

AN ORDINANCE  
PROVIDING FOR THE CREATION OF A STORMWATER MANAGEMENT  
PROGRAM FOR CHARLESTON COUNTY; AUTHORIZING THE  
ESTABLISHMENT OF PERMITTING STANDARDS AND PROCEDURES;  
PROVIDING FOR COORDINATION, IMPLEMENTATION AND  
ENFORCEMENT OF THIS ORDINANCE AND THE STANDARDS AND  
PROCEDURES OF THE PROGRAM, AND OTHER MATTERS RELATED  
THERE TO.

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## **DIVISION 1      GENERAL PROVISIONS**

### **Sec. 1.1 Title.**

This Ordinance shall be known as the “Charleston County Stormwater Management Ordinance”.

### **Sec. 1.2 Authority.**

This Ordinance is adopted pursuant to the authority conferred upon Charleston County by applicable Federal and State laws and regulations.

### **Sec. 1.3 Jurisdiction.**

The boundaries and jurisdiction of this Ordinance shall encompass those portions of the unincorporated Charleston County, as they may exist from time to time and may include additional areas lying inside those jurisdictions within Charleston County as approved by Charleston County Council.

#### **Sec. 1.4 Findings.**

The Charleston County Council makes the following findings:

- (a) Uncontrolled stormwater runoff may have significant, adverse impact on the health, safety and general welfare of Charleston County and the quality of life of its citizens. The potential impacts of uncontrolled stormwater can lead to the degradation of water quality and general riverine ecosystem through excessive or illegal pollutant discharges, erosion, and flooding thereby limiting or removing its designated and potential uses.
- (b) Charleston County is required by federal law to obtain a National Pollutant Discharge Elimination System (NPDES) permit from the South Carolina Department of Health and Environmental Control (SCDHEC) for stormwater discharges from the Charleston County Stormwater system. The NPDES permit requires Charleston County to impose controls to reduce the discharge of pollutants in stormwater to the maximum extent practicable using management practices; control techniques and system, design and engineering methods; and such other provisions which are determined to be appropriate for the control of such pollutants.
- (c) Additionally, certain facilities that discharge stormwater associated with an industrial activity, including construction activities, are required by the South Carolina Code of Regulations 61-9-122 to obtain NPDES permits for construction activities.

#### **Sec. 1.5 Purpose.**

- (a) It is the purpose of this Ordinance to protect, maintain, and enhance water quality and the environment of Charleston County and the short-term and long-term public health, safety, and general welfare of the citizens of Charleston County. This Ordinance is also designed to minimize property damage by establishing requirements and procedures to control the potential adverse effects of increased stormwater runoff and related pollutant loads associated with both future development and existing developed land. Proper management of stormwater runoff will further the purpose of this Ordinance to insure a functional drainage system, reduce the effects of development on land and stream channel erosion, attain and maintain water quality standards, enhance the local environment associated with the drainage system, reduce local flooding, maintain where necessary pre-developed runoff characteristics

of the area in terms of flow rate, volume and pollutant concentration, and facilitate economic development while mitigating associated pollutant, flooding, erosion, and drainage impacts.

- (b) It is further the purpose of this ordinance to direct the development and implementation of a Stormwater Management Program (SWMP) and to establish authority which authorizes or enables Charleston County at a minimum to:
- (1) Comply with State and Federal requirements related to stormwater management developed pursuant to the Clean Water Act;
  - (2) Prohibit illicit discharges to Charleston County stormwater systems and facilities and receiving waters;
  - (3) Control to the maximum extent practicable the discharge to Charleston County stormwater systems and facilities and receiving waters of spills, dumping, or disposal of materials other than stormwater;
  - (4) Address specific categories of non-stormwater discharges and similar other incidental non-stormwater discharges listed in the SWMP;
  - (5) Require erosion and sediment controls to protect water quality on all applicable new and re-development projects both during and after construction;
  - (6) Where necessary, require stormwater discharge rate and volume control during and following development, redevelopment, or construction;
  - (7) Define and implement procedures of site plan review and site inspection of all applicable construction projects within Charleston County;
  - (8) Control the discharge from Charleston County stormwater systems and facilities and receiving waters of pollutants in such quantity that water quality standards are met or to otherwise address post-construction, long-term water quality. This includes the necessary means needed to comply with State and Federal regulations regarding stormwater management quantity and quality;
  - (9) Define procedures for addressing citizen complaints of stormwater-related issues within Charleston County;
  - (10) Provide for adequate long term operation and maintenance of existing stormwater systems and facilities.

