

ORDINANCE No. 258.2015

Amended and Restated Kershaw County Stormwater Management Ordinance

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DIVISION 1 – GENERAL PROVISIONS

Sec. 1-1. Title.

This ordinance shall be known as the “Stormwater Management Ordinance of Kershaw County, South Carolina.”

Sec. 1-2. Authority.

This ordinance is adopted pursuant to the authority conferred upon the County of Kershaw (the “County”) by the South Carolina Constitution, the South Carolina General Assembly and in compliance with the requirements imposed upon the County by the National Pollutant Discharge Elimination System (“NPDES”) Phase II Permit No. SCRO30000 issued in accordance with the federal Clean Water Act, the South Carolina Pollution Control Act and regulations promulgated thereunder.

Sec. 1-3. Findings.

Kershaw County Council makes the following findings:

(a) Uncontrolled stormwater runoff has the potential for adverse impacts on the health, safety and general welfare of Kershaw County and the quality of life of its citizens by transporting pollutants into receiving waters and by causing erosion or flooding.

(b) The County of Kershaw is required by federal law [33 U.S.C 1342(p) and 40 CFR 122.26] to obtain coverage under a National Pollutant Discharge Elimination System (NPDES) permit from the South Carolina Department of Health and Environmental Control (“DHEC”) for stormwater discharges from the Kershaw County Stormwater System. The NPDES permit requires the County to impose controls to reduce the discharge of pollutants in stormwater to the maximum extent practicable using management practices, control techniques and system, design and engineering methods, and such other provisions that are determined to be appropriate for the control of such pollutants.

(c) Additionally, certain facilities that discharge stormwater associated with an industrial activity, including land disturbing activities, are required to obtain coverage under an NPDES permit. Also, The South Carolina Stormwater Management and Sediment Reduction Act [S.C. Code 48- 14-10 et seq.] requires a state permit for certain land disturbing activities.

Sec. 1-4. Purpose.

(a) It is the purpose of this ordinance to protect, maintain, and enhance the environment of Kershaw County and the short-term and long-term public health, safety, and general welfare of the citizens of Kershaw County by establishing requirements and procedures to control the potential adverse effects of increased stormwater runoff associated with both future development (including redevelopment) and existing developed land. Proper management of stormwater runoff will minimize damage to public and private property, 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, reduce pollutant loading to the maximum extent practicable and maintain to the extent practicable the predeveloped runoff characteristics of the area, and facilitate economic development while mitigating associated pollutant, flooding and drainage impacts.

It has been determined that early interaction between the developer/land owner and Kershaw County will provide good communication and lead to better opportunities to protect water quality while maintaining

reasonable land development options for the developer/land owner to pursue. Therefore, Kershaw County encourages developers/land owners to present development concepts and their associated stormwater management concept plans as early as possible/practical in the land development process.

(b) It is further the purpose of this ordinance to direct the development and implementation of the Stormwater Management Program and to establish legal authority to authorize Kershaw County at a minimum to take any action to obtain and comply with State and Federal requirements by:

(1) Controlling the contribution of pollutants to Kershaw County and receiving waters by stormwater discharges associated with residential, commercial, industrial, and related facilities activity and the quality of stormwater discharged from sites of residential, commercial, industrial, and related facilities activity; including erosion and sediment control during construction and land disturbance activities.

(2) Prohibit illicit discharges to Kershaw County and receiving waters;

(3) Control, the discharge to Kershaw County and receiving waters of spills, dumping or disposal of materials other than stormwater;

(4) Control, through intergovernmental agreements, contribution of pollutants from one municipal stormwater system to another;

(5) Require compliance with conditions in ordinances, permits, contracts or orders;

(6) Require sediment and erosion controls to protect water quality on all applicable land disturbing construction projects;

(7) Define procedures to require adequate long term operations and maintenance of BMPs;

(8) Encourage the use of Low Impact Development as defined in the Unified Code of Zoning and Land Development Regulations (ZLDR).

(9) Carry out all inspection, surveillance and monitoring procedures necessary to determine compliance and noncompliance with permit conditions;

(10) Enable enforcement of all said authorizations.

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

(d) This Ordinance is to be construed to further its purpose of controlling and reducing pollutant discharges to Kershaw County and to the Waters of the State to assure the obligations under its NPDES permit issued by the Department of Health and Environmental Control (DHEC) as required by 33 USC 1342 and 40 CFR 122.26.

Sec. 1-5. Construction and Scope

(a) It is the goal of the Kershaw County Council that the provisions of this Ordinance will result in reduction of the discharge of pollutants to Kershaw County and its receiving waters to the maximum extent practicable using management practices, control techniques and system, design and engineering methods and such other programs and controls as are required by Kershaw County's NPDES permit.

(b) This Ordinance is to be construed to further its purpose of controlling and reducing pollutant discharges to Kershaw County and to the Waters of the State to assure the obligations under its NPDES permit issued by the Department of Health and Environmental Control (DHEC) as required by 33 USC 1342 and 40 CFR 122.26.

