

AN ORDINANCE

TO AMEND CHAPTER 152: STORMWATER MANAGEMENT AND SEDIMENT CONTROL, SECTIONS 152.01 THROUGH 152.10; 152.20 THROUGH 152.28; 152.40 THROUGH 152.42; 152.55 THROUGH 152.62; AND 152.99 OF THE CODE OF THE COUNTY OF YORK, SOUTH CAROLINA, KNOWN AS "THE STORMWATER MANAGEMENT AND SEDIMENT CONTROL ORDINANCE OF YORK COUNTY, SOUTH CAROLINA;" TO DEFINE AND ESTABLISH MINIMUM STORMWATER MANAGEMENT REQUIREMENTS AND CONTROLS TO PROTECT THE NATURAL RESOURCES OF YORK COUNTY AND THE GENERAL HEALTH, SAFETY AND WELFARE OF THE PEOPLE OF YORK COUNTY, SOUTH CAROLINA; TO PROVIDE THE AUTHORITY FOR THE ENACTMENT OF THIS STORMWATER MANAGEMENT AND SEDIMENT CONTROL ORDINANCE; TO DEFINE THE JURISDICTION AND PROVIDE FOR THE ADMINISTRATION OF STORMWATER MANAGEMENT AND SEDIMENT CONTROL REGULATIONS; TO PROVIDE FOR EXEMPTIONS AND WAIVERS FROM THIS ORDINANCE; TO PROVIDE RULES OF LANGUAGE, INTERPRETATION AND DEFINITIONS; TO PROVIDE FOR NOTIFICATION OF THE REQUIREMENTS OF THIS CHAPTER TO PERSONS APPLYING FOR GRADING PERMITS; TO PROVIDE FOR INSPECTION AND ENFORCEMENT OF PROVISIONS OF THE STORMWATER MANAGEMENT AND SEDIMENT CONTROL ORDINANCE; TO DEFINE THE RELATIONSHIP OF THIS ORDINANCE WITH OTHER LAWS, REGULATIONS AND ORDINANCES; TO DEFINE PROCEDURES FOR THE IMPLEMENTATION OF THE PROVISIONS OF THIS ORDINANCE; TO PROVIDE FOR THE PROTECTION OF EXISTING DISTURBED AREAS; TO ESTABLISH AN APPLICATION PROCESS FOR GRADING PERMITS, APPROVALS AND REVIEWS; TO ESTABLISH A FEE SCHEDULE FOR PERMITS, APPROVALS AND REVIEWS UNDER THIS CODE; TO PROVIDE FOR THE APPROVAL OR DISAPPROVAL OF APPLICATIONS FOR PERMITS OR APPROVALS; TO PROVIDE FOR VARIANCES, APPEALS AND ADMINISTRATIVE HEARINGS; TO DEFINE THE RESPONSIBILITY OF APPLICANTS FOR AUTHORIZATIONS, PERMITS, BONDS AND OTHER AUTHORIZATIONS, REQUIREMENTS OR APPROVALS; TO PROVIDE A MECHANISM FOR EXTENSIONS OF TIME; TO DEFINE THE RESPONSIBILITIES OF APPLICANTS AND OPERATORS; TO ESTABLISH MANDATORY STANDARDS AND PLAN REQUIREMENTS FOR STORMWATER POLLUTION PREVENTION PLANS; TO PROVIDE PLAN REQUIREMENTS FOR STORMWATER MANAGEMENT AND SEDIMENT CONTROL PLANS; TO PROVIDE REFERENCES AND RESOURCES TO ASSIST APPLICANTS IN MEETING MANDATORY STANDARDS AND REQUIREMENTS; TO DEFINE MAINTENANCE REQUIREMENTS DURING CONSTRUCTION; TO DEFINE MAINTENANCE RESPONSIBILITIES AFTER DEVELOPMENT; TO REQUIRE THE AMENDMENT AND MAINTENANCE OF SWPPP PLANS AND MAPS; TO PROVIDE FOR THE TERMINATION OF COVERAGE AND THE ISSUANCE OF NOTICES OF TERMINATION AND PRESCRIBE THE TERMS AND CONDITIONS THEREOF; TO PROVIDE PENALTIES FOR VIOLATIONS OF THIS CODE; TO

PROVIDE FOR A PUBLIC HEARING BEFORE FINAL ADOPTION OF THIS ORDINANCE; AND TO PROVIDE FOR OTHER MATTERS RELATING THERETO.

BE IT ORDAINED AND ENACTED BY THE COUNTY COUNCIL OF YORK COUNTY, SOUTH CAROLINA:

Section 1. Legislative findings.

1.1 As an incident to the enactment of this ordinance, the York County Council, as the governing body of York County, South Carolina, has made the following findings:

Chapter 152 of the York County Code, entitled Stormwater Management and Sediment Control, Sections 152.01 through 152.10; 152.20 through 152.28; 152.40 through 152.42; 152.55 through 152.62 and 152.99 of the Code of York County should be amended to conform with recent amendments to Chapter 14 of Title 48 of the Code of Laws of South Carolina, 1976, as amended and to facilitate the administration of stormwater management and sediment control provisions of the York County Code:

(a) to define and establish minimum stormwater management requirements and controls to protect the natural resources of York County and the general health, safety and welfare of the people of York County, South Carolina;

(b) to provide the authority for the enactment of this Stormwater Management and Sediment Control Ordinance;

(c) to define the jurisdiction and provide for the administration of stormwater management and sediment control regulations;

(d) to provide for exemptions and waivers from this ordinance;

(e) to provide rules of language, interpretation and definitions;

(f) to provide for notification of the requirements of this chapter to persons applying for grading permits;

(g) to provide for inspection and enforcement of provisions of the Stormwater Management and Sediment Control Ordinance;

(h) to define the relationship of this ordinance with other laws, regulations and ordinances;

(i) to define procedures for the implementation of the provisions of this ordinance;

(j) to provide for the protection of existing disturbed areas;

- (k) to establish an application process for grading permits, approvals and reviews;
- (l) to establish a fee schedule for permits, approvals and reviews under this code;
- (m) to provide for the approval or disapproval of applications for permits or approvals;
- (n) to provide for variances, appeals and administrative hearings;
- (o) to define the responsibility of applicants for authorizations, permits, bonds and other authorizations, requirements or approvals;
- (p) to provide a mechanism for extensions of time;
- (q) to define the responsibilities of applicants and operators;
- (r) to establish mandatory standards and plan requirements for stormwater pollution prevention plans;
- (s) to provide plan requirements for stormwater management and sediment control plans;
- (t) to provide references and resources to assist applicants in meeting mandatory standards and requirements;
- (u) to define maintenance requirements during construction;
- (v) to define maintenance responsibilities after development;
- (w) to require the amendment and maintenance of SWPPP plans and maps;
- (x) to provide for the termination of coverage and the issuance of notices of termination and prescribe the terms and conditions thereof;
- (y) to provide penalties for violations of this Code.

1.2 The purpose of the amendments of this chapter of the York County Code is to establish minimum stormwater management requirements and controls to protect the natural resources of York County for posterity and to protect the general health, safety and welfare of the people of York County, South Carolina, and to:

- (A) Protect the land and waters from the adverse effects of excessive soil erosion, sedimentation and stormwater through good and responsible development;

- (B) Prevent the erosion of soils, sedimentation of streams and silting of lakes;
- (C) Provide unobstructed and sanitary channels for stormwater runoff;
- (D) Control stormwater runoff from developing areas;
- (E) Eliminate the encroachment of uses incompatible with natural drainage channels;
- (F) Enhance the water quality of surface and groundwater and promote groundwater recharge;
- (G) Prevent pollution of watersheds, streams and natural drainage channels;
- (H) Reduce the damage potential of floodwater and protect properties near land-disturbing activities;
- (I) Conserve and protect the county's natural and scenic resources for future generations to enjoy;
- (J) Achieve the following objectives:
 - (1) Protect human life and health;
 - (2) Minimize public and private property damage resulting from erosion, sedimentation and flooding;
 - (3) Regulate development, which may, when acting alone or in combination with similar developments, create a demand for public investment in flood-control works by requiring protection against flood damage at the time of initial construction and afterwards;
 - (4) Ensure, as far as possible, an efficient drainage system that will not result in excessive public or private moneys being used for maintenance and replacement of portions of the system;
 - (5) Ensure that the design of the drainage system will be consistent with good engineering practice and design;
 - (6) Provide temporary and permanent erosion and sediment control measures to protect individuals occupying land adjacent to and downstream from proposed developments from being damaged by sediment originating from within or because of the proposed development;
 - (7) Provide for development of areas with minimum adverse effects to the natural environment;
 - (8) Encourage wise use of the county's economic and fiscal resources;
 - (9) Utilize on-site storage or other structural measures before using existing channel capacity for flood flows;

- (10) Utilize appropriate public open space for both open space uses (parks, recreational use and the like) and the temporary storage of excess stormwater;
- (11) Keep the drainage system as natural and aesthetically pleasing as possible;
- (12) Promote a comprehensive approach to the control of nuisance flooding and stormwater runoff;
- (13) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (14) Minimize prolonged business interruptions;
- (15) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines and streets and bridges;
- (K) Establish procedures through which these purposes can be fulfilled.

(‘77 Code, § 4-72) (Ord. 3190, passed 5-21-90; Am. Ord. 6792A, passed 9-21-92)

Section 2. Chapter 152 of County Code amended.

Sections 152.01 through 152.10; 152.20 through 152.28; 152.40 through 152.42; 152.55 through 152.62; and 152.99 of the Code of York County, South Carolina and applicable sections of the York County Stormwater Management and Sediment Control Ordinance and Code are hereby amended to read as follows:

CHAPTER 152: STORMWATER MANAGEMENT AND SEDIMENT CONTROL

Section

General Provisions

- 152.01 Title
- 152.02 Purpose
- 152.03 Authority and enactment
- 152.04 Jurisdiction and administration
- 152.05 Exemptions and waivers
- 152.06 Rules of language and interpretation
- 152.07 Definitions
- 152.08 Notification

152.09 Inspection and enforcement

152.10 Relationship with other laws, regulations and ordinances

Procedures

152.20 Relationship between stormwater management and sediment control plan, grading permit and disturbance of land in the county

152.21 Existing disturbed areas

152.22 Application for grading permit

152.23 Fee schedule

152.24 Approval or disapproval of application

152.25 Variances, appeals and administrative hearings

152.26 Other authorization or requirement

152.27 Extension of time

152.28 Responsibility of applicant

Mandatory Standards and Plan Requirements

152.40 Mandatory standards for stormwater management and sediment control plans

152.41 Plan requirements for stormwater management and sediment control plans

152.42 References to assist the applicant in meeting the mandatory standards and requirements

Maintenance

152.55 Maintenance during construction

152.56 Maintenance responsibilities after development

152.60 Inspections by owner/operator

152.61 Maintaining an updated plan

152.62 Termination of coverage

Illicit Discharge Detection and Elimination

152.70 Discharge Prohibitions

152.71 Regulations and Requirements of the Illicit Discharge Detection and Elimination

152.72 Access and inspections of Properties and facilities

152.73 Notification of accidental discharges and spills

152.74 Violations, enforcement, and penalties

Penalties

152.99 Penalty

GENERAL PROVISIONS

§ 152.01 TITLE.

This chapter shall be known and may be cited as “The Stormwater Management and Sediment Control Ordinance of York County, South Carolina.”

(‘77 Code, § 4-71) (Ord. 3190, passed 5-21-90; Am. Ord. 6792A, passed 9-21-92)

§ 152.02 PURPOSE.

(A) The purpose of this chapter is to establish minimum stormwater management requirements and controls to protect for posterity the natural resources of York County and the general health, safety and welfare of the people of York County, South Carolina, and to: Protect the land and waters from the adverse effects of excessive soil erosion, sedimentation and stormwater through good and responsible development;

(B) Prevent the erosion of soils, sedimentation of streams and silting of lakes;

(C) Provide unobstructed and sanitary channels for stormwater runoff;

(D) Control stormwater runoff from developing areas;

(E) Eliminate the encroachment of uses incompatible with natural drainage channels;

(F) Enhance the water quality of surface and groundwater and promote groundwater recharge;

(G) Prevent pollution of watersheds, streams and natural drainage channels;

- (H) Reduce the damage potential of floodwater and protect properties near land-disturbing activities;
- (I) Regulate the contribution of pollutants to York County's separate storm sewer system by any person;
- (J) Prohibit illicit discharges and illegal connections to York County's separate storm sewer system;
- (K) Prevent non-storm water discharges, generated as a result of spills, inappropriate dumping or disposal, to York County's separate storm sewer system;
- (L) To establish legal authority to carry out all inspection, surveillance, monitoring and enforcement procedures necessary to ensure compliance with ordinance;
- (M) Conserve and protect the county's natural and scenic resources for future generations to enjoy;
- (N) Achieve the following objectives:
 - (1) Protect human life and health;
 - (2) Minimize public and private property damage resulting from erosion, sedimentation and flooding;
 - (3) Regulate development, which may, when acting alone or in combination with similar developments, create a demand for public investment in flood-control works by requiring protection against flood damage at the time of initial construction and afterwards;
 - (4) Ensure, as far as possible, an efficient drainage system that will not result in excessive public or private moneys being used for maintenance and replacement of portions of the system;
 - (5) Ensure that the design of the drainage system will be consistent with good engineering practice and design;
 - (6) Provide temporary and permanent erosion and sediment control measures to protect individuals occupying land adjacent to and downstream from proposed developments from being damaged by sediment originating from within or because of the proposed development;
 - (7) Provide for development of areas with minimum adverse effects to the natural environment;
 - (8) Encourage wise use of the county's economic and fiscal resources;
 - (9) Utilize on-site storage or other structural measures before using existing channel capacity for flood flows;
 - (10) Utilize appropriate public open space for both open space uses (parks, recreational use and the like) and the temporary storage of excess stormwater;

- (11) Keep the drainage system as natural and aesthetically pleasing as possible;
 - (12) Promote a comprehensive approach to the control of nuisance flooding and stormwater runoff;
 - (13) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
 - (14) Minimize prolonged business interruptions;
 - (15) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines and streets and bridges;
- (N) Establish procedures through which these purposes can be fulfilled.
- (‘77 Code, § 4-72) (Ord. 3190, passed 5-21-90; Am. Ord. 6792A, passed 9-21-92)

§ 152.03 AUTHORITY AND ENACTMENT.

In pursuance of the authority and powers granted by the General Assembly of South Carolina, in S.C. Code Title 48, Chapter 14, as amended, and by other powers granted to counties by the General Assembly of South Carolina and, for the purpose set forth, the York County Council does adopt and enact into law these sections known as “The Stormwater Management and Sediment Control Ordinance of York County, South Carolina.”

(‘77 Code, § 4-73) (Ord. 3190, passed 5-21-90; Am. Ord. 6792A, passed 9-21-92)

§ 152.04 JURISDICTION AND ADMINISTRATION.

The provisions of this chapter shall apply to all lands within all unincorporated areas of York County, South Carolina and those municipalities which, by executed written agreement, contract with York County to have these provisions administered within their corporate limits. In questions of interpretation or administration, refer to the state law.

(‘77 Code, § 4-74) (Ord. 3190, passed 5-21-90; Am. Ord. 6792A, passed 9-21-92)

§ 152.05 EXEMPTIONS AND WAIVERS.

(A) The following activities are exempt from both the sediment control and stormwater management requirements established by these regulations:

- (1) Land-disturbing activities on agricultural land for production of plants and animals useful to man, including, but not limited to, forages and sod crops, grains and feed crops, tobacco, cotton and peanuts; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies,

mules or goats, including the breeding and grazing of these animals; bees; fur animals and aquaculture, except that the construction of an agricultural structure one or more acres in size (tile building only), such as broiler houses, machine sheds, repair shops and other major buildings, and which require the issuance of a building permit shall require the submittal and approval of a stormwater management and sediment control plan prior to the start of the land-disturbing activity;

(2) Activities undertaken by persons who are otherwise regulated by the provisions of the South Carolina Mining Act, Chapter 24, Title 14;

(3) Any of the following land-disturbing activities undertaken by any person who provides gas, electrification or communications services, subject to the jurisdiction of the South Carolina Public Service Commission or corporations organized and operating pursuant to S.C. Code §§ 33-49-10 *et seq.* are exempt from the applicable provisions of this code. Any other land disturbing activities undertaken by any person who provides gas, electrification or communications services shall install adequate sediment and erosion control measures which will retain sediment on site. When the total disturbed acreage exceeds one (1) acre the guidelines as stated in Sections 152.40 and 152.41 shall be followed.

(a) Land-disturbing activities conducted pursuant to a certificate of environmental compatibility and public convenience and necessity issued pursuant to S.C. Code Title 58, Chapter 33, or land-disturbing activities conducted pursuant to any other certification or authorization issued by the Public Service Commission;

(b) Land-disturbing activities conducted pursuant to a federal environmental permit, including Section 404 of the Federal Clean Water Act, and including permits issued by the Federal Energy Regulatory Commission;

(c) Land-disturbing activities associated with emergency maintenance or construction of electric, gas or communications facilities when necessary to restore service or when the governor declares the area to have sustained a disaster and the actions are undertaken to protect the public from a threat to health or safety; or

(d) Land-disturbing activities conducted by a person filing environmental reports, assessments or impact statements with the United States Department of Agriculture, Rural Electrification Administration, in regard to a project. All persons undertaking these activities are regulated by the Public Service Commission;

(4) Land-disturbing activities, other than activities identified in subsection (6), that are conducted under another state or federal environmental permitting, licensing or certification program where the state or federal environmental permit, license or certification is conditioned on compliance with the minimum standards and criteria developed under this chapter;

(5) Activities, disturbing less than one (1) acre, relating to the routine maintenance and/or repair or rebuilding of the tracks, rights-of way, bridges, communication facilities and other related structures and facilities of a railroad company;

(6) Activities undertaken on state-owned or managed lands that are otherwise regulated by the provisions of Chapter 18 of the South Carolina Erosion and Sediment Reduction Act;

(7) Activities undertaken by local governments or special purpose or public service districts relating to the repair and maintenance of existing facilities and structures;

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

(a) A stormwater management and sediment control plan will not be required if the pond, lake or reservoir is permitted under the South Carolina Dams and Reservoirs Safety Act or has received a Certificate of Exemption from the South Carolina Dams and Reservoirs Safety Act. Best management practices should be used to minimize the impact of erosion and sediment;

(b) Land-disturbing activities for ponds, lakes and reservoirs which do not have a permit under the South Carolina Dams and Reservoirs Safety Act or have not received a Certificate of Exemption from the South Carolina Dams and Reservoirs Safety Act must submit a stormwater management and sediment control plan prior to beginning the land-disturbing activity if the activity otherwise meets the size requirements for stormwater management and sediment control plan approval.

(9) Land disturbing activities undertaken on forest land for the production and harvesting of timber and timber products if there is no plan for development of the property.

(10) Land disturbing activities consisting of less than 1000 square feet on properties which have been previously permitted and are stabilized as long as there is no larger common plan for development or sale of the property (i.e. adding a deck or outbuilding to a home within a completed subdivision which is permanently stabilized).