- (11) Carry out inspection, surveillance and monitoring procedures necessary to determine compliance and noncompliance with permit conditions including the prohibition on illicit discharges to the Charleston County stormwater system and receiving waters;
  - (12) Encourage the creation of stream buffers and preservation of natural spaces to provide areas that could be used for flood storage, stormwater treatment and control, and recreation. Such areas may be required in special protection areas needed to protect, maintain, or enhance water quality and protect property from flooding problems;
  - (13) Develop, implement, and enforce action plans to address pollutant load reductions required in impaired waterbodies and to work towards compliance with Total Maximum Daily Loads (TMDLs) established by EPA or SCDHEC and to work towards meeting water quality standards.
  - (14) Enable enforcement of all of the authorizations noted herein.
- (c) It is the purpose of this Ordinance to establish review authority for the Charleston County Public Works Director to provide consistency of construction projects with the Charleston County SWMP.

#### Sec. 1.6 Construction and Scope.

- (a) The Public Works Director shall be primarily responsible for the coordination and enforcement of the provisions of this Ordinance and the SWMP.
- (b) The application of this Ordinance and the provisions and references expressed herein shall be the minimum stormwater management requirements and shall not be deemed a limitation or repeal of any other ordinances of Charleston County or powers granted Charleston County by the State of South Carolina statutes, including, without limitation, the power to require additional stormwater management requirements, as defined by Section 3.1(a)(3). If site characteristics on new development, redevelopment, and existing developments indicate that complying with these minimum requirements will not provide adequate designs or protection for real property, residents, or the environment, the property owner, operator, or person responsible for land disturbing activities is required to provide additional and appropriate management practices, control techniques, system design, and engineering methods to attain an adequate level of protection, in accordance with the Charleston County Stormwater Program Permitting Standards and Procedures Manual (Manual).

#### Sec. 1.7 Severability.

Should any word, phrase, clause or provision of this Ordinance be declared invalid or unconstitutional by a court of competent jurisdiction, such declaration shall not affect this Ordinance as a whole or any part hereof except that specific provision declared by such court to be invalid or unconstitutional.

**Sec. 1.8 Reserved.**

**Sec. 1.9 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 contained in the provisions of this Ordinance shall prevail. Whenever the provisions of any other law, regulation or ordinance impose more restrictive standards than are required in the provisions of this Ordinance, the requirements of such law, regulation or ordinance shall prevail.

**Sec. 1.10 Amendments.**

Charleston County Council may adopt additional regulations or resolutions to implement this Ordinance, implement the SWMP, or to otherwise further the goal of protecting the quality of the waters which the Charleston County stormwater system drains into.

**Sec. 1.11 Reserved.**

**Sec. 1.12 Definitions.**

“Applicant” is a person, firm, governmental agency, partnership, or any other entity who seeks to obtain approval under the requirements of this Ordinance and who will be responsible for the land disturbing activity and related maintenance thereof.

“As-built drawings” are revised construction drawings that depict final installed location of the new facilities on a project, including the stormwater system. This term and “record drawings” shall be synonymous.

“Best Management Practices (BMPs)” are any structural or non-structural measure or facility used for the control of stormwater runoff, be it for quantity or quality control. BMPs also includes schedules of activities, prohibitions of practices, maintenance procedures, treatment requirements, operating procedures, and other management practices to control site runoff, spillage or leaks, sludge or waste disposal, drainage from raw material storage, or otherwise prevent or reduce the pollution of waters of the State.

“Charleston County Administrator” means the Administrator of Charleston County, South Carolina

“Construction” or “Construction Activity” is activity involving clearing, grading, transporting, filling, or any other activity which causes land to be exposed to the

danger of erosion, or which might create an alteration to and existing drainage way or other component of the stormwater system or facility.

“Construction Activity Application” means the application, set of drawings, specifications, design calculations, SWPPP, and other documents necessary to demonstrate compliance with this Ordinance.

“Director” means the Public Works Director of the Charleston County Public Works Department.

“Developer” means any person, or others who acts in his own behalf, that is required to submit an application for approval to disturb land or encroachment and is thereafter responsible for maintaining compliance with this Ordinance and conditions of the approved application.

“Erosion” means the general process by which soils or rock fragments are detached and moved by the action of wind, water, ice, and gravity.

“Easement” is an authorization by a property owner to the general public, a corporation, or a certain person or persons for the use of any designated part of his property for a specific purpose.

“Flood/flooding” is a temporary rise in the level of water which results in the inundation of areas not ordinarily covered by water.

“Illicit Connection” means a connection to a Charleston County stormwater management system or facility which results in a discharge that is not composed entirely of stormwater runoff except discharges pursuant to an NPDES permit (other than the NPDES MS4 permit for Charleston County).

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

“Illicit Discharge” or “Illegal Discharge” means any activity which results in a discharge to a Charleston County stormwater management system or facility or receiving waters that is not composed entirely of stormwater except (a) discharge pursuant to an NPDES permit (other than the NPDES for Charleston County) and (b) discharges resulting from the fire-fighting activities.

“Maintenance” means any action necessary to preserve any stormwater system component, including conveyances, facilities and BMPs in proper working condition, in order to serve the intended purposes set forth in this ordinance and to prevent structural failure of such components.

