

ORDINANCE 2007-CHAPTER 25 SECTIONS 1-12

AN ORDINANCE ESTABLISHING A STORMWATER MANAGEMENT UTILITY FOR THE PURPOSE OF PLANNING, DESIGNING, FUNDING, CONSTRUCTING AND MAINTAINING STORMWATER MANAGEMENT, SEDIMENT AND EROSION CONTROL, AND FLOOD AND STORMWATER DISCHARGE PROGRAMS, PROJECTS AND FACILITIES, AND REVIEWING AND APPROVING STORMWATER MANAGEMENT AND SEDIMENT CONTROL PLANS FOR LAND DISTURBING ACTIVITIES, AND PROVIDING FOR THE ADMINISTRATION AND ENFORCEMENT THEREOF.

BE IT ORDAINED AND ENACTED BY THE MAYOR AND COUNCIL MEMBERS OF THE TOWN OF SULLIVAN'S ISLAND, SOUTH CAROLINA, IN TOWN COUNCIL ASSEMBLED:

SECTION 1 Findings.

A. The South Carolina General Assembly adopted The Stormwater Management and Sediment Reduction Act (Act), South Carolina Code Annotated, Section 48-14-10 et seq. which authorizes a local government to establish a stormwater management utility and adopt a fee system to help fund program administration, and the South Carolina Land Resources Commission has promulgated comprehensive regulations under the Act which regulates implementation of a Stormwater Management Utility.

B. The federal Clean Water Act, as amended by the Water Quality Act of 1987 (33 U.S.C. 1251 et seq.), other amendments, and rules promulgated by the United States Environmental Protection Agency pursuant to the Clean Water Act and its amendments has placed increased requirements and emphasis on the role of local governments in developing, implementing and funding stormwater management programs which address water quality impacts of stormwater runoff.

C. Town Council desires to create and implement a comprehensive stormwater management program that is in compliance with state and federal laws, rules and regulations and in the best interests of the citizens of the Town of Sullivan's Island and the economy, environment, and water quality of the Town.

D. The management of stormwater runoff and sediment in the Town is necessary to reduce pollution, siltation, sedimentation, flooding, inflow and infiltration of stormwater into the public sewer collection system and stream channel erosion, all of which impact adversely on the land and water resources and the health, safety, property and general welfare of the citizens of the Town.

E. The Town, the County of Charleston and the State of South Carolina maintain a system of stormwater management facilities in the Town, including but not limited to, inlets, conduits, manholes, channels, ditches, drainage easements, retention

and detention basins, infiltration facilities, and other components as well as natural waterways.

F. The stormwater management facilities and components of the Town need to be expanded and additional stormwater management facilities and measures need to be implemented and installed throughout the Town.

G. There is a lack of resources of equipment, manpower, and funds in the Town to address stormwater runoff in a comprehensive manner and within a defined time frame.

H. In the Town there is current and anticipated growth which will contribute to the need for a comprehensive stormwater management system.

I. The extent of use of the stormwater management system by each classification of real property is dependent on a variety of factors that influence runoff, such as total area, land use, intensity of development, amount of impervious surface, and location in a particular watershed or basin.

J. Real property owners should finance the stormwater management system to the extent they contribute to the need for the system and benefit from the system, and charges should bear a reasonable relationship to the cost of the service.

K. A utility provides the most practical and appropriate means of properly delivering stormwater management services and benefits throughout the Town.

L. That it is in the best interests of the Town to enter into inter-governmental agreements with the County of Charleston for assistance from the County in implementing and administering the Town's stormwater utility and implementing, billing and collecting the Town's stormwater utility fees to provide effective, economical and efficient stormwater management.

SECTION 2. That the following Chapter 25, Sections 1-12, Stormwater Regulations, Article A, Stormwater Management Utility, is hereby adopted:

ASec. 25-1 Article Designation and Authority. This Article may be cited as the Stormwater Management Utility Ordinance and is adopted pursuant to South Carolina Code Annotated, Sections 48-14-10 et seq.; Section 5-7-30; and South Carolina Code Annotated, Regulations 72-300, et seq. and Section 5-31-10, et seq.

Sec. 25-2 Definitions. Unless otherwise stated herein or the context specifically indicates otherwise, the meaning of words and terms used in this Ordinance shall be as set forth in South Carolina Code Annotated, Section 48-10-20 and South Carolina Code Annotated, Regulation 72-301.

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

“Town” means the Town of Sullivan’s Island, South Carolina.

“Town Council” means the elected officials of the Town of Sullivan’s Island, South Carolina.

“Town Administrator” means the Town administrator of the Town.

“Equivalent Residential Unit” means a unit of measure which relates a typical single family residential property to all other properties.

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

“Utility customer” means the owner of record of real property.

“Chief Building Inspector” means the Chief Building Inspector of the Town.

Sec. 25-3 Establishment of a Stormwater Management Utility; Administration; Duties and Powers. Town Council hereby establishes a Stormwater Management Utility (the “Utility”) to carry out the purposes, functions and responsibilities set forth herein. The governing body of the Utility shall be Town Council. The Town Administrator shall administer the Utility under the Town’s Department of Building, Planning and Licensing; provided, however, that Town Council may delegate some or all of the Town Administrator’s or the Chief Building Inspector’s duties hereunder to Charleston County or its duly authorized representatives pursuant to an inter-governmental agreement providing for same. The Utility shall have the powers and duties set forth below, which powers are not necessarily exclusive to the Utility, to wit:

- A. Stormwater management planning and preparation of comprehensive watershed master plans for stormwater management;
- B. Regular inspections of public and private stormwater management facilities and measures and the construction thereof;
- C. Maintenance and improvements of stormwater management facilities that have been accepted by the Town for that purpose;
- D. Plan review and inspection for sediment control and stormwater management plans, measures, and practices;

- E. Retrofitting designated watersheds to reduce existing flooding problems or to improve water quality;
- F. Acquisition of interests in land, including easements;
- G. Design and construction of stormwater management facilities and measures and acquisition of equipment;
- H. Water quantity and water quality management, including monitoring and surveillance;
- I. Billing and collecting a stormwater management utility fee shall be pursuant to the Town's Stormwater Management Utility Fee Ordinance that sets forth the amount of the fees;
- J. Make reasonable regulations relating to the administration of this Ordinance; and
- K. Any and all powers and duties delegated or granted to it as a local government implementing agency under the laws and regulations of the State of South Carolina and the ordinances of the Town.
- L. Entering into inter-governmental agreements with the County of Charleston to provide for the County and its duly authorized representatives to assist the Town in the implementation and administration of the Utility, enforcement of the ordinances or other regulations governed by the Utility, and the implementation, billing, collection and expenditure of the Town's stormwater management fees.

