

AN ORDINANCE OF THE COUNTY OF BEAUFORT, SOUTH CAROLINA, TO  
ESTABLISH THE STORMWATER MANAGEMENT ORDINANCE.

**GENERAL PROVISIONS**

**1.1 Title**

This Ordinance shall be known as the “Stormwater Management Ordinance of Beaufort County, South Carolina (Ordinance).”

**1.2 Authority**

This Ordinance is adopted pursuant to the authority conferred upon the Beaufort County (County) by the South Carolina Constitution, the South Carolina General Assembly and in accordance with Federal Clean Water Act, the South Carolina Pollution Control Act, and regulations promulgated there under.

**1.3 Findings**

The County Council makes the following findings:

- (a) Beaufort County’s Waters contain some of the few remaining pristine shellfish harvesting areas in the southern coastal counties of South Carolina many of its waters have been designated by the State of South Carolina as an Outstanding Resource Waters. This use has historical and traditional significance to the area. It is in the public interest that the condition of these areas be maintained and preserved for future generations. Uncontrolled stormwater runoff may have significant, adverse impact on the health, safety and general welfare of the County and the quality of life of its citizens by transporting pollutants into receiving waters and by causing erosion and/or flooding. Development and redevelopment may alter the hydrologic response of local watersheds and increases stormwater runoff rates and volumes, flooding, soil erosion, stream channel erosion, non-point pollution, and sediment transport and deposition, as well as reducing groundwater recharge. These changes in stormwater runoff may contribute to increased quantities of water-borne pollutants and alterations in hydrology which are harmful to public health, safety, and welfare, as well as to the natural environment.
- (b) Point source pollution may have significant, adverse impact on the health, safety and general welfare of the County and the quality of life of its citizens by transporting pollutants into receiving waters. The allowance of discharge pipes and outfalls for non-stormwater discharges, illegal dumping, and improper handling of accidental spills and intentional disposals increase the quantities of

water-borne pollutants which are harmful to public health, safety, and welfare, as well as to the natural environment.

- (c) The effects of point and non-point source pollution, such as uncontrolled runoff, have shown evidence of degradation of the County's receiving waters; thereby adversely affecting the unique qualities of the County's receiving waters, its recreational opportunities and commercial, oystering, boating and fishing, the ecosystem's ability to naturally reproduce and thrive, and the general ability of the area to sustain its natural estuarine resources.
- (d) These deleterious effects can be managed and minimized by applying proper design and well-planned controls to manage stormwater runoff from development and redevelopment sites, manage existing natural features that maintain hydrology and provide water quality control, and eliminate potential sources of pollution to receiving waters. Public education regarding the cause and effect of these types of pollutions and the implementation of the controls and management policies is key to fundamentally changing public behavior.
- (e) This Ordinance in not is conflict with any development agreements to which the County is a party and does not prevent the development set forth in any development agreement unless impairments to the county's receiving waters is linked to this development.
- (f) This Ordinance is essential to the public health, safety or welfare and shall apply to any development that is subject to a development agreement.
- (g) Laws of general application throughout the County necessary to protect health, safety and welfare are anticipated and are provided for in development agreements.
- (h) Substantial changes in developmental impacts have occurred since the time the development agreements were signed, which changes, if not addressed in this Ordinance would pose a threat to public health, safety or welfare.

#### **1.4 Purpose**

- (a) It is the purpose of this Ordinance to guide development in Beaufort County to protect, maintain, and enhance the environment of the County and the short and long-term public health, safety, and general welfare of the citizens of the County by establishing requirements and procedures to control the potential adverse effects of increased stormwater runoff associated with both future development, re-development, and existing developed land. Proper management of stormwater runoff will minimize damage to public and private property, ensure a functional drainage system, reduce the effects of development on land and stream channel erosion, attain and maintain water quality standards, enhance the local environment associated with the drainage system, reduce local flooding, reduce pollutant loading to the maximum extent practicable and maintain to the extent practicable the pre-developed runoff characteristics of the area, and facilitate economic development while minimizing associated pollutant, flooding, and drainage impacts.