(B) The program administrator may grant waivers from the stormwater management requirements of these regulations for individual land-disturbing activities, provided that a written request is submitted by the applicant containing descriptions, drawings and any other information that is necessary to evaluate the proposed land-disturbing activity and provided that the county engineer concurs with the need for a waiver. A separate written waiver request shall be required if there are subsequent additions, extensions or modifications which would alter the approved stormwater runoff characteristics to a land- disturbing activity receiving a waiver.

(1) A project may be eligible for a waiver of stormwater management for both quantitative and qualitative controls if the applicant can demonstrate that the proposed project will return the disturbed area to a pre-development runoff condition and the pre-development land use is unchanged at the conclusion of the project.

(2) A project may be eligible for a waiver or variance of stormwater management for water quantity control if the applicant can demonstrate that:

(a) The proposed project will have no significant adverse impact on the receiving natural waterway or downstream properties; or

(b) The imposition of peak control requirements for rates of stormwater runoff would aggravate downstream flooding.

(3) The program administrator will review the request for waiver within the review time set forth for the project.

(4) Risk analysis may be used to justify a design storm event other than prescribed or to show that rate and volume control is detrimental to the hydrologic response of the basin and therefore should not be required for a particular site.

(a) A complete watershed hydrologic and hydraulic analysis must be done using a complete model or procedure acceptable to the program administrator. The level of detail of data required is as follows:

1) Watershed designation on the 7.5 minute topo map exploded to a minimum of 1 inch equals 400 feet;

2) Inclusion of design and performance data to evaluate the effects of any structures which affect discharge. Examples may be ponds or lakes, road crossings acting as attenuation structures and there may be others which must be taken into account;

3) Land use data shall be taken from the most recent aerial photograph and field checked and updated;

4) The water surface profile shall be plotted for the conditions of pre- and post- development for the 10- and 100-year 24-hour storm;

5) Elevations of any structure potentially damaged by resultant flow shall also be shown.

(b) Based on the results of this type of evaluation, the program administrator shall review and evaluate the proposed regulation waiver or change.

(C) The following discharges are exempt from the illicit discharge detection and elimination requirements established by these regulations

(1) Water line flushing performed by a municipality or government appointed agency, other potable water sources, landscape irrigation or lawn watering, agricultural irrigation, diverted stream flows, rising ground water, uncontaminated pumped ground water, uncontaminated ground water infiltration to storm drains, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, de-chlorinated swimming pool discharges, residential and charity vehicle washing operations (*see (b)), natural riparian habitat or wetland flows, individual residential and occasional non-commercial car washing, uncontaminated wash water from exterior building cleaning (cosmetic cleaning), street wash waters, removal of stormwater system blockages with unmodified potable water,

dye testing performed by local municipality (*see (a)), NPDES permitted discharges and any other water source not containing pollutants;

(a) Dye testing performed by local municipality, using suitable dyes, for verifying cross-connections, tracing plumbing lines, determining flow direction or rate and for similar purposes. If dye testing is performed by a non-governmental agency, notification must be made to the jurisdictional government agency prior to testing.

(b) Designated vehicle wash areas at multi-family residential complexes are not allowed if they connect, directly or indirectly, to the storm drainage system or surface water. Charity vehicle washing performed by the same organization on a routine basis (more than four times in a twelve-month period) is not allowed under this Article.

(2) What is typically considered a non-storm water discharge, York County has found that chlorinated swimming pool backwash does considerably contribute to water quality degradation by bio-accumulated amounts of chlorine and bromine. To honor and comply with (33 U.S.C. 1251 et seq) Section 101 (a) (1-7) of the federal Clean Water Act and Section 152.70 of York County Code, chlorinated swimming pool discharge or backwash is herein prohibited from discharge into the York County separate storm sewer system because of its potentially detrimental effects on water quality and all relevant wildlife. Therefore, discharges or flows from chlorinated swimming pool discharges, such as backwash, will be required to be directed into the sanitary sewer system with no direct connection and will no longer be allowed to be discharged in the separate storm sewer system. This action will become effective on all new construction and industrial sites upon the adoption date of this ordinance;

(3) Discharges or flows from fire fighting, and other discharges specified in writing by York County as being necessary to protect public health and safety;

(4) The prohibition provision above shall not apply to any non-stormwater discharge permitted under an NPDES permit or order issued to the discharger and administered under the authority of the State and the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to York County's separate storm sewer system;

(5) With written concurrence of York County Council, York County may exempt in writing other non-storm water discharges which are not a source of pollutants into the MS4 storm drainage system, Waters in the State, nor Waters of the United States.

('77 Code, § 4-75) (Ord. 3190, passed 5-21-90; Am. Ord. 6792A, passed 9-21-92; Am. Ord. 1894, passed 4-11-94)

§ 152.06 RULES OF LANGUAGE AND INTERPRETATION.

(A) The word “shall” is mandatory; the word “may” is permissive.

(B) The particular shall control the general.

(C) Words used in the present tense shall include the future, words used in the singular include the plural, and words used in the plural include the singular, unless the context clearly indicates the contrary.

(‘77 Code, § 4-76) (Ord. 3190, passed 5-21-90; Am. Ord. 6792A, passed 9-21-92)

§ 152.07 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

2-YEAR FREQUENCY STORM. A storm that is capable of producing rainfall expected to be equaled or exceeded on the average of once in two years. It may also be expressed as an exceedance probability with a 50% chance of being equaled or exceeded in any given year.

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

25-YEAR FREQUENCY STORM. A storm that is capable of producing rainfall expected to be equaled or exceeded on the average of once in 25 years. It also may be expressed as an exceedance probability with a 4% chance of being equaled or exceeded in any given year.

100-YEAR FREQUENCY STORM. A storm that is capable of producing rainfall expected to be equaled or exceeded on the average of once in 100 years. It also may be expressed as an exceedance probability with a 1% chance of being equaled or exceeded in any given year.

ACCELERATED EROSION. Potentially destructive erosion caused to a large extent by man’s activities.

ACCIDENTAL DISCHARGE. A discharge prohibited by this amendment which occurs by chance and without planning or thought prior to occurrence.

ADMINISTRATOR. The Environmental Compliance Administrator

AGRICULTURAL STORMWATER RUNOFF. Any storm water runoff from orchards, cultivated crops, pastures, range lands, and other non-point source agricultural activities, but not discharge from concentrated animal feeding operations as defined in 40

CFR Section 122.23 or discharged from concentrated aquatic animal production facilities as defined in 40 CFR Section 122.24

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

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

APPROPRIATE PLAN APPROVAL AGENCY. Whoever is responsible in a jurisdiction for review and approval of stormwater management and sediment control plan.

AS-BUILT PLANS or **RECORD DOCUMENTS.** A set of engineering or site drawings that delineate the specific permitted stormwater management facility as actually constructed.

AQUATIC MONITORING ORGANISM. The aquatic indicator species used in monitoring water quality, usually determined by that of a macroinvertebrate survey.

AUTHORIZED ENFORCEMENT AGENCY. The employees of York County Environmental Compliance and the designees of the Environmental Compliance Administrator designated to enforce this amendment, including, but no limited to, York County Sheriff's Department employees and York County Code Enforcement officers.

BEST MANAGEMENT PRACTICE. A wide range of management procedures, schedules of activities, prohibitions on practices and other management practices which have been demonstrated to control effectively the quality and/or quantity of stormwater runoff and which are compatible with the planned land use.

BUFFER, MAN-MADE. A unit of yard that is stabilized with permanent vegetation adjacent to a lake or water course, the width of which is measured from the edge of the normal water elevation to the nearest edge of the disturbed area.

BUFFER, NATURAL. Undisturbed existing trees and the natural forest ground covers adjacent to a lake or water course, the width of which is measured from the edge of the normal water elevation to the nearest edge of the disturbed area.

CERTIFIED CONSTRUCTION INSPECTOR. A person with the responsibility for conducting inspections during construction and maintenance inspections after the land-disturbing activity is completed as certified by South Carolina Department of Health and Environmental Control.

CERTIFIED PLAN REVIEWER. A person responsible for reviewing stormwater management and sediment control plans as certified by South Carolina Department of Health and Environmental Control.

CFR. The Code of Federal Regulations

CLEAN WATER ACT. The Federal Water Pollution Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

COMMISSION. The South Carolina Land Resources Conservation Commission.

CONTAMINATED. Containing a harmful quantity of any substance.

CONTAMINATION. The presence of or entry into a public water supply system, the York County separate storm sewer system, Waters of the State, or Waters of the United States of any substance which may be deleterious to public health, wildlife and/or the quality of the water.

CONSTRUCTION. The erection of any building or structure or any preparations for the same. This includes land disturbance and/or timbering for the purpose of construction or stump removal.

CONVEYANCE. The transportation of something from one place to another.

COSMETIC CLEANING. Cleaning done for cosmetic purposes. It does not include industrial cleaning, cleaning associated with manufacturing activities, hazardous or toxic waste cleaning, or any cleaning otherwise regulated under federal, state, or local laws.

COUNTY. Employees or designees of York County Government, South Carolina

DAY. Calendar day, unless otherwise specified by this chapter.

DELEGATION. The acceptance of responsibility by the county for the implementation of one or more elements of the statewide sediment control and stormwater management program.

DESIGNEE. Any individual or group of individuals chosen by the Environmental Compliance Administrator to perform a job, duty or task.

DESIGN STORM. A storm of a given return frequency, as specified by this chapter, to be used to compute peak flow, volumes and design required structures or measures.

DESIGNATED WATERSHED. A watershed designated by York County, Department of Health and Environmental Control and/or the South Carolina Water Resources Commission, and identified as having an existing or potential stormwater, sediment control or nonpoint source pollution problem.

DETENTION STRUCTURE. A permanent stormwater management structure whose primary purpose is to store temporarily stormwater runoff and release the stored runoff at controlled rates.

DEVELOP LAND. To change the runoff characteristics of land in conjunction with residential, commercial, industrial or institutional construction or alteration.

DEVELOPER. Any person acting in his or her own behalf, as an owner or as an agent for an owner of property and who makes application for plan approval and a grading permit under the provisions of this chapter, or a person undertaking, or for whose benefit, activities covered by these regulations are commenced and/or carried out.

DISCHARGE. Any addition or introduction of any pollutant, storm water, or any other substance whatsoever into the York County separate storm sewer system, Waters of the State or Waters of the United States.

DISCHARGER. Any person who causes, allows, permits, or is otherwise responsible for, a discharge, including, without limitation, any operator of a construction site or industrial facility.

DISTRICT. The York Soil and Water Conservation District created pursuant to S. C. Code Title 48, Chapter 9.

DISTURBED AREA. Area other than that exempted by § 152.05, which is designated for land disturbance. Disturbed area relates only to the amount of land actually disturbed on the parcel and not parcel size. Disturbed area is to be measured cumulatively on the parcel or parcels associated with the project area.

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

DRAINAGE AREA. That area contributing runoff to a single point.

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

EMBANKMENT or **FALL.** A deposit of soil, rock or other material placed by man.

ENFORCEMENT AUTHORITY. The county manager or his or her designee.

EPA. The United States Environmental Protection Agency or any duty authorized official of said agency.

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

EROSION AND SEDIMENT CONTROL. The control of solid material, both mineral and organic, during a land-disturbing activity to prevent its transport out of the disturbed area by/of air, water, gravity or ice.

EXEMPTION or **EXCEPTION.** Land-disturbing activities that are not subject to the sediment control and stormwater management requirements contained in these regulations.

FACILITY. Any area, including construction sites, required by the Federal Clean Water Act to have a permit to discharge stormwater associated with industrial activity.

FINAL STABILIZATION. All soil disturbing activities at the Site have been completed and either of the two following criteria is met:

(1) A uniform (e.g., evenly distributed, without large bare areas) perennial vegetative cover with a density of 70 percent of the native background vegetative cover for the area has been established on all unpaved areas and areas not covered by permanent structures; or

(2) Equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed.

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

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

GRADING PERMIT. A county permit issued pursuant to an approved SWPPP prepared under the provisions of this chapter. A grading permit is required prior to initiating a land-disturbing activity. Land-disturbing activities involving five acres or more must have a Type I permit; those involving one to five acres must have a Type II permit; those involving one acre or less must have a Type III permit. These categories are further elaborated in § 152.41.

GROUND COVER. Any vegetative growth, including trees or geotechnical materials, which render the soil surface stable against erosion.

HARMFUL QUANTITY. The amount of any substance that will cause pollution of water in the York County separate storm sewer system, Waters of the State, Waters of the United States, or that will cause lethal or sub-lethal adverse effect on representative, sensitive aquatic monitoring organisms belonging to the County, upon their exposure to samples of any discharge into the York County separate storm sewer system, Waters of the State and Waters of the United States.

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

HEARING BOARD. A panel consisting of the public works director of the county, the county engineer and one representative of the county Soil and Water Conservation District Board. The district conservationist of the USDA Soil Conservation Service

assigned to the county may serve in an advisory capacity but shall have no vote. The board shall hear appeals and requests for variances. Its members shall be known as hearing officers.

ILLICIT DISCHARGE. Any direct or indirect discharge to a municipal or county separate storm sewer system (MS4 storm drain system), that is not composed entirely of storm water runoff (except discharges allowed under and NPDES permit or non-polluting flows). These non-storm water discharges occur due to illegal dumping or illegal connections to the storm water drainage system.

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

INDUSTRIAL ACTIVITY. Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26(b)(14).

LAND. Any ground, soil or earth, including marshes, swamps, drainageways and areas not permanently covered by water within the county.

LAND DISTURBANCE or ***LAND-DISTURBING ACTIVITY.*** Any use of the land by any person involving the removal of trees, clearing, grading, excavation, transporting, filling or any other activities which result in a change in the natural cover or to the topography and will cause land to be exposed or cause erosion, contribute to sediment and alter the quality and quantity of stormwater runoff.

LARGE CONSTRUCTION ACTIVITY. Includes clearing, grading and excavating resulting in a land disturbance that will disturb equal to or greater than five acres of land or will disturb less than five acres of total land area but is part of a larger common plan of development or sale that will ultimately disturb equal to or greater than five acres.

LARGER COMMON PLAN. Any announcement or piece of documentation (including a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, computer design, etc.) or physical demarcation (including boundary signs, lot stakes, surveyor markings, etc.) indicating construction activities may occur on a specific plot.

MUNICIPAL SEPARATE STORM SEWER SYSTEM. A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) that are:

- (a) Owned or operated by the federal government, state, municipality, township, county, district, or other public body (created by or pursuant to state or federal law) including special district under state law such as a sewer district, flood control district or drainage districts, or similar entity, or a designated and approved management agency under Section 208 of the Clean Water Act that discharges into surface waters of the state; and
- (b) Designed or used for collecting or conveying solely storm water;
- (c) Which is not a combined sewer, and
- (d) Which is not a part of a publicly owned treatment works.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES).

The national program for using, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under sections 307, 402, 318, and 405 of the Federal Clean Water Act.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE PERMIT. A permit issued by EPA (or by a State under authority delegated pursuant to 33 USC 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

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

Notice of Intent The Notice of Intent stormwater dischargers must give that is required by the NPDES Storm Water Construction General Permit to discharge stormwater associated with industrial activity that is issued by the EPA, SCDHEC or municipality with delegated authority.

NONERODIBLE. A material, for example, natural rock, riprap, concrete, plastic and the like, that will not experience surface wear due to natural forces of wind, water, ice, gravity or a combination of those forces.

NONPOINT SOURCE POLLUTION. Pollution contained in stormwater runoff from ill-defined, diffuse sources.

NON-STORM WATER DISCHARGE. Any discharge to the storm drain system that is not composed entirely of storm water.

OPERATE. To drive, conduct, work, run, manage, or control.

OPERATOR. Any party associated with a construction Project that meets either of the following two criteria:

- (1) The party has operational control over construction plans and specifications.

Note: A party has “operational control over construction plans and specifications” if they have the authority to prepare or modify such plans and; or

(2) The party has “operational control over day-to-day activities” at a Project that are necessary to ensure compliance with a SWPPP for the Site or other permit conditions (e.g., they are authorized to direct workers at a Site to carry out activities required by the SWPPP or comply with other permit conditions). This definition is provided to inform permittees of EPA’s interpretation of how the regulatory definitions of “Owner or Operator” and “facility or activity” are applied to discharges of storm water associated with construction activity.

OWNER or OPERATOR. The owner or operator of any “facility or activity” subject to regulation under the NPDES program. For purposes of this ordinance, when local governments (counties, cities, etc.) construct or improve state roads, the owner of these road construction projects during the construction is the local government.

PERMANENT STABILIZATION. The installation of vegetative or structural measures to establish a soil cover to reduce soil erosion by stormwater runoff, wind, ice and gravity which cover seventy percent of the permitted, disturbed site development.

PERSON. Any state or federal agency, individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, municipality or other political subdivision of this state, any interstate body or any other legal entity.

pH. The logarithm to the base 10 of the reciprocal of the concentration in grams per liter of hydrogen ions; a measure of the acidity or alkalinity of a solution, expressed in standard units.

PLAN. SWPPP required by this chapter to be a prerequisite to obtaining a grading permit. The plan will fully indicate necessary land management and treatment measures, including drawings and supporting calculations, BMPs, maintenance guidelines and a timetable for installation. Implementation of the plan will effectively minimize soil erosion and sedimentation and provide for the successful management of excess stormwater.

PLANNING COMMISSION. The Planning Commission of York County, South Carolina.

POINT SOURCE. Any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural storm water runoff.

POLLUTION/POLLUTANT. The presence in the environment of any substance, including, but not limited to, sewage, sediment, industrial and other waste, air contaminant or any combination thereof in such quantity and of such characteristics and duration as may cause the environment to be contaminated, unclean, noxious, odorous,

impure or degraded, which tends to be injurious to human health or welfare or which damages property, plant, animal or use of property.

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

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

PREMISES. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

PROFESSIONAL SOIL EROSION AND SEDIMENT CONTROL SPECIALIST. A professional soil conservationist who is certified by the American Registry of Certified Professionals in Agronomy, Crops and Soils in cooperation with the Soil Conservation Society of America and adheres to the Certified Professional Soil Erosion and Sediment Control Specialist Code of Ethics.

PROJECT. An undertaking such as, but not limited to, construction of commercial development, residential development, industrial development, roadways, railways, and utility lines.

PROJECT AREA. Defined as the following:

(1). The areas on the construction site where storm water discharges originate and flow toward the point of discharge into the receiving waters (including areas where excavation, site development, or other ground disturbance activities occur) and the immediate vicinity.

(2). The areas where storm water discharges flow from the construction site to the point of discharge into receiving waters.

(3). The areas where storm water from construction activities discharge into receiving waters and the areas in the immediate vicinity of the point of discharge.

(4). The areas where storm water BMPs will be constructed and operated, including any areas where storm water flows to and from BMPs.

(5). The areas upstream and /or downstream from construction activities discharges into a stream segment that may be affected by the said discharges.

PROGRAM ADMINISTRATOR. The individual designated to administer this chapter who is also a certified plan reviewer and who is responsible for the enforcement of the regulations imposed by this chapter.

RECEIVING WATER. The “Waters of the State” as defined in §122.2 of SC Regulation 61-9 into which the regulated storm water discharges.

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

REGISTERED LANDSCAPE ARCHITECT. A person who is registered by the State of South Carolina pursuant to S.C. Code, Title 40, Chapter 28, as amended.

