discharges to the SMS4;

(11) Have the ability to levy citations or administrative fines against responsible parties and require recovery and remediation costs from responsible parties; and

(12) Have the ability to impose more substantial civil or criminal sanctions (including referral to a city or district attorney) and escalate corrective response consistent with its enforcement response plan developed for persistent non-compliance, repeat or escalating violations, or incidents of major environmental harm.

(c) *Minimum Requirements.* The application of this article and the provisions expressed herein shall be the minimum Stormwater Management requirements and shall not be deemed a limitation or repeal of any other powers granted by statute. In addition, if site characteristics indicate that complying with these minimum requirements will not provide adequate designs or protection for local property or residents, it is the owner and operator's responsibility to exceed management practices control techniques and system, design and engineering methods and such other programs and controls as are required by the county's NPDES Permit as defined below.

(d) *Construction.* This article is to be construed to further its purpose of controlling and reducing Pollutant discharges to the SMS4 and to the waters of the State, to meet the county's obligations under its NPDES permit issued by the South Carolina Department of Health and Environmental Control (DHEC) as required by 33 USC 1342 and 40 CFR 122.26 (the "NPDES Permit").

(e) *Authority.* This article is adopted pursuant to the authority conferred upon the county by the South Carolina Constitution, the South Carolina General Assembly and in compliance with the requirements imposed upon the county by the NPDES General Permit for Storm Water Discharges from Regulated Small Municipal Separate Storm Sewer System (SMS4) Permit SCR030000 issued in accordance with the federal Clean Water Act, the South Carolina Pollution Control Act and regulations promulgated thereunder.

(f) *Jurisdiction.* The provisions of this article shall apply to all lands within the jurisdiction of the county, including incorporated areas of the county where the municipality has entered into an intergovernmental agreement with the county for the county to perform Stormwater Management services on behalf of the municipality.

(g) *Relationship with other laws, regulations and ordinances.* Whenever the provisions of this article impose more restrictive standards than are required in or under any other law, regulation or ordinance, the requirements contained in this article shall prevail. Whenever the provisions of any other law, regulation or ordinance require more restrictive standards than are required in this article, the requirements of such law, regulation or ordinance shall prevail. Approvals of Stormwater Management and Sediment Control Plans which were obtained by the Appropriate Plan Approval Agency prior to September 18, 2007 shall remain in effect for the original term of the approval.

(h) *Amendments.* This article may be amended in the same manner as prescribed by law for its original adoption.

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(i) *Notification; forms.* The Anderson County Public Works Division, Stormwater Management Department shall attempt to provide proper notification of the requirements of this article to those persons desiring to conduct a Land Disturbing Activity and shall provide the necessary forms required for application for securing approval of the Stormwater Management and Sediment Control Plan as defined below. A copy of this article shall be made available upon reasonable request.

Sec. 38-512. Definitions.

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

Adverse Impact means a significant negative impact to land, water and associated resources resulting from a Land Disturbing Activity. The negative impact includes increased Sedimentation, reduced groundwater recharge, negative impacts on aquatic organisms, negative impacts on wildlife and other resources and threat to public health through degradation of Water Quality.

Applicant means a person who executes the necessary forms to obtain approval for a Land Disturbing Activity, as defined below.

Appropriate Plan Approval Agency means DHEC, or local government that is responsible in a jurisdiction for review and approval of Stormwater Management and Sediment Control Plans, issuing permits for land disturbing activities and conducting inspections and enforcement actions under this article. In the unincorporated areas of the county or incorporated areas with a cooperative intergovernmental local agreement, the county Public Works Division, Stormwater Management Department is the Appropriate Plan Approval Agency.

Appropriate Inspection Agency means DHEC or Anderson County Public Works Division, Stormwater Management Department.

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 (BMPs) 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.

Construction Activity is earth-disturbing activities such as land clearing and grubbing, grading, excavating and demolition.

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

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

District means any soil and water conservation district created pursuant to S.C. code 1976, § 48-9-10 et seq.

Drainage Area means any 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, and which must be included in the conveyance of land affected by such Easement.

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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 this article.

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

Hazardous Materials are 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.

Illicit Connections are defined as either of the following: Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the Storm Drain System including, but not limited to any conveyances which allow any non-stormwater discharge including sewage, process Wastewater and wash water to enter the Storm Drain System and any connections to the Storm Drain System from indoor drains and sinks not authorized by the Appropriate Plan Approval Agency.

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

Infiltration Practices are any practices that capture and temporarily store the Water Quantity volume before allowing it to infiltrate the soil.

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. *Such activities include, but are not limited to: clearing, removal of vegetation that disturbs the soil, stripping, grading, grubbing, excavating, filling, logging and storing of materials. Clearing of areas where soils are not exposed and an adequate vegetative structure is left in place is not considered land disturbance, provided that the clearing is not in anticipation of other construction activities such as grubbing and grading.*

Land Use Board of Appeals means a panel of seven members, appointed by the county council, to hear appeals and conduct administrative hearings associated with the provisions and requirements of this article.