“MS4” means municipal separate storm sewer system and includes all conveyances

or system of conveyances (including roads with drainage systems, highways, right-of-way, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, storm drains, detention ponds, and other stormwater facilities) which inlets, transports, stores, or treats stormwater runoff and which is (a) owned or operated by Charleston County; (b) designed or used for collecting or conveying stormwater; (c) not a combined sewer system; and (d) not part of a Publicly Owned Treatment Works (POTW).

“New Development” or “Re-Development” means any of the following actions undertaken by any person, including, without limitation, any public or private individual or entity:

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

“NPDES” means National Pollutant Discharge Elimination System.

“NPDES Permit” means the NPDES permit for stormwater discharges issued by SCDHEC pursuant to the Clean Water Act and the federal stormwater discharge regulations that allows for restricting pollutant loads as necessary to meet water quality standards.

“Operator” means the person who has operational control of the real property, including an operator or person who is in charge of any activity related to land disturbance, construction, or post- construction stormwater quality or quantity.

“Outfall” or “Discharge Point” means the point where a Charleston County stormwater management system or facility, or other municipal and private system, discharges into waters of the State or United States.

“Owner” means the property owner, or any person who acts in his own behalf, that submits an application for approval to disturb land or vegetation or for encroachment, and the person, if so designated by default or on legal documents, as the responsible party for maintenance of a stormwater system(s) and facility(s).

“Person” means any and all persons, natural or artificial and includes any individual,



association, firm, corporation, business trust, estate, trust, partnership, two or more persons having a joint or common interest, state or federal or an agent or employee thereof, or any other legal entity.

“Pollutant” means anything which may cause or contribute to violation of water quality standards, including but not limited to sediment, bacteria, nutrients, dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water.

“Property Owner” means the record owner of the real property.

“Public Works Director” means the director of the Department of Public Works of Charleston County, South Carolina or an authorized representative or designees.

“Receiving Waters” means any lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within the territorial limits of the State of South Carolina, and all other bodies of surface or underground water, whether natural or artificial, public or private, inland or coastal, fresh or salt.

“Regulation” means any regulation, rule or requirement prepared by and/or adopted by the Charleston County Council pursuant to this Ordinance.

“Spill” means any accidental or purposeful discharge of any pollutants, hazardous materials, or other substance which is otherwise potentially detrimental to the designated use of a receiving water.

“SWMP” means the Charleston County Stormwater Management Program, which may describe the components to be used by Charleston County to control stormwater discharges, address flooding, and meet water quality standards.

“Stormwater” means stormwater runoff, snowmelt runoff, and surface runoff and drainage.

“Stormwater Management” means the collection, conveyance, storage, treatment and disposal of stormwater runoff in a manner to meet the objectives of this Ordinance and its terms, including, but not limited to, measures that control the increased volume and rate of stormwater runoff and water quality impacts caused by man-made changes to the land.

“Stormwater Systems and Facilities” means those natural and man-made channels, swales, ditches, swamps, rivers, streams, creeks, branches, reservoirs, ponds, drainage ways, inlets, catch basins, pipes, head walls, storm sewers, lakes and other physical works, properties, and improvements which transfer, control, convey, or

otherwise influence the movement of stormwater runoff, be it for quantity or quality control.

“TMDL means the Total Maximum Daily Load which is the regulatory value developed to represent the amount of a pollutant that a water body can incorporate while meeting water quality standards. TMDL is further defined as the pollutant load developed by the Environmental Protection Agency (EPA) and SCDHEC that designates the permitted amount of discharge allowed to flow into a water body of the State or United States.

“Variance” means the modification of the minimum stormwater management requirements contained in this Ordinance and the SWMP for specific circumstances where strict adherence to the requirements would result in unnecessary hardship and not fulfill the intent of this Ordinance.

“Watercourse” is a conveyance used to transport runoff from one location to the next.

“Watershed” is a drainage area or drainage basin contributing to the flow of stormwater into a receiving watercourse or water body.”

“Water Quality” means those characteristics of stormwater runoff 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.

## DIVISION 2 ORGANIZATION AND ADMINISTRATION

### **Sec. 2.1 Charleston County Stormwater Management Program (SWMP).**

The SWMP which has been developed by Charleston County to implement the purposes of this Ordinance shall serve as the basis for directing Charleston County’s efforts to control stormwater runoff and discharge. The SWMP is incorporated by reference and is hereby a part of this Ordinance. The SWMP requirements are to be complied with and shall be enforced in accordance with the provisions of this Ordinance.

### **Sec. 2.2 Coordination with Other Agencies.**

The Charleston County Public Works Director may coordinate Charleston County’s activities with other Federal, State, and local agencies, which manage and perform functions relating to the protection of receiving waters, through a written agreement with those other agencies. Authority not expressly reserved for other agencies or restricted by statute is placed with the Public Works Director for the protection and preservation of receiving waters. The Public Works Director should coordinate with Federal, State and local agencies having jurisdiction of those receiving waters.