(c) The application of this Ordinance, the provisions expressed herein, and the Federal and State stormwater regulations shall be minimum erosion and sediment control and stormwater management requirements and shall not be deemed a limitation or repeal of any other ordinances of Kershaw County or powers granted to Kershaw County by the State of South Carolina statues, including, without limitation, the power to require additional or more stringent stormwater management requirements.

(d) The provisions of this Ordinance shall apply throughout the unincorporated areas of Kershaw County as determined by the County and within any Municipality that chooses to adopt the ordinance.

(e) The Stormwater Manager shall be primarily responsible for the implementation and enforcement of the provisions of this Ordinance, the Kershaw Stormwater Management Program, and Kershaw County's NPDES Permit.

Sec. 1-6. Severability.

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

Section 1-7. Definitions.

For the purpose of this Ordinance, definitions contained in South Carolina regulations 61-9.122.2 and 72-301 are incorporated herein by reference. Where the same words are defined in both the aforementioned regulations, but are not the same, the definitions contained in R. 61-9.122.2 shall be used for the purposes of this Ordinance. Additional terms, phrases and words shall have the meaning given in the Appendix.

Section 1-8. 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, and words used in the singular include the plural, and the plural the singular, unless the context clearly indicates the contrary.

(d) All public officials, bodies, and agencies to which reference is made are those of Kershaw County, unless otherwise indicated.

Secs. 1-9 – 1-10 Reserved.

DIVISION 2 – ORGANIZATION AND ADMINISTRATION

Sec. 2-1. Regulations.

The Kershaw County Council, may, in its discretion, amend or change this Ordinance or adopt additional regulations or resolutions to implement this Ordinance to comply with the NPDES permit, implement the Stormwater Management Program (“SWMP”), or to otherwise further the goal of protecting the quality of the waters into which Kershaw County outfalls flow.

Sec. 2-2. Kershaw County Stormwater Management Program.

The Stormwater Management Program developed by the County to comply with the NPDES Stormwater Permit serves as the basis for Kershaw County’s program implementation and administration. The SWMP, as amended from time to time by the County, is hereby adopted for the life of Kershaw County’s Stormwater System NPDES permit as the official operational Program. The mapping and geographic information system developed as part of the SWMP shall serve as the official authoritative information source for program administration.

Sec.2-3. Coordination with Other Agencies.

The Stormwater Manager shall coordinate the County’s activities with other federal, state, and local agencies, which manage and perform functions relating to the protection of receiving waters. Authority not expressly reserved for other agencies or restricted by statute is placed with the Stormwater Manager for the protection and preservation of receiving waters. The Stormwater Manager shall coordinate with State and Federal Agencies having jurisdiction.

Sec. 2-4. Cooperation with Other Governments.

Kershaw County may enter into agreements with other governmental and private entities to carry out the purposes of this Ordinance. These agreements may include, but are not limited to enforcement, resolution of disputes, cooperative monitoring, and cooperative management of stormwater systems and cooperative implementation of stormwater management programs. Nothing in this Ordinance or in this Section shall be construed as limitation or repeal of any ordinances of these local governments or of the powers granted to these local governments by the South Carolina Constitution or South Carolina statutes, including, without limitation, the power to require additional or more stringent stormwater management requirements within their jurisdictional boundaries.

Secs. 2-5 – 2-10 Reserved.

DIVISION 3 – STORMWATER QUANTITY AND QUALITY MANAGEMENT REQUIREMENTS

Sec. 3-1. Regulations.

a) Federal regulations governing stormwater management, as specified in State Code of Laws 40 C.F.R. 122.26, and State Code of Regulations R. 61-9.et. seq. and R. 72-300 et. Seq., are adopted pursuant thereto, the current version of the state NPDES General Permit for Storm Water Discharges from Construction Activities (NPDES Permit No. SCR100000), or any versions by SCDHEC that may replace it in the future,

and the technical requirements of state regulations 72.305 and 72.307 are adopted as the minimum requirements for all facilities as defined in the respective regulations.

(b) The Stormwater Manager shall have the following specific authority:

(1) To issue any permit, certification or license that may be required to comply with this Ordinance and Federal and State regulations pertaining to stormwater management.

(2) To deny a facility connection to the County's stormwater system or discharge to Waters of the State if State, and Federal regulations and this Ordinances are not met.

(3) To create and enact the Kershaw County ZLDR as an extension of this Ordinance. The ZLDR shall be used to convey design and engineering standards, construction management processes and procedures, and other aspects necessary for compliance with this Ordinance. The original adoption and subsequent revisions of the Kershaw County ZLDR shall include approval by County Council.

(4) To require the submittal of a Land Disturbance Permit Application for all applicable land disturbing activities, to include a plan to control stormwater and pollutants and other components detailed in the Kershaw County ZLDR.

(5) To require the development of a Storm Water Pollution Prevention Plans (SWPPP's) for all applicable new and redevelopment projects and to enforce such SWPPP.