Sec. 25-4 **Boundaries and Jurisdiction.** The boundaries and jurisdiction of the Stormwater Management Utility shall encompass all area contained within the corporate boundaries of the Town, as they may exist from time to time.

Sec. 25-5 **Regulation of Land Disturbing Activity.** Town Council shall establish by ordinance a program regulating land disturbing activities, including, but not limited to, provisions for reviewing and approving stormwater management and sediment control plans, creating design requirements for such plans and land disturbing activities; and providing operational maintenance requirements for stormwater management facilities and measures.

Sec. 25-6 **Stormwater Utility Fees.** Town Council shall establish by ordinance the amounts and classifications of stormwater management utility fees to be implemented to help fund the Utility and its programs and projects.

Town Council shall consider, among other things, the following criteria in establishing fees:

- A. The fee system shall be reasonable and equitable so that users pay to the extent they contribute to the need from the Utility, and the fee shall be apportioned with approximate equality and upon a reasonable basis of equality with due regards for the benefits conferred. Town Council recognizes that these benefits, while substantial, in many cases cannot be measured directly.
- B. The components of the calculations used to establish fees shall include, but shall not be limited to, the following cost factors:
 - 1. Stormwater management planning and preparation of comprehensive watershed master plans for stormwater management;
 - 2. Regular inspections of public and private stormwater management facilities and measures and the construction thereof;
 - 3. Maintenance and improvements of stormwater management facilities that have been accepted by the Town for that purpose;
 - 4. Plan review and inspection for sediment control and stormwater management plans, measures, and practices;
 - 5. Retrofitting designated watersheds to reduce exiting flooding problems or to improve water quality;
 - 6. Acquisition of interest of land, including easements;
 - 7. Design and construction of stormwater management facilities and measures and acquisition of equipment;
 - 8. Administration of enforcement;
 - 9. Water quantity and water quality management, including monitoring and surveillance; and
 - 10. Debt service and financing costs.
- C. The practical difficulties and limitations related to establishing, calculating, and administering such fees.
- D. The components of the calculations used to establish fees shall be based on an "equivalent residential unit", to be determined and approved by

Town Council with reasonable general adjustments being made for, but not limited to, the following factors:

1. Land use;
2. Lot or tract size;
3. The amount of site that is impervious; and
4. Other generally accepted factors relevant to such calculations based upon the provisions of this Ordinance.

Pending the adoption of a permanent fee system and rate structure, Town Council may adopt an interim fee system and rate structure to help fund the establishment of the Utility, pending the completion and adoption of a Stormwater Utility Rate Study.

Sec. 25-7 Investment and Reinvestment of Funds and Borrowing. Funds generated for the Stormwater Management Utility from fees, bond issues, other borrowing, and other sources shall be utilized only for those purposes for which the utility has been established, including but not limited to: planning; acquisition of interests in land including easements; design and construction of facilities; maintenance of the stormwater system, billing and administration; and water quality and water quantity management, including monitoring, surveillance, private maintenance inspection, construction inspection and other activities which are reasonably required. Such funds may be invested and reinvested pursuant to the same procedures and practices established by the Town for investment and reinvestment of funds. Town Council may use any form of borrowing authorized by the laws of the State of South Carolina to fund capital acquisitions or expenditures for the Stormwater Management Utility.

Sec. 25-8 Billing of Fee; Delinquency. Town Council shall establish by ordinance the method of billing for the fee, any late payment fees, and the manner of collecting unpaid fees.

Sec. 25-9 Written Notice of Objection.

A. A utility customer may request a reconsideration of any determination or interpretation by the Chief Building Inspector or his designee in the operation of the stormwater management utility. Such request must be in writing specifically explaining the grounds for the request including the following:

TMS # for the property;

Utility customer information: name, address, and telephone number;

A statement outlining the reasons for the appeal, including any law or authority, upon which the utility customer relies;

A statement of facts supporting the utility customer's position; and

The amount which the utility customer considers the fair amount of the fee.

The written request is a notice of objection for purposes of the section. The failure to serve written request within the time period constitutes a waiver of the utility customer's right of protest for that year.

B. Request for reconsideration of the annual fee amounts shall be submitted within thirty (30) days after the date the fee shall be due and payable.

C. In cases where the applicant believes the fee to be inappropriate based on the actual impervious area of the property in which he has interest, the applicant should submit technical data such as a site survey of said property to assist in the evaluation. The survey should be prepared by a licensed Land Surveyor in accordance with the minimum state survey standards. The survey should include the following:

Property boundary;

Parking areas;

Driveway(s);

Building(s);

Storm drainage facilities;

Any other surface improvements; and

Calculation of total impervious area.

Calculation of total pervious area

Date when the field survey was conducted.

D. The Chief Building Inspector or his designee shall render a written decision on the request within thirty (30) business days of the receipt of the written request for reconsideration.

E. The utility customer may appeal the decision to the Town's Board of Zoning Appeals within thirty (30) days after the date of the decision. The Chief Building Inspector shall provide the petition form to the utility customer.

Sec. 25-10 Petition for Relief.

A. The petition must be accompanied with a \$25.00 fee that will be used to partially defray the costs incurred in connection with the administration of petitions filed pursuant to this section.

B. The Board of Zoning Appeals shall hear the petition to determine if the annual stormwater management utility fee does not apportion the fee with approximate equality, based upon a reasonable basis of classification and with due regard to the benefits conferred by providing stormwater management services to the utility customer and the requirements of public health, safety or welfare. The determination of the annual fee by the Board of Zoning Appeals is entitled to a presumption of correctness, and the petitioner has the burden of rebutting the presumption of correctness.

C. The Board of Zoning Appeals shall render a written decision on each petition that is heard, and such written decision shall be issued within twenty (20) calendar days from the day the Board heard the petition. The decision of the Board of Zoning Appeals shall contain findings of fact and conclusions of law, and the decision shall be sent to the petitioner by first class mail.

D. The decision of the Board of Zoning Appeals shall be final unless the petitioner appeals the decision to the circuit court in Charleston County within thirty (30) days after the date of the decision of the Board of Zoning Appeals. Prior to bringing an action to contest an annual fee, the petitioner shall pay to the treasurer not less than the amount of the annual fee which he admits in good faith is owing. Payment of the fee shall not be deemed an admission that the annual fee was due and shall not prejudice the petitioner in bringing an action as provided herein.

Sec. 25-11 Enforcement and Penalties.

A. The Chief Building Inspector and such other officials as the Town Administrator shall designate, which may be a County of Charleston employee or authorized agent under the Intergovernmental Agreement entered into between the Town and the County of Charleston, shall be the Enforcement Officers to enforce the provisions of this Ordinance.

