

Ordinance No.: \_\_\_\_\_

Adopted: \_\_\_\_\_

AN ORDINANCE

*TO AMEND THE CODE OF THE COUNTY OF YORK, SOUTH CAROLINA, TO AMEND CHAPTER 152 – STORMWATER MANAGEMENT AND SEDIMENT CONTROL IN ORDER TO PROTECT, MAINTAIN, AND ENHANCE THE ENVIRONMENT OF YORK COUNTY AND THE SHORT-TERM AND LONG-TERM PUBLIC HEALTH, SAFETY, AND GENERAL WELFARE OF THE CITIZENS OF YORK COUNTY BY ESTABLISHING REQUIREMENTS AND PROCEDURES TO CONTROL THE POTENTIAL ADVERSE EFFECTS OF INCREASED STORMWATER RUNOFF ASSOCIATED WITH BOTH FUTURE DEVELOPMENT AND EXISTING DEVELOPED LAND; TO COMPLY WITH THE FEDERAL AND CORRESPONDING STATE STORMWATER DISCHARGE (NPDES) REGULATIONS (40 CFR 122.26 AND SC REGULATION 61-9.122.26) DEVELOPED PURSUANT TO THE CLEAN WATER ACT AND TO ENSURE THAT YORK COUNTY HAS THE AUTHORITY TO TAKE ANY ACTION REQUIRED BY IT TO OBTAIN AND COMPLY WITH ITS NPDES PERMIT FOR STORMWATER DISCHARGES; TO APPROVE THE YORK COUNTY STORMWATER MANAGEMENT DESIGN MANUAL RELATED TO THE IMPLEMENTATION OF THE REQUIREMENTS OF CHAPTER 152; TO PROVIDE FOR A PUBLIC HEARING; AND TO PROVIDE FOR OTHER MATTERS RELATING THERETO.*

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

**SECTION 1. Legislative findings.**

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

- A. Council is empowered to enact ordinances for the implementation and enforcement of powers granted to Council pursuant to S.C. Code Ann. §§ 4-9-30 (6), (14), and (17), as amended and to exercise such other powers as may be authorized for counties under S.C. Code Ann. § 48-14-120(C), as amended.
- B. Uncontrolled stormwater runoff may have significant, adverse impact on the health, safety and general welfare of York County and the quality of life of its citizens by transporting pollutants into receiving waters and by causing erosion or flooding.
- C. The County of York is required by 33 U.S.C 1342(p) and 40 CFR 122.26 to obtain a National Pollutant Discharge Elimination System (“NPDES”) permit from the South Carolina Department of Health and Environmental Control (“DHEC”) for stormwater discharges from the York 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, system design and engineering methods, and such other provisions which are determined to be appropriate for the control of such pollutants.

- D. Additionally, certain facilities that discharge stormwater associated with and including land disturbing activities are required to obtain NPDES permits. Also, the South Carolina Storm Water Management and Sediment Reduction Act, S.C. Code Ann. § 48-14-10, et. seq., requires a state permit for certain land disturbing activities.
- E. The regulatory provisions set forth herein are enacted in order to protect, maintain, and enhance the environment of York County and the short-term and long-term public health, safety, and general welfare of the citizens of York County.

**SECTION 2. Code of York County Amended.**

**Chapter 152, Stormwater Management and Sediment Control, is being amended in its entirety to read, as follows:**

**“Chapter 152: STORMWATER MANAGEMENT AND SEDIMENT CONTROL**

**DIVISION 1 – GENERAL PROVISIONS**

**§ 152.001. Title.**

This Ordinance shall be known as the Stormwater Management and Sediment Control Ordinance of York County, South Carolina.

**§ 152.002. Authority.**

The provisions herein are adopted pursuant to the authority conferred upon York County (the “County”) by the South Carolina Constitution, the South Carolina General Assembly including, S. C. Code Ann §48-1-10, et seq. (the “South Carolina Pollution Control Act”), and § 48-14-10, et. seq. (the “South Carolina Stormwater Management and Sediment Reduction Act”), and the regulations promulgated thereunder; and, in compliance with the requirements imposed upon the County by the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges from Regulated Small Municipal Separate Storm Sewer Systems (SMS4s), issued in accordance with the federal Clean Water Act, the South Carolina Pollution Control Act and regulations promulgated thereunder.