Larger Common Plan of Development or Sale (LCP) means a contiguous area where multiple separate and distinct construction activities (areas of disturbance) are planned to occur at different times on different schedules under one plan, e.g. a housing development of five ¼ acre lots. Such sites may have one operator or owner or several operators and owners. LCP projects must ensure that adequate Stormwater Management facilities are designed into the Project(s) or Site(s) to control pollution and protect Water Quality during all stages or phases of development.

Low Impact Development (LID) means an approach to land development (or re-development) that works with nature to manage urban Stormwater. LID employs principles such as preserving and recreating natural landscape features, minimizing effective imperviousness to create functional and appealing site drainage that treat Stormwater as a resource rather than a waste product. It combines a hydrologically functional site design with pollution prevention measures to compensate for land development impacts on hydrology and Water Quality.

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Natural Waterways means waterways that are part of the natural topography. They usually maintain a continuous or seasonal flow and are characterized as being irregular in cross section with 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 significant 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 such as runoff from urbanized or agricultural areas.

One-Hundred 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 may also be expressed as an exceedance probability with a one percent chance of being equaled or exceeded in any given year.

Person responsible for the Land Disturbing Activity means and covers the following:

- (1) The person who has or represents having financial or operational control over the Land Disturbing Activity; and
- (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 S.C. Code 1976, § 48-14-10 et seq., this article or any order or local ordinance adopted that imposes a duty upon such person.

Pollutant (as defined at §122.2 of SC Regulation 61-9) includes: dredged spoil, solid waste, sewage, garbage, sewage sludge, chemical wastes, biological materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial or municipal waste. Typical construction site Pollutants include Sediment, oil and grease, pesticides and fertilizers, Pollutants from construction wastes, and Pollutants from construction materials. Pollutant does not mean sewage from vessels or water, gas, or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil and gas production and disposed of in a well, if the well is used either to facilitate production or for disposal purposes is approved by authority of the State in which the well is located, and if the State determines that the injection or disposal will not result in the degradation of ground or surface water resources.

Post-Development or Post-Construction 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 the Stormwater Runoff.

Pre-Development or Pre-construction means the conditions which existed prior to the initiation of the Land Disturbing Activity in terms of topography, vegetation, land use and quality, rate, volume or direction of the Stormwater Runoff.

Redevelopment means any land disturbance activity that alters the current use of the land but does not necessarily alter the Pre-Development runoff characteristics.

Retention Structure means a structure whose primary purpose is to store a given volume of Stormwater Runoff. Release of the given volume is by Infiltration and/or evaporation.

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.

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

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SMS4 is a small municipal separate storm sewer system as that term is defined at 122.26(b)(8) of SC Regulation 61-9.

Stabilization means the installation of vegetative and/or non-vegetative (structural measures) to establish a soil cover to prevent and/or reduce soil Erosion and Sediment loss in areas exposed during the construction process.

Stop Work Order means an order directing the person responsible for the Land Disturbing Activity to cease and desist all or portions of the work which violates the provisions of this article.

Storm Drain Systems are publicly-owned facilities by which Stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal 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 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 may 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 obtain a permit to undertake a Land Disturbing Activity, which contains all of the information and specifications required by the Appropriate Plan Approval Agency.

Stormwater is 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 the complete site-specific permit application package including but not limited to; application form, site map(s), Stormwater Management and Sediment Control Plan, supporting calculations, project drawings, and specifications.

Stormwater Runoff means 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.

Stormwater Management Plan (SWMP) is a document developed by the county to comply with the NPDES Stormwater Permit. The SWMP serves as the basis for implementing and administering the county's Stormwater Management program. The SWMP outlines the minimum control measures and associated Best Management Practices (BMPs) to be used in controlling Stormwater discharges to the Storm Drain System.

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 while limiting Erosion.

Ten-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.

Twenty-Five Year Frequency Storm means a storm that is capable of producing rainfall expected to be equaled or exceeded on the average of once in twenty five years. It may also be expressed

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as an exceedance probability with a four percent chance of being equaled or exceeded in any given year.

Two-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.

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 the requirements in accordance with the criteria set forth in this article.

Waiver means the relinquishment from Sediment and Stormwater Management requirements granted by the Appropriate Plan Approval Agency for a specific Land Disturbing Activity based upon a case-by-case review and in accordance with the criteria set forth in this article.

Wastewater is any water or other liquid, other than uncontaminated Stormwater, discharged from a facility.

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 relates 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 master 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.

DIVISION 2. PROCEDURE

Sec 38-520. Anderson County Stormwater Management Plan (SWMP)

The SWMP developed by the county to comply with the NPDES Permit serves as the basis for the county's Stormwater program implementation and administration. The SWMP, as amended from time to time by the county, is hereby adopted for the life of the county's NPDES Permit as the official operational program. The mapping and geographical information system (GIS) developed as part of the SWMP shall serve as the official authoritative information source for program administration purposes.

Sec. 38-521. Permits and Stormwater Management and Sediment Control Plans.