(6) To approve land disturbance plans for development and redevelopment and to require as a condition of such approvals installation, operation, and maintenance of construction and post-construction structural and non-structural control Measures to minimize the discharge of pollutants to the maximum extent practicable.

(7) To require performance bonds, when necessary, of any person to secure that person's compliance with the land disturbance permit, the SWPPP Plan, as well as other permits, certificates, licenses or authorization issued or approved by the Stormwater Manager pursuant to this Ordinance, the Stormwater Management Program and Federal and State laws.

(8) To comply with all Federal and State regulatory requirements, promulgated or imposed pursuant to the Clean Water Act and the SC Stormwater Management Act, applicable to the management of stormwater discharges to or from Kershaw County.

(9) To conduct all activities necessary to carry out the stormwater management program and other requirements included in the Kershaw County NPDES permit, the SWMP, the ZLDR, and this Ordinance, and to pursue the necessary means and resources required to properly fulfill this responsibility.

(10) To enter into agreements with other governmental entities or private persons or entities to provide or procure services to conduct and carry out stormwater management activities.

(11) To maintain the Stormwater Management Program consistent with the provisions of the Kershaw County NPDES permit, the SWMP, the ZLDR and this Ordinance.

(12) To direct, review and recommend for approval by County Council the Stormwater Management operating budget.

(13) To direct, review and recommend for approval by County Council necessary changes to the existing stormwater management.

(14) To determine necessary and appropriate actions to enforce this Ordinance, the ZLDR and the Stormwater Management Program.

(15) Provide for the protection of the natural resources of sensitive and highly susceptible areas to the impacts of excessive and polluted stormwater. This may include the creation of watershed-specific plans that will limit or otherwise direct land development activities and require the reduction of excessive and polluted stormwater from any area.

(16) To require encroachment permits, as necessary.

Sec. 3-2. Prohibitions and Exemptions

(a) 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 or toxic substance or other pollutant (5) or otherwise promote and/or allow the transport of sediment and other pollutants associated with stormwater runoff beyond property boundaries without having provided for compliance with this Ordinance and with any program, plan, permit, or regulation of the Kershaw County Stormwater Management Program (SWMP) adopted in accordance with this Ordinance and all other applicable State and Federal regulations.

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

(1) Construction or improvement of single family residences or their accessory buildings which are separately built and not part of multiple construction of a subdivision development and which are anticipated to disturb an area of less than 5000 square feet are exempted from Sec. 3-2 (a) (1) of this Ordinance.

(2) Agricultural land disturbances that disturb less than one acre.

(3) Agricultural land disturbances that disturb more than one acre and do not create new impervious surfaces.

(4) 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.

Sec. 3-3. Stormwater Management Program.

The Stormwater Manager shall implement and conduct the County's operations according to the Kershaw County Stormwater Management Program. The SWMP serves as the basis for compliance with the NPDES Stormwater Permit granted to the County of Kershaw under the provisions of the Water Quality Act of 1987 and State Code of Laws 40 C.F.R. 122.26. This Stormwater Management Program is more fully described in the NPDES Stormwater Permit (SCR030000) which defines the terms and conditions of Kershaw County's authority to operate its stormwater system. By way of summary only, the Stormwater Management Program includes the following mandated elements:

(a) A public education and outreach on stormwater impacts, as they related to at least three high priority community issues with potential to decrease the pollutants' of concern effect on water quality;

- (b) A public involvement/participation in the stormwater program and activities;
- (c) An illicit discharge detection and elimination program;
- (d) A program to implement and maintain structural and non-structural best management practices to reduce pollutants in stormwater runoff from construction sites to the stormwater system, the "Construction Site Stormwater Runoff Control Program";
- (e) A program to implement and maintain structural and non-structural and source control measures to reduce pollutants from runoff from commercial and residential areas, the "Post-Construction Stormwater Management Program";
- (f) A pollution prevention/good housekeeping program to prevent or reduce pollutant runoff from municipal operations.
- (g) Monitoring and assessment of municipal outfalls and/or streams in MS4 portion of TMDLs.
- (h) Enforcement of this Ordinance.

Sec.3-4. Design/Engineering Standards.

The Stormwater Manager shall develop, maintain, implement, and enforce standards for the design and engineering of the County's stormwater system, as may be required, that are consistent with the Stormwater Management Program and provide a sound technical basis for the achievement of stormwater management and water quality objectives. These standards shall be presented in the ZLDR.

Sec. 3-5. Stormwater Management Best Management Practices (BMP) Handbook.