**§ 152.003. Jurisdiction.**

The provisions herein shall apply to all lands within the unincorporated area of York County, and those municipalities which, by approval of SCDHEC and by written agreement executed with York County, contract to have this Chapter administered by York County within their corporate limits. All lands under the jurisdiction of another entity with the power of eminent domain are exempt from the provisions of this Ordinance.

**§ 152.004. Purpose.**

- A. It is the purpose of this Chapter to protect, maintain, and enhance the environment of York County and the short-term and long-term public health, safety, and general welfare of the citizens of York County by establishing requirements and procedures to control the potential adverse effects of increased stormwater runoff associated with both future development and existing developed land. Proper management of stormwater runoff will help to minimize damage to public and private property, ensure a functional drainage system, reduce the effects of development on land and stream channel erosion, attain and maintain water quality standards, enhance the local environment associated with the drainage system, reduce localized flooding, reduce pollutant loading to the maximum extent practicable, maintain to the extent practicable the pre-developed runoff characteristics of the area, and facilitate economic development while mitigating associated pollutant, flooding and drainage impacts.
- B. It is further the purpose of this Chapter to comply with the Federal and corresponding state stormwater discharge (NPDES) regulations (40 CFR 122.26 and SC Regulation 61-9.122.26) developed pursuant to the Clean Water Act and to ensure that York County has the authority to take any action required to obtain and comply with its NPDES permit for stormwater discharges. Among other things, these regulations require York County to establish legal authority which authorizes or enables York County at a minimum to:
1. Control the contribution of pollutants to the York County MS4 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;
  2. Prohibit illicit discharges to the York County MS4 and receiving waters;
  3. Control the discharge to the York County MS4 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. Carry out all inspection, surveillance and monitoring procedures necessary to determine compliance and noncompliance with permit conditions including the prohibition on illicit discharges to York County MS4 and therefore to the receiving waters of the MS4 system.
- C. The application of this Chapter and the provisions expressed herein shall be the minimum 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 responsibility of the Owner and the Operator to provide appropriate management practices, control techniques, system design, engineering methods and such other programs and controls as are required by York County's NPDES permit.

D. This Chapter is to be construed to further the purpose of controlling and reducing pollutant discharges to the York County MS4 and thus to the Waters of the State in order to assure the obligations of York County under its NPDES permit issued by DHEC as required by 33 USC 1342 and 40 CFR 122.26.

**§ 152.005. Construction and Scope.**

A. It is the goal of the York County Council that the provisions of this Chapter will result in reduction of the discharge of pollutants within the York County MS4, those areas of the unincorporated county currently outside of the MS4, and the County's receiving waters to the maximum extent practicable using management practices, control techniques, system design, engineering methods and such other programs and controls as are required by York County's NPDES permit.

B. The application of this Chapter, the provisions expressed herein, and the Federal and State stormwater regulations, shall provide the minimum stormwater management requirements and shall not be deemed a limitation or repeal of any other ordinances of York County or powers granted to York County by the State of South Carolina statutes. The York County Stormwater Management Design Manual contains additional specific stormwater management requirements.

C. This Ordinance is also construed to further its purpose of controlling stormwater runoff in York County to reduce flooding using best management practices, control techniques, system design, engineering methods and such other programs and controls as necessary to achieve this goal.

D. The Planning and Development Services Director or designee shall be primarily responsible for the coordination and enforcement of the provisions of this Ordinance, the York Stormwater Management Program, and York County's NPDES permit.

**§ 152.006. Severability.**

The provisions of this Chapter (152) are hereby declared to be severable, and if any provision or section of this ordinance is declared to be unconstitutional or unenforceable by the final order of a court of competent jurisdiction, such declaration shall not affect the constitutionality, legality, or enforceability of any other section or provision of this Chapter, which shall be deemed severable, valid, enforceable, and effective.