Unless otherwise exempt under this article, all Land Disturbing Activities disturbing one or more acres of land, including sites smaller than one acre that are part of a Larger Common Plan of Development (LCP) that disturbs or ultimately disturbs one or more acres, are required to obtain permit coverage for their Stormwater discharges by submitting a Stormwater Management

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and Sediment Control Plan. The plan shall be prepared in accordance with the requirements of section 38-530.

Sec. 38-522. Application for permit; approval or disapproval.

(a) The Person Responsible for the Land Disturbing Activity shall apply in writing to the Appropriate Plan Approval Agency for a permit for such activity. Such application shall be accompanied by three (3) copies of the Stormwater Management and Sediment Control Plan prepared in accordance with the provisions of this article.

(b) Specific requirements of the permit application and approval process are based upon the extent of the Land Disturbing Activity. The permit application and approval procedure is as follows:

(1) For Land Disturbing Activities requiring a Stormwater Management and Sediment Control Plan, the use of appropriate BMPs for erosion prevention, sediment control, soil stabilization, and Post-Construction stormwater management are required. Plans and specifications for these activities shall be prepared by the designers specified in subsections (i) and (j) of this section. Upon receipt of a completed Stormwater Management and Sediment Control Plan, the Appropriate Plan Approval Agency 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-working-day period, the Applicant may request that the Stormwater Management and Sediment Control Plan be signed and dated by an authorized person with the Appropriate Plan Approval Agency. Upon receiving such a request the Appropriate Plan Approval Agency will sign and stamp the Stormwater Management and Sediment Control Plan as submitted and promptly return it to the Applicant.

(2) These requirements may be modified by the Appropriate Plan Approval Agency on a case-by-case basis to address specific Stormwater quantity or quality problems or to meet other regulatory requirements which are more stringent than the requirements of this article.

(3) When the Land Disturbing Activity consists of the construction of a pond, lake or reservoir which is individually built and not part of a permitted Land Disturbing Activity, the following procedures apply:

a. A Stormwater Management and Sediment Control Plan will not be required if the pond, lake or reservoir is permitted under the state Dams and Reservoirs Safety Act (Regulation 72-1 thru 72-9) or has received a certificate of exemption under the state Dams and Reservoirs Safety Act. Best Management Practices (BMPs) must be used to minimize the impact of Erosion and Sediment.

(4) If the application for a Stormwater Management and Sediment Control Plan is denied, written notification indicating the reason or reasons for denial shall be forwarded to the Applicant. However, the Applicant may correct the deficiencies in conformance with this article and resubmit the application two additional times at no additional fee.

(5) All resubmittals following the second re-submittal will be subject to additional application fees. If the revised application is approved, the Appropriate Plan

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Approval Agency shall issue the Stormwater Management and Sediment Control Plan approval.

(6) Any plan approval may be suspended, revoked or modified by the Appropriate Plan Approval Agency upon finding that the holder is not in compliance with this article.

(c) A Stormwater Management and Sediment Control Plan, or an application for a Waiver or Variance, shall be submitted to the Appropriate Plan Approval Agency by the Person Responsible for the 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 Activity specific to the site.

(d) No permit shall be required under this article for Land Disturbing Activities that are conducted under a state or federal environmental permitting, licensing, or certification program where the state or federal environmental permit, license, or certification is conditioned upon compliance with the minimum standards and criteria of Chapter 14 Title 48, the Stormwater Management and Sediment Reduction Act.

(e) All Stormwater Management and Sediment Control Plans submitted for approval shall contain a 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.

(f) All Stormwater Management and Sediment Control Plans shall contain a certification by the Person Responsible for the Land Disturbing Activity acknowledging the right of DHEC and the Appropriate Plan Approval Agency to conduct on-site inspections.

(g) The Stormwater Management and Sediment Control Plan shall not be considered approved without an approval stamp signed and dated by an authorized person with the Appropriate Plan Approval Agency. The stamp of approval on the plans is solely an acknowledgement of satisfactory compliance with the requirements of these regulations. The approval stamp does not constitute a representation or warranty to the applicant or any other person concerning the safety, appropriateness or effectiveness of any provision of or omission from the Stormwater Management and Sediment Control Plan.

(h) DHEC may request to review and comment on Stormwater Management and Sediment Control Plans. Failure of DHEC to provide comments by the date specified by the Appropriate Plan Approval Agency will not delay the approval of the Stormwater Management and Sediment Control Plans by the Appropriate Plan Approval Agency.

(i) All Stormwater Management and Sediment Control Plans submitted to the Appropriate Plan Approval Agency for approval shall be certified by a 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, § 40-22-10 et seq.

(2) Registered landscape architects as described in S.C. Code 1976, § 40-28-10(b).

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(3) Tier B land surveyor as described in S.C. Code 1976, § 40-22-10 et seq.

(j) Pursuant to S.C. Code 1976, § 40-22-280, Stormwater Management and Sediment Control Plans may also 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.

(k) This article 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 Stormwater plans and specifications submitted to the Appropriate Plan Approval Agency for approval shall be stamped/sealed by those listed in subsection (i) of this section or prepared by employees of the federal government under subsection (j) of this section.