REGISTERED PROFESSIONAL ENGINEER. A person who is registered by the State of South Carolina pursuant to S.C. Code, Title 40, Chapter 22, as amended.

REGISTERED TIER B LAND SURVEYOR. A person who is registered by the State of South Carolina pursuant to S.C. Code, Title 40, Chapter 22, as amended.

RELEASE. Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into ground-water, subsurface soils, surface soils, the York County separate storm sewer system (MS4), the Waters of the State, or the Waters of the United States.

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

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

ROADWAY DRAINAGE SYSTEM. Measures, structures, facilities or practices designed to manage and convey stormwater from streets and roads to roadside ditches, drainage easements and other segments of the stormwater management system.

RUNOFF. That portion of the precipitation which enters the stormwater management system.

RUNOFF COEFFICIENT. The fraction of total rainfall that will appear at the conveyance as runoff.

SCDHEC. The South Carolina Department of Health and Environmental Control.

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

SEDIMENT CONTROL OFFICER. The individual designated to inspect sites regulated by this chapter who is also a Certified Erosion Prevention and Sediment Control Inspector and who is responsible, in part, for the enforcement of the regulations imposed by this chapter.

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

SEVERE PROPERTY DAMAGE Substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

SINGLE-FAMILY RESIDENCE, SEPARATELY BUILT. A noncommercial dwelling that is occupied exclusively by one family and not part of a residential subdivision development.

SITE. The land or water area where any “facility or activity” is physically located or conducted, including adjacent land used in connection with the facility or activity.

SMALL CONSTRUCTION ACTIVITY. The discharge of stormwater from construction activities including clearing, grading, and excavating that result in land disturbance of up to five acres.

SOIL AND WATER CONSERVATION DISTRICT or CONSERVATION DISTRICT. A governmental subdivision of the State of South Carolina created pursuant to S.C. Code Title 48, Chapter 9, as amended; and Soil and Water Conservation District Board means the governing body of the Soil and Water Conservation District.

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

STATE. The State of South Carolina.

STATE WATERS. Any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface and subsurface water, natural or artificial, lying within or forming a part of the boundaries of the State of South Carolina which are not entirely confined and retained completely upon the property of a single person.

STOP WORK ORDER. An order directing the person responsible for the land-disturbing activity to cease and desist all or any portion of the work which violates the provisions of this act.

STORM DRAINAGE SYSTEM. Publicly and Privately owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

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

STORMWATER DISCHARGE ASSOCIATED WITH INDUSTRIAL ACTIVITY. The discharge from any conveyance which is used for collecting and conveying storm water and which is directly related to manufacturing, processing or raw material storage areas at an industrial plant. The term does not include discharges from facilities or activities excluded from the NPDES program under 40 CFR part 122. For the categories of industries identified in paragraphs (i) through (x) of this definition, the term includes, but is not limited to, stormwater discharge from industrial plant yards; immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products,

waste material or by-products used or created by the facility; material handling sites; refuse sites; sites used for the application or disposal of process waste waters (as defined at 40 CFR part 401); sites used for the storage and maintenance of material equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing building; storage areas (including tank farms) for raw material, and intermediate and finished products; and areas where industrial activity has taken place in the past and significant materials remain and are exposed to stormwater. For the categories of industries identified in paragraph (xi) of this definition, the term includes only stormwater discharges from all the areas (except access roads and rail lines) that are listed in the previous sentence where material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, or industrial machinery are exposed to stormwater. For the purposes of this paragraph, material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, finished product, by-product or waste product. The term excludes areas located on plant lands separate from the plant's industrial activities, such as office building and accompanying parking lots as long as the drainage from the excluded areas is not mixed with stormwater drained from the above from the described areas. Industrial facilities (including industrial facilities that are Federally, State, or municipally owned or operated that meet the description of the facilities listed in these paragraphs (i)-(xi) of this definition) include those facilities designated under the provisions of 40 CFR § 122.26 (a)(1)(v). The following categories of facilities are considered to be engaging in "industrial activity":

- (i) Facilities subject to stormwater effluent limitations guidelines, new source performance standards, or toxic pollutant effluent standards under 40 CFR subchapter N (except facilities with toxic pollutant effluent standards which are exempted under category (xi) of this definition);
- (ii) Facilities classified as Standard Industrial Classifications 24 (except 2434), 26 (except 265 and 267), 28 (except 283), 29, 311, 32 (except 323), 33, 3441, 373;
- (iii) Facilities classified as Standard Industrial Classification 10 through 14 (mineral industry) including active or inactive mining operation (except for areas of coal mining operations no longer meeting the definition of a reclamation area under 40 CFR § 434.11(1) because the performance bond issued to the facility by the appropriate federal Surface Mining Control and Reclamation Act (SMCRA) authority has been released, or except for areas of non-coal mining operations which have been released from applicable State or Federal reclamation requirements after December 17, 1990 and oil and gas exploration, production, processing, or treatment operations, or transmission facilities that discharge stormwater contaminated by contact with or that has come into contact with, any overburden, raw material, intermediate products, finished products, byproducts or waste products located on the site of such operations; (inactive mining operation are mining sites that are not being actively mined, but which have an identifiable owner/operator; inactive mining sites do not include sites where mining claims are being maintained prior to disturbances associated with the extraction, beneficiation, or processing

- of mined materials, nor sites where minimal activities are undertaken for the sole purpose of maintaining a mining claim);
- (iv) Hazardous waste treatment, storage, or disposal facilities, including those that are operating under interim status are a permit under subtitle C of the federal Resource Conservation and Recovery Act (RCRA);
 - (v) Landfills, land application sites, and open dumps that receive or have received any industrial wastes (waste that is received from any of the facilities described under this subsection) including those that are subject to regulation under subtitle D of RCRA;
 - (vi) Facilities involved in the recycling of materials, including metal scrapyards, battery reclaimers, salvage yards, and automobile junkyards, including but limited to those classified as Standard Industrial Classification 5015 and 5093;
 - (vii) Steam electric power generating facilities, including coal handling sites;
 - (viii) Transportation facilities classified as Standard Industrial Classifications 40, 41, 42 (except 4221-25), 43, 44, 45, and 5171 which have vehicle maintenance shops, equipment cleaning operations, or airport deicing operation. Only those portions of the facility that are either involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning operations, airport deicing operations, or which are otherwise identified under paragraphs (i)-(vii) or (ix)-(xi) of this definition are associated with industrial activity;
 - (ix) Treatment works treating domestic sewage or any other sewage sludge or wastewater treatment device or system, used in the storage treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated to the disposal of sewage sludge that are located within the confines of the facility, with a design flow of 1.0 mgd or more, or required to have an approved pretreatment program under 40 CFR part 403. Not included are farm lands, domestic gardens or lands used for sludge management where sludge is beneficially reused and which are not physically located in the confines of the facility, or areas that are in compliance with section 405 of the federal Clean Water Act;
 - (x) Construction activity including clearing, grading, and excavation activities except: operations that result in the disturbance of less than 1 acre of total land area which are not part of a larger common plan of development or sale;
 - (xi) Facilities under Standard Industrial Classifications 20, 21, 22, 23, 2434, 25, 265, 267, 27, 283, 285, 30, 31, (except 311), 323, 34 (except 3441), 35, 36, 37, (except 373), 38, 39, 4221-25, (and which are not otherwise included within categories (ii)-(x) of this definition);

STORMWATER MANAGEMENT. For:

- (1) Quantitative control, a system of vegetative or structural measures, or both, that control the increased volume and rate of stormwater runoff caused by man-made changes to the land;

(2) Qualitative control, a system of vegetative, structural or other measures that reduce or eliminate pollutants that might otherwise be carried by stormwater runoff.

STORMWATER MANAGEMENT AND SEDIMENT CONTROL PLAN. A set of drawings, other documents and supporting calculations submitted by a person as a prerequisite to obtaining a permit to undertake a land-disturbing activity, which contains all of the information and specifications required by stormwater management and sediment control of the county. Also see SWPPP.

STORMWATER MANAGEMENT SYSTEM. The surface and subsurface system for the removal of water from the land, including both the natural elements of streams, marshes, swales and ponds, whether of an intermittent or continuous nature, and the man-made element which includes culverts, retention facilities and the storm water sewer system.

STORMWATER RELATED DISCHARGE ACTIVITIES. Includes: activities that cause, contribute to, or result in storm water point source pollutant discharges, including but not limited to: excavation, site development, grading and other surface disturbance activities; and measures to control storm water including the siting, construction and operation of BMPs to control, reduce or prevent storm water pollution.

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

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

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

STRUCTURAL STORMWATER CONTROL. A structural stormwater management facility or device that controls stormwater runoff and changes the characteristics of that runoff including, but not limited to, the quantity and quality, the period of release or the velocity of flow.

SUBDIVISION. Any division of a tract or parcel of land into two or more lots, building sites or other divisions for the purpose, whether immediate or future, of sale or building development.

SURFACE WATERS OF THE STATE. Waters of the State as defined in §122.2 of SC Regulation 61-9 except for groundwater.

SUSPENSION OF OTHER WORK or STOP WORK ORDER. An unappealable order to immediately cease all construction work and land disturbance other than that necessary to bring the project site into conformance with the stormwater management and sediment control plan specifications and until conformance is achieved.

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

SWPPP. The stormwater pollution prevention plan is a plan required by a permit to discharge stormwater associated with industrial activity, including construction, which describes and ensures the implementation of practices that are to be used to reduce the pollutants in storm water discharges associated with industrial activity at the facility. The plan describes these Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Storm Water, Storm Water Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practicable.

TOTAL MAXIMUM DAILY LOAD (TMDL). The sum of the individual wasteload allocations (WLAs) for point sources and load allocations (LAs) for nonpoint sources and natural background. If a receiving water has only one point source discharger, the TMDL is the sum of that point source WLA plus the LAs for any nonpoint sources of pollution and natural background sources, tributaries, or adjacent segments. TMDLs can be expressed in terms of either mass per time, toxicity, or other appropriate measure.

UNCONTAMINATED. Not containing a harmful quantity of any substance.

UNMODIFIED POTABLE WATER. Tap water that has not had detergents, acids, degreasers, surfactants or other agents added to or mixed with it, regardless of whether the added agent is labeled as or generally considered to be biodegradable.

USC. United States Code.

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

VEGETATION. All plant growth, including trees, shrubs, mosses and grasses.

WAIVER. A grant of relief to an applicant for a specific land-disturbing activity from part or all of specific provisions of this chapter on a case-by-case basis. A waiver may be granted by the program administrator upon demonstration that a provision should be waived and that the integrity of this chapter will not be violated.

WASTEWATER. Any water or other liquid, other than uncontaminated storm water, discharged from a facility.

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

WATER QUANTITY. Those characteristics of stormwater runoff that relate to the rate and volume of the stormwater runoff to downstream areas resulting from land-disturbing activities.

WATERS OF THE STATE. Ground-water, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, wetlands, marches, inlets, canals, inside the territorial limits of the state, and all other bodies of surface water, natural or artificial, navigable or non-navigable, and including the beds and banks of all watercourses and bodies of surface water that are wholly or partially inside or bordering the State of South Carolina or inside the jurisdiction of the State of South Carolina.

WATERS OF THE UNITED STATES. All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce; all interstate waters, including interstate wetlands; all other waters the sue, degradation, or destruction of which would affect or could affect interstate or foreign commerce; all impoundments of waters otherwise defined as water of the United States under this definition; all tributaries of waters identified in this definition; all wetlands adjacent to waters identified in this definition; and any waters within the federal definition of “Waters of the United States” at 40 CFR § 122.2; but not including any waste treatment ponds, or lagoons, designed to meet the requirements of the federal Clean Water Act.

WATERSHED. The drainage area contributing stormwater runoff to a single point.

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

WETLANDS. Those areas that are inundated or saturated by surface or groundwater 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 areas.

ACRONYMS

BMP - Best Management Practices

CGP - Construction General Permit

CFR - Code of Federal Regulations

CWA - Clean Water Act

IDDE – Illicit Discharge Detection and Elimination

EPA - United States Environmental Protection Agency

GIS – Geographic Information Systems

MS4 - Municipal Separate Storm Sewer System

NOI - Notice of Intent

NOT - Notice of Termination

NPDES - National Pollutant Discharge Elimination System

POTW - Publicly Owned Treatment Works
SCDHEC – South Carolina Department of Health and Environmental Control
SWPPP - Storm Water Pollution Prevention Plan
TMDL - Total Maximum Daily Load

(‘77 Code, § 4-77) (Ord. 3190, passed 5-21-90; Am. Ord. 6792A, passed 9-21-92)

§ 152.08 NOTIFICATION.

The county shall provide proper notification of this chapter to persons applying for a grading permit together with the necessary forms required for application to secure approval of the stormwater management and sediment control plan. A copy of this chapter shall be made available upon request, at a cost set by County Council.

(‘77 Code, § 4-78) (Ord. 3190, passed 5-21-90; Am. Ord. 6792A, passed 9-21-92)

§ 152.09 INSPECTION AND ENFORCEMENT.

(A) The sediment control officer shall periodically inspect the sites of land-disturbing activities for which permits have been issued to determine whether or not the activities are being conducted in accordance with the approved stormwater management and sediment control plan and whether or not the measures required by the plan are effective in controlling erosion, sedimentation and stormwater runoff. These inspections shall be prioritized based on the classification of the waters to which the construction site discharges. An inspection report shall be filled out upon completion of each official inspection. These inspection reports shall be periodically reviewed by the program administrator to ensure accuracy and consistency. Inspection reports shall be maintained by the sediment control officer on all detention and retention structures and those inspection reports shall include the following items:

- (1) The date of inspection;
- (2) The name of the inspector;
- (3) The condition of (if applicable):
 - (a) Vegetation;
 - (b) Fences;
 - (c) Spillways;
 - (d) Embankments;
 - (e) Reservoir area;
 - (f) Outlet channels;

- (g) Underground drainage;
- (h) Sediment load; or
- (i) Other items which could affect the proper function of the structure.

(4) Description of needed maintenance.

(B) The program administrator shall provide procedures to ensure that deficiencies indicated by inspections are rectified. The procedures shall include the following:

(1) Determine the extent of damage by sediment resulting from noncompliance with the approved stormwater management and sediment control plan;

(2) Determine the classification of the impaired water body, if any;

(3) Determine the impact and severity of the damage resulting from noncompliance with the stormwater management and sediment control plan;

(4) Develop an agreement with landowners for cleanup and corrections, including a schedule of implementation if the operator can gain permission for access to the property;

(5) Evaluate the alternatives for correction of the damage and prevention of future damage;

(6) Failure to implement the agreement in the required schedule will constitute a violation of these regulations.

(C) (1) When it is apparent that approved measures are not effective in controlling erosion, sedimentation and stormwater runoff, the sediment control officer may notify the applicant so that the necessary plan revisions can be proposed by the applicant and approved by the program administrator or designee. The notice shall include a copy of the inspection report and an explanation of the particulars of noncompliance with the approved plan and/or measures that are not effective in controlling erosion, sedimentation and stormwater runoff. The notice may also include suggestions of measures needed to achieve compliance. It shall be the responsibility of the Operator to control erosion, sedimentation and stormwater runoff caused by land-disturbing activity.

(2) Major changes to approved SWPPP, such as the addition or deletion of a sediment basin, detention pond, water quality feature, storm drainage easement/features, etc. shall be submitted by the owner/developer to the program administrator or designee for review and approval. Minor changes to sediment and stormwater management plans may be made in the field inspection report and SWPPP and initialed by the operator and field inspector.

(D) If the sediment control officer determines that any person engaged in land-disturbing activities, as defined herein, has failed to comply with the approved plan and/or offsite sedimentation has occurred, a written notice of violation including a reasonable time schedule for compliance, shall be served upon the person by certified

mail, return receipt requested. Notice of violation shall be sufficient if directed to the owner, the agent of the owner or the contractor and left at his or her known place of residence or place of business. At the time that the Notice of Violation is issued, a hold may be placed on any building permits issued to the financially responsible party, owner of the property or contractor. If the person engaged in the land-disturbing activity fails to comply with the provisions of the notice, an immediate stop work order may be issued by the program administrator in accordance with the provisions of § 152.99. No further permits, grading or building, will be issued in the name of the owner of the property until all violations have been resolved and the Stop Work Order is lifted.

(E) Whenever the Environmental Compliance Department finds that a violation of 152.70 has occurred, they may also order compliance by written notice of violation. Such notice may require without limitation:

1. The notice of violation shall contain:
 - (i) The name and address of the alleged violator;
 - (ii) The address when available or a description of the building, structure or land upon which the violation is occurring, or has occurred;
 - (iii) A statement specifying the nature of the violation;
 - (iv) A description of the remedial measures necessary to restore compliance with this article and ordinance and a time schedule for the completion of such remedial action;
 - (v) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed; and
 - (vi) A statement that the determination of violation may be appealed to York County Hearing Board by filing a written notice of appeal within thirty (30) days of service of notice of violation.

2. Such notice may require without limitation:
 - (i) The performance of monitoring, analyses, and reporting;
 - (ii) The elimination of illicit discharges and illegal connections;
 - (iii) That violating discharges, practices, or operations shall cease and desist;
 - (iv) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property
 - (v) Payment of costs to cover administrative and abatement costs; and,
 - (vi) The implementation of pollution prevention practices, source control, or treatment BMPs.

(F) If any person engaging in land-disturbing activity fails to comply with the notice of violation within the time specified, the person shall be deemed in violation of this chapter and subject to the provisions of § 152.99.

(G) The county shall have the power to conduct site inspections as may reasonably be deemed necessary to administer and enforce this chapter, and for this purpose, the program administrator or sediment control officer may enter at any reasonable time upon any property, public or private, for the purpose of investigating and inspecting the sites of land-disturbing activities. No person shall refuse entry or access to any authorized representative or agent of the county or state who requests entry for purposes of inspection and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such county representative or agent in the process of carrying out his or her official duties.

(H) Upon completion of the land-disturbing activity, a final inspection shall be made by the program administrator or designee. If the work has been completed in accordance with the approved plan, a letter of satisfactory completion shall be issued to the applicant.

(I) (1) If a plan required by this chapter has not been submitted for approval, the person engaged in the land-disturbing activity shall be given an immediate stop work order. A notice requiring the person apply for a grading permit and submit the required plans shall also be served. The person shall conduct the minimum work necessary to stabilize the land disturbance and to eliminate the threat of off-site sedimentation.

(2) Stop work orders may be issued if the program administrator finds that a land-disturbing activity is being conducted in violation of the stormwater management and sediment control plan, that the violation is knowing and willful and that either:

(a) Off-site sedimentation resulting from noncompliance with the approved stormwater management and sediment control plan has eliminated or severely degraded a use in a lake or natural waterway or that the degradation is imminent;

(i). If a permit is required by an outside agency for the removal of the sediment (i.e. FERC permit required for sediment removal within Lake Wylie), a bond may be requested to ensure that the damage is remediated. This bond can be in the form of cash, bank/cashier's check or irrevocable letter of credit and shall be in the amount professionally determined to complete the remediation (subject to the County Engineer's approval). This bond must be submitted prior to a final plat approval of a subdivision or the issuance of a certificate of occupancy/completion for a commercial building or single family dwelling. This bond shall be issued for a period of one year and shall be released once all remediation had been completed. If the owner/operator shall fail to complete the required remediation satisfactorily within the required period of time, the bond shall be forfeited and applied to the cost of completion of the required remediation. Additional funds required for the completion of the remediation will be the sole responsibility of the developer. If permitting and removal takes in excess of one year to complete, the administrator may allow for the surety period to be extended. This must be requested by the owner prior to the expiration date.