B. In addition to any other penalties provided in this Ordinance, the Town may assess a civil penalty not to exceed one thousand dollars (\$1,000), against any person violating any provision of this Ordinance. Each day a violation continues constitutes a separate violation that may be the subject of such a penalty. The Enforcement Officer shall make a written demand for payment upon the person responsible for the violation and set forth in detail the violation for when the penalty has been invoked. If full payment of the penalty is not made within thirty (30) days after such demand is made, a civil action may be filed in the circuit court of Charleston County to recover the amount of the penalty.

C. When the Town has reasonable cause to believe that any person is violating or is threatening to violate the requirements of this ordinance, it may, either before or after the institution of any other action or proceeding authorized by this Ordinance, institute a civil action in circuit court for injunctive relief to restrain the violation or threatened violation. The institution of an action for injunctive relief under this subsection does not relieve any party to the proceeding from any civil penalty prescribed for violations of this Ordinance.

D. The amount of the fee shall be pursuant to the Town's Stormwater Management Utility Fee Ordinance.

Sec. 25-12 Liability. Nothing in this article and any action or failure to act under this article shall or may be construed to;

A. Impose any liability on the Town, or its departments, agencies, offices or employees for the recovery of damages; or

B. Relieve any person engaged in a land disturbing activity of duties, obligations, responsibilities, or liabilities arising from or incident to operations associated with such activity or imposed by provisions of this article or the laws and regulations pursuant to which it was adopted."

ORDINANCE 2007-CHAPTER 25 SECTIONS 13-17

AN ORDINANCE ESTABLISHING STORMWATER MANAGEMENT UTILITY FEES, PROVIDING FOR THE CLASSIFICATION OF REAL PROPERTY SUBJECT TO SUCH FEES, ESTABLISHING THE AMOUNT OF STORMWATER MANAGEMENT UTILITY FEES AND PROVIDING FOR THE USE OF SUCH FEES BY THE STORMWATER MANAGEMENT UTILITY OF THE TOWN OF SULLIVAN'S ISLAND. (8/1/2016)

BE IT ORDAINED AND ENACTED BY THE MAYOR AND COUNCIL MEMBERS OF THE TOWN OF SULLIVAN'S ISLAND, SOUTH CAROLINA, IN TOWN COUNCIL ASSEMBLED:

SECTION 1 Findings.

A. By Ordinance 2007-Chapter 25 Section 1-12, Town Council created a Stormwater Management Utility (the "Utility") and provided that fees may be adopted to assist in the establishment and administration of the Utility.

B. In the adoption of such Ordinance, Town Council made certain findings and declarations which findings and declarations are hereby reaffirmed and made a part hereof as fully and completely as if set forth herein verbatim.

C. Town Council is aware of the practical difficulty of determining precisely the particular need of each parcel of real property for stormwater management, and the special benefits to be derived by the owners and users of such property. A Stormwater Utility Rate Study (Study) has been completed and through this Ordinance, Town Council has adopted a permanent fee system and rate structure so as to equally and reasonably address and relate such needs and benefits to the fees assessed. (8/1/2016)

D. Town Council hereby advises Utility customers of the interim nature and basis of the fees and classifications set forth herein.

SECTION 2. That the following Chapter 25, Sections 25-13—25-17, Stormwater Regulations, Article B, Stormwater Management Utility Fee, is hereby adopted:

Sec. 25-13 Stormwater Management Utility Fee; Classification of Property

A. For purposes of determining the fee, all real property in the Town is classified as follows:

1. Single Family Residential
2. Vacant (8/1/2016)
3. Commercial (8/1/2016)

B. Base Rate: The base rate shall be seventy-two (\$72.00) dollars annually. In no case shall a Utility customer be billed a fee for less than one half (1/2) the base rate. (8/1/2016)

C. Equivalent Residential Unit (ERU): One commonly accepted rate unit for stormwater utilities is the Equivalent Residential Unit (ERU). This is a descriptive value based on the land classification type and the amount of impervious surface. The ERU is used to relate a rate charged for a typical residential property and this becomes the common denominator by which Commercial properties are evaluated. The ERU for Charleston County has been determined to be 3,000 square feet. (8/1/2016)

D. Annual Fees: (8/1/2016)

Annual fees for all property shall be as follows:

1. Single Family Residential Property - Single family residential property shall be charged a fee equal to the Base Rate times one

- (1) Equivalent Residential Unit (ERU), regardless of the size of the parcel or improvements (impervious area). (8/1/2016)
2. Vacant Property – Vacant property shall be charged a fee equal to the Base Rate times one-half (1/2) Equivalent Residential Unit (ERU), regardless of the size of the parcel. (8/1/2016)
3. Commercial Property – Commercial property shall be charged the Base Rate multiplied by the numerical factor obtained by dividing the total impervious area of the property, as determined by the Director of Public Works or an authorized designee, by one (1) ERU (3,000 square feet). The numerical factor will be rounded to the nearest tenth (0.1) of a unit. The minimum fee for any Commercial property shall be the Base Rate times one-half (1/2) ERU. Those Commercial properties with impervious area greater than one-half (1/2) ERU (1,500 square feet) and less than one (1) (3,000 square feet) shall be charged the Base Rate times one (1) ERU. (8/1/2016)

Sec. 25-14 Determination of Amount of Stormwater Management Utility Fee.

A. Computation of Stormwater Management Utility Fee:

1. Determine Base Rate to assign ERU;
2. Determine the impervious area on the property; (8/1/2016)
3. Calculate the numerical factor for the property in question by dividing the impervious area by (1) ERU (3,000 square feet); and (8/1/2016)
4. Calculate the annual Stormwater Management Utility Fee by multiplying the numerical factor by the Base Rate, if the factor is greater than one (1). (8/1/2016)

B. Example Calculation:

Calculation of monthly fee for a 1.50 acre Commercial property with a determined impervious area of 32,500 square feet. (8/1/2016)

1. 1 ERU = 3,000 square feet. (8/1/2016)
2. Property impervious area = 32,500 square feet. (8/1/2016)
3. ERU's for example property = 32,500 square feet of

impervious/1ERU of 3,000 square feet = 10.8 ERU's (8/1/2016)

4. Utility fee = ERU's x Base Rate

= 10.8 ERU's x Example Base Rate of \$72.00 = \$777.60/year (8/1/2016)

The classification of real property and the identification of the utility customer for the purpose of determining fees shall be determined from the records of the Charleston County Tax Assessor's. The utility customer or person charged the fee is based on the classification of the real property as of January 1 of the year of billing and each year subsequently thereafter. (8/1/2016)

Where the tax records are incomplete or ambiguous, a physical inspection of the real property shall be made to determine the use of the property. Upon development of the County's database and review of the real properties on a case-by-case basis, the classifications from the records of the Charleston County Tax Assessor's do not preclude an adjustment to the data that the County uses to determine the fee. (8/1/2016)

Sec. 25-15 Adjustment of Utility Fee. In cases where the Utility customer disputes the fee based on the actual impervious area of the real property in which he has interest, a notice of objection may be filed with the Chief Building Inspector as outlined in the Stormwater Management Utility Ordinance, Section 25-9, Written Notice of Objection; provided, however, that Town Council may delegate the Chief Building Inspector's responsibilities hereunder to Charleston County or its duly authorized representatives pursuant to an inter-governmental agreement providing for same.