(l) Approved plans remain valid for three (3) years from the date of an approval. Extensions or renewals of the plan approvals may be granted by the Appropriate Plan Approval Agency upon approval of an updated application by the Person Responsible for the Land Disturbing Activity. If changes to the original SWPPP are not needed only a completed application form and the appropriate application fee are required.

(m) The Applicant must notify the Appropriate Plan Approval Agency prior to commencement of any Land Disturbing Activity or construction under an approved plan.

Sec. 38-523. Fee schedule.

(a) The application for a Stormwater Management and Sediment control permit to disturb land in the county shall be accompanied by nonrefundable fees. The Stormwater Management Department shall establish a fee schedule, located in the Appendix of the Anderson County Stormwater Design Manual, subject to County Council approval according to the following criteria:

(1) Fee for all Land Disturbing Activity requiring the submission of a Stormwater Management and Sediment Control Plan. An application fee of a set dollar amount consisting of a base fee plus a fee per disturbed acre for any application submitted. No application fee will be charged for land disturbing activities which disturb less than one (1) acre and are not part of a LCP.

(2) Additional fee for all applications requesting a Waiver or Variance from the requirements of this article will be assessed.

(3) The fees above do not include any fee charged separately by DHEC to issue the NPDES permit for all construction activities one acre or larger.

(4) The appropriate application fee will be charged for extensions or renewals of a Stormwater Management and Sediment control permit.

(5) A maintenance fee may be required on approvals granted for Stormwater Management structures that will be maintained by the county.

(6) Excessive resubmittals (more than two resubmittals) will be charged additional fees for each resubmittal.

(7) A fee for Major changes (as defined in the Anderson County Stormwater Design Manual) to Stormwater Management and Sediment Control Plans will be established.

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(8) A compliance inspection fee will be assessed prior to conducting an inspection following the issuance of a notice to comply where site activities were requested to cease and desist.

Sec. 38-524. Waivers.

(a) Waivers may be granted from the Stormwater Management requirements of this article for individual land disturbing activities provided that a written request is submitted by the applicant to the Appropriate Plan Approval Agency 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.

(b) 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 Pre-Development runoff condition and the Pre-Development land use is unchanged at the conclusion of the project.

(c) A project may be eligible for a Waiver of Stormwater Management for Water Quality control if the applicant can demonstrate that:

(1) The proposed project will have no significant Adverse Impact on any receiving natural waterway or downstream properties: or

(2) The imposition of peak control requirements for rates of Stormwater Runoff would aggravate downstream flooding.

(d) The Appropriate Plan Approval Agency will conduct its review of the request for Waiver within 20 working days. Failure of the Appropriate Plan Approval Agency to act by the end of the 20 working day period will result in the automatic approval of the Waiver.

Sec. 38-525. Variances.

The Appropriate Plan Approval Agency may grant a written Variance from any requirement of this article if there are exceptional circumstances applicable to the site such that strict adherence to the provisions of this article will result in unnecessary hardship and not fulfill the intent of this article. A written request for a Variance shall be provided to the Appropriate Plan Approval Agency and shall state the specific Variances sought and the reasons with supporting data for their granting. The Appropriate Plan Approval Agency shall not grant a Variance unless and until sufficient specific reasons justifying the Variance are provided by the applicant. The Appropriate Plan Approval Agency will conduct its review of the request for the Variance within 20 working days. Failure of the Appropriate Plan Approval Agency to act by the end of the 20 working day period will result in the automatic approval of the Variance.

Sec. 38-526. Appeals and administrative hearings.

Appeals from the decisions made by the county Public Works Division, Stormwater Management Department under this article shall be heard by the county Land Use Board of Appeals and shall be subject to the procedures set forth in 38-74 and 38-75 of this Code.

Sec. 38-527. Inspection and enforcement.

(a) The person responsible for the Land Disturbing Activity shall notify the Appropriate Plan Approval Agency before initiation of a Land Disturbing Activity and upon project completion related to that Land Disturbing Activity so a final inspection can be conducted to ensure compliance with the approved Stormwater Management and Sediment Control Plan.

(b) Inspections shall be conducted by qualified personnel. For projects that disturb more than two (2) acres, "Qualified personnel" means a person knowledgeable in the principles and practice of Erosion and Sediment Controls who possesses the skills to assess conditions at the construction site that could impact storm Water Quality and to assess the effectiveness of any Sediment and Erosion control measures selected to control the quality of storm water discharges from the Construction Activity.

This person must be either the preparer of the SWPPP or an individual who is under the direct supervision of the preparer of the approved SWPPP and who meets the requirements in this paragraph or an individual who has been certified through a Construction Site Inspector Certification Course that has been approved by DHEC.

Inspections may also be conducted by a person with a registration equivalent to the registration of the preparer of the SWPPP and who meets the qualifications of this paragraph or an individual who is under the direct supervision of the person with an equivalent registration and who meets the requirements in this paragraph.