**§ 152.007. Prohibitions and Exemptions.**

A. No person shall, without having first provided for compliance with this Ordinance and with any program, plan, permit, or regulation of the York County Stormwater Management Program (SWMP) adopted in accordance with this Chapter, conduct the following:

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, solar farm, or any other industrial or related facility; or
  4. Dispose of any hazardous or toxic substance or other pollutant.
- B. The following development activities are exempt from the provisions of this Chapter:
1. Construction or improvement of single family residences or their accessory buildings which are separately built and not part of a larger common plan of development or sale and which are anticipated to disturb an area of less than 10,000 square feet.
  2. Land disturbing activities on agricultural land for production of plants and animals useful to man, including but not limited to: forages and sod crops, grains and feed crops, cotton, and peanuts; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules, or goats, including the breeding and grazing of these animals; bees; fur animals and aquaculture, except that the construction of an agricultural structure resulting in the disturbance of one (1.0) or more acres of land are not exempt from the provisions of this Chapter.
  3. Land disturbing activities undertaken on forestland for the production and harvesting of timber and timber products. For sites that are substantially cleared of trees, pursuant to legitimate forestry activities, no land development applications that would result in a change from forestland to non-forest or non-agricultural use shall be approved for one (1) year after the date the clearing is completed, in accordance with S.C. Code Ann. § 48-23-205 (C)(1)(a), or five (5) years after the date the clearing is completed if the harvest was a willful violation of regulations, in accordance with S.C. Code Ann. § 48-23-205 (C)(1)(b).
  4. Activities undertaken by persons who are otherwise regulated by the provisions of Chapter 20 of Title 48, the South Carolina Mining Act.
  5. Certain land disturbing activities undertaken by persons who are exempt from the provisions of the Stormwater Management and Sediment Reduction Act as set forth in SC Code of Laws Section 48-14-40.
  6. Linear highway projects designed by the County or its agents shall be permitted based on SCDOT criteria as set forth in S.C. Regulation 72-400 and SCDOT's *Requirements for Hydraulic Design Studies* (2009) as approved by SCDOT.

**§ 152.008. Contiguous Property.**

In order to preclude inappropriate phasing of developments to circumvent the intent of this Chapter, when a proposed development activity will occur on a lot or parcel that has contiguous lots or parcels of lands owned in whole, or in part, by the same property owner, the criteria defined in § 152.018 of the York County Code of Ordinances will be applied to the total land area comprising the contiguous lots or parcels of lands. The criteria defined in § 152.018 also applies

to any development regardless of size or disturbed area that is part of a larger common plan of development or sale.

**§ 152.009. Design Standards.**

The Stormwater Administrator shall develop, maintain, implement, and enforce such design or engineering standards, as may be required, that is consistent with the Stormwater Management Program and provides a sound technical basis for the achievement of stormwater management and water quality objectives.

- A. The Stormwater Administrator shall develop and maintain a Stormwater Management Design Manual (Design Manual), approved and adopted by County Council in conjunction with the adoption of the York County Stormwater Management and Sediment Control Ordinance, the terms and provisions of which may be amended from time to time in accordance with the approved Stormwater Management Program, and thereafter amendments thereto independently approved by County Council. The Design Manual shall serve as guidance for the design, construction, and maintenance of facilities which discharge stormwater. The Design Manual shall be used to assist in the design and evaluation of stormwater management facilities in York County. The Design Manual will include, but not be limited to, guidance in selecting environmentally sound practices for managing stormwater. Description of specific techniques and practices shall be included directly or by reference. Use of techniques emphasizing use of natural systems shall be encouraged.
- B. Best Management Practices (BMPs) can be either structural or non-structural and may be enforced by specific prescription in zoning requirements, subdivision regulations, or on a site-specific basis as may be prescribed to meet Stormwater Management Program objectives. The Design Manual shall be updated periodically to reflect the most current and effective practices and shall be made available to the public.
- C. Although the intention of the Design Manual is to establish uniform design practices, it neither replaces the need for engineering judgment nor precludes the use of information not presented. Other accepted engineering procedures may be used to conduct hydrologic and hydraulic studies or provide for other accepted BMPs if approved by the Stormwater Administrator. The Design Manual will include, but not be limited to:
  - 1. Guidance and specifications for the preparation of comprehensive stormwater pollution prevention plans (C-SWPPP). Acceptable techniques for obtaining, calculating and presenting the information required in the plans shall be described, as will design conditions which must be accounted for;
  - 2. Minimum specifications for designing, constructing, and maintaining stormwater management facilities. These specifications shall be established in accordance with current good engineering practices; and
  - 3. Post-development performance standards for stormwater management facilities and practices. Methodology/criteria for evaluation will include:

- a. Hydrologic and hydraulic evaluations;
- b. Evaluation of best management practices (BMPs); and
- c. Evaluation of downstream impacts.