- (b) This Ordinance specifically authorizes and enables the County at a minimum to:
1. Prohibit Illicit Discharges to the Stormwater System and receiving waters.
  2. Define procedures for site plan review, inspection, and enforcement relative to stormwater management.
  3. Control the discharge of spills, dumping or disposal of materials other than stormwater to the Stormwater System and receiving waters.
  4. Address specific categories of non-stormwater discharges and similar other incidental non-stormwater discharges.
  5. Control importation of water that adversely impacts our receiving waters.
  6. Require temporary erosion and sediment controls to protect water quality to the maximum extent practicable during construction activities, in accordance with current state regulations.
  7. Define procedures for receipt and consideration of information submitted by the public.
  8. Address runoff, particularly volume, rate, and quality through the control and treatment of stormwater with stormwater management facilities and/or Best Management Practices (BMPs).
  9. Develop post-construction stormwater quality performance standards, through enforcement of minimum design standards for BMPs.
  10. Ensure effective long-term operation and maintenance of BMPs.
  11. Carry out all inspection, surveillance, monitoring, and enforcement procedures necessary to determine compliance and noncompliance with this Ordinance and stormwater permit (permit) conditions including the prohibition of Illicit Discharges to the County's Stormwater System and the protection of water quality of the receiving waters.
- (c) The Ordinance requires prudent site planning, including special considerations for the purposes of preserving natural drainage ways incorporating on-site stormwater detention and infiltration to minimize runoff from individual sites to receiving waters by use of effective runoff management, structural and non-structural BMPs, drainage structures, and stormwater facilities.

## **1.5 Definitions**

The following definitions shall apply in this Ordinance. Any term not herein defined shall be given the definition, if any, as is found elsewhere in the Code of Ordinances of Beaufort County, including the Zoning Ordinance and Development Standards Ordinance.

“Administrators” means the County Engineer and Stormwater Manager and other individuals designated by the County Administrator, from time to time, to administer interpret and enforce this Ordinance.

“Record Drawings” means a set of drawings prepared by and certified by a South Carolina registered professional engineer or landscape architect that accurately represents the actual final configuration of the stormwater and other related infrastructure constructed in a development.

“Best Management Practices” means stormwater management practices, either structural, non-structural or natural that has been demonstrated to effectively control movement of Stormwater, pollutants, prevent degradation of soil and water resources, and that are compatible with the planned land use.

“Clean Water Act” means the Federal Water Pollution Control Act, as amended, codified at 33 U.S.C §1251 et. seq.

“County” means the Beaufort County, South Carolina.

“County Council” means the publicly elected official of Beaufort County, South Carolina.

“Department” means the Engineering Department, or any duly authorized representatives thereof as designated by the County Administrator.

“Development” means all construction modification, or use of any lot, parcel, building, or structure on land and on water.

“Disconnected Impervious Areas” or “Disconnected Impervious Surfaces” means those non-contiguous impervious areas or impervious surfaces which produce stormwater runoff that discharges through or across a pervious area or surface (i.e. vegetated cover), of sufficient width to reduce or eliminate pollutants associated with stormwater runoff, prior to discharge to the Stormwater System.

“Environment” means the complex of physical, chemical, and biotic factors that act upon an ecological community and ultimately determine its form and survival.

“Evapotranspiration” means the sum of evaporation and plant transpiration from the Earth’s land surface to atmosphere.

“Excess Stormwater Volume” means the additional volume of Stormwater runoff leaving the site over and above the runoff volume which existed pre-development.

“Illicit Connection” means a connection to the County’s Stormwater System or receiving water which results in a discharge that is not composed entirely of stormwater runoff and has a detrimental effect on the Stormwater System or receiving water except those granted coverage by an active NPDES permit.

“Illicit discharge” means any activity, which results in a discharge to the County’s Stormwater System or receiving waters that is not composed entirely of stormwater except (a) discharge pursuant to an NPDES permit and (b) other allowable discharges as defined and exempted in this Ordinance.

“Impervious Surface” is defined in the County’s Best Management Practices manual.

“Improper disposal” means any disposal through an Illicit Discharge, including, but not limited to the disposal of used oil and toxic materials resulting from the improper management of such substances.

“Land Disturbance or Land Disturbing Activity” means the use of land by any person that results in a change in the natural vegetated cover or topography, including clearing that may contribute to or alters the quantity and/or quality of stormwater runoff.

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

“MS4” means Municipal Separate Storm Sewer System.

“NPDES” means National Pollutant Discharge Elimination System (see “Clean Water Act.”)

“Natural Resources” means land, fish, wildlife, biota, air, water, ground water, drinking water supplies, and other such resources.