The Stormwater Manager shall require the use of the South Carolina Stormwater Management BMP Handbook (BMP Handbook), as developed by SCDHEC, in accordance with the approved Stormwater Management Program. The BMP Handbook (including future additions or revisions) shall serve as the minimum requirements for guidance for the design, construction, and maintenance of facilities which discharge stormwater. The BMP Handbook will be used to provide, at a minimum, the following information:

- (a) Guidance and specifications for the preparation of erosion and sediment control and stormwater management plans; acceptable techniques for obtaining, calculating and presenting the information required in the plans; and design conditions which must be accounted for.
- (b) Guidance in selecting environmentally sound practices for managing stormwater; description of specific techniques and practices; and the development and use of techniques emphasizing use of natural systems shall be encouraged.
- (c) Minimum specifications for designing, constructing, and maintaining stormwater management facilities. These specifications shall be established in accordance with current good engineering practices.
- (d) Minimum easement requirements.
- (e) Post-development performance standards for stormwater management facilities and practices (BMPs), and the methodology/criteria for BMPs.

Sec. 3-6. Reserved

Sec. 3-7. Reserved

Sec. 3-8. Reserved

Sec. 3-9. Reserved

Sec. 3-10. Minimum Runoff Control Requirements

The minimum stormwater control requirements shall conform to all applicable sections of the Kershaw County ZLDR including, but not limited to: Article 5 – Land Development Regulations; the current version, or future replacement versions, of the South Carolina NPDES General Permit for Stormwater Discharges from Construction Activities.

Sec. 3-11. Reserved

Sec. 3-12. Reserved

Sec. 3-13. Plan Hydrologic Criteria

The hydrologic criteria to be used for the stormwater concept and drainage plans shall be as described in Article 5 – Land Development Regulations, Division 3 – Land Development Design Standards and Required Improvements of the Kershaw County ZLDR.

Sec. 3-14 Maintenance

(a) All stormwater management facilities shall be privately owned and maintained unless the County accepts the facility for County ownership and maintenance. The owner of all private facilities shall grant to the County, a perpetual, non-exclusive easement which allows for public inspection and emergency repair.

(b) All stormwater management measures relying on designated vegetated areas or special site features shall be privately owned and maintained as defined on the drainage plan.

(c) Privately owned stormwater systems shall be inspected annually and the inspection report submitted to the County.

(d) If a privately owned facility or any portion of the stormwater system is not being maintained as required, the Stormwater Manager or his designee will notify the property owner or lessee in writing of the needed maintenance. If the property owner or lessee fails to repair or maintain the facility within the allotted time, Kershaw County is authorized to proceed with corrective actions and/or enforcement. The Stormwater Manager may authorize the work to be performed by the County or others. In such cases, the property owner or lessee shall reimburse the County for its direct and related expenses. If the property owner or lessee fails to reimburse the County, the County is authorized to proceed with applicable judicial proceedings.

(e) When the Stormwater Manager determines that additional storage capacity beyond that required by the applicant for on-site stormwater management is necessary in order to enhance or provide for the public health, safety and general welfare, to correct unacceptable or undesirable existing conditions or to provide protection in a more desirable fashion for future development, the County may:

(1) require that the applicant grant any necessary easements over, through or under the applicant's property to provide access to or drainage for such a facility;

(2) require that the applicant attempt to obtain from the owners of property over, through or under where the stormwater management facility is to be located, any easements necessary for the construction and maintenance of same (and failing to obtain such an easement, the County may, at its option, assist in such matter by purchase, condemnation, dedication or otherwise, and subject to Sec. 3-14 (c) of this Ordinance, with any cost incurred thereby to be paid by the County); and/or

(3) participate financially in the construction of such facility to the extent that such facility exceeds the required on-site stormwater management as determined by the Stormwater Manager.

(4) Implement the provisions of additional stormwater control where deemed warranted by the Stormwater Manager.

Sec. 3-15 Watercourse Protection and Special Protection Areas

(a) 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 free of trash, debris, 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.

(b) To assist in the compliance with State and Federal laws and regulations, Kershaw County may develop special protection areas which require additional control of stormwater quality and quantity than provided by minimum design standards.

Sec. 3-16. Performance Bonds.

A person is required to obtain a surety or cash performance bond, irrevocable letter of credit, or other means of security acceptable to the Stormwater Manager to secure compliance with Land Disturbance Permit, as well as other permits, certificate, license or authorization issued or approved by the Stormwater Manager pursuant to this Ordinance, the Stormwater Management Program and Federal and State laws. The performance bond shall be obtained prior to the issuance of any building and/or land disturbance permit for construction of a development requiring a stormwater management facility, and in accordance with all applicable portions of Article 5:2.12- (Financial Guarantees) of the ZLDR.

Secs. 3-17 – 3-20 Reserved.

DIVISION 4 - ILLICIT CONNECTIONS AND DISCHARGES AND IMPROPER DISPOSAL

Sec. 4-1. Prohibition of Illicit Connections, Illicit Discharges, and Improper Disposal.

(a) It is unlawful for any person to construct, connect, use, or maintain any pipe, open channel, or any other conveyance system that discharges anything into Kershaw County's stormwater system or a Water of the State, except stormwater or an allowed non-stormwater discharge according to 4-1 (e) and is approved by the Stormwater Manager.

(b) It is unlawful for any person to continue the operation of any such illicit connection regardless of whether the connection was permissible when constructed or connected. Improper connections in violation of this Ordinance must be disconnected and redirected, if necessary, to an approved onsite wastewater

management system or the sanitary sewer system upon approval by the Stormwater Manager or his designee and any other federal, state, or local agencies or departments regulating the discharge.