**Sec. 2.3 Right-Of-Entry.**

- (a) The Public Works Director may with the consent of the property owner enter upon the real property of any Person subject to this Ordinance. The Public Works Director shall be provided immediate access to the necessary portion of the real property for the purposes of inspecting, monitoring, sampling, inventorying, examining and copying of records, and performing any other duties necessary to determine compliance with this Ordinance.
- (b) Where the property owner or operator has security measures in place requiring proper identification and consent before entry upon the real property, the property owner, operator, or person shall make the necessary arrangements with the necessary parties so that the Public Works Director will be permitted to enter on to the property without delay for the purposes of performing such responsibilities identified in (a).
- (c) In addition to any other remedies allowed by law, the Public Works Director shall seek the consent of the property owner before entry upon the real property. If such consent is denied or unable to be obtained from the property owner, operator or person, in addition to any other remedies allowed by law, the Public Works Director shall by affidavit based upon the reasonable suspicion that a violation exists, obtain an ex parte order from a court of competent jurisdiction to enter upon the property for the limited purposes stated in (a).

**DIVISION 3 STORMWATER QUANTITY AND QUALITY MANAGEMENT REQUIREMENTS**

**Sec. 3.1 Regulations.**

- (a) The Public Works Director shall be responsible for the coordination, implementation, and enforcement of this Ordinance and the SWMP, as well as the long-term management of the Charleston County's drainage systems. Without limitation, the Public Works Director shall have the following authority:
  - (1) To issue any approval, certification, or license that may be required to comply with this Ordinance.
  - (2) To deny a facility connection to Charleston County stormwater systems or facilities or discharge to waters of the State if State, Requirements and this Ordinance are not met.
  - (3) To create the Charleston County Stormwater Program Permitting Standards and Procedures Manual. The Manual may be used to convey

design and engineering standards, construction management processes and procedures, and other aspects necessary for compliance with this Ordinance.

The Charleston County Administrator is authorized to approve the adoption and subsequent revisions of the Manual.

- (4) To require the submittal of an application for all applicable construction activities that alter any portion of land for development or alter the storm drainage characteristics of the land.

The application shall include the information required to control stormwater pollutants and other components in accordance with the Manual.

- (5) To require the development and enforcement of a Stormwater Pollution Prevention Plan (SWPPP) for all new and re-development projects.
- (6) To require proper long-term maintenance of stormwater management systems and facilities through the use of an operating permit or other applicable measures in accordance with the manual.
- (7) To approve construction activities and to require as a condition of such approval, structural or non-structural controls, practices, devices, operating procedures, or other mechanisms to protect public and private property from flooding and erosion and attain TMDL pollutant load reductions and water quality standards.
- (8) To require performance bonds as necessary of any Person to secure that Person's compliance with approvals, certificates, licenses, or authorizations issued by the Public Works Director pursuant to this Ordinance, the SWMP, and Federal and State laws. The Public Works Director shall develop a process that organizes the closure of bonds and construction projects to accommodate phases of development and the transfer of the ownership of real property.
- (9) To conduct all activities necessary to carry out the SWMP and other requirements included in this Ordinance and to pursue the necessary means and resources required to properly fulfill this responsibility.
- (10) To require appropriate post construction best management practices and appropriate continued maintenance of those best management practices.
- (11) To determine appropriate fees, to impose penalties, and to take necessary and appropriate actions to enforce this Ordinance.

(12) To require encroachment permits as necessary.

### **Sec. 3.2 Prohibitions and Exemptions.**

No person shall (1) develop any land, (2) engage in any industry or enterprise, (3) construct, operate or maintain any landfill, hazardous waste treatment, disposal, or recovery facility, or any other industrial or related facility, (4) dispose of any hazardous material or toxic substance or other pollutant, or (5) prevent the transport of sediment and other pollutants associated with stormwater runoff beyond the real property boundary lines without compliance with this Ordinance.

In instances where an imminent threat to the health, safety, or general welfare of the public or the environment is suspected, the Public Works Director shall determine if immediate action is necessary. Such action may be taken with or without the consent of the owner, operator or person. If such consent is denied, the Public Works Director shall follow the provisions in Section 2.3 for entry upon the real property to remove such threat. In such instances, the owner, operator, or person shall reimburse Charleston County for any and all expenses associated with removal of such threat. If the owner, operator or person fail to reimburse Charleston County for such expenses, the County may recover the expenses from the owner, operator, or person through any remedies under the law. Any costs associated with any collection effort by the County are in addition to the recovery of the expenses.

The following development activities are exempt from the provisions of this Ordinance.