(b) Off-site sedimentation resulting from noncompliance with the approved SWPPP has caused severe damage to adjacent land;

(c) The regulated land-disturbing activity requires an approved plan under these regulations and is being conducted without the required approved plan.

(3) The stop work order shall be in writing and shall state what work is to be stopped and what measures are required to abate the violation. The order shall include a statement of the findings made by the program administrator pursuant to division (A) of this section and shall list the conditions under which work that has been stopped by the order may be resumed. The delivery of equipment and materials which does not contribute to the violation may continue while the stop work order is in effect. A copy of this section shall be attached to the order.

(4) The stop work order shall be served by the sheriff of the county or by some other person duly authorized by law to serve process and shall be served on the person at the site of land-disturbing activity who is operation control of the land-disturbing activity. The sheriff or other person duly authorized by law to serve process shall post a copy of the stop work order in a conspicuous place at the site of the land-disturbing activity. The program administrator shall also deliver a copy of the stop work order to any person that the program administrator has reason to believe may be responsible for the violation.

(5) The directives of a stop work order become effective upon service of the order. Thereafter, any person notified of the stop work order who violates any of the directives set out in the order may be assessed a civil penalty. A stop work order issued pursuant to this section may be issued for a period not to exceed three calendar days.

(6) The sediment control officer shall monitor compliance with the stop work order. The sediment control officer's name and telephone number shall be included on the stop work order. The sediment control officer shall rescind the stop work order if all violations for which the stop work order was issued are corrected, no other violations have occurred and all measures necessary to abate the violations are taken. The county shall also rescind stop work orders issued in error.

(7) The issuance of a stop work order shall be a final agency decision subject to judicial review in the same manner as an order in a contested case pursuant to S.C. Code Title 1, Chapter 23, § 380. The petition for review shall be filed in the circuit court of the county.

(8) The county shall file a cause of action to abate the violations which resulted in the issuance of a stop work order within three calendar days of the service of the stop work order. The cause of action shall include a motion for an ex parte temporary restraining order to abate the violation and to effect necessary remedial measures. The resident circuit court judge, or any judge assigned to hear the motion for the restraining order, shall hear and determine the motion within two days of the filing of the complaint.

(‘77 Code, § 4-79) (Ord. 3190, passed 5-21-90; Am. Ord. 6792A, passed 9-21-92)
Penalty, see § 152.99

§ 152.10 RELATIONSHIP WITH OTHER LAWS, REGULATIONS AND ORDINANCES.

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

(‘77 Code, § 4-136) (Ord. 3190, passed 5-21-90; Am. Ord. 6792A, passed 9-21-92)

PROCEDURES

§ 152.20 RELATIONSHIP BETWEEN STORMWATER MANAGEMENT AND SEDIMENT CONTROL PLAN, GRADING PERMIT AND DISTURBANCE OF LAND IN THE COUNTY.

Unless otherwise provided within this chapter, the surface of land in the county shall not be disturbed or altered for any purpose whatsoever, except in accordance with a SWPPP approved by the program administrator or designee. The applicant shall agree in writing, by means of the Financial Responsibility/Ownership Form or the most recent version of the Notice of Intent, as issued by SCDHEC, to carry out the approved plan, indemnify any person damaged by failure to comply therewith and allow the approving or enforcement authorities to enter upon the project site. After the plan is approved and all other applicable county, state and/or federal departments have approved the project, a county grading permit may be issued by the county to the applicant, provided the project is not a subdivision. For subdivisions, grading permits may be issued only in accordance with the subdivision ordinance set forth in Chapter 154. Plan submittals and approvals are also required for the subdivision of property into two or more lots with or without existing road frontage. Exemption from other local code requirements does not constitute an automatic exemption from this ordinance. Each building permit issued, which involves disturbance of land for the construction of the facility, should be accompanied by a sediment and erosion control permit application. (‘77 Code, § 4-91) (Ord. 3190, passed 5-21-90; Am. Ord. 6792A, passed 9-21-92)

§ 152.21 EXISTING DISTURBED AREAS.

(A) All disturbed areas greater than one acre in the county existing on October 1, 1992, which resulted from land-disturbing activities not exempted by this chapter, that are subject to continued accelerated erosion and/or sedimentation and are causing off-site damages from continued erosion and/or sedimentation shall be provided with ground cover or other protective measures, structures or devices sufficient to control the accelerated erosion and sedimentation.

(B) The program administrator shall serve notice by certified mail, return receipt requested, to the respective landowner specifically stating deficiencies. This notice shall require that corrective action, including a schedule for implementation, be submitted by the landowner within 30 days of receipt of the notice. The response may be in the form of a letter or plan, but it shall provide the following information:

- (1) The size and shape of the measures to be installed;
- (2) The location where the measures are to be installed;
- (3) The date by which the measures are to be installed.

(C) Should the landowner fail to comply with the requirements of the notice and specified corrective action, the landowner shall be subject to penalties as set forth in § 152.99.

(‘77 Code, § 4-92) (Ord. 3190, passed 5-21-90; Am. Ord. 6792A, passed 9-21-92)
Penalty, see § 152.99

§ 152.22 APPLICATION FOR GRADING PERMIT.

All stormwater management and sediment control plans shall be accompanied by written statement of financial responsibility and ownership. This statement shall be signed by the applicant or authorized agent. The statement shall include the mailing and street addresses of the principal place of business of the person financially responsible and the owner of the land or their registered agents. The statement shall certify that the land-disturbing activity will be accomplished pursuant to the approved plan and that responsible personnel will be assigned to the project. The statement shall also certify that the state and county officials have the authority to conduct on-site inspections both before and after approval of the plan.

(‘77 Code, § 4-93) (Ord. 3190, passed 5-21-90; Am. Ord. 6792A, passed 9-21-92)

§ 152.23 FEE SCHEDULE.

The application for a grading permit to disturb or change land in the county shall be accompanied by a nonrefundable fee according to the following schedule, which shall be paid by each applicant prior to the initial plan review:

\$125.00 per disturbed acre, minimum of \$50.00

Projects subject to a SCDHEC, NPDES permit must submit the appropriate fee as set forth by SCR100000. This fee shall be paid upon approval of the grading permit.

Re-review fees shall be assessed when inadequate plans are submitted. When 5 or more items from the most current Stormwater Management and Sediment and Erosion Control checklist are omitted from the initial plan submittal or the resubmitted previously

approved plan, the plan will be considered inadequate. Subsequent re-reviews will be assessed fees if the resubmitted plan fails to adequately address review comments.

Re-review fees shall be based on the amount of disturbance listed on the Financial Responsibility Form. Projects disturbing less than 1 acre shall submit a \$50.00 re-review fee. Projects disturbing 1 acre or more shall submit a re-review fee of \$50.00 per disturbed acre, with a maximum of \$1500.00. This fee may be waived if the revision is determined by the program administrator to be minor.

(‘77 Code, § 4-94) (Ord. 3190, passed 5-21-90; Am. Ord. 6792A, passed 9-21-92; Am. Ord. 4495, passed 9-18-95)

§ 152.24 APPROVAL OR DISAPPROVAL OF APPLICATION.

(A) Upon receipt of an application for a grading permit, the stormwater management and sediment control plan will be placed in queue for review. Plans will be reviewed with respect to the chronological order in which they are submitted. If, after review, the plan conforms to the requirements of this chapter, the program administrator or designee shall approve the plan. If an NPDES permit is required, a Notice of Intent, along with appropriate fees, will be forwarded to SCDHEC for review and approval. All other County, State and Federal permits, including but not limited to the NPDES permit, Army Corps of Engineers permits and Zoning Compliance must be obtained prior to the issuance of a grading permit. A grading permit may be issued to the applicant unless there are violations of other county ordinances on the site or the project has not yet received preliminary subdivision plat approval. A copy of the approved SWPPP, bearing the York County Stormwater Management and Sediment Control Ordinance approval stamp, York County approval letter, NPDES permit, completed Notice of Intent, SWPPP and co-permittee certifications must be reasonably available on the job site and the issued grading permit shall be posted at the job site in a conspicuous place.

(B) If the program administrator or designee denies a stormwater management and sediment control plan after the review of the application, he or she shall send written notification to the applicant indicating the reason or reasons for denial. The applicant may resubmit revised plans and required re-review fee according to the fee schedule provided in section 152.23

(C) Review of any plan or revised plan shall be completed within 20 working days from the date of receipt of the complete application.

(D) Grading permits may be revoked if the person conducting the land-disturbing activity does not follow the approved SWPPP.

(E) The plan is not to be considered approved without the inclusion of an approval stamp, signed and dated by the program administrator and/or certified plan reviewer. The stamp is solely an acknowledgment of satisfactory compliance with the requirements of these regulations. The approval stamp does not constitute a representation or warranty to

the applicant or any other person concerning the safety, appropriateness or effectiveness of any provision or omission from the SWPPP.

(F) Approvals of plans approved prior to September 1, 2006 shall remain in effect for the original term of the approval, unless major modifications are made to the site and/or plan or the ownership of the project changes. If the term expires before land-disturbing activities are initiated, the applicant shall resubmit the SWPPP for review.

(G) The person responsible for the land-disturbing activity shall submit as built or record plans including details for all stormwater management and water quality conveyance features prior to the final approval of a site. In addition, the person responsible for the land-disturbing activity shall be required to submit written certification from the professional preparing the plans that the land-disturbing activity was accomplished according to the approved stormwater management and sediment control plan or approved changes. Failure to do so shall constitute a violation of this chapter.

(‘77 Code, § 4-95) (Ord. 3190, passed 5-21-90; Am. Ord. 6792A, passed 9-21-92)
Penalty, see § 152.99

§ 152.25 VARIANCES, APPEALS AND ADMINISTRATIVE HEARINGS.

(A) A meeting of the local hearing board shall be called when either appeals or requests for variances are received by the program administrator. The meeting is to be scheduled within five days for variances or after at least 30 days for administrative hearings. The hearing board shall select a chairperson at its inception; the chair shall be rotated on an annual basis. Two out of three votes are required to carry any motion of this hearing board.

(B) (1) A hearing by the board is available following a request to determine the propriety of:

- (a) The denial or revocation of a grading permit;
- (b) A citizen complaint concerning program operation;
- (c) The issuance of a notice of violation or noncompliance with the plan;
- (d) The regulations included in this chapter;
- (e) The issuance of fines as a result of this chapter;
- (f) The issuance of a stop work order as a result of this chapter.

(2) A hearing may be initiated by any applicant/citizen, provided that a written request is received within 30 days after notice is given to the applicant/citizen of the adverse action.

(3) All hearings shall be scheduled via correspondence approved by the department which shall give notice to all parties of the hearing:

- (a) All parties must receive notice of the hearing of not less than 30 days;
- (b) The notice shall be sent by the chairperson of the hearing board;
- (c) The notice shall include:
 - 1. A statement of the time, place and nature of the hearing;
 - 2. A statement of the legal authority and jurisdiction under which the hearing is to be held;
 - 3. A reference to the particular sections of the statutes and rules involved;
 - 4. A short and plain statement of the matters asserted. If the hearing officers are unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon application, a more definite and detailed statement shall be furnished.
- (4) All hearings shall be conducted by the chairperson of the hearing board.
- (5) All hearings shall be conducted in accordance with S.C. Code §§ 1-23-10 *et seq.*
- (6) The hearing officers shall issue a proposal for decision which shall be mailed to the parties.
- (7) Within 20 days after mailing of the proposal for decision, any party may file exceptions to the hearing officer's proposal for decision.
 - (a) Such exceptions shall be in written form, addressed to the chairperson of the hearing board and served upon all adverse parties;
 - (b) Such exceptions shall list all the grounds upon which the exceptions are based.
- (8) If no exceptions are received by the hearing board within the 20-day period following the mailing of the proposal for decision, the hearing board shall issue a final decision.
- (9) If timely exceptions are received, the hearing board shall send notice to the parties that the appealing party(s) has 30 days to submit a brief. Following the service of the appealing party's brief, or upon the expiration of the 30-day period, whichever shall occur first, the other party shall have 30 days to submit a brief. All briefs must be served on the opposing parties and filed with the hearing board.
- (10) Following receipt of all briefs, the hearing board shall schedule an oral argument if requested to do so by either party.
- (11) The request for an oral argument must be in writing, addressed to the chairperson of the hearing board and submitted with that party's brief.

(12) The oral argument shall be scheduled following the filing of the last brief prior to the last working day of the month.

(13) The oral argument shall be heard by the members of the hearing board and shall be held in accordance with the following format:

- (a) The appealing party shall be given 20 minutes to present his or her case;
- (b) The opposing party shall be given 20 minutes to present his or her case;
- (c) The appealing party shall be given a rebuttal period of five minutes.

(14) The parties, by written stipulation, may agree that the hearing officers' decision shall be final and binding upon the parties.

(15) The final order shall be issued by the hearing board and the decision of the hearing board shall represent at least two out of the three members of the hearing board.

(16) The final order shall be written and shall comply with the provisions of S.C. Code §§ 1-23-10 *et seq.*

(C) The hearing board may grant a written variance from any requirement of this chapter's regulations if there are exceptional circumstances applicable to the site such that strict adherence to the provisions of these regulations will result in unnecessary hardship and not fulfill the intent of these regulations. An economic hardship is not considered cause for a variance; only topographic, hydraulic, or hydrologic (or any combination) constraints peculiar to the subject site may be considered. A written request for variance shall be provided to the hearing board and shall state the specific variances sought and the reasons (pertinent to the criteria immediately above) with supporting data for their granting. The board shall not grant a variance unless and until sufficient specific reasons justifying the variance are provided by the applicant. The board will conduct the review of the request for variance within ten working days of receipt of the written request and support data. Failure of the board to act by the end of the tenth working day will result in the automatic approval of the variance. No hearing or oral arguments are necessary for the board to decide a variance.

('77 Code, § 4-96) (Ord. 3190, passed 5-21-90; Am. Ord. 6792A, passed 9-21-92)

§ 152.26 OTHER AUTHORIZATION OR REQUIREMENT.

The applicant is responsible for any authorization, permit, bonds or other securities as required by applicable federal, state or local laws, regulations or ordinances, for any part of the proposed work to be done under the plan. This is to include, but not limited to, the most current South Carolina Department of Health and Environmental Control NPDES Permit.

('77 Code, § 4-97) (Ord. 3190, passed 5-21-90; Am. Ord. 6792A, passed 9-21-92)

§ 152.27 EXTENSION OF TIME.

If the applicant is unable to complete the work within the time specified by the approved SWPPP, he or she shall be granted one extension by presenting a written request for an extension to the program administrator, prior to the expiration of the time frame specified.

(*77 Code, § 4-98) (Ord. 3190, passed 5-21-90; Am. Ord. 6792A, passed 9-21-92)

§ 152.28 RESPONSIBILITY OF APPLICANT AND OPERATOR.

(A). During any land-disturbance operation, the applicant shall be responsible for carrying out the proposed work in accordance with the grading permit, approved SWPPP specifications, time schedule and in compliance with all the requirements of this chapter.

B. Requirements for Different types of operators

1. You may need to meet one or both of the operational control components in the definition of the operator found in section 152.07. This section refers to all permittees having control over only a portion of a construction site;

a. If you have “operational control over construction plans and specifications” as defined in the definition of “Operator” in 152.07, you must ensure that:

i. The specifications for the BMPs meet the minimum requirements of this Subpart and all other applicable permit conditions;

ii. The SWPPP indicates the areas of the Site where the Operator has operational control over specifications, including the ability to make modifications in specifications and plans including the SWPPP;

iii. All other co-permittees implementing portions of the SWPPP (or their own SWPPP) who may be impacted by a change to the construction plan are notified of such changes in a timely manner;

iv. The SWPPP indicates the name(s) of the Operator(s) with day-to-day operational control of those activities necessary to ensure compliance with the SWPPP or other permit conditions; and

v. The SWPPP indicates the name of the party(ies) with operational control over Project specifications (including the ability to make modifications in specifications); and

vi. For non-linear projects, you must conduct a pre-construction conference with each co-permittee and contractor who is not a co-permittee in person at the site prior to that co-permittee or contractor performing construction related work intended to disturb soils at the site that may affect the implementation of the SWPPP. This pre-construction conference can be with all contractors or the pre-construction conference may be conducted separately with one or more contractors present so that all contractors who perform land disturbing activity or construction activity are aware of the requirements of the SWPPP before they start construction. The purpose of the conference is for the

preparer of the SWPPP, someone with a registration equivalent to that of the preparer of the SWPPP, or the person with operational control of the plans and specifications to explain the whole SWPPP to the co-permittees and contractors who are not co-permittees and to specifically go over the areas of the SWPPP that are related to the work to be performed by the co-permittee and contractor who is not a co-permittee.

vii. Ensure that all contractors have signed either the Co-permittee or non Co-permittee certification and copies of these certifications are in the SWPPP.

b. If you have operational control over only a portion of a larger Project (e.g., one of four homebuilders in a subdivision), you are responsible for compliance with all applicable terms and conditions of this permit as it relates to your activities on your portion of the construction Site, and implementation of best management practices (BMPs) and other controls required by the SWPPP. You must ensure either directly or through coordination with other permittees, that your activities do not render another party's pollution control ineffective. You must either implement your portion of a common SWPPP or develop and implement your own SWPPP.

i. For more effective coordination of BMPs and opportunities for cost sharing, a cooperative effort by the different Operators at a Site to prepare and participate in a comprehensive SWPPP is encouraged. Individual Operators at a Site may, but are not required to, develop separate SWPPPs that cover only their portion of the Project provided reference is made to other Operators at the Site. In instances where there is more than one SWPPP for a Site, cooperation between the permittees is encouraged to ensure the storm water discharge controls and other measures are consistent with one another.