Where an adjustment of the fee is warranted, the Chief Building Inspector shall recalculate and re-determine the fee using equivalent ERU's that is based on the total impervious area of the real property at issue. (8/1/2016)

Sec. 25-16 Duration of Fee. The fees established by this Ordinance have been adopted by Town Council. This fee will be reviewed, evaluated, and amended as necessary in order to address the Town's stormwater program needs/deficiencies and Small Municipal Separate Storm Sewer System (SMS4) general permit requirements. (8/1/2016)

Sec. 25-17 Billing of Stormwater Management Utility Fee; Late Charges. The fee shall not be prorated. No refunds of the fee shall be made except as set forth in this Ordinance. The fee shall be billed annually and mailed to each owner of record of real property, based on the classification of the property, to the owner of record of the real property as of January 1 of each year subsequently thereafter. For non-payment of all or any part of the utility fee, the monetary penalty shall be the same penalty set forth in Section 12-45-180 of the South Carolina Code of Laws. If any fee shall remain sixty (60)

days after the due date, the County may issue a lien upon the parcel for the stormwater utility fee, penalties and costs of collection and shall proceed to collect in the same manner as prescribed by law for the collection of other fees and taxes. The Town may delegate collection of the fees, including any required legal action, to the County of Charleston or its representatives pursuant to an inter-governmental agreement providing for same. (8/1/2016)

ORDINANCE 2007-CHAPTER 25 SECTIONS 18-55

AN ORDINANCE ESTABLISHING A STORMWATER MANAGEMENT PROGRAM ("SWMP") FOR THE TOWN OF SULLIVAN'S ISLAND

BE IT ORDAINED AND ENACTED BY THE MAYOR AND COUNCIL MEMBERS OF THE TOWN OF SULLIVAN'S ISLAND, SOUTH CAROLINA, IN TOWN COUNCIL ASSEMBLED:

SECTION 1. Findings.

A. Uncontrolled stormwater runoff may have a significant, adverse impact on the health, safety and general welfare of the Town and the quality of life of its residents. The potential impacts of uncontrolled stormwater can lead to the degradation of water quality and general riverine ecosystem through excessive or illegal pollutant discharges, erosion, and flooding thereby limiting or removing its designated and potential uses.

B. The Town is required by federal law to obtain a National Pollutant Discharge Elimination System (NPDES) permit from the South Carolina Department of Health and Environmental Control (SCDHEC) for stormwater discharges from the Town's Stormwater system. The NPDES permit requires the Town to impose controls to reduce the discharge of pollutants in stormwater to the maximum extent practicable using management practices, control techniques and system, design and engineering methods; and such other provisions which are determined to be appropriate for the control of such pollutants.

C. Additionally, certain facilities which discharge stormwater associated with an industrial activity, including construction activities, are required by the South Carolina Code of Regulations 61-9-122 to obtain NPDES permits for construction activities.

D. That it is in the best interests of the Town to enter into inter-governmental agreements with the County of Charleston for assistance from the County in implementing, administering and enforcing the Town's SWMP to provide effective, economical and efficient stormwater management.

SECTION 2. That the following Chapter 25, Sections 18-55, Article C, Stormwater Management, is hereby adopted:

“Sec. 25-18 Definitions. Unless otherwise stated herein or the context specifically indicates otherwise, the meaning of the words and terms used in this Ordinance shall be as set forth in Section 48-10-20, South Carolina Code of Laws (1976), as amended, and South Carolina Code Annotated, Regulation 72-301.

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

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

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

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

“Construction” or “Construction Activity” is activity involving clearing, grading, transporting, filling, or any other activity which causes land to be exposed to the danger of erosion, or which might create an alteration to any existing drainage way or other component of the Town’s stormwater system or facility.

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

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

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

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

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

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

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

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

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

“MS4” means a municipal separate storm sewer system and includes all conveyances or system of conveyances (including roads with drainage systems, highways, right-of-way, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, storm drains, detention ponds, and other stormwater facilities) which inlets, transports, stores, or treats stormwater runoff and which is (a) owned or operated by the Town; (b) designed or used for collecting or conveying stormwater; (c) not a combined sewer system; and (d) not part of a Publicly Owned Treatment Works (POTW).

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

- (a) division or combination of lots, tracts, or parcels or other divisions by plat or deed;

- (b) the construction, installation, or alteration of land, a structure, impervious surface or drainage facility;

(c) clearing, scraping, grubbing or otherwise significantly disturbing the soil, vegetation, mud, sand or rock of a site, or changing the physical drainage characteristics of the site; or

(d) adding, removing, exposing, excavating, leveling, grading, digging, burrowing, dumping, piling, dredging, or otherwise disturbing the soil, vegetation, mud, sand or rock of a site.

“NPDES” means National Pollutant Discharge Elimination System.

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

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

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

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

“Person” means any and all persons, natural or artificial, and includes any individual, association, firm, corporation, limited liability company, business trust, estate, trust, partnership, two or more persons having a joint or common interest, state or federal agency or an agent or employee thereof, or any other legal entity.

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

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

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

“Regulation” means any regulation, rule or requirement prepared by or adopted by Town Council pursuant to this Ordinance.

“Spill” means any accidental or intentional discharge of any pollutants, hazardous materials, or other substances which are potentially detrimental to the designated use of a receiving water.

“SWMP” means the Town of Sullivan’s Island Stormwater Management Program, which may describe the components to be used by the Town to control stormwater discharges, address flooding, and meet water quality standards.

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

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

“Stormwater Systems and Facilities” means those natural and man-made channels, swales, ditches, swamps, rivers, streams, creeks, branches, reservoirs, ponds, drainage ways, inlets, catch basins, pipes, head walls, storm sewers, lakes and other physical works, properties, and improvements which transfer, control, convey, or otherwise influence the movement of stormwater runoff, whether for quantity or quality control.

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

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

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

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

“Water Quality” means those characteristics of stormwater runoff that relate to the physical, chemical, biological, or radiological integrity of water.