“Outfall” means the point where County’s Stormwater System discharges to waters of the United States or the State of South Carolina.

“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, or an agent or employee thereof, or any other legal entity.

“Pollutant” means those man-made or naturally occurring constituents that when introduced to a specific environment creates a deleterious effects. Typical pollutants found in stormwater include but are not limited to sediment (suspended and dissolved), nutrients (nitrogen and phosphorus, etc.), oxygen demanding organic matter, heavy metals (iron, lead, manganese, etc.), bacteria and other pathogens, oil and grease, household hazardous waste (insecticide, pesticide, solvents, paints, etc.) and Polycyclic Aromatic Hydrocarbons (PAHs).

“Property Owner or “Owner” means the legal or equitable owner of land.

“Receiving Waters” means all natural water bodies, including oceans , salt and freshwater marsh areas, lakes, rivers, streams, ponds, wetlands, and groundwater which are located within the jurisdictional boundaries of County. Stormwater management ponds, man-made wetlands, ditches, and swales constructed for the sole purpose of controlling and treating stormwater are not considered Receiving Waters.

“Redevelopment” – shall be as defined in the County’s Best Management Practices Manual.

“Regulation” means any regulation, rule or requirement and promulgated by the County pursuant to this Ordinance.

“Stormwater” means stormwater runoff, precipitation runoff, and surface runoff.

“Stormwater management” means the collection, conveyance, storage, treatment and disposal of Stormwater 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 manmade changes to the land.

“Stormwater Management Program, Services, Systems Facilities” means those administrative, engineering, operational, regulatory, and capital improvement activities and functions performed in the course of managing the Stormwater systems of the county, plus all services. Stormwater Management Systems and Facilities are those natural and manmade 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 and it’s discharge to and impact upon receiving waters.

“Stormwater Management Plan” or “SWMP” means the set of drawings and other documents that comprise all of the information and specifications for the programs, drainage systems, structures, BMPs, concepts, and techniques for the control of stormwater.

“Stormwater System” means the conveyance or system of conveyances (including roads with drainage systems, highways, right-of-way, private streets, catch basins, curbs, gutters, ditches, man-made channels, storm drains, detention ponds, and other stormwater facilities) which is designed or used for collecting or conveying Stormwater.

“Structural BMP” – A device designed and constructed to trap and filter pollutants from runoff.

“Total Impervious Surface” means all impervious surfaces on a site regardless if they are directly connected to another and that is not constructed using permeable pavement technology.

“Utility” means Beaufort County Stormwater Utility as established by County Ordinance section 99-102.

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

“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.

“Wetlands” are as defined by the Army Corps of Engineers and generally means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar type areas.

“Working Day” means Monday through Friday, excluding all County-observed holidays.

## **1.6 Applicability**

Beginning with and subsequent to its effective date, this Ordinance shall be applicable to:

- (a) All Development and Redevelopment
- (b) Any illicit discharges
- (c) The provisions of this Ordinance shall apply throughout the unincorporated areas of the County

## **ADMINISTRATION AND ORGANIZATION**

### **2.1 Regulations**

The County Council, may, in its discretion, amend or change this Ordinance, or adopt additional regulations to implement this Ordinance in order to comply with the State regulations, administer the Stormwater Management Utility, or to otherwise further the goal of protecting the quality of the receiving waters into which the Stormwater System discharges.

### **2.2 County Stormwater Management Administration**

The Stormwater Management will be administered by the Engineering Department and Stormwater Utility developed by the County to administer and implement the regulations of this Ordinance as detailed in the CDC and BMP Manual.

### **2.3 Administrators of Operations, Power and Duties**

- (a) The Administrators shall administer, implement, and enforce provisions of this Ordinance on behalf of the County.

- (b) In addition to the powers and duties that may be conferred by other provisions of the County and other laws, the Administrators shall have the following powers and duties under this ordinance:
1. To review and approve, approve with conditions, or disapprove applications for approval of a Stormwater Management Plan pursuant to this Ordinance;
  2. To make determinations and render interpretations of this Ordinance;
  3. To establish application requirements and schedules for submittal and review of applications and appeals, in accordance with the standards for County Development Permits under County's Zoning and Development Standards Ordinance;
  4. To review and make recommendations to the applications for development or redevelopment approvals;
  5. To enforce the provisions of this ordinance in accordance with its enforcement provisions;
  6. To maintain records, maps, and official materials related enforcement, or administration of this Ordinance;
  7. To provide expertise and technical assistance;
  8. To take any other action necessary to administer the provisions of this Ordinance.