For projects that disturb two (2) acres or less, the permittee or his designee may perform these inspections provided the preparer of the SWPPP or someone with a registration equivalent to that of the preparer of the SWPPP explains the SWPPP including implementation along with the inspection requirements to the person who will be conducting the inspections.

Additional specific requirements for construction inspection are included in the Anderson County Stormwater Design Manual. Copies of this document can be obtained from Anderson County Public Works Division, Stormwater Management Department.

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(c) In order to implement its responsibilities as an SMS4 and to comply with the terms and conditions of the NPDES Permit, the county, through its duly designated employees and officials, may enter private property to perform the following:

- (1) Inspection of the county's storm sewer system for purposes consistent with its obligations under the NPDES Permit including, but not limited to, outfall identification, mapping, and detection of illicit discharges.
- (2) Installation of monitoring stations and collection of Water Quality data.
- (3) Inspection of construction activities to ascertain compliance with approved Stormwater Management and Sediment Control Plans as described in this article.
- (4) Within 30 days of completion of construction, conduct a post-construction inspection to verify that BMPs have been installed per the approved Stormwater Management and Sediment Control Plan.

(d) The Appropriate Plan Approval Agency shall, for inspection purposes, do all of the following:

- (1) Diligently attempt to ensure that the approved Stormwater Management and Sediment Control Plan ("approved plan") is located on the project site and is being complied with by the person(s) responsible for the Land Disturbing Activity.
- (2) Diligently attempt to ensure that every active site is inspected for compliance with the approved plan on a regular basis.
- (3) Diligently attempt to provide the person responsible for the Land Disturbing Activity with a written report after every inspection.
- (4) Diligently attempt to notify the person responsible for the Land Disturbing Activity in writing when violations are observed.

(e) The Appropriate Plan Approval Agency may require a revision to the approved plan as necessary due to changes in or newly discovered site conditions. The Appropriate Plan Approval Agency shall establish guidelines to facilitate the processing of revised plans where field conditions necessitate plan modification. Where changes to the approved plan are necessary, those changes shall be in accordance with the following:

- (1) Major changes (as defined in the Anderson County Stormwater Design Manual) to the approved Stormwater Management and Sediment Control Plans must be submitted to the Appropriate Plan Approval Agency for review and receive approval prior to implementing any of the changes.
- (2) Minor changes (as defined in the Anderson County Stormwater Design Manual) to Stormwater Management and Sediment Control Plans may be made without the Appropriate Plan Approval Agency's approval and documented on the field inspection report and On-Site Stormwater Pollution Prevention Plan (OS-SWPPP) by the Person Responsible for the Land Disturbing Activity, their representative or the Appropriate Inspection Agency.

(f) Stormwater Management on construction sites may be inspected at any time without notice. The inspector shall present proper credentials upon reasonable request by the person responsible for the Land Disturbing Activity.

(g) The Appropriate Plan Approval Agency may, in addition to local enforcement options, refer a site to DHEC for review.

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(h) Referral of a site to DHEC may initiate a construction inspection of the site to verify site conditions. That construction inspection may result in the following actions by DHEC:

(1) Notification through appropriate means to the person engaged in a Land Disturbing Activity to comply with the approved plan within a specified time frame; and

(2) Notification of plan inadequacy, with a time frame for the person engaged in the Land Disturbing Activity to submit a revised plan to the Appropriate Plan Approval Agency and to receive its approval with respect thereto.

(i) Failure of the person engaged in the Land Disturbing Activity to comply with DHEC requirements may result in other penalties as provided in S.C. Code 1976, § 48-14-10 et seq., in addition to such penalties as may be imposed by the county under this article.

(1) The Appropriate Plan Approval Agency shall have the power to request any person violating any provision of S.C. Code 1976, § 48-14-10 et seq., or this article to cease and desist from any site work activity other than those actions necessary to achieve compliance with any administrative order.

(2) The Appropriate Plan Approval Agency may refrain from issuing any further land use or Stormwater Management permits to any person having outstanding violations until those violations have been remedied and accepted by the Appropriate Plan Approval Agency.

(3) The Appropriate Plan Approval Agency may levy fines or recommend that fines be levied by DHEC.

(j) The Appropriate Plan Approval Agency may utilize Stop Work Orders as a part of its inspection and enforcement program, and in doing so the following procedure shall be followed:

(1) The Appropriate Plan Approval Agency may issue a Stop Work Order if it is found that a Land Disturbing Activity is being conducted in violation of this article or of any regulation adopted or order issued pursuant to this article, and that either:

a. Off-site Sedimentation, or the imminent threat thereof, resulting from noncompliance with the approved plan has impacted or degraded use of a lake or natural waterway or that such degradation is imminent.

b. Off-site Sedimentation, or the imminent threat thereof, resulting from noncompliance with an approved plan has caused material damage to adjacent land or that there is an imminent threat of such damage being caused.

c. The Land Disturbing Activity which requires an approved plan under this article is being conducted without the required approved plan.