C. Contractor Certifications and Co-permittee Status.

1. The Owner of a Project, as the applicant for the NPDES permit, is responsible for compliance with all the terms and conditions of this permit and the SWPPP. The Owner may rely on other persons to assist in compliance with this permit and the SWPPP. As such, the Project Owner and contractors and subcontractors who will conduct construction activities intended to disturb soils may elect to be Co-permittees. Further, all contractors who will conduct construction related work intended to disturb soils at the site that may affect implementation of the SWPPP, regardless of whether or not they are Co-permittees, must be listed in the SWPPP and attend a pre-construction conference before they can conduct construction activity at the Site.

i. All contractors and subcontractors identified in the plan as Co-permittees must sign a copy of the certification statement given below:

"I certify by my signature below that: a) for Sites that disturb 10 or more acres, I participated in a pre-construction conference onsite or, when allowed, offsite with the individual who is responsible for the operational control of the Storm Water Pollution Prevention Plan (SWPPP); and b) I accept the terms and conditions of SWPPP as required by the general National Pollutant Discharge Elimination System (NPDES permit number SCR100000) issued to the Owner/Operator of the construction activity for which I have been contracted to perform construction

related professional services. Further, by my signature below, I understand that I am becoming a Co-permittee with the Owner/Operator and other contractors that have become Co-permittees to the general NPDES permit issued to the Owner/Operator of the facility for which I have been contracted to perform professional construction services. As a Co-permittee, I understand that I, and my company, as the case may be, am legally accountable to York County and the SC Department of Health and Environmental Control (DHEC), under the authorities of the CWA and the SC Pollution Control Act, to ensure compliance with the terms and conditions of the SWPPP. I also understand that York County and/or DHEC enforcement actions may be taken against any specific Co-permittee or combination of Co-permittees if the terms and conditions of the SWPPP are not met. Therefore, having understood the above information, I am signing this certification and am receiving Co-permittee status to the aforementioned general NPDES permit."

ii. All contractors and subcontractors identified in the plan to perform construction related work intended to disturb soils at the Site that may affect the implementation of the SWPPP but who will not be Co-permittees must sign the certification statement given below:

"I certify by my signature below that: a) for Sites that disturb 10 or more acres, I participated in a pre-construction conference onsite or, when allowed, offsite with the individual who is responsible for the operational control of the Storm Water Pollution Prevention Plan (SWPPP); and b) I understand the terms and conditions of SWPPP as required by the general National Pollutant Discharge Elimination System Permit (NPDES permit number SCR100000) issued to the Owner/Operator of the construction activity for which I have been contracted to perform construction related professional services. I understand that I, and my company, as the case may be, may be legally accountable to York County and/or the SC Department of Health and Environmental Control (DHEC), under the authorities of the CWA and the SC Pollution Control Act, to ensure compliance with the terms and conditions of the SWPPP."

iii. The date of the signature, the title of the Person providing the signature, and the name, address, and telephone number of the contracted firm, shall also be provided. In the event the owner amends the SWPPP, such amendments should be incorporated to the plan and the contractors and subcontractors should acknowledge by signature. Co-permittees who have completed their work prior to the amendments do not have to sign the amendments.

iv. The signatory requirements of §122.22 of South Carolina Regulation 61-9 are applicable to each contracted entity that must sign one of the contractor's certification statements. Upon signing the Co-permittee certification, the contractor is a Co-permittee and becomes accountable to York County and DHEC to ensure the terms and conditions of this permit are implemented. All Co-permittees are subject to York County and DHEC enforcement actions if permit conditions are not met. Enforcement actions may be taken against any specific Co-permittee or combination of Co-permittee, with consideration given to the party responsible

for the violation. The Owner/Operator submitting the NOI shall retain all contractor certifications for at least three years after a contractor has completed work at the Site. Contractors who sign the certification for being a Co-permittee may be liable to DHEC enforcement actions related to their work at the Site. All certifications must be included in the storm water pollution prevention plan.

D. The operator must ensure that the following records are maintained as part of the SWPPP:

1. A copy of the SWPPP (including a copy of the permit), NOI, and CGP coverage letter from DHEC must be retained at the construction Site (or other location easily accessible during normal business hours to: York County, DHEC or EPA from the date of commencement of construction activities to the date of final stabilization. If you have day-to-day operational control over SWPPP implementation, you must have a copy of the SWPPP available at a central location on-site for the use of all those identified as having responsibilities under the SWPPP whenever they are on the construction Site. If an on-site location is unavailable to store the SWPPP when no personnel are present, notice of the plan's location must be posted near the main entrance at the construction Site.

2. Dates when major grading activities occur;

3. Dates when construction activities temporarily or permanently cease on a portion of the Site. (Temporarily ceasing construction means ceasing construction on a portion of the Site for more than 14 days. A portion of the Site, means but is not limited to, portions of the Site with dedicated controls) and;

4. Dates when stabilization measures are initiated.

E. Copies of all contractor certifications and a copy of this permit shall be kept with the SWPPP.

F. For construction Sites that disturb 10 acres or more, the first monthly report or copies of the first month's inspection forms submitted by the Owner/Operator to SCDHEC and York County after construction begins on the facility must include the original and one copy of all Co-permittee and other contractor certifications. If additional Co-permittees or other contractors are added later on, the original and one copy of the additional Co-permittee or contractor certifications must be submitted along with the monthly reports or copies of the inspection forms submitted after the signing of the certification. For construction Sites that disturb less than 10 acres, the Owner/Operator of the facility covered by this permit shall make all contractor certifications available to York County and DHEC upon request. The Department may on a case-by-case basis require the submittal of the Co-permittee and other contractor certifications.

G. SWPPPs must be made available upon request by York County, EPA or DHEC. The copy of the SWPPP that is required to be kept on-site or locally available must be made available, in its entirety, to York County, DHEC or the EPA staff for review and copying at the time of an on-site inspection.

1. All SWPPPs must be signed and certified in accordance with §122.22 of SC Regulation 61-9.

(‘77 Code, § 4-99) (Ord. 3190, passed 5-21-90; Am. Ord. 6792A, passed 9-21-92)

MANDATORY STANDARDS AND PLAN REQUIREMENTS

§ 152.40 MANDATORY STANDARDS FOR STORMWATER POLLUTION PREVENTION PLAN (SWPPP)

(A) The SWPPP shall include appropriate measures and practices for stormwater management and sediment control, installed in a timely sequence during the land-disturbing activity process and maintained to insure their proper functioning.

(B) The SWPPP shall be prepared according to the following:

- (1) Determine the general soil suitability of the proposed land use. Identify areas which are subject to severe erosion and offsite areas which are especially vulnerable to damage from erosion and/or sedimentation. Identify and evaluate potential erosion, sediment and stormwater problems and select appropriate control measures;
- (2)
 - (a) Identify all potential sources of pollution which may reasonably be expected to affect the quality of storm water discharges from the construction site including discarded building materials, concrete truck washout, chemicals, litter and sanitary waste;
 - (b) Ensure that waste receptacles are located to prohibit drainage from the receptacles from entering the storm drainage system;
- (3) Describe practices to be used to reduce pollutants in storm water discharges from the construction site;
- (4) Assure compliance with the terms and conditions of this ordinance and the Construction General Permit, as issued by SCDHEC, when properly implemented;
- (5) Expose the smallest practical area of land for the least possible time during land-disturbing activity. When feasible, retain and protect natural vegetation. Place emphasis on conservation of existing onsite soil. Save topsoil, where practical, for replacing on graded areas. Use temporary vegetative cover, geotextiles, mulching, grassed or surfaced waterways and outlets, straw and silt traps to control runoff, protect areas subject to erosion and remove heavy sediment loads from runoff;

- (6) Provide for the management of increased runoff caused by changed soil conditions and surface conditions. Effective means include the use of diversion ditches, detention and retention basins, enlarged and protected drainage channels, grade control structures and effective use of street gutters and storm sewers;
- (7) Install permanent vegetative cover and other long-term measures as soon as possible in the construction process;
- (8) When the person conducting the land-disturbing activity is also conducting the borrow or waste disposal activity, areas from which borrow is obtained and which are not regulated by the provisions of § 152.21 and waste areas for surplus materials other than landfills regulated by the South Carolina Department of Health and Environmental Control shall be considered as part of the land-disturbing activity;
- (9) Land-disturbing activity in connection with construction adjacent to, over or under a lake or natural watercourse shall be planned and conducted in such a manner so as to minimize the extent and duration of disturbance of the stream channel. The relocation of a stream, where relocation is an essential part of the proposed activity, shall be planned and executed so as to minimize changes in the stream flow characteristics, except when justification for significant alteration to flow characteristic is provided. All appropriate permits from the United States Army Corps of Engineers and/or South Carolina Department of Health and Environmental Control shall be received prior to stormwater approval for the project;
- (10) When channel velocity is calculated to exceed sufficient stability for the channel cross section and grade, riprap, bituminous and other lined open channels shall be substituted for grassed channels;
- (11) In addition to functional purposes, utilize natural streams or improved open channels for landscaping, environmental, architectural or aesthetic purposes;
- (12) A SWPPP shall be filed for a residential development and the buildings constructed within, regardless of the phasing of construction;

(a) In applying the SWPPP criteria, individual lots in a residential subdivision development shall be considered to be separate land-disturbing activity projects and shall require individual permits unless the land disturbance was included in a previous SWPPP. A sediment and erosion control permit and, if applicable, an NPDES permit, should be obtained for each building permit, as issued by York County Building and Codes Department, in which the construction shall disturb land.

(b) If individual lots or sections in a residential subdivision are being developed by different property owners, and all land-disturbing activities related to the residential subdivision are covered by an approved SWPPP the individual lot owners or developers may sign a co-permittee agreement stating that all activities on that lot will be carried out in accordance with the approved SWPPP for the residential subdivision.

Failure to provide this certification will result in owners or developers of individual lots developing a SWPPP meeting the requirements of this ordinance.

- (13) Residential subdivisions which received preliminary plat approval from the planning commission prior to October 1, 1992, are exempt from the requirements. Developments of new phases of existing subdivisions which were not previously approved shall comply with the provisions of these requirements.
- (14) The owner/operator must ensure that the SWPPP is implemented as written from commencement of construction activities until final stabilization is complete.
- (15) Once a definable area has been finally stabilized, you may mark this on your SWPPP and no further SWPPP or inspection requirements apply to that portion of the site (for example: earth disturbing activities around one of the three buildings in a complex are done and the area is finally stabilized, one mile of roadway or pipeline project is done and finally stabilized, etc.).
- (16) In a residential subdivision, the Operator is encouraged to limit the amount of natural debris that is hauled off-site or burned. This natural debris may be mulched onsite and used throughout construction as a means of temporary stabilization. Areas where grinding will occur and mulching will be utilized as temporary stabilization should be indicated on the plan. These areas must meet all other county, state and federal requirements. Natural debris includes trees, stumps, limbs and leaves or needles. This natural debris must be generated on the permitted construction site. This debris may not be sold to the general public without first obtaining the required permits.
- (17) (A) The design of the site, including roads, sanitary sewage, storm drain piping and ditches (including channels from outfalls to their receiving channels) and water quality and detention features, shall be completed using ground profiles and/or contours generated from field surveys certified by a South Carolina professional land surveyor. Profiles generated by GIS information shall not be accepted. Field surveys are to be tied to the South Carolina State Plane Coordinate System as defined by the North American Datum of 1983 (NAD83), and mean sea level as defined by the North American Vertical Datum of 1988 (NAVD88). Construction drawings submitted to the County for approval shall include the following note on the cover sheet:

“The design of all roads, sanitary sewage, storm drain piping and ditches, and water quality and detention features presented herein has been completed from field survey information.”
- (B) Plans received without this note shall be returned without review.
- (C) The engineer may use GIS contours to show the topography of the overall site plan and to perform calculations such as the sizing storm drainage piping, sizing sanitary sewer piping and to determine storm water runoff for inlet sizing and spacing. Drawings containing, or calculations based on GIS information, must be

identified in the submittal. This is not to require a complete field topographic survey be completed for the entirety of each and every site but it may.

(D) Record drawing information shall be submitted in reference to the North American Datum of 1983 (NAD83), and mean sea level as defined by the North American Vertical Datum of 1988 (NAVD88). Record drawing information is to be submitted in AutoCAD format (or another County accepted format compatible with the County's GIS system).

(‘77 Code, § 4-111) (Ord. 3190, passed 5-21-90; Am. Ord. 6792A, passed 9-21-92

§ 152.41 PLAN REQUIREMENTS FOR STORMWATER MANAGEMENT AND SEDIMENT CONTROL PLANS.

(A) *Type I, II and III grading permits.* Stormwater management and sediment control for all projects shall meet the design requirements as specified in this section and include, as a basis, the following data to the extent required by this chapter:

1. The most recent, completed Financial Responsibility/Ownership form, signed and notarized.
2. The most recent, completed Project Information Record.
3. Name, address and phone number of the owner of the property where the project is proposed; the developer; the applicant and whoever is responsible for compliance with the plan; and the following certification:

Applicant's Certification

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

"I (We) hereby certify that to the best of my knowledge, these plans contain all information required by the Zoning Ordinance of York County SC and as referenced by this application. "I (We) hereby certify that all land disturbing activities including clearing, grading, construction and/or development will be done pursuant to this plan and agree to indemnify any person damaged by failure to comply with the approved plan.

County and state authorities will be allowed to enter upon the project site provided they present appropriate credentials.”

Date

Permit Applicant

4. Title, scale, north arrow, date, name of individual or organization preparing the plan, the boundary lines of the site, the tax map number, the parcel number(s) and approximate acreage on which the land-disturbing activity is to take place and the approximate area to be disturbed;

5. A vicinity map sufficient to locate the site and to show the relationship of the site to its general surroundings at a scale of not less than one inch equals one mile;

6. A general description of the subject property and adjacent property and a description of existing structures, buildings and other fixed improvements located on the subject and adjacent properties;

7. General description of the topographic and predominant soil conditions of the tract from the county soil survey;

8. A narrative description of the stormwater management and sediment control plan to be used during land-disturbing activities;

9. The existing and proposed topography, at a contour interval suitable for the design;

10. The proposed grading and earth-disturbing activities, including:

(a) Surface area involved;

(b) Limits of grading, including limitation of mass clearing and grading whenever possible;

(c) Proposed improvements on the site.

i. Flumes are not an acceptable means of stormwater runoff conveyance

ii. Pool backwash should be routed into the sanitary sewer system; and

iii. Property which contains stormwater management and/or water quality features shall not be numbered as lots and shall be set aside as storm drainage easements within open space or green space.

(d) A complete and adequate grading plan for borrow pits and material processing facilities, where applicable, showing the storm drainageways serving the areas;

11. The name and number of Federal Emergency Management Agency flood maps and federal and state wetland maps, where appropriate;

12. Erosion and sediment control provisions, including:

- (a) Provisions to preserve top soil and limit disturbance;
- (b) Details of site grading;
- (c) Design details for structural controls which includes diversions and swales; and
- (d) A description of their proposed operation;

13. A time schedule and sequence of operations indicating the anticipated starting and completion dates of each land-disturbing activity operation, as well as the date by which final stabilization will occur;

14. Specifications for seeding mixes and rates, type of sod, seedbed preparation, lime and fertilizer applications and mulching and related data;

15. A description of the maintenance program for erosion and sediment control and stormwater management facilities, including inspection programs, vegetative establishment on exposed soils, methods and frequency of removal and disposal of spoil or waste material and disposition of temporary and permanent structural measures;

16. Location of bufferyards and required vegetation and screening as required by the county zoning ordinance set forth in Chapter 155;

(B) *Type I and II grading permits.* Stormwater management and sediment control plans for land-disturbing activities of greater than one acre but less than five acres disturbed which are not part of a larger common plan of development or sale shall provide the information required in division (A) of this part, as well as meet the design requirements as specified in this division, and include, as a basis, the following data to the extent required by this chapter. Note that stormwater detention is not required for projects which are not part of a larger common plan for development or sale that disturb less than two acres.

- (1) All the information required by division (A) of this section;
- (2) The most recent, completed Notice of Intent.
- (3) A Maintenance and Responsibility Agreement for all stormwater management and water quality features on the site. This form must be accompanied by a maintenance schedule for all features.
- (4) All sites must be designed by a Registered Landscape Architect, Registered Tier B Land Surveyor, or a Registered Professional Engineer and include the certification provided in Section 152.41, B, 5, on the plan.; however, no

design shall be certified by a professional who is not qualified to practice in accordance with the laws of the State and the rules of the board or commission with governing authority for his or her particular profession:

- (5) Identify the existing on-site and off-site pipes that are upstream draining to the property or downstream receiving drainage from the property (including material, size and invert elevation), drainage ditches and recorded drainage easements within 1500 ft of the property boundary. If multiple upstream or downstream pipes exist, show only the pipe closest to the proposed development for each drainage basin. If applicable, downstream pipes must be up-sized to handle increased run-off from development at the developer's expense.
- (6) Label all proposed erosion and sediment control measures, including but not limited to silt fencing, sediment traps, sediment basins, check dams, plunge pools, and inlet/outlet protection. Include the dimensions of structures such as basins/traps and riprap aprons. Basins, ditches/channels, and other similar structures shall be defined with proposed contour lines. Elevations shall be labeled for basin structures.
- (7) Label all permanent stormwater management measures including but not limited to detention/retention ponds and ditches/channels. Include the dimensions, detailed specifications for the construction and maintenance of stormwater management measures.
 - (a) Permanent stormwater management measures are required on a site when there are 2 or more acres of disturbance associated with the construction activity. This disturbance is cumulative for sites that have been permitted by York County and/or SCDHEC. If the site is part of an LCP which ultimately disturbs two acres or more, permanent stormwater detention will be required.
- (8) Label each culvert and drainage system outlet with the design flow and velocity. Indicate the design storm event.
 - (a) Outlet velocities shall be reduced to no more than 10 fps.
 - (b) Pipe Outlets shall be carried to the bottom of fill slopes.
- (9) Identify all Operators for the project site and the areas of the site over which each Operator has control.
- (10) Indicate the name of the party(ies) with operational control over project specifications (including the ability to make modifications in specifications).
- (11) Include locations of off-site material, waste, borrow or construction equipment storage areas excluding rolloff containers.

- (12) For sites with stormwater discharges to a receiving water that is listed as impaired in South Carolina's 303 (d) list of impaired waters, the following requirements apply
- (a) If a TMDL that is applicable to storm water construction discharges has been established and is in effect, the requirements of Part 1.3.C.4 of the South Carolina NPDES General Permit For Storm Water Discharges From Large and Small Construction Activity must be met
 - (b) If a TMDL has not been established or is not in effect, you must ensure that your SWPPP does not allow storm water discharges that will contribute to the violations of water quality standards. To accomplish this you must:
 - i. First determine whether or not your discharge may contain any pollutant that has caused the impairment.
 - ii. If your storm water discharges will not contain the pollutant of concern, no additional requirements are necessary.
 - iii. If your discharge will contain the pollutant of concern, you must carefully evaluate your selected BMPs and their performance to ensure that stormwater discharges will not contribute to or cause violation of water quality standards. For projects that disturb 25 acres or more, your SWPPP must contain a written quantitative and qualitative assessment that the BMP(s) selected will control your stormwater discharges so that they will not contribute to or cause a violation of the water quality standards. In this case, SCDHEC may have to also review the plan to determine that all appropriate BMP's are in place.
- (13) A sequence of construction operations shall be contained on all plans describing the relationship between the implementation and maintenance of sediment controls, including permanent and temporary stabilization and the various stages or phases of earth disturbance and construction. The sequence of construction shall, at a minimum, include the following activities:
1. Obtain a preliminary grading permit and hold a preconstruction conference for the project on site.
 2. Clearing and grubbing for those areas necessary for installation of perimeter controls;
 3. Construction of perimeter controls;
 4. Installation of sediment basins and traps;
 5. Call the York County Environmental Compliance Division to request an inspection of the control measures. Obtain a final grading permit.
 6. Remaining clearing and grubbing;

8. Grading for the remainder of the site;
 9. Utility installation and whether stormdrains will be used or blocked until completion of construction;
 10. Final grading, landscaping or stabilization; and
 11. Removal of sediment controls, with site inspector's approval, that will not be necessary for home construction;
- (14) The following notes shall be on the plan, and the person responsible for the land-disturbing activity is required to do the following. Failure to follow these notes shall constitute a violation of this chapter:

(a) If necessary, slopes, which exceed eight (8) vertical feet should be stabilized with synthetic or vegetative mats, in addition to hydroseeding. It may be necessary to install temporary slope drains during construction. Temporary berms may be needed until the slope is brought to grade.