#### **2.4 Coordination with Other Agencies**

The Administrators will coordinate the County's activities with other federal, state, and local agencies, which manage and perform functions relating to the protection of receiving waters.

#### **2.5 Cooperation with Other Governments**

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

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

#### **2.6 Stormwater Management Standards**

(a) *Reference to BMP Manual*

The Administrators shall use the policy, criteria, and information, including technical specifications and standards, in the BMP Manual as the basis for decisions about stormwater plans and about the design, implementation and



performance of structural and non-structural stormwater BMPs. The Stormwater Management Standards shall describe in detail how post-development stormwater runoff will be controlled and managed, the design of all stormwater facilities and practices, and how the proposed project will meet the requirements of this ordinance. The referenced BMP Manual includes a list of acceptable stormwater treatment practices, including the specific design criteria for each stormwater practice. These standards will be updated as Technology improves.

- (b) *Relationship of Stormwater Management Standards to Other Laws and Regulations* If the specifications or guidelines of the Standards are more restrictive or apply a higher standard than other laws or regulations, that fact shall not prevent application of the specifications or guidelines in the Standards.

## **2.7 Review of Stormwater Management Plans**

Stormwater Management Plans shall be reviewed as a component of the Development Plan review process by the Administrators. They will be reviewed for compliance with standards in this ordinance and requirements in the CDC and BMP Manual. Procedures are outlined in BMP Manual. Requests meetings and submission of plans will be submitted to Engineering Department. The expected process will be as follows:

## **2.8 Approvals**

- (a) *Effect of Approval*  
Approval authorizes the applicant to go forward with only the specific plans and activity authorized in the plan. The approval shall not be construed to exempt the applicant from obtaining other applicable approvals from local, state, and federal authorities.
- (b) *Time Limit/Expiration*  
Time limit, expiration and extensions shall be in accordance with the County's Zoning and Development Standards Ordinance.

## **2.9 Appeals**

- (a) *Scope of Appeal*  
Any person aggrieved by a decision of the Administrators may appeal the same by filing an interim written notice of appeal, with the Administrators within thirty (30) days of the issuance of said decision or Notice of Violation. The interim notice of appeal must specify with reasonable practicality the grounds of the appeal and relief sought. Stormwater Utility Management Utility (SWUM) Board will review and provide a decision within fifteen (15) day of the next Board Meeting following the appeal. The decision of the SWUM Board shall be final. Appeals to SWUM Board's decision shall be processed in accordance with State Law.
- (b) *Standards*
  1. The Stormwater Utility Management Board is limited to the following determinations for an administrative appeal:

- (a) The administrators made an error in reviewing whether a standard was met. The record must indicate that an error in judgment occurred or facts, plans, or regulations were misread in determining whether the particular standard was met.
  - (b) Where conflicting evidence exists, the appeal is limited to determining what evidence or testimony bears the greatest credibility in terms of documentation and qualifications of those making the determination.
  - (c) The administrators made the decision on standards not contained in this chapter or other county ordinances, regulations, or state law, or a standard more strict or broad was applied. This chapter does not permit administrators to consider or create standards not officially adopted.
  - (d) An error in applying a standard or measuring a standard was made.
2. The board, on an appeal, shall not hear any evidence or make any decision based on hardships or special conditions.

## **STANDARDS TO BE APPLIED**

### **3.1 General Requirements**

- (a) All development and redevelopment, including highways, shall use site planning, design, construction, and maintenance strategies for the property to maintain or restore, to the maximum extent technically feasible, the predevelopment hydrology of the property with regard to the temperature, rate, volume and duration of flow.
- (b) All development shall connect Impervious Surfaces to vegetative surfaces to the maximum extent practicable.
- (c) Stormwater runoff shall be controlled in a manner that:
  - 1. Promotes positive drainage from structures resulting from development.
  - 2. Includes the use of vegetated conveyances, such as swales and existing natural channels to promote infiltration and evapotranspiration.
  - 3. Reduces runoff velocities and maintains sheet flow condition to prevent erosion and promote infiltration.
  - 4. Limits its interaction with potential pollutant sources that may become water-borne and create non-point source pollution.
  - 5. Promotes reuse of excess stormwater volume to increase evapotranspiration.
- (d) Natural vegetative buffers play an integral part in minimizing the volume of stormwater runoff by promoting infiltration and increasing evapotranspiration to reduce SW volume to receiving waters and acting as a first line of treatment of water quality pollution. Development shall observe the buffer requirements of the County's Zoning and Development Standards Ordinance or if applicable the relevant development agreement, concept plan, and/or approved master plan.