- (a) Land disturbing activities undertaken on forestland for the production and harvesting of timber and timber products and conducted in accordance with best management practices and minimum erosion protection measures established by the South Carolina Forestry Commission pursuant to Section 48-18-70 of the Code of Laws of South Carolina 1976, as amended.
- (b) Activities undertaken by persons who are otherwise regulated by the provisions of Chapter 20 of Title 48, the South Carolina Mining Act. livestock, including beef cattle, sheep, swine, horses, ponies, mules, or goats, including the breeding and grazing of these animals; bees, fur animals, and aquaculture. The construction of an agricultural structure that requires the disturbance of one or more acres, such as, but not limited to, broiler houses, machine sheds, repair shops, coops, barns, and other major buildings shall require the submittal and approval of an application in accordance with the Manual prior to the start of the land disturbing activity.
- (c) Land disturbing activities on agricultural land for production of plants and animals, including but not limited to: forages and sod crops, grains and feed crops, tobacco, cotton, and peanuts; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horses,

ponies, mules, or goats, including the breeding and grazing of these animals; bees, fur animals, and aquaculture. The construction of an agricultural structure that requires the disturbance of one or more acres, such as, but not limited to, broiler houses, machine sheds, repair shops, coops, barns, and other major buildings shall require the submittal and approval of a Land Disturbance Application prior to the start of the land disturbing activity.

### **Sec. 3.3 Design and Engineering Standards.**

Design and engineering standards must define the desired level of quality and performance for stormwater management systems on all applicable construction activities in order to meet the purpose of this Ordinance. The standards establish the minimum technical requirements needed to demonstrate compliance.

The Public Works Director is authorized to develop and adopt policies, criteria, specifications, and standards for the proper implementation of the requirements of this Ordinance, Federal and State laws and the SWMP; and to provide a sound technical basis for the achievement of stormwater management, including water quality and quantity objectives. These standards may be provided in the Manual.

It shall be the responsibility of the property owner, operator, or person responsible for land disturbing activities to provide adequate controls to meet the design and engineering standards provided in the Manual.

### **Sec 3.4 Construction Activity Approval Process.**

An application for review and approval shall be made for all applicable construction activities. Applications required under this Ordinance shall be submitted in a format and in such numbers as required by the Public Works Director. Applications may be initiated by the property owner, operator, or person responsible for construction activities. Applications that meet the requirements of this Ordinance, the SWMP, and State and Federal regulations are considered complete. The application process and requirements to establish a complete application will be provided in the Manual.

### **Sec. 3.5 Charleston County Stormwater Program Permitting Standards and Procedures Manual (Manual).**

The Manual may include design standards, procedures and criteria for conducting hydrologic, hydraulic, pollutant load evaluations, and downstream impact for all components of the stormwater management system. It is the intention of the Manual to establish uniform design practices; however, it neither replaces the need for engineering judgment nor precludes the use of information not submitted. Other accepted engineering procedures may be used to conduct hydrologic, hydraulic and pollutant load studies if approved by the Public Works Director.

The Manual will contain at a minimum the following components:

- (a) Construction Activity Application contents and approval procedures;
- (b) Construction Completion and Closeout processes;
- (c) Hydrologic, hydraulic, and water quality design criteria (i.e., design standards) for the purposes of controlling the runoff rate, volume, and pollutant load. Suggested reference material shall be included for guidance in computations needed to meet the design standards;
- (d) Information and requirements for new and re-development projects in special protection areas necessary to address TMDLs, known problem areas and other areas necessary to protect, maintain, and enhance water quality and the environment of Charleston County and the public health, safety, and general welfare of the citizens of Charleston County.
- (e) Construction document requirements;
- (f) Long-term Maintenance & Maintenance Plan
- (g) Minimum easement requirements;
- (h) Required and recommended inspection schedules and activities for all components of the stormwater management system, including construction-related BMPs.

The Manual will be updated periodically to reflect the advances in technology and experience

### **Sec. 3.6 Reserved.**

### **Sec. 3.7 Maintenance, Construction, Inspection, and Notice of Termination (NOT).**

Maintenance of the stormwater management system is critical for the achievement of its purpose of controlling stormwater runoff quantity and quality and providing for the public health, safety, and general welfare of the citizens of Charleston County.

- (a) In accordance with the Manual, a maintenance plan for the stormwater management system shall be included in an application to perform a construction activity to cover activities to be conducted during and after construction. As part of the maintenance plan, the property owner, operator, or person of such system or facility shall agree to be responsible for keeping the system and facility in working order. The Public Works Director shall develop procedures to provide reasonable assurances that maintenance activities are performed in accordance with the Manual for both Charleston

County and privately maintained stormwater systems and facilities. The Public Works Director will provide the procedures for transferring maintenance responsibilities to another entity.