(2) The Stop Work Order shall be in writing and shall state what work is to be stopped and what measures are required to abate the violation. The order shall include a statement of the findings made by the Appropriate Plan Approval Agency and shall list the conditions under which work that has been stopped by the order may be resumed. The delivery of equipment and materials, which does not contribute to the violation, may continue while the Stop Work Order is in effect. A copy of this section may be attached to the Stop Work Order.

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(3) The Stop Work Order shall be served by the county sheriff's department or by some other person duly authorized by law to serve process, and shall be served on a person responsible for 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 Appropriate Plan Approval Agency may also deliver a copy of the Stop Work Order to any person that the Appropriate Plan Approval 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 Stop Work Order may be assessed a civil and/or a criminal penalty as provided in section 38-528. A Stop Work Order issued pursuant to this section may remain in force until all non-compliant issues are rectified in the sole discretion of the Appropriate Plan Approval Agency.

(5) The Appropriate Plan Approval 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 is issued are corrected, no other violations have occurred and all measures necessary to abate the violations have been taken. The Appropriate Plan Approval Agency, through its designated employee, shall rescind a Stop Work Order that is issued in error.

Sec. 38-528. Penalties.

(a) Any person who violates any provision of this article, 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 of not more than \$1,000.00 for each violation. No civil penalty may be assessed and no prosecution for a misdemeanor may occur until the person alleged to be in violation has been notified of the violation. Each separate day of a continued violation constitutes a new violation for civil or criminal purposes once said party has been given notification of the violation as set forth above. In addition to any applicable civil penalties, any person who negligently, willfully, or intentionally violates any provision of this article shall be guilty of a misdemeanor and shall be punished within the jurisdictional limits of magistrate's court. Upon conviction, a person who violates this article may be fined not more than \$500.00 or confined for not more than 30 days for each offense.

(b) The Appropriate Plan Approval 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 within 30 days after demand for payment is made, a civil action may be filed in the circuit court in the county to recover the amount of the penalty.

(c) Where the county is fined and/or placed under a compliance schedule by the state or federal government for a violation(s) of its NPDES permit, and the county can identify the person(s) who caused such violation(s) to occur, the county may assess the penalty and cost of compliance against that person(s) as a civil penalty.

(d) The county may institute injunctive, mandamus or other appropriate action or proceedings at law or equity, including criminal conviction, for the enforcement of this

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article or to correct violations of this article, and any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions, mandamus or other appropriate forms of remedy or relief.

DIVISION 3. PLAN AND APPLICATION

Sec. 38-530. Standards and requirements for preparation of Stormwater Management and Sediment Control Plans.

(a) All Stormwater Management and Sediment Control Plan submittal requirements shall be included in the Anderson County Stormwater Management Design Manual and/or the Sediment and Erosion Control Plan Review Checklist for Design Professionals.

(b) The Appropriate Plan Approval Agency shall require that plans and design reports be sealed by a qualified design professional and certified that the plans have been designed in accordance with this article and all other relevant and applicable Sediment and Stormwater laws and regulations.

(c) The person responsible for the Land Disturbing Activity shall submit as-built or record document plans for all plans that include any structural BMPs. In addition, the Person Responsible for the Land Disturbing Activity is required to submit written certification from the professional engineer, landscape architect or tier B land surveyor responsible for the field supervision of the Land Disturbing Activity that the Land Disturbing Activity was accomplished in substantial accordance with the approved Stormwater Management and Sediment Control Plan.

(d) Additional information necessary for a complete project review may be required by the Appropriate Plan Approval Agency as deemed appropriate. This additional information may include items such as location of public sewers, water lines, septic fields, wells, etc.

(e) The Anderson County Stormwater Design Manual, DHEC Stormwater BMP Handbook, and BMP Field Manual include a list of acceptable BMPs, including their specific design performance criteria and operation and maintenance requirements for each Stormwater practice. Copies of these documents can be obtained through the Anderson County Stormwater Management office, local DHEC office or can be downloaded from the Stormwater section of Anderson County and DHEC's website.

Specific Anderson County requirements, Erosion and Sediment Control BMPs and Post-Construction Water Quality BMPs used in the Stormwater Management and Sediment Control Plan are included in the Anderson County Stormwater Design Manual.

DIVISION 4. MAINTENANCE REQUIREMENTS AND OFF-SITE DAMAGE CORRECTION

Sec. 38-540. Permanent Stormwater maintenance requirements.

(a) The person responsible for permanent maintenance of all completed Stormwater Management practices shall perform or cause to be performed preventive maintenance to ensure proper functioning.

(b) Where permanent Stormwater BMPs are employed, the person(s) or organization(s) responsible for maintenance shall execute a permanent Stormwater Management maintenance agreement to assure proper maintenance of BMPs in accordance with their approved plan. The maintenance agreement shall also specify responsibilities for financing permanent maintenance with options that may include (1) the property owner, (2) a homeowner's association, provided that provisions for financing necessary permanent maintenance are included in deed restrictions or other contractual agreements, or (3) other financing mechanisms acceptable to the county.

(c) The Appropriate Plan Approval Agency and any other permitting authority must be notified in writing of any changes in maintenance responsibility for the Stormwater BMPs at the site. This requirement shall be included in the maintenance agreement.