(b) Stabilization measures shall be initiated as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased, but in no case more than fourteen (14) days after work has ceased, except as stated below.

(c) Where stabilization by the 14th day is precluded by snow cover or frozen ground conditions stabilization measures must be initiated as soon as practicable.

(d) Where construction activity on a portion of the Site is temporarily ceased, and earth-disturbing activities will be resumed within 14 days, temporary stabilization measures do not have to be initiated on that portion of the Site.

(e) All sediment and erosion control devices shall be inspected every seven (7) days. If site inspections identify BMPs that are damaged or are not operating effectively, maintenance must be performed as soon as practical or as reasonably possible and before the next storm event whenever practicable.

OR

All sediment and erosion control devices shall be inspected at least once every fourteen (14) calendar days and within 24 hours of the end of a storm event of 0.5 inches or greater. If site inspections identify BMPs that are damaged or are not operating effectively, maintenance must be performed as soon as practical or as reasonably possible and before the next storm event whenever practicable.

(f) Provide silt fence and/or other control devices, as may be required, to control soil erosion during utility construction. All disturbed areas shall be cleaned, graded, and stabilized with grassing immediately after the utility installation. Fill, cover, and temporary seeding at the end of each day are recommended. If water is encountered while trenching, the water should be filtered to remove any sediments before being pumped back into any waters of the State.

(g) All erosion control devices shall be properly maintained during all phases of construction until the completion of all construction activities and all disturbed areas have been stabilized. Additional control devices may be required during construction in order to control erosion and/or offsite sedimentation. All temporary control devices shall be removed once construction is complete and the site is stabilized.

(h) The contractor must take necessary action to minimize the tracking of mud onto paved roadway(s) from construction areas and the generation of dust. The contractor shall daily remove mud/soil from pavement, as may be required.

(i) Residential subdivisions require erosion control features for infrastructure as well as for individual lot construction. Individual property owners shall follow these plans during construction or obtain approval of an individual plan in accordance with S.C Reg. 72-300 et seq. and SCR100000.

(j) Temporary diversion berms and/or ditches will be provided as needed during construction to protect work areas from upslope runoff and/or to divert sediment-laden water to appropriate traps or stable outlets.

(k) All waters of the State (WoS), including wetlands, are to be flagged or otherwise clearly marked in the field. A double row of silt fence is to be installed in all areas where a 50-foot buffer can't be maintained between the disturbed area and all WoS. A 10-foot buffer should be maintained between the last row of silt fence and all WoS.

(l) Litter, construction debris, oils, fuels, and building products with significant potential for impact (such as stockpiles of freshly treated lumber) and construction chemicals that could be exposed to storm water must be prevented from becoming a pollutant source in storm water discharges.

(15) Approved plans remain valid for five years from the date of an approval.

(16) The following certification shall be on the plan; however, no design shall be certified to by a professional who is not qualified to practice in accordance with the laws of the state and the rules of the board or commission with governing authority for his or her particular profession:

Professional's Certification

“I hereby certify that this plan is designed to contain sediment on the property concerned and to provide for the control of stormwater runoff from the property and that to the best of my knowledge and belief all the provisions are in accordance with the Stormwater Management and Sediment Control Ordinance of York County, South Carolina.”

Date

Registered Landscape Architect, Registered

Tier B Land Surveyor, Registered Professional

Engineer Seal

- (17) Plans may also be prepared by employees of the federal government in accordance with S.C. Code Title 40, Chapter 22, § 460 and submitted by the person responsible for the land-disturbing activity. The employee should place the proper federal identification on the plan;
- (18) The SWPPP must include a description of construction and waste materials expected to be stored on-site with updates as appropriate. The SWPPP must also include a description of control, including storage practices such as rolloff container, to minimize exposure of the materials to stormwater and spill prevention and response practices.
- (19) The SWPPP must include a description of pollutant sources from areas other than construction (including storm water discharges from dedicated asphalt plants and dedicated concrete plants), and a description of controls and measures that will be implemented at those sites to minimize pollutant discharges. If these areas are located off the construction area on property not owned by the owner of the project, they can be either included in the SWPPP for the construction Site with the owner of the dedicated facility being a Co-permittee under the construction general permit or the owner of the dedicated facility can obtain: 1) his own construction general permit coverage to build the dedicated facility; and 2) his own coverage under the Stormwater General Permit for Industrial Activity, Permit # SCR000000 or other appropriate permit. The method(s) selected to deal with dedicated facility areas must be addressed in the SWPPP.
- (20) A clear statement of defined maintenance responsibility shall be established during the plan review and approval process and placed on the plan;
- (21) The developer shall install on-site facilities for the detention-storage and controlled release of stormwater runoff in accordance with division (B)(10);
- (22) The following support documentation must be submitted with the plans:
 - (a) Stormwater management and stormwater drainage computations,

including:

1. Pre- and post-development velocities, peak rates of discharge and inflow and outflow hydrographs of stormwater runoff at all existing and proposed points of discharge from the site;

2. Site conditions around points of all surface water discharge, including vegetation and method of flow conveyance from the land-disturbing activity;

3. Design details for structural controls;

4. USGS 7.5 map or copy with the subject area highlighted;

5. All hydrologic computations shall be accomplished using a volume-based hydrograph method acceptable to the department. The storm duration for computational purposes for this method shall be the 24-hour rainfall event, SCS distribution with a .1-hour burst duration time increment. The rational or modified rational methods are acceptable for sizing individual culverts or stormdrains that are not part of a pipe network or system and do not have a contributing drainage area greater than 20 acres. The storm duration for computational purposes for this method shall be equal to the time of concentration of the contributing drainage area or a minimum of .1 hours;

(b) Additional information necessary for a complete project review may be required by the program administrator as deemed appropriate. This additional information may include items such as the location and size of sewers, water lines, septic fields, wells and the like;

(23) Provisions for stormwater runoff control during the land-disturbing activity and during the life of the facility shall meet the following minimum design requirements:

(a) Post-development peak discharge rates shall not exceed pre-development discharge rates for the two- and ten-year frequency 24-hour duration storm event. The program administrator may require a less frequent storm event;

(b) Off-site discharges of closed storm sewers or improved open channels will be permitted only at natural streams, man-made drainage channels or recorded drainage easements. Discharge velocities shall be reduced to provide a nonerosive velocity flow from a structure, channel or other control measure or the velocity of the ten-year 24-hour storm runoff in the receiving waterway prior to the land-disturbing activity, whichever is greater. In any case, discharge velocities shall be no greater than 20 feet per second;

(c) Design criteria for channel modification will be as follows:

1. *Open channels.* Open channels shall be provided with an improved cross section that will carry the runoff from the appropriate design rainfall and preclude the creation of backwater inundation of any area outside dedicated drainage easements.

2. *Closed storm sewers and culverts.* Closed storm sewers and culverts shall be constructed in conformance with standards adopted by the county. They

shall be sized to carry the runoff from the appropriate design rainfall and to preclude the creation of backwater inundation of any area outside dedicated drainage easements. Discharge velocities shall be no greater than 20 feet per second;

3. *Bridges.* Bridge design shall be in accordance with the State Department of Highways and Public Transportation Standards and Specifications;

(24) Sediment basins and traps shall be designed to achieve an 80% efficiency in removing suspended solids from the discharge effluent from a site;

(a) In areas that sediment basins and/or traps will be constructed within ½ mile of Lake Wylie, Catawba River, Broad River or within 1000 feet of a perennial stream, as designated on the USGS map or delineated by a professional wetlands consultant, these basins and traps must be designed so that the basin or trap provides storage for a calculated volume of runoff from the drainage area from at least a 25-year, 24-hour storm event. These basins and traps must remain in place until 80% of the contributing drainage area is permanently stabilized.

(25) All stormwater management and sediment control practices shall be designed, constructed and maintained with consideration for the proper control of mosquitoes and other vectors. These requirements must be part of the inspection and maintenance agreement as specified in § 152.56(A). These requirements must be reviewed during any inspection. Practices may include, but are not limited to:

(a) The bottom of retention and detention ponds should be graded and have a slope not less than 0.5%. There should be no depressions in a normally dry detention facility where water might pocket when the water level is receding. Wet detention ponds should be designed so that the permanent pool has an overall minimum depth of 4 feet excluding areas influenced by the side slopes;

(b) Normally dry detention systems and swales should be utilized in permanently wet structures to prevent an overgrowth of vegetation in the pond. Manual harvesting is preferred;

(c) Fish may be stocked in permanently wet retention and detention ponds;

(d) Normally dry swales and detention pond bottoms should be constructed with a gravel blanket or other measure to minimize the creation of tire ruts during maintenance activities;

(26) Drainage easements shall be provided as follows:

(a) Where development is traversed by a stormwater management system, adequate areas for storm drainage shall be allocated. The easement shall conform substantially with the lines of the system and be of sufficient width to convey stormwater. Adequate access for maintenance and equipment shall be required. Generally, for underground stormwater drainage, the minimum width of the easement shall not be less

than 20 feet. See section 154.068 of the York County Subdivision Ordinance for further detail;

(b) A drainage easement of not less than 20 feet shall be provided for open swale channels. For channels which drain into a collector, or a main channel, or into a piped drainage system, the width of the drainage easement shall be equal to the maximum top channel width plus an additional 20 feet, with at least 15 feet on one side of the previously measured top channel width. In all cases, except natural drainage, channels should have the sides sloped and protected to minimize erosion;

(c) Drainage easements shall be cleared as necessary to provide for anticipated maintenance;

(d) Access easements shall be a minimum of 15 feet in width;

(e) All easements required under this section shall be submitted as part of the SWPPP and subsequently recorded at the county courthouse;

(f) A deed of property referencing the easement shall be returned to the stormwater management and sediment control program office after recordation. It shall be a violation of this chapter not to record or return the necessary documentation related to the easement;

(g) All drainage easements shall be maintained so as not to obstruct the flow of water. No structures, driveways, retaining walls, etc. shall be built within a drainage easement without written consent from York County.

(27) The use of measures other than ponds to achieve water quality improvement is recommended on sites containing less than ten acres;

(28) The SWPPP shall not be implemented until all federal and state permits regarding wetlands management have been obtained. When work in a live waterway is performed, precautions shall be taken to minimize encroachment, to control sediment transport and to stabilize the work area to the greatest extent possible during construction; Temporary structural controls can only be placed in perennial Surface Waters of the State if the US Army Corps of Engineers issues a permit for the activity under Section 404 of the CWA. When State Navigable Waters may be affected, the SWPPP must include appropriate requirements applicable to State Navigable Waters under SC Regulation 19-450.

(29) Vehicle tracking of sediments from land-disturbing activities onto paved roads shall be minimized;

(30) Stormwater management requirements for a specific project shall be based on the entire area to be developed, or if phased, the initial submittal shall control that area proposed in the initial phase and shall establish a procedure and obligation for total site control;

- (31) Where ponds are the proposed method of control, the person responsible for the land-disturbing activity shall submit to the approving agency, when required, an analysis of the impacts of stormwater flows downstream in the watershed for the 10- and 100-year frequency storm event. The analysis shall include hydrologic and hydraulic calculations necessary to determine the impact of hydrograph timing modifications of the proposed land-disturbing activity, with and without the pond. The results of the analysis will determine the need to modify the pond design or to eliminate the pond requirement. If a clearly defined downstream point of constriction is not available, the downstream impacts shall be established with the concurrence of the program administrator;
- (32) Designs shall be in accordance with standards developed or approved by the department;
- (33) Ease of maintenance must be considered as a site design component. Access to the stormwater management structure must be provided;
- (34) Infiltration practices have certain limitations on their use on certain sites. These limitations include the following items:
 - (a) Areas draining to these practices must be stabilized and vegetative filters established prior to runoff entering the system. Infiltration practices shall not be used if a suspended solids filter system does not accompany the practice. If vegetation is the intended filter, there shall be at least a 20-foot length of vegetative filter prior to stormwater runoff entering the infiltration practice;
 - (b) The bottom of the infiltration practice shall be at least one-half foot above the seasonal high water table, whether perched or regional, determined by direct piezometer measurements which can be demonstrated to be representative of the maximum height of the water table on an annual basis during years of normal precipitation or by the depth in the soil at which mottling first occurs;
 - (c) The infiltration practice shall be designed to completely drain of water within 72 hours;
 - (d) Soils must have adequate permeability to allow water to infiltrate. Infiltration practices are limited to soils having an infiltration rate of least 0.3 inches per hour. Initial consideration will be based on a review of the appropriate soil survey, and the survey may serve as a basis for rejection. On-site soil borings and textural classifications must be accomplished to verify the actual site and seasonal high water table conditions when infiltration is to be utilized;
 - (e) Infiltration practices greater than three feet deep shall be located at least ten feet from basement walls;
 - (f) Infiltration practices designed to handle runoff from impervious parking areas shall be a minimum of 150 feet from any public or private water supply well;

(g) The design of an infiltration practice shall provide an overflow system with measures to provide a nonerosive velocity of flow along its length and at the outfall;

(h) The slope of the bottom of the infiltration practice shall not exceed 5%. Also, the practice shall not be installed in fill material as piping along the fill/natural ground interface may cause slope failure;

(i) An infiltration practice shall not be installed on or atop a slope whose natural angle of incline exceeds 20%;

(j) Provide clean outs at minimum of every 100 feet along the infiltration practice to allow for access and maintenance;

(35) A regional approach to stormwater management is an acceptable alternative to site-specific requirements and is encouraged;

(C) *Type I grading permits.* SWPPP's for land-disturbing activities of greater than five acres disturbed shall meet the design requirements as specified in the two preceding divisions and as specified in this division, and include, as a basis, the following data to the extent required by this chapter. General submission requirements for projects with land-disturbing activities greater than five acres include the following information:

(1) Water quantity control is an integral component of overall stormwater management. The following design criteria for flow control are established for water quantity control purposes, unless a waiver is granted based on a case-by-case basis:

(a) Post-development peak discharge rates shall not exceed pre-development discharge rates for the 2- and 10-year frequency 24-hour duration storm event;

(b) Discharge velocities shall be reduced to provide a nonerosive velocity flow from a structure, channel or other control measure of the velocity of the 10-year 24-hour storm runoff in the receiving waterway prior to the land-disturbing activity, whichever is greater;

(2) Water quality control is also an integral component of stormwater management. The following design criteria are established for water quality protection unless a waiver or variance is granted on a case-by-case basis:

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

(b) Innovative practices, such as low impact development techniques, may be utilized to meet water quality standards.

(3) (a) Sediment Basins: For common drainage locations that serve an area with 10 or more acres disturbed at one time, a temporary (or permanent) sediment basin that

provides storage for a calculated volume of runoff from the drainage area from at least a 10-year, 24-hour storm, or equivalent control measures, must be provided where attainable until final stabilization of the Site. Where no such calculation has been performed, a temporary (or permanent) sediment basin providing at least 3,600 cubic feet of storage per acre drained, or equivalent control measures, must be provided where attainable until final stabilization of the Site. When computing the number of acres draining into a common location, it is not necessary to include flows from off-site areas and flows from on-site areas that are either undisturbed or have undergone final stabilization where such flows are diverted around both the disturbed area and the sediment basin. In determining whether installing a sediment basin is attainable, the Operator may consider factors such as Site soils, slope, available area on-site, etc. In any event, the Operator must consider public safety as a design factor for the sediment basin, and alternative sediment controls must be used where Site limitations would preclude a safe design.

(i) In areas that sediment basins lie within ½ mile of Lake Wylie, Catawba River, Broad River or within 1000 feet of a perennial stream, as designated on the USGS map or delineated by a professional wetlands consultant, these basins must be designed so that the basin provides storage for a calculated volume of runoff from the drainage area from at least a 25-year, 24-hour storm event. These basins must remain in place until 80% of the contributing drainage area is permanently stabilized.

(b) Other practices may be acceptable to the appropriate plan approval agency if they achieve an equivalent removal efficiency of 80% for suspended solids or 0.5 ml/l peak settleable solids concentration, whichever is less. The efficiency shall be calculated for disturbed conditions for the 10-year and 24-hour design storm;

(c) Permanent water quality ponds having a permanent pool shall be designed to store and release the first inch of runoff from the site over a 24-hour period. The storage volume shall be designed to accommodate at least one-half inch of runoff from the entire site. These ponds should be designed so that the permanent pool has an overall minimum depth of 4 feet excluding areas influenced by the side slopes;

(d) Permanent water quality ponds, not having a permanent pool, shall be designed to release the first inch of runoff from the site over a 24-hour period;

(e) Permanent infiltration practices, when used, shall be designed to accept, at a minimum, the first inch of runoff from all impervious surfaces.

(4) For construction sites that discharge the pollutants of concern to a waterway listed on the South Carolina 303 (d) list of Impaired Waters, the SWPPP must contain a written quantitative and qualitative assessment showing that the selected BMP's will control the construction and post-construction discharges and will not cause or contribute to a violation of the water quality standards;

(‘77 Code, § 4-112) (Ord. 3190, passed 5-21-90; Am. Ord. 6792A, passed 9-21-92)
Penalty, see § 152.99

§ 152.42 REFERENCES TO ASSIST THE APPLICANT IN MEETING THE MANDATORY STANDARDS AND REQUIREMENTS.

(A) All calculations, formulas and data used in the preparation of SWPPP shall be subject to approval by the program administrator which may require other calculations made, formula used or data supplied.

(B) Acceptable standards for the development of the SWPPP, as required by this chapter, may be found in the following publications. Whenever the mandatory standards and plan requirements of this chapter impose higher standards, the provisions of this chapter shall govern.

(1) *Soil survey of York County, South Carolina*. Issued by the U.S. Department of Agriculture, Soil Conservation Service, 13 S. Congress St., Room 5, York, South Carolina, 29745 - dated April, 1965.

(2) *Erosion and sediment control in developing areas; planning guidelines and design aids*. Issued by the U.S. Department of Agriculture, Soil Conservation Service, Strom Thurmond Building, 1835 Assembly Street, Columbia, South Carolina 29201 - dated July, 1974.

(3) *Urban hydrology for small watersheds: technical release no. 55 (second edition)*. Issued by the U.S. Department of Agriculture, Soil Conservation Service, available from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22151 - dated June, 1986.

(4) *Erosion and sediment control practices for developing areas*. Issued by S.C. Land Resources Commission, 2221 Devine Street, Columbia, South Carolina 29205 - latest edition.

(5) *Erosion and sediment control planning and design manual*. Issued by the North Carolina Department of Natural Resources and Community Development, Raleigh, North Carolina, 27687 - latest edition.

(6) *A guide to site development and best management practices for stormwater management and sediment control*. Issued by the South Carolina Department of Land Resources Conservation Commission, Columbia, South Carolina, 29205 - latest edition.

(7) *South Carolina Storm Water Management BMP Handbook*. Issued by SCDHEC Ocean and Coastal Resource Management – latest edition.

(‘77 Code, § 4-121) (Ord. 3190, passed 5-21-90; Am. Ord. 6792A, passed 9-21-92)

MAINTENANCE

§ 152.55 MAINTENANCE DURING CONSTRUCTION.