- (b) The Public Works Director will define procedures for conducting site inspections.
- (c) As part of any application to perform a construction activity, the applicant shall submit construction and BMP maintenance and inspection schedules, and long-term maintenance plan shall be covered by an operating permit for new stormwater management systems and facilities. Required and recommended schedules for BMP maintenance and inspection and long-term plans are provided in the Manual.
- (d) If the construction is to be phased, no phase of the work, related to the construction of stormwater management facilities shall commence until the preceding phase of the work is completed in accordance with an approved application to perform a construction activity. The procedure for construction phases beginning and ending and what constitutes such conditions shall be submitted with the application.
- (e) The applicant shall notify the Public Works Director before commencing any work, in accordance with the Manual, and upon completion of any phase or designated component of the site. Notification schedules shall be provided for in the Manual. All self-inspections, maintenance actions, BMP replacements, and changes to the approved application shall be documented and presented upon request to the Public Works Director.
- (f) The NOT process as identified in the Manual must be completed by the Public Works Director prior to any of the following actions, as applicable:
  - (1) The use or occupancy of any newly constructed components of the site.
  - (2) Final acceptance of any road into the Charleston County road maintenance system or designation of road owner and associated stormwater management system.
  - (3) Release of any bond held by Charleston County if applicable.
  - (4) Approval and/or acceptance for recording of map, plat, or drawing, the intent of which is to cause a division of a single parcel of land into two or more parcels.

### **Sec. 3.8 Watercourse Protection.**

Every owner, operator, or person responsible for any land disturbance activity on



property through which a watercourse passes shall keep and maintain that portion of the watercourse within the property free of trash, debris, and other obstacles that would pollute, contaminate, or retard the flow of water through the watercourse. In addition, the owner, operator, or person shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not interfere with the use, function, or physical integrity of the watercourse.

To assist in the compliance with State and Federal laws and regulations, the Public Works Director may develop special protection areas which require additional control of stormwater quality and quantity than provided by minimum design standards. Such areas may consist of watersheds corresponding to adopted TMDLs, known flooding problems and pollution impairments, or other areas necessary to protect, maintain, and enhance water quality and the environment of Charleston County and the public health, safety, and general welfare of the citizens of Charleston County. These areas may change with time as development continues and as Federal and State law demands.

New stormwater systems created as the result of any new and re-development project shall be connected in a manner so as not to degrade the integrity of any existing stormwater system, whether natural or manmade, and shall have demonstrate this to the Public Works Director, in accordance with the Manual. Discharge points shall be confined to connections with an existing stormwater system. When stormwater discharges are to flow into collection systems not owned and maintained by Charleston County, the owners of these systems shall maintain the right to disapprove new connections to their system.

### **Sec. 3.9 Notification of Spills.**

The owner, operator, or person responsible for any land disturbance activity shall notify the Public Works Director of any known or suspected release of materials or discharges that are currently resulting in or may result in any illegal discharges of pollutants to an existing stormwater system.

## **DIVISION 4 DETECTION AND REMOVAL OF ILLICIT CONNECTIONS AND DISCHARGES AND IMPROPER DISPOSAL**

### **Sec. 4.1 Illicit Connections, Illicit Discharges and Improper Disposal.**

- (a) It is unlawful for any owner, operator, or person to connect any pipe, open channel, or any other conveyance system that discharges anything, except stormwater or other approved discharges into Charleston County's stormwater system or facility, or waters of the State.
- (b) It is unlawful for any owner, operator, or person to continue the operation of any illicit connection regardless of whether the connection was permissible when constructed. Improper connections in violation of this Ordinance must

be disconnected and redirected, if necessary, to the satisfaction of the Public Works Director in compliance with Federal, State, or local agencies or departments regulating the discharge.

- (c) It is unlawful for any owner, operator, or person to throw, drain, or otherwise discharge to any existing stormwater system, the waters of the State or to cause, permit, or allow a discharge that is composed of anything except stormwater or other discharges authorized by the Public Works Director.
- (d) The Public Works Director will develop procedures for detecting, tracking, and eliminating illicit discharges and improper disposals to the stormwater system.
- (e) After a reasonable determination is made by the Public Works Director that the discharge is not a significant source of pollution, the Public Works Director may require controls for or exempt from the prohibition provisions in (a), (b), and (c) above the following:
  - (1) Unpolluted industrial cooling water, but only under the authorization and direction of the Public Works Director and if appropriate Industrial NPDES permit is in place.
  - (2) Water line flushing, diverted stream flows, rising ground waters, and uncontaminated pumped ground waters, and uncontaminated ground water infiltration.
  - (3) Discharges from potable water sources, foundation drains, air conditioning condensation, landscape irrigation, springs, water from crawl space pumps, footing drains, lawn watering, individual car washing, dechlorinated swimming pool discharges, flows from riparian habitats and wetlands, and street wash water.
  - (4) Discharges or flows from fire fighting.
- (f) The Public Works Director may develop procedures for allowing other non-stormwater discharges.

#### **Sec. 4.2 Detection of Illicit Connections and Improper Disposal.**

- (a) The Public Works Director will take appropriate steps to detect and eliminate illicit connections to the Charleston County stormwater system, including the adoption of a program to screen illicit discharges and identify their source or sources, perform inspections, and levy fines if not removed.

The Public Works Director will take appropriate steps to detect and eliminate improper discharges. These steps may include programs to screen for disposal, programs to provide for public education and public information, inspection, levying fines, and other

appropriate activities to facilitate the proper management and elimination of illicit discharges.