(d) In order to implement its responsibilities as an SMS4 and to comply with the terms and conditions of the NPDES permit, the county, through its duly designated employees and officials, may enter private property to perform periodic Post-Construction inspections:

- (1) Inspections ensure that all Post-Construction stormwater BMPs are operating correctly and are being maintained as required consistent with the applicable permanent Stormwater Management maintenance agreement,
- (2) Conduct inspections of each project site with Post-Construction stormwater BMPs at least one time during the permit term.
- (3) Document inspection findings in an inspection report, maintain records of inspection findings and enforcement actions, and make them available for review.

(e) The Appropriate Plan Approval Agency shall provide procedures to attempt 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) If repairs are not undertaken or not performed properly, the person responsible may be assessed a civil and/or a criminal penalty as provided in section 38-528 and/or referred to SCDHEC.

Sec. 38-541. Off-site damage correction.

(a) The following criteria shall be used by the Appropriate Plan Approval Agency in evaluating and remedying off-site damages resulting from the Land Disturbing Activity:

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- (1) Determine the extent of damage by Sediment resulting from the Land Disturbing Activity;
 - (2) Determine the classification of the impaired waterbody, if any;
 - (3) Determine the impact and severity of the damage resulting from noncompliance with or lack of an approved Stormwater Management and Sediment Control Plan;
 - (4) Attempt to develop an agreement between the affected landowner(s) and the owner/custodian of the property causing the damage for cleanup and corrections, including a schedule of implementation;
 - (5) Evaluate the alternatives for correction of the damage and prevention of future damage.
- (b) The unreasonable failure of the owner/custodian of the property that is causing the damage to implement the agreement with the affected landowner will constitute a violation of this article.
- (c) In cases of flooding where the Appropriate Plan Approval Agency has determined the cause of flooding issues in an area are due to, but not limited to; silted detention or retention basins, clogged ditches, inlet basins, culverts, and the cause of said impaired BMPs is due to; improper maintenance, neglect, or intentional compromising of affected BMPs, the Appropriate Plan Approval Agency will send notice to the owner/custodian of property that is causing the flooding stating the problem and including potential solutions to correct the problem. The notice shall set forth a deadline with which remediation of the problem must be completed. Said notice shall further advise that, should the owner fail to remedy the situation within the allotted time frame, the Appropriate Plan Approval Agency, at its discretion, may perform the work or contract the work out to be performed, and the expense thereof shall be charged to the owner. In performing the work, the Appropriate Plan Approval Agency would not assume future responsibilities of ensuring proper maintenance and operation of said BMP.

DIVISION 5. ILLICIT DISCHARGE DETECTION AND ELIMINATION PROGRAM

Sec. 38-550. Applicability.

This division shall apply to all non-stormwater discharges entering the county Small Separate Storm Sewer Systems (SMS4) unless explicitly exempted by this article.

Sec. 38-551. Administration

The county Public Works Divisions, Stormwater Management Department shall administer and implement the provisions of this division of this article. Other duly authorized officers of the county may also enforce provisions of this article.

Sec. 38-552. Discharge Prohibitions

- (a) Prohibition of Illegal Discharges

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(1) No person shall discharge or cause to be discharged into the SMS4 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 Stormwater.

(2) This prohibition includes spillage or leakage of leachate during transport from all vehicles used to collect and/or transport municipal solid wastes into the SMS4

(3) The commencement, conduct or continuance of any illegal discharge to the SMS4 is prohibited except as follows (if considered non-significant contributors of pollutants):

a. Water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, uncontaminated ground water Infiltration (as defined at 40 CFR 35.2005 (2)) to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wetland flows, swimming pools (if dechlorinated – typically less than one part per million chlorine), fire fighting activities, street wash water, and any other water source not containing Pollutants.

b. Discharges specified in writing by DHEC or the United States Environmental Protection Agency (EPA) as being necessary to protect public health and safety.

c. Dye testing is an allowable discharge, but requires a verbal notification to the Appropriate Plan Approval Agency 10 days prior to the event.

d. 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 into the Storm Drain System.

(b) Prohibition of Illicit Connections

(1) The construction, use, maintenance, or continued existence of Illicit Connections to the SMS4 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 at the time of connection.

(3) A person is considered to be in violation of this article if the person connects to a line conveying Wastewater or any other non-stormwater discharge to the SMS4, or allows such connection to continue.