“Water Quantity” means those characteristics of stormwater runoff that relate to the rate and volume of the stormwater runoff.

Sec. 25-19 **Title.** This Ordinance shall be known as the “Town of Sullivan’s Island Stormwater Management Ordinance”.

Sec. 25-20 **Authority.** This Ordinance is adopted pursuant to the authority conferred upon the Town by applicable Federal and State laws and regulations.

Sec. 25-21 **Jurisdiction.** The boundaries and jurisdiction of this Ordinance shall encompass the incorporated area of the Town, as it may exist from time to time.

Sec. 25-22 **Purposes.**

A. A primary purpose of this Ordinance to protect, maintain, and enhance water quality and the environment of the Town of Sullivan’s Island and the short-term and long-term public health, safety, and general welfare of the Town’s residents. This Ordinance is also designed to minimize property damage by establishing requirements and procedures to control the potential adverse effects of increased stormwater runoff and related pollutant loads associated with both future development and existing developed land. Proper management of stormwater runoff will further the purpose of this Ordinance to insure a functional drainage system, reduce the effects of development on land and stream channel erosion, attain and maintain water quality standards, enhance the local environment associated with the drainage system, reduce local flooding, maintain where necessary pre-developed runoff characteristics of the area in terms of flow rate, volume and pollutant concentration, and facilitate economic development while mitigating associated pollutant, flooding, erosion, and drainage impacts.

B. Another primary purpose of this ordinance to direct the development and implementation of a Stormwater Management Program (“SWMP”) and to establish authority which authorizes or enables the Town at a minimum to:

1. Comply with State and Federal requirements related to stormwater management developed pursuant to the Clean Water Act;
2. Prohibit illicit discharges into the Town’s stormwater systems and facilities and receiving waters;

3. Control to the maximum extent practicable the discharge into the Town's stormwater systems and facilities and receiving waters of spills, dumping, or disposal of materials other than stormwater;
4. Address specific categories of non-stormwater discharges and similar other incidental non-stormwater discharges listed in the SWMP;
5. Require erosion and sediment controls to protect water quality on all applicable new and re-development projects both during and after construction;
6. Where necessary, require stormwater discharge rate and volume control during and following development, redevelopment, or construction;
7. Define and implement procedures of site plan review and site inspection of all applicable construction projects within the Town;
8. Control the discharge from the Town's stormwater systems and facilities and receiving waters of pollutants in such quantity that water quality standards are met or to otherwise address post-construction, long-term water quality. This includes the necessary means needed to comply with State and Federal regulations regarding stormwater management quantity and quality;
9. Define procedures for addressing resident complaints of stormwater-related issues within the Town;
10. Provide for adequate long term operation and maintenance of existing stormwater systems and facilities.
11. Carry out inspection, surveillance and monitoring procedures necessary to determine compliance and noncompliance with permit conditions including the prohibition on illicit discharges to the Town's stormwater system and receiving waters;
12. Encourage the creation of stream buffers and preservation of natural spaces to provide areas that may be used for flood storage, stormwater treatment and control, and recreation. Such areas may be required in special protection areas needed to protect, maintain, or enhance water quality and protect property from flooding problems;
13. Develop, implement, and enforce action plans to address pollutant load reductions required in impaired water bodies and to work towards compliance with Total Maximum Daily Loads (TMDLs) established by EPA or SCDHEC and to work toward meeting water quality standards.
14. Enable enforcement of all of the authorizations stated herein.

C. Another purpose of this Ordinance to establish review authority for the Town's Chief Building Inspector to provide consistency of construction projects with the SWMP.

Sec. 25-23 Construction and Scope.

A. The Town's Chief Building Inspector shall be primarily responsible for the coordination and enforcement of the provisions of this Ordinance and the SWMP; provided, however, that Town Council may, from time to time, delegate some or all of the rights and duties of the Chief Building Inspector to Charleston County or its duly authorized representatives pursuant to an inter-governmental agreement for same.

B. All powers and authority given to the Chief Building Inspector or any reference to the Chief Building Inspector throughout these Stormwater Ordinances shall apply to any designee of the Chief Building Inspector or to any County Agent or duly authorized representative designated by the Town Council.

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

Sec. 25-24 Relationship with other Laws, Regulations and Ordinances. Whenever the provisions of this Ordinance impose more restrictive standards than are required in or under any other law, regulation or ordinance, the requirements contained in the provisions of this Ordinance shall prevail. Whenever the provisions of any other law, regulation or ordinance impose more restrictive standards than are required in the provisions of this Ordinance, the requirements of such law, regulation or ordinance shall prevail.

Sec. 25-25 Amendments. Town Council may adopt additional regulations or resolutions to implement this Ordinance, implement the SWMP, or to otherwise further the goal of protecting the quality of the waters which the Town's stormwater system drains into.

Sec. 25-26 Town of Sullivan's Island Stormwater Management Program (SWMP). The SWMP which has been developed by the Town to implement the purposes of this

Ordinance shall serve as the basis for directing the Town's efforts to control stormwater runoff and discharge. The SWMP is incorporated by reference and is hereby a part of this Ordinance. The SWMP requirements are to be complied with and shall be enforced in accordance with the provisions of this Ordinance.

Sec. 25-27 Coordination with Other Agencies. Town Council may coordinate the Town's activities with other Federal, State, and local agencies which manage and perform functions relating to the protection of receiving waters, through a written agreement with those other agencies. Authority not expressly reserved for other agencies or restricted by statute is placed with the Chief Building Inspector for the protection and preservation of receiving waters. The Chief Building Inspector should coordinate with Federal, State and local agencies having jurisdiction of those receiving waters.

Sec. 25-28 Right-Of-Entry.

A. The Chief Building Inspector may with the consent of the property owner enter upon the real property of any Person subject to this Ordinance. The Chief Building Inspector shall be provided immediate access to the necessary portion of the real property for the purposes of inspecting, monitoring, sampling, inventorying, examining and copying of records, and performing any other duties necessary to determine compliance with this Ordinance.

B. Where the property owner or operator has security measures in place requiring proper identification and consent before entry upon the real property, the property owner, operator, or person shall make the necessary arrangements with the necessary parties so that the Chief Building Inspector will be permitted to enter the property without delay for the purposes of performing such responsibilities identified in subsection (A).

C. The Chief Building Inspector shall seek the consent of the Owner before entry upon the real property. If such consent is denied or unable to be obtained from the Owner, then in addition to any other remedies allowed by law, the Chief Building Inspector shall by affidavit based upon the reasonable suspicion that a violation exists, obtain an ex-parte order from a court of competent jurisdiction to enter upon the property for the limited purposes stated in (A).

Sec. 25-29 Regulations.