(c) Any drain or conveyance that has not been documented in plans, maps, or equivalent, and which may be connected to the municipal separate stormwater system, shall be located by the owner or occupant of that property upon receipt of written notice of violation from the Stormwater Manager 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 the Stormwater Department.

(d) It is unlawful for any person to throw, drain, spill or otherwise discharge or cause, permit, or allow others under its control to throw, drain, spill, or otherwise discharge into the County's stormwater system or to the Waters of the State a discharge that is composed of anything except stormwater or an allowed non-stormwater discharge according to 4-1 (e) and is approved by the Stormwater Manager.

(e) The Stormwater Manager or his designee may allow the following non-stormwater discharges, provided that the County has determined the discharges and/or the resulting impact(s) of the discharges (to include but not limited to erosion and/or sediment transport) not to be a substantial contributor of pollutants to the County's stormwater system or a Water of the State:

- 1) Water line flushing performed or required by a government agency
- 2) Landscape irrigation
- 3) Diverted stream flows
- 4) Rising groundwaters
- 5) Uncontaminated pumped groundwater
- 6) Uncontaminated groundwater infiltration (here "infiltration" is defined as water, other than wastewater or wastewater effluent, that enters a sewer system, including foundation drains, from the ground through such means as defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished from, inflow).
- 7) Discharges from potable water sources
- 8) Foundation drains
- 9) Air conditioning condensate
- 10) Irrigation water (not consisting of treated, or untreated wastewater)
- 11) Springs
- 12) Water from crawl space pumps
- 13) Footing drains
- 14) Lawn watering
- 15) Individual residential car washing
- 16) Dechlorinated swimming pool discharges
- 17) Natural Flows from riparian habitats and wetlands
- 18) Street wash water.
- 19) Discharges or flows from fire fighting activities.

(f) Kershaw County may develop procedures for allowing other non-stormwater discharges not listed in (e) (1-4).

(g) Spills

- 1) Any person responsible for accidental discharges or unavoidable spills of non-stormwater discharges into the Kershaw County stormwater system or Waters of the State must take the following actions:
 - i. Immediately control and contain the materials to prevent migration into or further into the Kershaw County Stormwater System or Waters of the State;
 - ii. Clean up the spill materials; and
 - iii. Where the non-stormwater discharges have migrated into the Kershaw County Stormwater System or into Waters of the State, notify the Kershaw County Stormwater Department.
- 2) Where hazardous materials have been discharged or spilled, Kershaw County Safety and Emergency Services Department shall be immediately contacted.
- 3) Immediate steps shall be taken to ensure no recurrence of the discharge or spill.
- 4) Failure to provide notification of a release as provided above is a violation of this Ordinance.
- 5) The owner, operator, or other designated responsible party will bear all costs of cleaning up any spills, immediately stopping illicit discharges, and removing the illicit connection or providing spill prevention. In the event that Kershaw County departments remove or immediately stop the discharge and provide spill abatement, the owner, operator, or designated responsible party shall reimburse the County for funds used in the removal and clean-up. To facilitate timely removal of illicit discharges, the Stormwater Manager or his/her designee, may order a cessation of activities, revocation of any active permits, and other means to halt the illicit discharge.

Sec. 4-2. Detection of Illicit Connections and Improper Disposal.

(a) The Stormwater Manager shall take appropriate steps to detect and eliminate illicit connections to the Kershaw County Stormwater System, including the adoption of a program to screen illicit discharges and identify their source or sources, perform inspections, and levy fines if not removed.

(b) The Stormwater Manager shall 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, levy fines, and other appropriate activities to facilitate the proper management and disposal of used oil, toxic materials, and household hazardous waste.

Sec 4-3. Waste Disposal Prohibitions.

(a) 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 storm drain system, or Waters of the State, any refuse, rubbish, garbage, litter, excessive fecal matter, or other discarded or abandoned objects, articles, and accumulations, so that the same may cause or contribute to pollution. Yard debris, including natural foliage, may be deposited in the public right of way but not in or on any stormwater conveyance structures, including inlets, gutters and ditches, but only if a collection service is available. Wastes in proper waste receptacles may be placed in the street for collection, but again only if collection by or through the County is in place. No waste or yard debris shall be placed in the street without such a collection service.

Sec. 4-4. Discharges from an Industrial or Construction Activity NPDES Storm Water Discharge or ND Permitted facility.

Any person subject to an industrial or construction activity NPDES Storm Water Discharge Permit or ND Permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required, as requested, in a form acceptable to the Stormwater Manager or his designee. Proof of compliance may also be required prior to or as a condition of the issuance of a Land Disturbance Permit, and/or a building permit.

Sec. 4-5. Reserved.

DIVISION 5 – MONITORING AND INSPECTIONS

Sec. 5-1. Authority to Sample and Monitor

The Stormwater Department may sample and/or monitor stormwater or in-stream water quality and/or quantity on public and private properties and facilities located in Kershaw County.