**Sec 4.3 Waste Disposal Prohibitions.**

This Ordinance prohibits non-authorized discharges, illicit dumping, or disposal of waste into any existing stormwater system or waters of the state.

**Sec. 4.4 Discharges in Violation of NPDES General Permit for Storm Water Discharges Associated with Industrial Activity Permit.**

Any owner, operator, or person subject to a violation of the NPDES General Permit for Storm Water Discharges Associated with Industrial Activity Permit (except construction activities) shall comply with all provisions of the permit. Proof of compliance with the permit will be required in a form acceptable to the Public Works Director prior to or as a condition of the issuance of approval of an application and/or a building permit.

**DIVISION 5 MONITORING AND INSPECTIONS**

**Sec. 5.1 Monitoring.**

The Public Works Director may monitor the quantity and concentration of pollutants in stormwater discharges from the areas and/or locations designated in Charleston County's SWMP.

**Sec. 5.2 Inspections.**

- (a) The Public Works Director subject to the provisions of Section 2.3 may enter upon and inspect all properties for regular inspections, periodic investigations, monitoring, observation measurement, enforcement, sampling and testing, to effectuate the provisions of this Ordinance and the SWMP programs.
- (b) Upon refusal by any property owner, operator, or person to permit an inspector to enter upon the property or continue an inspection on the property, the inspector shall terminate the inspection or confine the inspection to portions of the property to which no objection is raised. The Public Works Director will document the refusal and proceed according to the provisions of Section 2.3.
- (c) In the event that the Public Works Director reasonably believes that discharges from the property into an existing stormwater system may cause an imminent and substantial threat to the health, safety or welfare of the public or the environment, an inspection may take place.
- (d) Inspection reports will be maintained in a permanent file located in the Public Works Department.

- (e) At any time during an inspection or at such other times as the Public Works Director may request information from an owner, operator, or person, that owner, operator, or person may identify areas of his system or facility, any material, processes, or information that contain or might reveal a trade secret. If the Public Works Director has no reason to question such identification, all material, processes and information obtained within such areas shall be conspicuously labeled "CONFIDENTIAL – TRADE SECRET." The trade secret designation shall be freely granted to any material claimed to be such by the owner or representative unless there is clear and convincing evidence for denying such designation. In the event the Public Works Director does not agree with the trade secret designation, the material shall be temporarily designated a trade secret and the owner or representative may appeal the Public Works Director's decision in the manner in which all such appeals are handled in this Ordinance.

## **DIVISION 6 ENFORCEMENT, PENALTIES AND ABATEMENT**

### **Sec. 6.1 Enforcement.**

- (a) In the instance the Public Works Director discovers that work performed for new development and re-development fails to conform to the approved application, or that the work has not been performed, the Public Works Director may direct conformity by sending written Notice of Violation (NOV) to the property owner, operator, or person. Such notice of violation will be in accordance with the Manual. The actions of the Public Works Director may include:
  - (1) issuing a written order to comply, to suspend work, or to revoke the approval issued;
  - (2) withholding or revoking other permits related to the site
  - (3) withholding the release of permanent electric power to the site or certificate of occupancy; and/or
  - (4) seeking redress through legal action.

The NOV shall serve as notice to remove the violation(s). The NOV shall be provided to the owner, operator, or person responsible for the land disturbing activities stating the nature of the violation, the amount of time to correct deficiencies, the date on which an inspection will be made to ensure that corrective action has been performed, and the applicable penalty or fine if corrective action is not taken by the inspection date. After the issuance of the NOV, the Public Works Director may issue a uniform summons citation in accordance with the Manual.

- (b) When the Public Works Director determines that an owner, operator, or person has failed to maintain a stormwater system or facility, the NOV shall be provided to the owner, operator, or person stating the nature of the violation, the amount of time in which to correct deficiencies, the date on which an

inspection will be made to ensure that corrective action has been performed, and the applicable penalty or fine if corrective action is not taken. It shall be sufficient notification to deliver the notice in accordance with the Manual.

- (c) When the Public Works Director determines that an owner, operator, or person of any property is causing or partially causing flooding, erosion, or is in non-compliance with water quality standards or this Ordinance, the Public Works Director may require the owner, operator, or person to remedy the violation and restore the impacted property. A NOV will be issued in accordance with the Manual.
- (d) This Ordinance may be enforced by any remedy at law or in equity available to the Director under any Federal and State laws and regulations. The penalties and remedies provided in this Ordinance are cumulative and not exclusive, and may be independently and separately pursued against the same Person for the activity constituting a violation.

#### **Sec. 6.2 Penalties.**

- (a) Civil: Any person violating any provision of this Ordinance shall be subject to a civil penalty of up to one thousand dollars (\$1,000) for each violation. Each separate day of a violation, constitutes a new and separate violation.
- (b) Criminal: In addition to any applicable civil penalties, any owner, operator, or person who willfully, with wanton disregard, or intentionally violates any provision of this Ordinance shall be guilty of a misdemeanor and shall be punished within the jurisdictional limits of magistrate court. The Public Works Director may issue a uniform summons citation for a violation of this Ordinance. Fines imposed under the NOV may not exceed \$500.00 per violation and/or thirty (30) days in jail. Each day a violation remains constitutes a separate violation.