A. The Chief Building Inspector shall be responsible for the coordination, implementation, and enforcement of this Ordinance and the SWMP, in addition to the long-term management of the Town's drainage systems. Without limitation, the Chief Building Inspector shall have the following authority:

1. To issue any approval, certification, or license that may be required to comply with this Ordinance.

2. To deny a facility connection to the Town's stormwater systems or facilities or discharge to waters of the State if State requirements and this Ordinance are not met.

3. To create the Town of Sullivan's Island Stormwater Program Permitting Standards and Procedures Manual. The Manual may be used to convey design and engineering standards, construction management processes and procedures, and other aspects necessary for compliance with this Ordinance. The Town Administrator is authorized to approve the adoption and subsequent revisions of the Manual.

4. To require the submittal of an application for all applicable construction activities that alter any portion of land for development or alter the storm drainage characteristics of the land. The application shall include the information required to control stormwater pollutants and other components in accordance with the Manual.

5. To require the development and enforcement of a Stormwater Pollution Prevention Plan (SWPPP) for all new and re-development projects.

6. To require proper long-term maintenance of stormwater management systems and facilities through the use of an operating permit or other applicable measures in accordance with the manual.

7. To approve construction activities and to require as a condition of such approval, structural or non-structural controls, practices, devices, operating procedures, or other mechanisms to protect public and private property from flooding and erosion and attain TMDL pollutant load reductions and water quality standards.

8. To require performance bonds as necessary of any Owner to secure the Owner's compliance with approvals, certificates, licenses, or authorizations issued by the Chief Building Inspector pursuant to this Ordinance, the SWMP, and Federal and State laws. The Chief Building Inspector shall develop a process that organizes the closure of bonds and construction projects to accommodate phases of development and the transfer of the ownership of real property.

9. To conduct all activities necessary to carry out the SWMP and other requirements included in this Ordinance and to pursue the necessary means and resources required to properly fulfill this responsibility.

10. To require appropriate post construction best management practices and appropriate continued maintenance of those best management practices.

11. To determine appropriate fees, to impose penalties, and to take necessary and appropriate actions to enforce this Ordinance.

12. To require encroachment permits as necessary.

Sec. 25-30 Prohibitions and Exemptions. No person shall (1) develop any land, (2) engage in any industry or enterprise, (3) construct, operate or maintain any landfill, hazardous waste treatment, disposal, or recovery facility, or any other industrial or related facility, (4) dispose of any hazardous material or toxic substance or other pollutant, or (5) prevent the transport of sediment and other pollutants associated with stormwater runoff beyond the real property boundary lines other than in full compliance with this Ordinance.

In instances where an imminent threat to the health, safety, or general welfare of the public or the environment is suspected, the Chief Building Inspector shall determine if immediate action is necessary. Such action may be taken with or without the consent of the owner, operator or other responsible person. If such consent is denied, the Chief Building Inspector shall follow the provisions in Section 25-28 for entry upon the real property to remove such threat. In such instances, the owner, operator, or other responsible person shall reimburse the Town for any and all expenses associated with removal of such threat. If the Owner or operator fails to reimburse the Town for such expenses, the Town may recover the expenses from the Owner, operator or other responsible person through any remedies available at law or in equity. Any fees or costs associated with any collection effort by the Town are in addition to the recovery of the expenses.

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

A. Land disturbing activities undertaken on forestland for the production and harvesting of timber and timber products and conducted in accordance with best management practices and minimum erosion protection measures established by the South Carolina Forestry Commission pursuant to Section 48-18-70 of the Code of Laws of South Carolina 1976, as amended.

B. Activities undertaken by persons who are otherwise regulated by the provisions of Chapter 20 of Title 48, the South Carolina Mining Act. livestock, including beef cattle, sheep, swine, horses, ponies, mules, or goats, including the breeding and grazing of these animals; bees, fur animals, and aquaculture. The construction of an agricultural structure that requires the disturbance of one or more acres, such as, but not limited to, broiler houses, machine sheds, repair shops, coops, barns, and other major buildings shall require the submittal and approval of an application in accordance with the Manual prior to the start of the land disturbing activity.

C. Land disturbing activities on agricultural land for production of plants and animals, including but not limited to: forages and sod crops, grains and feed crops, tobacco, cotton, and peanuts; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules, or goats,

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

Sec. 25-31 Design and Engineering Standards. Design and engineering standards must define the desired level of quality and performance for stormwater management systems on all applicable construction activities in order to meet the purpose of this Ordinance. The standards establish the minimum technical requirements needed to demonstrate compliance.

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

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

Sec. 25-32 Construction Activity Approval Process. An application for review and approval shall be made for all applicable construction activities. Applications required under this Ordinance shall be submitted in a format and in such numbers as required by the Chief Building Inspector. Applications may be initiated by the property owner, operator, or person responsible for construction activities. Applications that meet the requirements of this Ordinance, the SWMP, and State and Federal regulations are considered complete. The application process and requirements to establish a complete application will be provided in the Manual.

Sec. 25-33 Town of Sullivan's Island Stormwater Program Permitting Standards and Procedures Manual (Manual). The Manual may include design standards, procedures and criteria for conducting hydrologic, hydraulic, pollutant load evaluations, and downstream impact for all components of the stormwater management system. It is the intention of the Manual to establish uniform design practices; however, it neither replaces the need for engineering judgment nor precludes the use of information not submitted. Other accepted engineering procedures may be used to conduct hydrologic, hydraulic and pollutant load studies if approved by the Chief Building Inspector.

The Manual will contain at a minimum the following components:

A. Construction Activity Application contents and approval procedures;

B. Construction Completion and Closeout processes;

C. Hydrologic, hydraulic, and water quality design criteria (i.e., design standards) for the purposes of controlling the runoff rate, volume, and pollutant load. Suggested reference material shall be included for guidance in computations needed to meet the design standards;

D. Information and requirements for new and re-development projects in special protection areas necessary to address TMDLs, known problem areas and other areas necessary to protect, maintain, and enhance water quality and the environment of the Town and the public health, safety, and general welfare of the Town's residents.

E. Construction document requirements;

F. Long-term Maintenance & Maintenance Plan

G. Minimum easement requirements;

H. Required and recommended inspection schedules and activities for all components of the stormwater management system, including construction-related BMPs.

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

Sec. 25-34 Maintenance, Construction, Inspection, and Notice of Termination (NOT). Maintenance of the stormwater management system is critical for the achievement of its purpose of controlling stormwater runoff quantity and quality and providing for the public health, safety, and general welfare of the residents of the Town.