The person responsible for maintenance shall perform or cause to be performed preventive maintenance of all stormwater management practices to ensure proper functioning. The responsible inspection agency shall ensure preventive maintenance through inspection of all stormwater management practices. The responsible party must sign a maintenance agreement for the stormwater management and sediment control and water quality measures prior to the approval of the site plan.

(‘77 Code, § 4-126) (Ord. 3190, passed 5-21-90; Am. Ord. 6792A, passed 9-21-92)

§ 152.56 MAINTENANCE RESPONSIBILITIES AFTER DEVELOPMENT.

Temporary and permanent erosion, sedimentation, stormwater management and water quality facilities, once installed and after a final inspection has been completed, shall be maintained in one of the following manners:

(A) *Facilities maintained by owner.*

(1) The owner and/or Operator of the property on which work has been done pursuant to this chapter, or any other person or agent in control of the property, shall maintain in good condition and shall promptly repair and restore all grade surfaces, walls, drains, dams and structures, vegetation, erosion and sediment control measures and other protective devices. The repairs or restorations and maintenance shall be in accordance with the approved plan.

(2) The facilities to be maintained by the owner shall provide adequate access to permit the county or state authorities to inspect and, if necessary, to take corrective action. If the owner or any other person or agent in control of the property fails to properly maintain the facilities for which he or she is responsible under the provisions of this chapter, the sediment control officer shall give the owner, person or agent in control written notice describing specifically the deficiency. If the owner, person or agent in control fails, within ten days from the date of receipt of the notice, to take or commence corrective action, the owner, person or agent shall be subject to the penalties found in § 152.99.

(3) If existing BMPs need to be modified or if additional BMPs are necessary to comply with the requirements of the SWPPP, this ordinance, NPDES permit and/or SC’s Water Quality Standards, implementation must be completed before the next storm event whenever practicable. If implementation before the next storm event is impracticable, the situation must be documented in the SWPPP and alternative BMPs must be implemented as soon as reasonably possible. If the owner and/or Operator, person or agent in control fails, within ten days from the date of receipt of the notice, to take or commence corrective action, the owner, person or agent shall be subject to the penalties found in § 152.99.

- (B) *Facilities maintained by York County.* All facilities to be maintained by York County must be designed and constructed in accordance with the requirements of this chapter and all facilities shall be dedicated to York County by deed with attached record drawings, after York County has accepted the conveyance of the facilities by appropriate action of the county governing body. The deed shall include sufficient easements to permit York County to properly maintain the facilities. Any facilities conveyed to York County under the provisions of this division shall contain a covenant obligating the grantor to be responsible for the maintenance of the facilities for a period of two years after the facilities have been accepted by the county governing body.
- (C) The owner of these facilities, as stated on the most recent Maintenance and Responsibility Agreement, will continue to own and maintain these facilities until York County is notified in writing of a transfer in ownership and maintenance responsibility. The notification must include a date for the transfer of responsibility and a letter of acceptance from the new owner;

(‘77 Code, § 4-127) (Ord. 3190, passed 5-21-90; Am. Ord. 6792A, passed 9-21-92)
Penalty, see § 152.99

§ 152.60 INSPECTIONS BY OWNER/OPERATOR.

(A). After construction begins, inspections must be conducted at a minimum in accordance with one of the two schedules listed below and you must specify in your SWPPP which schedule you will be following.

1. At least once every 7 calendar days, or
2. At least once every 14 calendar days and within 24 hours of the end of a storm event of 0.5 inches or greater.

(B). Inspection frequency may be reduced to at least once every month if the entire site is temporarily stabilized.

(C). York County and/or SCDHEC on a case-by-case basis may require any permittee who has coverage under SCDHEC’s CGP to conduct inspections on a more frequent basis than prescribed in the CGP. Examples include, but are not limited to, permittees who have compliance problems and permittees whose site’s stormwater discharges to environmental sensitive waters (such as waters classified as Trout Waters, Outstanding Resource Waters, Shellfish Harvesting Waters, etc.).

(D). Inspections must be conducted by qualified personnel (provided by the Operator or cooperatively by multiple Operators). For projects that disturb more than 2 acres, “Qualified personnel” means a person knowledgeable in the principles and practice of erosion and sediment controls who possesses the skills to assess conditions at the construction site that could impact stormwater quality and to assess the effectiveness of any sediment and erosion control measures selected to control the quality of storm water

discharges from the construction activity. After June 30, 2006, this person must be either the preparer of the SWPPP or an individual who is under the direct supervision of the preparer of the approved SWPPP and who meets the requirements in this paragraph or an individual who has been certified through a Construction Site Inspector Certification Course that has been approved by DHEC. Inspections may also be conducted by a person with a registration equivalent to the registration of the preparer of the SWPPP and who meets the qualifications of this paragraph or an individual who is under the direct supervision of the person with an equivalent registration and who meets the requirements in this paragraph. For projects that disturb 2 acres or less, the permittee or his designee may perform these inspections provided the preparer of the SWPPP or someone with a registration equivalent to that of the preparer of the SWPPP explains the SWPPP including implementation along with the inspection requirements to the person who will be conducting the inspections.

(E). Inspections must include all areas of the Site disturbed by construction activity and areas used for storage of materials that are exposed to precipitation. Inspectors must look for evidence of, or the potential for, pollutants entering the storm water conveyance system. Sedimentation and erosion control measures identified in the SWPPP must be observed to ensure proper operation. Discharge locations must be inspected to ascertain whether erosion control measures are effective in preventing violations to SC's Water Quality Standards, where accessible. Where discharge locations are inaccessible, nearby downstream locations must be inspected to the extent that such inspections are practicable. Locations where vehicles enter or exit the site must be inspected for evidence of off-site sediment tracking.

(F). For each inspection required above, you must complete an inspection report. At a minimum, the inspection report must include:

1. The inspection date;
2. Names, titles, and, if not previously given in an inspection report, the qualifications of personnel making the inspection, unless those qualifications change;
3. Weather information for the period since the last inspection (or since commencement of construction activity if the first inspection) including a best estimate of the beginning of each storm event, duration of each storm event, approximate amount of rainfall for each storm event (in inches), and whether you know if any discharges occurred;
4. Weather information and a description of any discharges occurring at the time of the inspection;
5. Location(s) of discharges of sediment or other pollutants from the Site;
6. Location(s) of BMPs that need maintenance;
7. Location(s) of BMPs that failed to operate as designed or proved inadequate for a particular location;
8. Location(s) where additional BMPs are needed that did not exist at the time of inspection; and
9. Corrective action required including any changes to the SWPPP necessary and implementation dates.

(G). A record of each inspection and of any actions taken in accordance with this part must be retained as part of the SWPPP for at least three years from the date that NPDES permit coverage expires or is terminated. The report must be signed in accordance with §122.22 of SC Regulation 61-9.

(H). For construction Sites disturbing 10 acres or more, a monthly report must be submitted to York County and SCDHEC. The report must be signed in accordance with §122.22 of SC Regulation 61-9. In lieu of submitting monthly reports, the reports may be stored electronically in a manner in which York County and SCDHEC personnel will have access to review this data, such as on a dedicated website that York County and SCDHEC personnel will have unlimited access to. Other forms of electronic storage of monthly reports may be utilized once arrangements have been made with York County and SCDHEC. For construction Sites that disturb less than 10 acres, York County and/or SCDHEC may require monthly reports to be submitted on either a Project-by-Project basis or Operator-by-Operator basis. If the information required in this Subpart is already included on the inspection forms, only copies of the inspection forms need to be submitted to York County and SCDHEC. If the information required in this Subpart is not included on the inspection form, then the monthly reports must include, at a minimum, the following additional information:

1. A summary of the results of the inspections conducted during the month;
2. A listing of all deficiencies noted during inspections with the date the deficiency was noted;
3. For each deficiency noted that required corrective action:
 - a. A listing of the name(s), address(es), and telephone number(s) of the party or parties responsible; and
 - b. A statement whether this deficiency was previously listed in a monthly report;
4. A listing of the corrective actions that were taken to remedy any deficiencies noted and the date the corrective actions were completed;
5. A statement on whether or not the SWPPP was updated to deal with any deficiencies noted; and
6. A copy of each inspection conducted during the month attached in an appendix to the monthly report.

(I). For construction Sites disturbing 10 acres or more, in addition to the information required above, the first monthly report submitted after construction has started must include the original and one copy of the Co-permittee and contractor certifications. Subsequent monthly reports on construction sites that disturb 10 acres or more must include the original and a copy of the certification for the Co-permittees and contractors added after construction has started. For each Co-permittee and contractor certification submitted to York County and SCDHEC, the preparer of the SWPPP or someone with a registration equivalent to that of the preparer of the SWPPP must certify that either an on-site or, when applicable, off-site pre-construction conference was held with the Co-permittee or contractor in accordance with this permit. This certification must give the date of the conference and the responsibilities of each Co-permittee and contractor.

(J). For construction sites disturbing less than 10 acres, the Owners/Operators may be required to submit the Co-permittee and contractor certifications on a case-by-case basis. When the Owner/Operator is required to submit the Co-permittee and contractor certifications, the preparer of the SWPPP or someone with a registration equivalent to that of the preparer of the SWPPP must certify that either an on-site or off-site pre-construction conference was held with the Co-permittees and contractors in accordance with the NPDES permit. This certification must give the date of the conference and the responsibilities of each Co-permittee and contractor.

(K). Each monthly report with one copy must be submitted to York County and SCDHEC on or before the 28th day of the month following the reporting period. For example, the monthly report for July 2006 is due after July 31, 2006 and on or before August 28, 2006.

(L). Until construction starts, the monthly report may just state that construction activity has not started.

(M). Monthly reports, when required, must be submitted until the Notice of Termination is submitted to DHEC and copies to York County. When the Notice of Termination is submitted, it must contain a signed statement by the preparer of the SWPPP or a person with a registration equivalent to that of the preparer of the SWPPP that all work was completed to the best of his or her knowledge and belief in accordance with the approved SWPPP and this CGP. For Projects disturbing more than 2 acres, the certifying person's knowledge and belief must be based on the results of the periodic inspections conducted by the preparer of the SWPPP (or a person with an equivalent registration) or by a qualified individual under his or her direct supervision in accordance with the CGP or by an individual certified through a Construction Site Inspector Certification Course that has been approved by DHEC.

(N). Copies of inspection forms and monthly reports must be submitted to DHEC at the following address:

Compliance Assurance Division
Bureau of Water
SC DHEC
2600 Bull Street
Columbia, SC 29201

or to a designated DHEC email address, when available. These must also be submitted to York County at the following address or a designated email address:

York County Environmental Compliance Division
Engineering Department
6 South Congress Street
York, SC 29745

152.61 MAINTAINING AN UPDATED PLAN.

- A. The SWPPP, including the Site map, must be amended whenever there is a change in design, construction, operation, or maintenance at the construction site that will result in discharges that will cause, have the reasonable potential to cause, or contribute to violations to SC's Water Quality Standards.
- B. The SWPPP must be amended if during inspections or investigations by site staff, or by local, state, tribal or federal officials, it is determined that the SWPPP is ineffective in either eliminating, when reasonably possible, or significantly minimizing pollutants in storm water discharges from the construction site.
- C. Based on the results of an inspection, the SWPPP must be modified as necessary to include additional or modified BMPs designed to correct problems identified. Revisions to the SWPPP must be completed within seven (7) calendar days following the inspection and approved by York County. Implementation of these additional or modified BMPs must be accomplished as described in this ordinance.
- D. All design modifications of the SWPPP must be made in accordance with this ordinance.

§ 152.62 TERMINATION OF COVERAGE.

(A). (1). You may only submit a Notice of Termination (NOT) after one or more of the following conditions have been met:

- (a). Final stabilization has been achieved on all portions of the site for which you are responsible;
- (b). Another Operator has assumed control, according to §122.41(1)(3) of SC Regulation 61-9, over all areas of the site that have not been finally stabilized;
- (c). Coverage under an individual or alternative general NPDES permit has been obtained; or
- (d). For residential construction only, temporary stabilization has been completed and the residence has been transferred to the homeowner.

(2). The NOT must be submitted within 30 days of one of the above conditions being met. Authorization to discharge terminates at midnight of the day the NOT is signed.

(B). (1). It is the owner/operator's responsibility to submit a complete and accurate Notice of Termination (NOT), using the form (or a photocopy thereof) provided by SCDHEC. The NOT will be made available at SCDHEC's WEB site at:
<http://www.scdhec.net/eqc/admin/html/eqforms.html#Water>

If DHEC notifies dischargers (either directly, by public notice, or by making information available on the Internet) of other NOT form options (e.g., electronic submission), you may take advantage of those options to satisfy these requirements.

(2). The Notice of Termination must include the following information:

(a). Your CGP NPDES coverage number for the storm water discharge;

(b). The basis for submission of the NOT, including: final stabilization has been achieved on all portions of the site for which the permittee is responsible; another Operator/permittee has assumed control over all areas of the site that have not been finally stabilized; coverage under an alternative NPDES permit has been obtained; or, for residential construction only, temporary stabilization has been completed and the residence has been transferred to the homeowner;

(c). You, the Operator's name, address, telephone number and your organization's Employer Identification Number (EIN) as established by the U.S. Internal Revenue Service;

(d). The name of the Project and address (or a description of location if no street address is available) of the construction site for which the notification is submitted; and

(e). A certification statement, signed and dated by an authorized representative as defined in §122.22 of SC Regulation 61-9 and the name and title of that authorized representative.

(f). For Projects disturbing more than 2 acres, a certification statement, signed and dated by the preparer of the SWPPP or other person with a registration equivalent to that of the preparer of the SWPPP, that to the best of his or her knowledge and belief all work was conducted and completed in accordance with the approved SWPPP and this CGP. This certification must be based on the inspections performed in accordance with this ordinance and must state that any deficiencies that were noted have been corrected.

(g). All original NOTs must be submitted to DHEC at the following address:

Storm Water and Agricultural Section
Bureau of Water
SC DHEC
2600 Bull Street
Columbia, SC 29201

(i). And a copy of the NOT must be submitted to York County at the following address:

York County Environmental Compliance Division
Engineering Department
6 South Congress Street
York, SC 29745

§ 152.70 DISCHARGE PROHIBITIONS

(A) Prohibition of Illicit Discharges

(1) No person shall throw, drain, or otherwise discharge, cause, or allow others under its control to throw, drain, or otherwise discharge any pollutants or waters containing any pollutants into York County's separate storm sewer system.

(2) The following discharges are considered prohibited, illicit discharges:

(a) Dumping of liquid or gaseous waste from automotive activities, including but not limited to oil, transmission fluid, windshield wiper fluid, grease, brake fluid, petroleum, and antifreeze; paint, paint cleaning fluids and any other substance associated with commercial, residential or industrial painting; commercial car wash-water; industrial discharges without NPDES illicit discharge permits; more than the allowable twenty percent of sediment intruded storm water discharged off NPDES permitted construction sites, contaminated foundation drains, cooling water unless no chemicals added and has an NPDES permit; wash-water from commercial/industrial activities, sanitary sewer discharges, septic tank discharges, floor drains, washing machine discharges, chlorinated backwash and draining associated with swimming pools and any other water source containing pollutants.

(B) Prohibition of Illegal Connections

(1) The construction, connection, use, maintenance or continued existence of any illegal connection to York County's separate storm sewer system is prohibited.

(a) This prohibition expressly includes, without limitation, illegal connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(b) A person violates this amendment if the person connects a line conveying sewage to York County's separate storm sewer system, or allows such a connection to continue.

(c) Improper connections in violation of this amendment must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or the sanitary sewer system upon approval of the York County Department of Water and Sewer.

(d) Any drain or conveyance that has not been documented in plans, maps of equivalent, and which may be connected to the storm sewer system, shall be located by the owner or occupant of that property upon receipt of written notice of violation from York County requiring that such locating be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is

to be completed, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the outfall location or point of connection to the storm sewer system, sanitary sewer system or other discharge point be identified. Results of these investigations are to be documented and provided to York County.

(C) Waste Disposal Prohibitions

No person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, left, or maintained, in or upon any public or private property, driveway, parking area, street, alley, sidewalk, component of the York County separate storm sewer system, Waters of the State, or Waters of the United States, any refuse, rubbish, garbage, litter, or other discarded or abandoned objects, articles, and accumulations, so that the same may cause or contribute to pollution. Wastes deposited in streets in proper waste receptacles for the purpose of collection are exempted from this prohibition.

(D) Industrial or Construction Activity Discharges

Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit and Chapter 152: Storm water Management and Sediment Control Ordinance of York County Code. Proof of compliance with said permit may be required in a form acceptable to the Environmental Compliance Administrator or designee prior to or as a condition of a subdivision map, site plan, building permit, or development or improvement plan; upon inspection of the facility; during any enforcement proceeding or action; or for any other reasonable cause.

§ 152.71 REGULATIONS AND REQUIREMENTS OF THE ILLICIT DISCHARGE DETECTION AND ELIMINATION

(A) Requirement to Prevent, Control and Reduce Storm Water Pollutants

(1) Authorization to Adopt and Impose Best Management Practices. The County has adopted requirements identifying Best Management Practices, listed in SCDHEC's *BMP Guidance Series Manual*, for any activity, operation, or facility, which may cause or contribute to pollution or contamination of storm water within the York County separate storm sewer system, Waters of the State and Waters of the United States. Where Best Management Practices requirements are promulgated by the County or any federal, State, or regional agency for any activity, operation, or facility which would otherwise cause the discharge of pollutants into the York County separate storm sewer system, Waters of the State, and Waters of the United States, every person undertaking such activity or operation, or owning or operating such facility shall comply with such requirements. Individuals involved in land-disturbing activities with follow their construction sequence set forth by York County Government, and the site plans designed by the designated engineer. All eligible BMP's will be included in SCDHEC's *BMP Guidance Series Manual*.

(2) New Development and Redevelopment. The County has adopted requirements identifying appropriate Best Management Practices to control the volume, rate, and potential pollutant load of storm water runoff from new development and redevelopment projects as may be appropriate to minimize the generation, transport and discharge of pollutants. The County has incorporated such requirements in any land use entitlement and construction or building-related permit to be issued relative to such development or redevelopment. The owner and developer shall comply with the terms, provisions, and conditions of such land use entitlements and building permits as required in this Chapter 152: Storm Water Management and Sediment Control of York County Code.

(3) Responsibility to Implement Best Management Practices. Notwithstanding the presence or absence of requirements promulgated pursuant to subsections (i) and (ii) of 152.70(10), any person engaged in activities or operations, or owning facilities or property which will or may result in pollutants entering storm water, the York County separate storm sewer system, Waters of the State, and Waters of the United States, shall implement Best Management Practices to the extent they are technologically achievable to prevent and reduce such pollutants. The owner or operator of a commercial or industrial establishment shall provide reasonable protection from accidental discharge of prohibited materials or other wastes into the York County separate storm sewer system, Waters of the State, and Waters of the United States. Facilities to prevent accidental discharge of prohibited materials or other wastes shall be provided and maintained at the owner or operator's expense. Best Management Practices required by the County can be obtained by reviewing the SCDHEC *BMP Guidance Series Manual* appropriate to a commercial or industrial activity.