#### **Sec. 6.3 Additional Legal Measures.**

- (a) Where Charleston County is fined and/or subjected to a compliance schedule by the State or Federal government for a violation of its NPDES permit by any owner, operator, or person, the owner, operator, or person becomes liable to Charleston County for any and all penalties, expenses and costs of compliance associated therewith.

#### **Sec. 6.4 Reserved.**

#### **Sec. 6.5 Corrective Action.**

In the event a violation of this Ordinance has not been corrected within the applicable time period for correction, Charleston County may subject to the provisions

of Section 2.3 enter upon the real property and correct the violation. Any penalties, expenses and costs incurred as a result of such action, including but not limited to the inspection, administration, labor and equipment costs, shall be forfeited from any bond issued for the project.

#### **Sec. 6.6 Stop Work Order.**

The Public Works Director may issue a stop work order if any construction activity conducted in violation of this Ordinance. The stop work order shall require correction of the NOV. Any owner, operator, or person in violation of a stop work order is subject to payment of all fees, bonds, and penalties prior to the lifting of the stop work order.

#### **Sec. 6.7 Approval Suspension and Revocation**

An approved application may be suspended or revoked if one or more of the following violations have been committed:

- (a) violations of the conditions of the approved application,
- (a) construction is not in accordance with the letter or intent of the approved plans,
- (b) non-compliance with correction notice(s) or stop work order(s), or
- (c) the existence of an immediate danger to a downstream area.

### **DIVISION 7 VARIANCES**

#### **Sec. 7.1 Design Criteria.**

The Public Works Director may grant a variance from the requirements of this Ordinance if exceptional circumstances exist such that strict adherence to the provisions of the Ordinance will result in unnecessary hardship to the owner, operator, or person and will not fulfill the intent of the Ordinance.

A written request for a variance shall be required and shall be submitted in accordance with the Manual.

### **DIVISION 8 APPEALS**

#### **Sec. 8.1 Appeals Process.**

An applicant may appeal the decision of the Public Works Director to the Charleston County Construction Board of Adjustment and Appeals within thirty (30) days after the date of the Public Works Director's response. The Public Works Director shall provide the petition form to the utility customer.

- (a) The petition must be accompanied with a \$25.00 fee that will be used to partially defray the costs incurred in connection with the administration of petitions filed pursuant to this section.
- (b) The Construction Board of Adjustment and Appeals shall hear the petition to determine if the annual stormwater management utility fee does not apportion the fee with approximate equality, based upon a reasonable basis of classification and with due regard to the benefits conferred by providing stormwater management services to the utility customer and the requirements of public health, safety or welfare. The determination of the annual fee by the Construction Board of Adjustment and Appeals is entitled to a presumption of correctness, and the petitioner has the burden of rebutting the presumption of correctness.
- (c) The Construction Board of Adjustment and Appeals shall render a written decision on each petition that is heard, and such written decision shall be issued within twenty (20) calendar days from the day the Board heard the petition. The decision of the Construction Board of Adjustment and Appeals shall contain findings of fact and conclusions of law, and the decision shall be sent to the petitioner by first class mail.
- (d) The decision of the Construction Board of Adjustment and Appeals shall be final unless the petitioner appeals the decision to the circuit court in Charleston County within thirty (30) days after the date of the decision of the Construction Board of Adjustment and Appeals. Prior to bringing an action to contest an annual fee, the petitioner shall pay to the treasurer not less than the amount of the annual fee which he admits in good faith is owing. Payment of the fee shall not be deemed an admission that the annual fee was due and shall not prejudice the petitioner in bringing an action as provided herein.

## **DIVISION 9 CHARGES AND FEES**

### **Sec. 9.1 Funding.**

In addition to all other charges, fees, and penalties, Charleston County shall have the right to develop and impose a stormwater service fee to fund implementation of the Charleston County Stormwater Management Ordinance and its associated programs and plans.

### **Sec. 9.2 Connection to Conveyances.**

The Public Works Director shall have the right to establish a schedule of appropriate fees for any owner, operator, or person establishing a new discharge to waters of the State within Charleston County. Such fees shall be payable as part of any application related to the discharge of stormwater runoff. Application fees shall

be established on the basis of facility classes relating to the quantity and quality of approved discharge. Establishment and revision of such fees shall be approved by the Charleston County Council.

**Sec. 9.3 Plan review.**

A fee associated with the plan review of land development construction documents may be assessed. Establishment and revision of such fees shall be approved by the Charleston County Council.

**Sec. 9.4 Field inspection.**

A fee associated with the field inspection and re-inspections of land development or construction activities may be assessed. Establishment and revision of such fees shall be approved by the Charleston County Council.