### **3.2 Stormwater Design Requirements for Development**

- (a) Development that incorporates engineered stormwater collection, conveyance, and storage systems shall design the systems to design criteria established in latest version of County's BMP Manual

### **3.3 BMP Requirements**

- (a) Effectiveness of infiltration practices is dependant on the site conditions. The BMP manual outlines guidance for properly siting infiltration practices and shall be reviewed prior to the design phase.
- (b) The owners of all new developments that receive a Development Permit from the County shall be required to perform stormwater quantity monitoring at their expense to ensure compliance with the provisions of this Ordinance and ensure that volume reduction plans are operated as intended.
- (c) All construction and implementation of erosion and sediment control BMPs shall comply with the requirements of the South Carolina Stormwater Management and Sediment Reduction Act and submit reports in accordance with the BMP manual.
- (d) The County reserves the right to perform other monitoring as it deems appropriate to determine compliance with the State Sediment and Erosion Control Act.

### **3.4 Impervious Requirements**

Development shall construct permeable paving where soil or other conditions allow.

### **3.5 Waiver**

Individuals seeking a waiver in connection with a Stormwater Plan may submit to the Administrators a request for a waiver from the requirements of this Ordinance if exceptional circumstances applicable to a site exist such that adherence to the provisions of the Ordinance will result in unnecessary hardship and will not fulfill the intent of the Ordinance.

- (a) *Request of Waiver at Staff Level*  
A written request for a waiver is required and shall state the specific waiver sought and the reasons, with supporting data, a waiver should be granted. The request shall include all information necessary to evaluate the proposed waiver. The applicant will address the four areas of consideration for waiver approval as follows:
  1. What exceptional circumstances to the site are evident?
  2. What unnecessary hardship is being caused?
  3. How will denial of the waiver be inconsistent with the intent of the Ordinance?
  4. How will granting waiver comply with intent of ordinance?
- (b) *Review of Waivers*

The Administrators will conduct a review of the request and will issue a decision fifteen within (15) working days of receiving the request.

(c) *Appeal of Decision*

Any person aggrieved by the decision of the Administrators concerning a waiver request may appeal such decision in accordance with Section 2.10 above.

## **MAINTENANCE**

### **4.1 General Requirements**

(a) *Function of BMPs as Intended*

The owner of each structural BMP installed pursuant to this Ordinance shall maintain and operate it to preserve and continue its function in controlling stormwater quality and quantity at the degree or amount of function for which the structural BMP was designed.

(b) *Right of County to Inspection*

Every Structural BMP installed pursuant to this ordinance shall be made accessible for adequate inspection by the County.

(c) *Annual Maintenance Inspection and Report*

The person responsible for maintenance of any structural BMP installed pursuant to this Ordinance shall submit to the Administrator(s) an inspection report from a registered South Carolina Professional Engineer. The inspection report, at a minimum, shall contain all of the following:

1. The name and address of the land owner;
2. The recorded book and page number of the lot of each structural BMP or a digital representation of the geographic location of each structural BMP;
3. A statement that an inspection was made of all structural BMPs;
4. The date the inspection was made;
5. A statement that all inspected structural BMPs are performing properly and comply with the terms and conditions of the approved maintenance agreement required by this Ordinance;
6. The original signature and seal of the engineer inspecting the structural BMPs; and
7. Digital photographs of the structural BMPs and pertinent components integral to its operation, including but not limited to inlet/outlet control structures, downstream receiving channel/area, embankments and spillways, safety features, and vegetation.

All inspection reports shall be on forms supplied by the Administrators. An original inspection report shall be provided to the Administrators beginning one year from the date of record drawings certification and each year thereafter on or before the date of the record drawings certification.