Sec. 5-2. Inspections.

(a) The Stormwater Manager or his/her designee, bearing proper credentials and identification, shall have right-of-entry on or upon the property of any person subject to (or that is believed to be subject to) this Ordinance and any permit/document issued hereunder for regular inspections, periodic investigations, monitoring, observation measurement, enforcement, sampling and testing, inventorying, examining, photographing, videoing, copying of records and performing any other duties necessary to determine compliance with this Ordinance. The Stormwater Manager or his/her designee shall duly notify the owner of said property or the representative on site and the inspection shall be conducted at reasonable times.

(b) Where the property owner or lessee has security measures in force requiring proper identification and clearance before entry onto the premises, the property owner or lessee shall make necessary arrangements with the necessary parties so that, upon presentation of suitable identification, the Stormwater Manager or his/her designee will be permitted to enter without delay for the purposes of performing such responsibilities identified in Sec. 5-2.

(c) The Stormwater Manager or his/her designee shall have the right to set up on the person's property such devices as are necessary to ensure compliance with this Ordinance.

(d) Upon refusal by any property owner to permit an inspector to enter or continue an inspection, the inspector shall terminate the inspection or confine the inspection to areas concerning which no objection is

raised. The inspector shall immediately report the refusal and the grounds to the Stormwater Manager. The Stormwater Manager shall promptly seek appropriate compulsory process.

(e) In the event that the Stormwater Manager or the designee reasonably believes that discharges from the property may cause an imminent and substantial threat to human health or the environment, the inspection may take place at any time and without notice to the owner of the property or a representative on site. The inspector shall present proper credentials upon reasonable request by the owner or representative.

(f) In cases where an imminent threat to the health or safety of the general public or the environment is suspected, the Stormwater Manager or his/her designee shall perform said responsibilities to determine if immediate action is necessary. Such responsibilities shall be made with or without the consent of the property owner or lessee. If such consent is refused, the Stormwater Manager or his/her designee may seek issuance of an administrative search warrant or other enforcement measures authorized in this Ordinance to remove such threat. . In such cases, the property owner or lessee, as the case may be, shall reimburse the County for its direct and related expenses. If the property owner or lessee, as the case may be, fails to reimburse the County, the County is authorized to file a lien for said costs against the property or the lessee's leasehold interest, as the case may be, and to enforce the lien by judicial foreclosure proceedings.

(g) Where illicit discharges from private property are occurring, Kershaw County may enter onto the property and take immediate action to stop the discharge from entering the County's stormwater system or Waters of the State. In such cases, the property owner or lessee, as the case may be, shall reimburse the County for its direct and related expenses. If the property owner or lessee, as the case may be, fails to reimburse the County, the County is authorized to file a lien for said costs against the property or the lessee's leasehold interest, as the case may be, and to enforce the lien by judicial foreclosure proceedings.

(h) Any temporary or permanent obstruction to safe and easy access to the necessary areas to perform the said responsibilities shall be removed promptly by the property owner or lessee at the written or verbal request of the Stormwater Manager or his/her designee. The costs of clearing such access shall be borne by the property owner or lessee.

(i) Delays or refusals in allowing the Stormwater Manager or his/her designee access to a facility is a violation of this Ordinance.

(j) Inspection reports shall be maintained in a permanent file located in the Stormwater Managers office.

Sec. 5-3. Information.

Operators of construction sites of new or redeveloped land, when requested by the Stormwater Department, must provide information relevant to compliance with this Ordinance and the ZLDR.

Secs. 5-4 – 5-10 Reserved.

DIVISION 6 – VIOLATIONS, ENFORCEMENT, PENALTIES, AND ABATEMENT

Sec. 6-1. Violations

(a) It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Ordinance or the Land Disturbance Permit. Any person who has violated or continues to violate the provisions of this Ordinance or a Land Development Permit, shall 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.

(b) In the event the violation constitutes an immediate danger to public health or public safety, the Stormwater Manager or his/her designee is 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. The Stormwater Manager is authorized to seek costs of the abatement as outlined in Section 6-2.

(c) When the Stormwater Manager or his designee finds a violation to the Stormwater Ordinance, the Stormwater Manager or his/her designee may, as deemed necessary, implement enforcement actions. Actions may include, but are not limited to, the following:

(1) Causing a duly appointed constable or law enforcement officer to issue an ordinance
Summons

(2) Issuing a Notice of Violation stating the nature of the violation; citing the section of the county code being violated; giving the violator thirty days to remedy the violation; and providing the penalties for non-compliance

(3) The attorney for the County may seek injunctive relief with the Court of Common Pleas for continued or repeated violations

(4) Issuing a written order to comply, to suspend work, or to revoke the permit issued;

(5) Withholding the release of permanent electric power to the site; and/or

(6) Withholding other needed permits for the site.