In accordance with the Manual, a maintenance plan for the stormwater management system shall be included in an application to perform a construction activity to cover activities to be conducted during and after construction. As part of the maintenance plan, the property owner, operator, or person of such system or facility shall agree to be responsible for keeping the system and facility in working order. The Chief Building Inspector shall develop procedures to provide reasonable assurances that maintenance activities are performed in accordance with the Manual for both Town and privately maintained stormwater systems and facilities. The Chief Building Inspector will provide the procedures for transferring maintenance responsibilities to another entity.

A. The Chief Building Inspector will define procedures for conducting site inspections.

B. As part of any application to perform a construction activity, the applicant shall submit construction and BMP maintenance and inspection schedules, and long-term maintenance plan shall be covered by an operating permit for new stormwater

management systems and facilities. Required and recommended schedules for BMP maintenance and inspection and long-term plans are provided in the Manual.

C. If the construction is to be phased, no phase of the work, related to the construction of stormwater management facilities shall commence until the preceding phase of the work is completed in accordance with an approved application to perform a construction activity. The procedure for construction phases beginning and ending and what constitutes such conditions shall be submitted with the application.

D. The applicant shall notify the Chief Building Inspector before commencing any work, in accordance with the Manual, and upon completion of any phase or designated component of the site. Notification schedules shall be provided for in the Manual. All self-inspections, maintenance actions, BMP replacements, and changes to the approved application shall be documented and presented upon request to the Chief Building Inspector.

E. The NOT process as identified in the Manual must be completed by the Chief Building Inspector prior to any of the following actions, as applicable:

1. The use or occupancy of any newly constructed components of the site.
2. Final acceptance of any road into a public road maintenance system or designation of road owner and associated stormwater management system.
3. Release of any bond held by the Town, if applicable.
4. Approval or acceptance for recording of map, plat, or drawing, the intent of which is to cause a division of a single parcel of land into two or more parcels.

Sec. 25-36 Watercourse Protection. Every owner, operator, or person responsible for any land disturbance activity on property through which a watercourse passes shall keep and maintain that portion of the watercourse within the property free of trash, debris, and other obstacles that would pollute, contaminate, or retard the flow of water through the watercourse. In addition, the owner, operator, or person shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not interfere with the use, function, or physical integrity of the watercourse.

To assist in the compliance with State and Federal laws and regulations, the Chief Building Inspector may develop special protection areas which require additional control of stormwater quality and quantity than provided by minimum design standards. Such areas may consist of watersheds corresponding to adopted TMDLs, known flooding problems and pollution impairments, or other areas necessary to protect, maintain, and enhance water quality and the environment of the Town and the public health, safety, and

general welfare of the Town's residents. These areas may change with time as development continues and as Federal and State law demands.

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

Sec. 25-37 Notification of Spills. The owner, operator, or person responsible for any land disturbance activity shall immediately notify the Chief Building Inspector of any known or suspected release of materials or discharges that are currently resulting in or may result in any illegal discharges of pollutants to an existing stormwater system.

Sec. 25-38 Illicit Connections, Illicit Discharges and Improper Disposal.

A. It is unlawful for any owner, operator, or person to connect any pipe, open channel, or any other conveyance system that discharges anything, except stormwater or other approved discharges into the Town's stormwater system or facility, or waters of the State.

B. It is unlawful for any owner, operator, or person to continue the operation of any illicit connection regardless of whether the connection was permissible when constructed. Improper connections in violation of this Ordinance must be disconnected and redirected, if necessary, to the satisfaction of the Chief Building Inspector in compliance with Federal, State, or local agencies or departments regulating the discharge.

C. It is unlawful for any owner, operator, or person to throw, drain, or otherwise discharge to any existing stormwater system, the waters of the State or to cause, permit, or allow a discharge that is composed of anything except stormwater or other discharges authorized by the Chief Building Inspector.

D. The Chief Building Inspector will develop procedures for detecting, tracking, and eliminating illicit discharges and improper disposals to the stormwater system.

E. After a reasonable determination is made by the Chief Building Inspector that the discharge is not a significant source of pollution, the Chief Building Inspector may require controls for or exempt from the prohibition provisions in (a), (b), and (c) above the following:

1. Unpolluted industrial cooling water, but only under the authorization and direction of the Chief Building Inspector and if appropriate Industrial NPDES permit is in place.

2. Water line flushing, diverted stream flows, rising ground waters, and uncontaminated pumped ground waters, and uncontaminated ground water infiltration.

3. Discharges from potable water sources, foundation drains, air conditioning condensation, landscape irrigation, springs, water from crawl space pumps, footing drains, lawn watering, individual car washing, dechlorinated swimming pool discharges, flows from riparian habitats and wetlands, and street wash water.

4. Discharges or flows from fire fighting.

F. The Chief Building Inspector may develop procedures for allowing other non-stormwater discharges.

Sec. 25-39 Detection of Illicit Connections and Improper Disposal.

A. The Chief Building Inspector will take appropriate steps to detect and eliminate illicit connections to the Town's stormwater system, including the adoption of a program to screen illicit discharges and identify their source or sources, perform inspections, and levy fines if not removed.

B. The Chief Building Inspector will take appropriate steps to detect and eliminate improper discharges. These steps may include programs to screen for disposal, programs to provide for public education and public information, inspection, levying fines, and other appropriate activities to facilitate the proper management and elimination of illicit discharges.

Sec. 25-40 Waste Disposal Prohibitions. This Ordinance prohibits non-authorized discharges, illicit dumping, or disposal of waste into any stormwater system or waters of this State.

Sec. 25-41 Discharges in Violation of NPDES General Permit for Storm Water Discharges Associated with Industrial Activity Permit. Any owner, operator, or person subject to a violation of the NPDES General Permit for Stormwater Discharges Associated with Industrial Activity Permit (except construction activities) shall comply with all provisions of the permit. Proof of compliance with the permit will be required in a form acceptable to the Chief Building Inspector prior to or as a condition of the issuance of approval of an application or a building permit.

Sec. 25-42 Monitoring. The Chief Building Inspector may monitor the quantity and concentration of pollutants in stormwater discharges from the areas or locations designated in the Town's SWMP.

Sec. 25-43 Inspections.

A. The Chief Building Inspector, subject to the provisions of Section 25-28, may enter upon and inspect all properties for regular inspections, periodic investigations, monitoring, observation measurement, enforcement, sampling and testing, to effectuate the provisions of this Ordinance and the SWMP programs.

B. Upon refusal by any property owner, operator, or person to permit an inspector to enter upon the property or continue an inspection on the property, the inspector shall terminate the inspection or confine the inspection to portions of the property to which no objection is raised. The Chief Building Inspector will document the refusal and proceed according to the provisions of Section 25-28.