Sec. 38-553. Exemptions. The following activities are exempt from the provisions of this Ordinance:

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- (a) Construction or improvement of single family residences or their accessory buildings which are separately built and not part of multiple construction of a subdivision development and which are anticipated to disturb an area of less than one acre.
- (b) Land disturbing activities on agricultural land for production of plants and animals useful to man, including but not limited to: forages and sod crops, grains and feed crops, tobacco, cotton, and peanuts; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules, or goats, including the breeding and grazing of these animals; bees and dairy products; fur animals and aquaculture, except that the construction of an agricultural structure of one or more acres, such as broiler houses, machine sheds, repair shops, and other major buildings and which require the issuance of a building permit shall require the submittal and approval of a stormwater management and sediment control plan prior to the start of the land disturbing activity pursuant to Section 48-14-40(A) of the 1976 Code of Laws of South Carolina, as amended. .
- (c) Activities undertaken by persons who are otherwise regulated by the provisions of Chapter 20 of Title 48, the South Carolina Mining Act.
- (d) Certain land disturbing activities undertaken by persons who are exempt from the provisions of the Storm Water Management and Sediment Reduction Act as set forth in Section 48-14-60(F) of the 1976 Code of Laws of South Carolina as amended.
- (e) Discharges of dredged or fill material into waters of the United States which are regulated under section 404 of the Clean Water Act (CWA).
- (f) Any introduction of Pollutants from nonpoint source agricultural and silvicultural activities, including storm water runoff from orchards, cultivated crops, pastures, range lands, and forest lands. Discharges from concentrated animal feeding operations, discharges from concentrated aquatic animal production facilities, discharges to aquaculture projects, and discharges from silvicultural point sources are not exempt.

Sec. 38-554. Suspension of SMS4 Access

(a) The Appropriate Plan Approval Agency may, without prior notice, suspend SMS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge that presents or may present imminent and substantial danger to the environment, or to the health and welfare of persons, or to the SMS4 or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the Appropriate Plan Approval Agency may take such steps as deemed necessary to prevent or minimize damage to the SMS4 or waters of the United States, or to minimize danger to persons.

(b) Any person discharging to the SMS4 in violation of this article may have their SMS4 access terminated if such termination would abate or reduce an illicit discharge.

Sec. 38-555. Unauthorized Connection

It shall be unlawful for any person to make any connection to the SMS4 without written permission, or to reconnect access when it has been suspended or terminated due to an illicit discharge without the prior approval of the Appropriate Plan Approval Agency.

Sec. 38-556. Litter and Refuse Control

- (a) It shall be the duty of the property owner to keep piles of leaves out of any gutter, inlet, catch basin or ditch.
- (b) It shall be unlawful to place yard waste into any storm drain, stream, or conveyance where concentrated Stormwater flows will wash such wastes into the SMS4 .

Sec. 38-557. Monitoring of Discharges

(a) This section applies to all facilities that have Stormwater discharges associated with industrial activity, including Construction Activity, or in the investigation of an Illicit Connection to the SMS4. .

(1) The Appropriate Plan Approval Agency or its designated official shall be permitted to enter and inspect facilities subject to regulations under this article as often as may be necessary to determine compliance with this article. If a discharger has security measures in force that require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the Appropriate Plan Approval Agency.

(2) Facility operators shall allow the Appropriate Plan Approval Agency 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 Appropriate Plan Approval Agency shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the Appropriate Plan Approval Agency to conduct monitoring and/or sampling of the facilities Stormwater discharge.

(4) The Appropriate Plan Approval Agency 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 Stormwater flow and quality shall be calibrated to ensure its accuracy.

(5) If the Appropriate Plan Approval Agency 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 article, 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 article 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 or refer the case to DHEC.

Sec. 38-558. Notification of Spills

(a) 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 releases of materials which are resulting or may result in illegal discharges or Pollutants discharging into Stormwater, the SMS4, or waters

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of the United States said person shall take all necessary steps to ensure the discovery, containment and cleanup of such release. In the event of such a release, and in the addition to other notification requirements, the person shall notify the Appropriate Plan Approval Agency in person, 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's Public Works Division, Stormwater Management Department within three business days of the original 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.

(b) For facilities that operate under existing NPDES permits for Stormwater discharge, spill reporting shall be made to the permitting authority in accordance with the permit. The Appropriate Plan Approval Agency shall be provided with copies of any written notification required by the NPDES permitting authority.

Sec. 38-559. Enforcement

(a) Whenever the Appropriate Plan Approval Agency finds that a person has violated a prohibition or failed to meet a requirement of this division, the Appropriate Plan Approval Agency may order compliance by written notice violation to the responsible person. Such notice may require without limitation:

- (1) The elimination of Illicit Connections or discharges in a timeframe consistent with the procedures outlined in the SWMP;
- (2) That violating discharges, practices or operations shall cease and desist;
- (3) The abatement or remediation of Stormwater pollution or contamination hazards and the restoration of any affected property; and
- (4) The implementation of source control or treatment BMPs.

(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. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the Appropriate Plan Approval Agency or a contractor will do the work and the expense thereof shall be charged to the violator.

Sec. 38-560. Penalties

Any person found to be in violation of the prohibition of illicit discharges that fails to comply with a compliance directive issued by the Appropriate Plan Approval Agency and referenced in the previous Section shall be subject to any and all applicable penalties as set forth in Section 38-528 of this article. Each day in violation of the provisions shall constitute a separate and distinct offense. The penalties shall be in addition to the remedial process provided for in this division.

Sec. 38-561. Remedies Not Exclusive

The remedies listed in this article are not exclusive of any other remedies available under any applicable federal, state or local law, and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.