(d) When the Stormwater Manager or his/her designee determines that land disturbing activities have been initiated without coverage under a required Land Disturbance Permit, the Stormwater Manager shall automatically place a stop work order on the subject property, issue a fine double the normal amount of applicable bond and fees. The violator must pay to Kershaw County Stormwater Department the fees and any other applicable penalties, prior to the lifting of the stop work order. The stop work order may allow or require correction of violations, but no other project related activities. Any person in violation of a stop work order is subject to impoundment of any and all equipment on the property, and payment of all fees, bonds, penalties and payment of impoundment charges prior to retrieving such equipment.

(e) When the Stormwater Manager or his designee determines that an owner of any property is causing or partially causing flooding, erosion, or non-compliance with SCDHEC water quality standards or with this Ordinance, upon providing notice of such impacts, the Stormwater Manager or his/her designee can require owners to remove the impact in a concerted, prudent manner.

(f) The attorney for the County is hereby empowered to take all legal actions necessary to correct situations described above, including actions that are necessary to remove from the property such objectionable conditions constituting non-compliance with this Ordinance.

(g) Nothing contained in this Ordinance shall impair the right or ability of the attorney for the County to exercise any and all other remedies available, at law or in equity, including without limitation, the pursuit of injunctive relief, under emergency circumstances where there exists the danger of bodily injury or death.

(h) The authorized enforcement agency or its appointed agent may obtain injunctive relief to enjoin violations of the provisions of this Ordinance, and any person damaged as a result of such violations may, upon a proper showing of such damages, obtain payment therefore by a civil action.

(i) This Ordinance may be enforced by any remedy of law or equity, to include the authorities and powers conferred to local governments by the General Assembly of South Carolina. The penalties and other 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 of this Ordinance. The enforcement of any remedy provided herein shall not prevent the enforcement of any other remedy or remedies in other provisions of this Code or other laws and regulations. Each provision and part of this Ordinance is independent and if any provision or part is declared invalid it shall not affect the remaining parts or provisions.

(j) The Stormwater Manager shall provide due process into the enforcement of violations so as to provide owners, lessee, and other responsible parties the abilities to resolve said violations in a timely matter before facing criminal penalties. It is the intent of this Ordinance that criminal violators be given appropriate due processes.

Sec. 6-2. Corrective Action

In the event a violation of this Ordinance has not been corrected within the applicable time period for correction, Kershaw County, or its contractor, may enter upon the lot or parcel of land and correct the violation, and the costs incurred as a result of such action (including inspection, administration, labor and equipment costs) shall be collected from the bond, if in place and sufficient to cover such costs, or shall become a lien upon the property and shall be collected in the same manner as County taxes are collected.

Sec. 6-3. Stop Work

(a) The Stormwater Manager or his/her designee may issue a stop work order if it is found that a land disturbance activity is being conducted in violation of this Ordinance.

(b) The stop work order may allow or require correction of NOV issues, but shall otherwise stop all other project related activities. Any person in violation of a stop work order is subject to payment of all fees, bonds, and penalties prior to the lifting of the stop work order.

Sec. 6-4. Permit Suspension and Revocation

A land disturbance permit may be suspended or revoked if one or more of the following violations have been committed:

(a) Violations of the conditions of the approved Land Disturbance Permit

(b) Construction 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 in a downstream area in the judgment of the Stormwater Manager.

Sec. 6-5. Civil Penalties

Any person committing a violation of any provision of this Ordinance shall be subject to a civil penalty subject to the penalty jurisdiction of the Magistrate's Court. Each day of a violation shall constitute a new and separate offense.

Sec. 6-6 Criminal Penalties

Any person who negligently, willfully or intentionally violates any provision of this Article shall be guilty of a misdemeanor and shall be punished within the jurisdictional limits of the Magistrate's Court. Each day of a violation shall constitute a new and separate offense.

Sec. 6-7. Additional Legal Measures

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

(b) The attorney for the County may institute injunctive, mandamus or other appropriate action or proceedings at law or equity, including criminal conviction, for the enforcement of this Ordinance or to correct violations of this Ordinance, and any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions, mandamus or other appropriate forms of remedy or relief.

Secs. 6-8 – 6-10 Reserved.

DIVISION 7 – WAIVERS

Sec. 7-1. Waivers

The Stormwater Manager may grant a waiver from the requirements of this ordinance if exceptional circumstances applicable to a site exist such that strict adherence to the provisions of the ordinance will result in unnecessary hardship and will not fulfill the intent of the ordinance. Financial hardship alone cannot be the basis for the waiver.

Secs. 7-2 – 7-10 Reserved.

DIVISION 8 – APPEALS

Sec. 8-1. Appeals

Any person aggrieved by a decision or enforcement action of the Stormwater Manager may appeal the same by filing a written notice of appeal with the Board of Appeals following the procedures noted in Article 5:2.4-8 – Appeal to Planning and Zoning Commission of the ZLDR.

Secs. 8-2 – 8-10 Reserved.

DIVISION 9 – CHARGES AND FEES

Sec. 9-1. Funding.