(B) Requirement to Eliminate Illicit Discharges

Notwithstanding the requirements of Chapter 152 herein, the Environmental Compliance Administrator or designee may require by written notice that a person responsible for an illegal discharge immediately, or by a specified date, discontinue the discharge and, if necessary, take measures to eliminate the source of the discharge to prevent the occurrence of future illicit discharges.

(C) Requirement to Eliminate or Secure Approval for Illegal Connections

(1) The Environmental Compliance Administrator or designee may require by written notice that a person responsible for an illegal connection to the storm drain system comply with the requirements of this Article to eliminate or secure approval for the connection by a specified date, regardless of whether or not the connection or discharges to it had been established or approved prior to the effective date of this Article.

(2) If, subsequent to eliminating a connection found to be in violation of this Article, the responsible person can demonstrate that an illicit discharge will no longer

occur, said person may request County approval to reconnect. The reconnection or reinstallation of the connection shall be at the responsible person's expense.

(D) Watercourse Protection

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property reasonably free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse. The owner or lessee shall not remove healthy bank vegetation beyond that actually necessary for maintenance, nor remove said vegetations in such a manner as to increase the vulnerability of the watercourse to erosion. The property owner shall be responsible for maintaining and stabilizing that portion of the watercourse that is within their property lines in order to protect against erosion and degradation of the watercourse originating or contributed from their property.

(E) Requirement to Remediate

Whenever the Environmental Compliance Administrator or designee finds that a discharge pollutant is taking place or has occurred which will result in or has resulted in pollution of storm water, the York County separate storm sewer system, Waters of the State, or Waters of the United States, the Environmental Compliance Administrator or designee may require written notice to the owner of the property and/or the responsible person that the pollution be remediated and the affected property be restored within a specified time pursuant to the provisions of the sections below.

(F) Requirement to Monitor and Analyze

The Environmental Compliance Administrator or designee may require by written notice of requirement that any person engaged in any activity and/or owning or operating any facility which may cause or contribute to storm water pollution, illicit discharges, and/or non-storm water discharges to the York County separate storm sewer system, Waters of the State, or Waters of the United States, to undertake at said person's expense such monitoring and analyses and furnish such reports to the County as deemed necessary to determine compliance with this Article.

§ 152.72 ACCESS AND INSPECTION OF PROPERTIES AND FACILITIES

Whenever necessary to make an inspection to enforce any provision of this Article, or whenever the Environmental Compliance Administrator or designee has cause to believe that there exists, or potentially exists, in or upon any premises any condition which constitutes a violation of this Article, the Administrator, designee, appointed designees, and all other employees of the York County Environmental Compliance Department,

York County Sheriff's Department, and York County Code Enforcement may enter such premises at all reasonable times to inspect the same and to inspect and copy records related to storm water compliance. The Administrator, designee, appointed designees, and all other employees of the York County Environmental Compliance Department, York County Sheriff's Department, and York County Code Enforcement shall also be permitted to enter and inspect properties and facilities as often as may be necessary to determine compliance with this article and ordinance. In the event the owner or occupant refuses entry after a request to enter and inspect has been, the County is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining such entry. The depending circumstances are as follows:

(A) If a property or facility has security measures in force which require proper identifications and clearance before entry into its premises, including but not limited to security systems and locks, the owner or operator shall make the necessary arrangements to allow access to Environmental Compliance Staff or designees. In accordance with Section 308 of the Clean Water Act and as defined under 40 Code of Federal Regulations Part 2, York County Government shall treat as confidential information the composition of material and substances documented during an investigation if a claim is timely made and substantiated that such substances are traded secrets. Such claims must be in writing and signed by a responsible company official. Claims may be made any time. If a claim of confidentiality for certain information is received by York County Government after the information itself is received by York County Government, such efforts as are administratively practicable will be made to associate the late claim with copies of the previously submitted information in the files.

(B) The owner or operator shall allow Environmental Compliance Staff and designees ready access to all parts of the premises for the purposes of inspections, sampling, photography, videotaping, examination and copying of any records that are required under the conditions of Chapter 152 of York County Code, the National Pollutant Discharge Elimination System and Clean Water Act..

(C) Environmental Compliance Staff and designees shall have the right to set up on any property or facility such devices as are necessary in the opinion of York County to conduct monitoring and/or sampling of flow discharges.

(D) The Environmental Compliance Department may require the owner or operator to install monitoring equipment and perform monitoring as necessary, and make the monitoring data available to Environmental Compliance Staff. This sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the owner or operator at his/her own expense. All devices used to measure flow and quality shall be calibrated to ensure their accuracy.

(E) Any temporary or permanent obstruction to safe and easy access to the property or facility to be inspected and/or sampled shall be promptly removed by the owner or operator at the written or oral request of York County Environmental Compliance and

shall not be replaced. The costs of clearing such access shall be borne by the owner or operator.

(F) Unreasonable delays in allowing Environmental Compliance Staff and designees access to a facility is a violation of this article and ordinance.

(G) If the Environmental Compliance Department has been refused access to any part of the premises from which storm water is discharged, and Environmental Compliance Staff and designees are able to demonstrate probable cause to believe that there may be a violation of this article and ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this article and ordinance or any order issued hereunder, or to protect the overall public health, safety, environmental and welfare of the community, then the Environmental Compliance Department may seek issuance of a search warrant from the Magistrate Court of York County and will be accompanied by a Law Enforcement Officer.

§ 152.73 NOTIFICATION OF ACCIDENTAL DISCHARGES AND SPILLS

Notwithstanding other requirements of law, as soon as any person responsible for a facility, activity or operation, or responsible for emergency response for a facility, activity or operation has information of any known or suspected release of pollutants or non-storm water discharges from the facility or operation which are resulting or may result in illicit discharges or pollutants discharging into storm water, the York County separate storm sewer system, Waters of the State, or Water of the United States, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release so as to minimize the effects of the discharge. In the event of such a release of a hazardous material, said person shall immediately notify emergency dispatch services (911) and then York County Emergency Management, Environmental Compliance, and SCDHEC officials of the occurrence. In the event of a release of non-hazardous materials, said person shall notify York County Environmental Compliance in person or by phone or facsimile no later than 24 hours of the nature, quantity and time of occurrence of the discharge. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to York County Environmental Compliance Department within three business days of the phone or in person notice. If the discharge of prohibited material emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years. Said person shall also take immediate steps to ensure no recurrence of the discharge or spill.

In the event of such a release of a hazardous material, emergency response agencies and/or other authorized enforcement agencies shall be immediately notified.

Failure to provide notification of a release as provided above is a violation of this article and ordinance.

§ 152.74 VIOLATIONS, ENFORCEMENT AND PENALTIES

(A) Violations

(1) It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this article and ordinance. Any person who has violated or continues to violate the provisions of this article and ordinance, may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise abated in a manner provided by law.

(2) In the event the violation constitutes an immediate danger to public health or public safety, Environmental Compliance Staff are authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property. York County Environmental Compliance Department is authorized to seek costs of the abatement as outlined in the sections below and in section 152.09(E).

(B) Abatement

(1) If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by York County or a contractor designated by the Environmental Compliance Administrator, County Engineer, and/or other qualified members of the Engineering Department and the expense thereof shall be charged to the violator pursuant to sections 152.70 (subsection 13) and 152.99. All contractors and/or individuals designated by the Environmental Compliance Administrator shall enter the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the authorized enforcement agency or designated contractor to enter upon the premises for the purposes set forth above.

(2) Within 15 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the assessment or to the amount of the assessment within 15 days of such notice. If the amount due is not paid within thirty (30) days after receipt of the notices, or if an appeal is taken, within thirty (30) days after a decision on said appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. A copy of the resolution shall be turned over to the County Auditor so that the auditor may

enter the amounts of the assessment against the parcel as it appears on the current assessment roll, and the tax collector shall include the amount of the assessment on the bill for taxes levied against the parcel of land. Any person violating any of the provisions of this article shall become liable to York County by reason of such violation.

(3) The Environmental Compliance Administrator is authorized to require immediate abatement of any violation of this Article that constitutes an immediate threat to the health, safety or well-being of the public. If any such violation is not abated immediately as directed by the Environmental Compliance Administrator, the County is authorized to enter onto private property and to take any and all measures required to remediate the violation. Any expense related to such remediation undertaken by the County shall be fully reimbursed by the property owner and/or responsible party. Any relief obtained under this section shall not prevent the County from seeking other and further relief authorized under this Article.

(C) Appeal of Notice of Violation

Any person receiving a Notice of Violation may appeal the determination of the York County Environmental Compliance Department. The notice of appeal must be received within five (5) days from the date of the Notice of Violation. Hearing on the appeal before the York County Hearing Board shall take place within 30 days from the date of receipt of the notice of appeal. The decision of the appropriate authority or their designee shall be final.

(1) Appeal Hearing Process

(a) At the hearing, the Petitioner and the Administrator or designee, shall have the right to be present and to be heard, to be represented by counsel, and to present evidences through witnesses and competent testimony relevant to the issue(s) before the York County Hearing Board.

(b) Rules of evidence shall not apply to a hearing conducted pursuant to this Article and the York County Hearing Board may give probative effect to competent, substantial and material evidence.

(c) At least 7 days before the hearing, the parties shall exchange a list of witnesses intended to be present at the hearing and a copy of any documentary evidence intended to be presented. The parties shall submit a copy of this information to the Clerk. Additional witnesses or documentary evidence may not be presented except upon consent of both parties or upon a majority vote of the York County Hearing Board.

(d) Witnesses shall testify under oath or affirmation to be administered by the Court Reporter or another duly authorized official.

(e) The procedure at the hearing shall be such as to permit and secure a full, fair and orderly hearing and to permit all relevant, competent, substantial

and material evidence to be received therein. A full record shall be kept of all evidence taken or offered at such hearing. Both the representative for the County and for the Petitioner shall have the right to cross-examine the witnesses.

(f) At the conclusion of the hearing, the York County Hearing Board shall render its decision on the evidence submitted at such hearing and not otherwise. If, after considering the evidence present at the hearing, the York County Hearing Board concludes by a preponderance of the evidence that the grounds for the Administrator or designee of the Administrator's actions (including the amount assessed as a civil penalty) with regard to either issuing a notice of violation or assessing a civil penalty are true and substantiated, the York County Hearing Board shall uphold the action on the part of the Administrator. If, after considering the evidence present at the hearing, the York County Hearing Board concludes by a preponderance of the evidence that the grounds for the Administrator or designee of the Administrator's actions (including the amount assessed as a civil penalty) are not true and substantiated, the York County Hearing Board shall, as it sees fit, either reverse or modify any order, requirement, decision or determination of the Administrator or designee of the Administrator. The York County Hearing Board Bylaws will determine the number of concurring votes needed to reverse or modify any order, requirement, decision, or determinant of the Administrator. If the York County Hearing Board finds that the violation has occurred, but that in setting the amount of a penalty the Administrator or designee of the Administrator has not considered or given appropriated weight to either mitigating or aggravating factors, the York County Hearing Board shall either decrease or increase the per day civil penalty within the range allowed by the Article. Any decision of the York County Hearing Board which modifies the amount of the civil penalty shall include, as part of the findings of fact and conclusions of law, findings as to which mitigating or aggravating factors exist and the appropriate that should have been given to such factors by the Administrator or designee of the Administrator in setting the amount in of the civil penalty levied against the Petitioner.

(g) The York County Hearing Board shall keep minutes of its proceedings, showing the vote of each member upon each question and the absence or failure of any member to cotes. The decision of the York County Hearing Board shall be based of findings of fact and conclusions of law to support its decisions.

(h) The York County Hearing Board shall send a copy of its findings and decision to the Applicant/Petitioner and the Administrator or designee of the Administrator. If either party contemplates an appeal to a court of law, the party may request and obtain, at the party's own cost, a transcript of the proceedings.

(2) Enforcement Measures after Appeal

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal within 15 days of the decision of the appropriate authority upholding the decision by York County, then representatives of the Environmental Compliance Department may enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the authorized enforcement agency or designated contractor to enter upon the premises for the purposes set forth above.

(C) Civil Penalties

In the event the alleged violator fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within ten (10) days, or such greater period as York County shall deem appropriate, after York County has taken one or more of the actions described above, York County may impose a penalty not to exceed \$1,000 (depending on the severity of the violation) for each day the violation remains unremedied after receipt of the notice of violation. If a minor offense is involved, the Environmental Compliance Administrator holds he right to issue the offender a warning.

(D) Criminal Penalties

For intentional and flagrant violations of this article and ordinance, York County may issue a citation to the alleged violator requiring such person to appear in the Magistrate Court of York County Court to answer charges for such violation. Upon conviction, such person shall be punished by a fine not to exceed \$1,000 or imprisonment for 60 days or both. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense. If a minor offense is involved, the Environmental Compliance Administrator holds the right to issue the offender a warning.

(E) Violations Deemed a Public Nuisance

In addition to the enforcement processes and penalties hereinbefore provided, any condition caused or permitted to exist in violation of any of the provisions of this ordinance is a threat to public health, safety, welfare, and environment and is declared and deemed a nuisance, and may be summarily abated or restored by the County at the Violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken by the County.

(F) Compensatory Action

In lieu of enforcement proceedings, penalties, and remedies authorized by this Article, the Environmental Compliance Administrator may impose upon a violator alternative

compensatory action, such as storm drain marking/stenciling, attendance at compliance workshops, stream clean-ups, etc. or any other community service activity involved in storm water, erosion and sediment control.

(G) Remedies Not Exclusive

The remedies listed in this article are not exclusive of any other remedies available under any applicable Federal, State or local law and York County may seek cumulative remedies. Any person that violates any provision of this article or any provision of any requirement issued pursuant to this chapter may also be in violation of the Clean Water Act, or South Carolina Pollution Control Act and may be subject to the sanctions of those acts including civil and criminal penalties. Any enforcement action authorized under this article shall also include written notice to the violator of such potential penalty. The County may recover attorney's fees, court costs, and other expenses associated with enforcement of this article, including sampling and monitoring expenses.

§ 152.99 PENALTY.

If it is determined that any sediment is not being controlled on site due to inadequate measures installed, improper installation, failure to maintain sediment and erosion control measures, land-disturbing activity is not being carried out in accordance with the approved plan, that the measures required by the approved plan are not effective in controlling erosion, sedimentation or stormwater runoff or that any project subject to this chapter is being carried out without first obtaining a grading permit, the following actions shall be taken by the county: Furthermore, if it is determined that an illicit discharge, illegal connection, or waste disposal has or has the potential to have a detrimental effect on the environment, the fines listed in 152.99(C) will be imposed on the violator in accordance with 152.70.

(A) If violations remain uncorrected or if a stop work order is not obeyed, the violator is subject to a civil penalty of not more than \$1,000 a day. No penalty may be assessed until the person alleged to be in violation has been notified of the violation. Each day any such violation shall continue to exist shall constitute a separate offense. The County Council may obtain injunctive relief to enjoin violations of this chapter and any person damaged as a result of the violation may, upon a proper showing of the damages, obtain payment therefore by civil action. Notice of violation shall be sufficient if directed to the owner, the agent of the owner or the contractor and left at his or her known place of residence or place of business;

(B) The county shall determine the amount of the civil penalty to be assessed under this section for violations under its jurisdiction. It shall make written demand for payment upon the person responsible for the violation and set forth in detail the violation for which the penalty has been invoked. If payment is not received or equitable settlement reached within 30 days after demand for payment is made, a civil action may be filed in the circuit court of the county to recover the amount of the penalty. Local governments shall refer the matters under their jurisdiction to their respective attorneys

for the institution of a civil action in the name of the local government in the circuit court in the county in which the violation is alleged to have occurred for recovery of the penalty;

(C) The chapter anticipates that a notice of violation will be issued when violations are found. If the violations remain uncorrected, then a fine may be levied. Notices of violation may be issued for:

<i>Violation</i>	<i>Section(\$)</i>	<i>Fine, not to exceed)</i>
Failure to submit as built	152.24(G)	\$100
Failure to follow required notes on plan	152.41(B)(4)	\$250
Failure to record deed of easements	152.41(B)(13)	\$100
Failure to implement corrective measures	152.09(B)(6)	\$250
Failure to comply with a plan	152.09(C)	\$250
Failure to comply with a notice of violation	152.09(E)	\$100
Failure to comply with a stop work order	152.09(H)	\$500
Failure to obtain a grading permit prior to the commencement of a land-disturbing activity	152.23	\$50 per acre with a minimum of \$250 and a maximum of \$1,000
Prohibited discharge to the storm sewer	152.70(A)	Cost of abatement plus civil penalties not to exceed \$1,000 and criminal penalties not to exceed \$1,000 with up to 60 days imprisonment
Prohibited discharge to the environment	152.70(A)	Cost of abatement plus civil penalties not to exceed \$1,000 and criminal penalties not to exceed \$1,000 with up to 60 days imprisonment
Prohibited waste disposal	152.70(C)	Cost of abatement plus civil penalties not to exceed \$1,000 and criminal penalties not to exceed \$1,000 with up to 60 days imprisonment

Illicit discharge violation	152.70(A)	Cost of abatement plus civil penalties not to exceed \$1,000 and criminal penalties not to exceed \$1,000 with up to 60 days imprisonment
Illegal connection violation	152.70(B)	Cost of abatement plus civil penalties not to exceed \$1,000 and criminal penalties not to exceed \$1,000 with up to 60 days imprisonment
Placing pollutants where prohibited	152.70(C)	Cost of abatement plus civil penalties not to exceed \$1,000 and criminal penalties not to exceed \$1,000 with up to 60 days imprisonment
Erosion control violation	152.70(D)	Cost of abatement plus civil penalties not to exceed \$1,000 and criminal penalties not to exceed \$1,000 with up to 60 days imprisonment

(‘77 Code, § 4-80) (Ord. 3190, passed 5-21-90; Am. Ord. 6792A, passed 9-21-92; Am. Ord. 4495, passed 9-18-95)

Section 3. Severability.

If any section, paragraph, subdivision, clause or provision of this ordinance or the sections of the York County Code amended by this ordinance shall be declared invalid, unenforceable or unconstitutional by the final decision of a court of competent jurisdiction, such adjudication shall apply only to such section, paragraph, subdivision, clause or provision and shall not affect the remaining provisions of this Code, which shall be deemed severable, valid, enforceable and effective.

Section 4. Public Hearing.

The York County Council shall hold a public hearing on this ordinance at least fifteen (15) days’ notice of the time and place of which shall be published in a newspaper of general circulation in York County, South Carolina, before this ordinance shall become effective.

Section 5. Amendment of Inconsistent Sections and Ordinances.

All sections of the York County Code and all York County ordinances in conflict with this ordinance are hereby amended to the extent of such conflict.

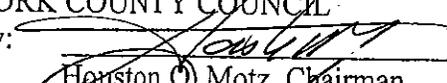
Section 6. Effective Date.

This ordinance shall take effect immediately upon adoption.

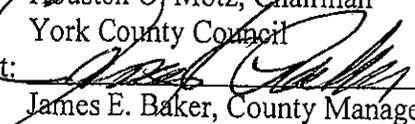
ADOPTED THIS 16 DAY OF March, 2009.

YORK COUNTY COUNCIL

By:


Houston O. Motz, Chairman
York County Council

Attest:


James E. Baker, County Manager

First Reading: October 6, 2008
Public Hearing: December 15, 2008
Second Reading: December 15, 2008
Third Reading: March 16, 2009