### **4.2 Operation and Maintenance Agreement**

- (b) Prior to the conveyance or transfer of any lot or building site requiring a structural BMP pursuant to this Ordinance, the applicant or owner of the site must execute

an operation and maintenance agreement (see BMP manual for form) that shall be binding on all subsequent owners of the site, portions of the site, and lots or parcels served by the structural BMP. Until the transference of all property, sites, or lots served by the structural BMP, the original owner or applicant shall have primary responsibility for carrying out the provisions of the maintenance agreement.

- (b) The operation and maintenance agreement must be approved by the Administrators prior to plan approval, and it shall be referenced on the final plat and shall be recorded with the county Register of Deeds upon final plat approval. If no subdivision plat is recorded for the site, then the operations and maintenance agreement shall be recorded upon the approval of a certificate of completion with the county Register of Deeds to appear in the chain of title of all subsequent purchasers under generally accepted searching principles. A copy of the recorded maintenance agreement shall be given to the Administrators within fourteen (14) days following its recordation.

#### **4.3 Deed Recordation and Indications on Plat**

The applicable operations and maintenance agreement pertaining to every structural BMP shall be referenced on the final plat and in covenants and shall be recorded with the county Register of Deeds upon final plat approval.

#### **4.4 Records of Installation and Maintenance Activities**

The owner of each structural BMP shall keep records of inspections, maintenance, and repairs for at least five (5) years from the date of the record and shall submit the same upon reasonable request to the Administrator(s).

#### **4.5 Nuisance**

The owner of each stormwater BMP shall maintain it so as not to create or result in a nuisance condition, such as but not limited to flooding, erosion, excessive algal growth, overgrown vegetation, mosquito breeding habitat, existence of unsightly debris, or impairments to public safety and health. Maintenance practices must not lead to discharges of harmful pollutants.

### **ARTICLE 5. ILLICIT DISCHARGES AND CONNECTIONS**

#### **5.1 Illicit Discharges**

No person shall cause or allow the discharge, emission, disposal, pouring, or pumping directly or indirectly to any stormwater conveyance, receiving water, or upon the land in manner and amount that the substance is likely to reach a stormwater conveyance or the

receiving waters, any liquid, solid, gas, or other substance(including animal waste), other than stormwater.

## **5.2 Non-Stormwater Discharges**

- (a) Non-Stormwater discharges associated with the following activities are allowed provided that acceptable BMPs are followed:
  - 1. Water line flushing;
  - 2. Landscape irrigation, unless it leads to excess SW Volume discharge
  - 3. Diverted stream flows;
  - 4. Rising ground waters;
  - 5. Uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20));
  - 6. Uncontaminated pumped ground water;
  - 7. Discharges from potable water sources;
  - 8. Foundation drains;
  - 9. Air conditioning condensation;
  - 10. Reuse water;
  - 11. Springs;
  - 12. Water from crawl space pumps;
  - 13. Footing drains;
  - 14. Individual residential car washing;
  - 15. Flows from riparian habitats and wetlands;
  - 16. Dechlorinated swimming pool discharges;
  - 17. Street wash water; and
  - 18. Other non-stormwater discharges for which a valid NPDES discharge permit has been approved and issued by the State of South Carolina, and provided that any such discharges to the County's Stormwater System have been approved if required by the County.
- (b) Prohibited substances include but are not limited to: oil, anti-freeze, chemicals, animal waste, paints, garbage, and litter.

## **5.3 Illicit Connections**

- (a) Connections to a receiving water and/or stormwater conveyance system that allow the discharge of non-stormwater, other than the exclusions described in Section 5.2 (a) above are unlawful. Prohibited connections include, but are not limited to floor drains, waste water from washing machines or sanitary sewers, wash water from commercial vehicle washing or steam cleaning, and waste water from septic systems.
- (b) Where such connections exist in violation of this section and said connections were made prior to the adoption of this Ordinance or any other ordinance prohibiting such connections, the property owner or the person using said connection shall remove or correct the connection.

## **5.4 Spills**

- (a) Spills or leaks of polluting substances released, discharged to, or having the potential to released or discharged to a receiving water or the stormwater conveyance system, shall be contained, controlled, collected, and properly disposed. All affected areas shall be restored to their preexisting condition.
- (b) Persons in control of the polluting substances shall immediately report the release or discharge to persons owning the property on which the substances were released or discharged, shall within two (2) hours of such an event shall notify the nearest Fire Department (who will also notify the Administrator(s)), and all required federal and state agencies of the release or discharge. Notification shall not relieve any person of any expenses related to the restoration, loss, damage, or any other liability which may be incurred as a result of said spill or leak, nor shall such notification relieve any person from other liability which may be imposed by State or other law.