Kershaw County shall impose fees for processing stormwater management permit applications that are adequate to offset the costs of administering the permit review, inspection and monitoring costs. Kershaw County Administration shall periodically evaluate costs to administer the permit program and adjust the fees as required. Furthermore, in addition to all other charges, fees, and penalties, Kershaw County shall

have the right to develop and impose a Stormwater Service Fee to fund implementation of this Stormwater Management and Water Quality Ordinance and its associated programs and plans.

Sec. 9-2. Connection to Conveyances.

The Stormwater Manager shall have the right to establish a schedule of appropriate fees for any person or property owner establishing a new discharge to Waters of the State within Kershaw County or to a wet weather conveyance. Such fee shall be payable as part of any permit application or submission, including plans reviews and field inspections, regulating the discharge of stormwater runoff. Permit fees shall be established on the basis of facility classes relating to the quantity and quality of permitted discharge.

Sec. 9-3. Plan Review.

Costs associated with plan reviews of land development or construction plans other than those routinely performed by the Stormwater Manager as part of compliance reviews, or as described in Sec. 9-2 of this Ordinance, shall be assessed a fee according to the Kershaw County Schedule of Fees.

Sec. 9-4. Field inspection.

Costs associated with field inspection of land development or construction activities other than those routinely performed by the Stormwater Manager as part of compliance monitoring, or as described in Sec. 9-2 of this Ordinance, shall be assessed a fee according to the Kershaw County Schedule of Fees.

Appendix

Definitions

“Accidental Discharge” means a discharge prohibited by this article into the Kershaw County Stormwater System or receiving waters, which occurs by chance and without planning or consideration prior to occurrence.

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

“County” means Kershaw County, South Carolina.

“County Council” means the elected officials of Kershaw County, South Carolina.

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

- (a) division of a lot, tract, or parcels or other divisions by plat or deed;
- (b) the construction, installation, or alteration of 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
- (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.

“Kershaw County Stormwater System” means the conveyance 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 is (a) not owned or operated by any of the incorporated municipalities of Kershaw County; (b) designed or used for collecting or conveying stormwater; (c) not a combined sewer system; (d) not part of a Publicly Owned Treatment Works (POTW); and (e) not privately owned.

“Illicit connection” means a connection to the Kershaw County Stormwater System which results in a discharge that is not composed entirely of stormwater runoff except discharges pursuant to an NPDES permit (other than the NPDES permit for the Kershaw County Stormwater System).

“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” means any activity which results in a discharge to the Kershaw County Stormwater System or receiving waters that is not composed entirely of stormwater except (a) discharge pursuant to an NPDES permit and (b) authorized non-stormwater discharges according to 4-1 (e).

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

“NPDES” means National Pollutant Discharge Elimination System. See “Clean Water Act”

“NPDES permit” means the NPDES permit for stormwater discharges issued to Kershaw County pursuant to the Clean Water Act and the federal stormwater discharge regulations (40 CFR 122.26).

“Outfall” means the point where Kershaw County Stormwater System discharges to waters of the United States.

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

“Pollutant” means 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.

“Receiving waters” means the waters into which the Kershaw County Stormwater System outfalls flow and which are located within the jurisdictional boundaries of Kershaw County and include, without limitation, the lakes, rivers, streams, ponds, wetlands, and groundwater of Kershaw County.

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

“SWMP” means the Kershaw County Stormwater Management Program.

“Stormwater” means stormwater runoff, snow melt 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 manmade changes to the land.

“Stormwater Management Program” or **“SWMP”** means the set of drawings and other documents that comprise all of the information and specifications for the programs, drainage systems, structures, BMPs, concepts, and techniques for the control of stormwater and which is incorporated as part of the NPDES permit for Kershaw County and as part of this Article.

“Stormwater Manager” means the person designated by the Kershaw County Administrator to manage the stormwater program, or any of that person’s duly authorized representatives or designees.

“Total Maximum Daily Load” or **“TMDL”** is a regulatory term in the U.S. Clean Water Act, describing a value of the maximum amount of a pollutant that a body of water can receive while still meeting water quality standards, and an allocation of that load among the various sources of that pollutant.

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

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

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

“Zoning and Land Development Regulations” or “ZLDR” means the latest version of Kershaw County’s Unified Code of Zoning and Land Development Regulations.

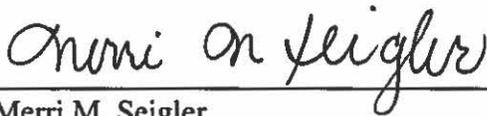
DONE, RATIFIED, AND ADOPTED IN REGULAR MEETING OF KERSHAW COUNTY COUNCIL THIS 9th DAY OF JUNE, 2015

KERSHAW COUNTY, SOUTH CAROLINA



Kershaw County Council

ATTEST:



Merri M. Seigler
Clerk to Council

Amendment and Restatement

First Reading: 04/28/15
Second Reading: 05/12/15
Public Hearing 05/26/15
Third Reading: 06/09/15