C. In the event that the Chief Building Inspector reasonably believes that discharges from the property into a stormwater system may cause an imminent and substantial threat to the health, safety or welfare of the public or the environment, an inspection may be conducted.

D. Inspection reports will be maintained in a permanent file located in the Town's Building Department.

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

Sec. 25-44 Enforcement.

A. If the Chief Building Inspector determines that work performed for new development and re-development fails to conform to the approved application, or that the work has not been performed, the Chief Building Inspector may direct conformity by sending written Notice of Violation (NOV) to the property owner, operator, or other responsible person. Such notice of violation will be in accordance with the Manual. The actions of the Chief Building Inspector may include:

1. issuing a written order to comply, to suspend work, or to revoke the approval issued;
2. withholding or revoking other permits related to the site
3. withholding the release of permanent electric power to the site or certificate of occupancy; and/or
4. seeking redress through legal action.

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

B. When the Chief Building Inspector determines that an owner, operator, or other responsible person has failed to maintain a stormwater system or facility, the NOV shall be provided to the owner, operator, or other responsible person stating the nature of the violation, the amount of time in which to correct deficiencies, the date on which an inspection will be made to ensure that corrective action has been performed, and the applicable penalty or fine if corrective action is not taken. It shall be sufficient notification to deliver the notice in accordance with the Manual.

C. When the Chief Building Inspector determines that an owner, operator, or other responsible person of any property is causing or partially causing flooding, erosion, or is in non-compliance with water quality standards or this Ordinance, the Chief Building Inspector may require the owner, operator, or other responsible person to remedy the violation and restore the impacted property. A NOV will be issued in accordance with the Manual.

D. This Ordinance may be enforced by any remedy at law or in equity available to the Chief Building Inspector under any Federal and State laws and regulations. The penalties and remedies provided in this Ordinance are cumulative and not exclusive, and may be independently and separately pursued against the same Person for the activity constituting a violation.

Sec. 25-45 Penalties.

A. Civil: Any person violating any provision of this Ordinance shall be subject to a civil penalty of up to one thousand dollars (\$1,000) for each violation. Each separate day of a violation constitutes a new and separate violation.

B. Criminal: In addition to any applicable civil penalties, any owner, operator, or other person who willfully, with wanton disregard, or intentionally violates

any provision of this Ordinance shall be guilty of a misdemeanor and shall be punished within the jurisdictional limits of the Town's Municipal Court. The Chief Building Inspector may issue a uniform summons citation for a violation of this Ordinance. Fines imposed under the NOV may not exceed \$500.00 per violation or thirty (30) days in jail, or both. Each day a violation remains constitutes a separate offense.

Sec. 25-46 Additional Legal Measures. If the Town is fined or subjected to a compliance schedule by the State or Federal government for a violation of its NPDES permit by any owner, operator, or other person, the owner, operator, or other person shall be liable to the Town for any and all penalties, expenses, fees and costs of compliance associated therewith.

Sec. 25-47 Corrective Action. In the event a violation of this Ordinance has not been corrected within the applicable time period for correction, the Town may, subject to the provisions of Section 2.3, enter upon the real property and correct the violation. Any penalties, expenses, fees and costs incurred as a result of such action, including but not limited to the inspection, administration, labor and equipment costs, shall be forfeited from any bond issued for the project.

Sec. 25-48 Stop Work Order. The Chief Building Inspector may issue a stop work order if any construction activity conducted in violation of this Ordinance. The stop work order shall require correction of the NOV. Any owner, operator, or other person in violation of a stop work order is subject to payment of all fees, bonds, and penalties prior to the lifting of the stop work order.

Sec. 25-49 Approval Suspension and Revocation An approved application may be suspended or revoked if one or more of the following violations have been committed:

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

Sec. 25-50 Design Criteria. The Chief Building Inspector may grant a variance from the requirements of this Ordinance if exceptional circumstances exist such that strict adherence to the provisions of the Ordinance will result in unnecessary hardship to the owner, operator, or other person and will not fulfill the intent of the Ordinance.

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

Sec. 25-51 Appeals Process. An applicant may appeal the decision of the Chief Building Inspector to the Town's Board of Zoning Appeals within thirty (30) days after the date of the Chief Building Inspector's response. The Chief Building Inspector shall provide the petition form to the Applicant/Petitioner.

A. The petition must be accompanied with a \$25.00 fee that will be used to partially defray the costs incurred in connection with the administration of petitions filed pursuant to this section.

B. The Board of Zoning Appeals shall hear the petition to determine if the decision of the Chief Building Inspector or his designated Agent was based on a reasonable interpretation of the ordinance.

C. The Board of Zoning Appeals shall render a written decision on each petition that is heard, and such written decision shall be issued within twenty (20) calendar days from the day the Board heard the petition. The decision of the Board of Zoning Appeals shall contain findings of fact and conclusions of law and the decision shall be sent to the petitioner by first class mail.

D. The decision of the Board of Zoning Appeals shall be final unless the petitioner appeals the decision to the circuit court in Charleston County within thirty (30) days after the date of the decision of the Board of Zoning Appeals is delivered to the petitioner.

Sec. 25-52 Funding. In addition to all other charges, fees, and penalties, the Town shall have the right to develop and impose a stormwater service fee to fund implementation of the Town's Stormwater Management Ordinance and its associated programs and plans.

Sec. 25-53 Connection to Conveyances. The Chief Building Inspector shall have the right to establish a schedule of appropriate fees for any owner, operator, or person establishing a new discharge to waters of the State within the Town. Such fees shall be payable as part of any application related to the discharge of stormwater runoff. Application fees shall be established on the basis of facility classes relating to the quantity and quality of approved discharge. Establishment and revision of such fees shall be approved by Town Council.

Sec. 25-54 Plan review. A fee associated with the plan review of land development construction documents may be assessed. Establishment and revision of such fees shall be approved by Town Council.

Sec. 25-55 Field inspection. A fee associated with the field inspection and re-inspections of land development or construction activities may be assessed. Establishment and revision of such fees shall be approved by Town Council.

SECTION 3. That should any part of this Ordinance be held invalid by a Court of competent jurisdiction, the remaining parts shall be severable therefrom and shall continue to be in full effect.

SECTION 4. That all ordinances or parts of ordinances conflicting with the provisions of this Ordinance are hereby repealed insofar as the same affect this Ordinance.

SECTION 5. That this Ordinance take effect and be in full force immediately.

PASSED AND APPROVED BY THE TOWN COUNCIL FOR THE TOWN OF SULLIVAN'S ISLAND, SOUTH CAROLINA, ON THE 18th DAY OF SEPTEMBER, 2007.

First Reading: August 6, 2007

Second Reading: August 21, 2007

Third Reading: August 21, 2007

Ratification: September 18, 2007