## **5.5 Nuisance**

Illicit discharges and illicit connections which exist within the unincorporated County are hereby found, deemed, and declared to be dangerous and prejudicial to the public health, and welfare, and are found, deemed, and declared to be public nuisances. Such public nuisances shall be abated in accordance with the procedures set forth in Section 7.3, Corrective Action.

## **ARTICLE 6. INSPECTION**

### **6.1 Inspections**

The County will maintain the right to inspect any and all Stormwater Systems within it jurisdiction as outlined below:

- (a) An Inspector designated by the Administrators, bearing proper credentials and identification, may enter and inspect all properties for regular inspections, periodic investigations, monitoring, observation measurement, enforcement, sampling and testing, to ensure compliance with the provisions of this Ordinance.
- (b) Upon refusal by any property owner to permit an inspector to enter or continue an inspection, the Inspector may terminate the inspection or confine the inspection to areas concerning which no objection is raised. The Inspector shall immediately report the refusal and the grounds to the Administrators. The Administrators will promptly seek the appropriate compulsory process.
- (c) In the event that the Administrators or Inspector reasonably believes that discharges from the property into the County's Stormwater System or receiving waters may cause an imminent and substantial threat to human health or the environment, the inspection may take place at any time after an initial attempt to notify the owner of the property or a representative on site. The Inspector shall present proper credentials upon reasonable request by the owner or representative.

- (d) Inspection reports will be maintained in a permanent file at the offices of the County.

## **ARTICLE 7. ENFORCEMENT AND CORRECTION**

### **7.1 Notice and Warning.**

- (a) Upon the county's attention to a violation of this ordinance, the administrators shall investigate the violation and prepare a report concerning the violation. If a violation exists, a warning notice shall be delivered to any person occupying the property or linked to a discharge, whether the person is the owner, renter, or lessee. If the nature of the violation is not correctable, a notice to appear shall be issued immediately. If no one is present or refuses to accept the notice, the administrators shall post the warning notice on the residence or building entrance.
- (b) The warning notice shall contain the following:
  - 1. The address and legal description of the property.
  - 2. The section of this chapter being violated.
  - 3. The nature and location of the violation and the date by which such violation shall be removed or abated.
  - 4. A notice of the penalty for failing to remove or abate the violation, stating that if the nuisance recurs by the same occupant, owner, or person in charge, a notice to appear will be issued without further notice.
- (c) If the violation occurs where the residence or building is unoccupied, the property may be posted as provided in this section. If the property is unimproved, the notice may be placed on a tree or other such object as available.
- (d) A written notice containing the same information as the warning notice shall be sent to the owner or any other person having control of the property at the last known address of the owner, or at the address of the person having control, by ordinary mail.

### **7.2 Recurring Violations.**

Once a notice has been delivered pursuant to section 106-881 and the same violation recurs on the same lot or tract of land by the same person previously responsible, no further warning notice need be given. Thereafter, such person deemed responsible may be notified to appear in court to answer to the charge against such person.

### **7.3 Failure to Act Upon Warning Notice.**

Upon neglect or failure to act upon the warning notice given as provided in section 7.1, the county shall issue a notice to appear and shall follow the procedures as follows:

- (a) *Service of notice to appear.* If a warning notice is given and, after the time for removal or abatement has lapsed, the property is reinspected and the ZDA finds



and determines the violation has not been removed or abated, the ZDA shall fill out and sign, as the complainant, a complaint and information form or a notice to appear. The notice to appear shall include the following:

1. Name of the occupant, owner, or person in charge of the property.
2. The address or legal description of the property on which the violation is occurring.
3. This chapter section or other reference the action or condition violates.
4. The date on which the case will be on the court docket for hearing.
5. Any other information deemed pertinent by the ZDA.

The original copy of the notice to appear shall be forwarded to the clerk of the court for inclusion on the court's docket for the date indicated on the notice to appear.

- (b) *Notice to appear; delivery by mail.* If no one is found at the property to accept a notice to appear for failure to remove or abate a violation, the ZDA shall fill out and sign the notice to appear as the complainant and deliver the original plus one copy to the clerk of the court. The clerk shall verify or insert the date the case has been set for hearing before the court. The clerk shall mail the copy by certified mail to the person named in the notice to appear at that person's last known address.
- (c) *Abatement by county; costs assessed to person responsible.* If the occupant, owner, or person in charge of the property for which a warning notice has been given fails to remove or abate the violation in the time specified in the notice, whether on public or private property, the county may, if severe conditions exist that affect health, welfare, safety or severe environmental degradation, remove the violation and thereby abate the violation. If necessary, the county may lawfully enter upon the property on which the violation remains unabated to remove or abate such violation at the cost of the person responsible for creating or maintaining the violation. The violation will be subject to civil fines reflecting the cost to the county, as prosecuted by the county attorney.
- (d) *Payment of costs; special tax bill or judgment.* All costs and expenses incurred by the county in removing or abating any violation on any private property may be assessed against the property as a lien on the property. Alternatively, the cost of removing or abating the violation may be made part of the judgment by the judge, in addition to any other penalties and costs imposed if the person charged either pleads or is found guilty of causing, creating, or maintaining a violation.
- (e) *Warning notice; first offense.* In all cases where the violation is the first offense of the specified chapter violation, the warning notice provisions of section 106-881 shall be observed. The notice shall specify the number of days in which the violation shall be removed or abated, which time shall not be less than three days nor more than ten days, except in emergency cases.
- (f) *Warning notice; subsequent offenses.* In all cases where the violation on public or private property is a repeat or continued offense on such property, after the expiration of the time period set out in subsection (5) of this section, the warning notice sections of this division need not be observed. Each day a violation continues after the expiration of the warning period to abate such violation shall constitute a separate offense.

#### **7.4 Penalty for Violation.**

- (a) Any person, group, firm, association or corporation violating any section of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall pay such penalties as the court may decide, as prescribed by state law, not to exceed \$500.00 or 30 days imprisonment for each violation. Each day during which such conduct shall continue shall subject the offender to the liability prescribed in this article.
- (b) In addition to the penalties established and authorized in subsection (a) of this section, the county attorney shall take other actions at law or in equity as may be required to halt, terminate, remove, or otherwise eliminate any violations of this chapter.

### **ARTICLE 8. INTERPRETATION**

#### **8.1 Interpretation**

- (a) *Meaning and Intent*  
All provisions, terms, phrases, and expressions contained in this ordinance shall be construed according to the general and specific purposes set forth in Section 1.4, Purpose. If a different or more specific meaning is given for a term defined elsewhere in County's Code of Ordinances or in an existing development agreement, the meaning and application of the term in this Ordinance shall control for purposes of application of this Ordinance.
- (b) *Text Controls in Event of Conflict*  
In the event of a conflict or inconsistency between the text of this Ordinance and any heading, caption, figure, illustration, table, or map, the text shall control.
- (c) *Authority for Interpretation*  
The Administrators have, after consultation with county attorney, authority to determine the interpretation of this Ordinance. Any person may request an interpretation by submitting a written request to the Administrators who shall respond in writing within thirty (30) days. The Administrators shall keep on file a record of all written interpretations of this ordinance.
- (d) *References to Statutes, Regulations, and Documents*  
Whenever reference is made to a resolution, ordinance, statute, regulation, manual (including the BMP Manual), or document, it shall be construed as a reference to the most recent edition of such that has been finalized and published with due provision for notice and comment, unless otherwise specifically stated.
- (e) *Delegation of Authority*  
Any act authorized by this Ordinance to be carried out by the County Administrator may be carried out by his or her designee.
- (f) *Usage*
  1. Mandatory and Discretionary Terms

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

2. **Conjunctions**

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

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

(g) *Measurement and Computation*

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

## **8.2 Conflict of Laws**

This ordinance is not intended to modify or repeal any other ordinance, rule, regulation or other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation or other provision of law, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human or environmental health, safety, and welfare, shall control.

## **8.3 Severability**

If the provisions of any section, subsection, paragraph, subdivision or clause of this ordinance shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision or clause of this ordinance.

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**8.4 Effective Date**

This Ordinance will become effective upon approval by Council Council.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 2009.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: \_\_\_\_\_

Wm. Weston J. Newton, Chairman

APPROVED AS TO FORM:

\_\_\_\_\_  
Ladson F. Howell, Staff Attorney

ATTEST:

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Suzanne M. Rainey, Clerk to Council

First Reading:

Second Reading:

Public Hearing:

Third and Final Reading:

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