**§ 152.010. Definitions.**

For the purpose of this Chapter, the following definitions, as may be amended from time to time, shall apply unless the context clearly indicates or requires a different meaning:

1. “Adverse Impact” means a significant negative impact to land, water and associated resources resulting from a land disturbing activity. The negative impact includes increased risk of flooding, degradation of water quantity, increased sedimentation, reduced groundwater recharge, negative impacts on aquatic organisms, negative impacts on wildlife and other resources, and threatened public health.
2. “Accidental Discharge” means a prohibited discharge into the York County Stormwater System or receiving waters, which occurs by chance and without planning or consideration prior to occurrence.
3. “Applicant” means a person, firm, or governmental agency who applying to York County to obtain approval of a permit for a land disturbing activity and to obtain approval to discharge (including stormwater) into the Waters of the State.
4. “As-Built or Record Document Plans” means a set of engineering or site drawings that delineate the specific permitted stormwater management facility as actually constructed.
5. “Best Management Practices” (BMPs) means a wide range of management procedures, schedules of activities, prohibitions on practices and other management practices to prevent or reduce the discharge of pollutants to Surface Waters of the State. BMP’s also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal or drainage from raw materials storage in order to effectively reduce erosion and sedimentation impacts. Best Management Practices (BMPs) must be designed, installed and maintained during land disturbing activities.
6. “Buffer Zone” means an area, strip, or plot of dense undisturbed perennial native vegetation, either original or reestablished, surrounding streams and rivers, ponds and lakes, wetlands, seeps, or other surface waters that borders Jurisdictional Surface Waters of the United States within which construction activities are restricted. Buffer zones are established for the primary purposes of protecting water quality and maintaining a healthy aquatic ecosystem in the runoff, enhancing water infiltration, and minimizing the discharge of potential sediment, nutrients or pollutants to receiving surface waters.
7. “Certified Stormwater Plan Reviewer” means a person with the responsibility for reviewing stormwater management and sediment control plans for an appropriate plan

approval agency as certified by the South Carolina Land Resources Conservation Commission or SCDHEC through a Certified Stormwater Plan Reviewer Course approved by SCDHEC.

8. “Certified Erosion Prevention and Sediment Control Inspector” or “CEPSCI” or “Certified Construction Inspector” means a person certified by the South Carolina Land Resources Conservation Commission or SCDHEC through a Construction Site Inspectors Certification Course approved by SCDHEC. Performs and documents required inspections of stormwater management construction activities paying particular attention to time-sensitive permit requirements such as stabilization and maintenance activities. May also be referred to as Inspector.
9. “Channel” means a natural water-carrying trough cut vertically into low areas of the land surface by erosive action of concentrated flow water or a ditch or canal excavated for the flow of water.
10. “Clean Water Act” means the Federal Water Pollution Control Act, as amended, codified at 33 U.S.C §1251 et. seq.
11. “Clearing” means the removal and disposing of all unwanted surface material, such as trees, brush, grass, weeds, downed trees, and other material which may precede the disturbance of soil by grubbing, grading or exaction in anticipation of construction activities and/or non-construction activities. (For instance, clearing forested land in order to convert forestland to pasture for wildlife management purposes would be considered clearing in anticipation of non-construction activities.)
12. “Comprehensive Stormwater Pollution Prevention Plan” (C-SWPPP) as used in this Ordinance means the Stormwater Pollution Prevention Plan (SWPPP) prepared according to requirements outlined in this Ordinance and SCDHEC’s General Construction Permit Requirements. The C-SWPPP must be submitted with the Notice of Intent (NOI) and must include the Engineering Report (project design calculations). This document must be submitted and approved by SCDHEC and the County prior to obtaining NOI coverage.
13. “Construction General Permit” (GCP) as defined at § 122.2 of SC Regulation 61-9 means an NPDES Permit issued under Section 122.28 authorizing a category of discharges or activities under the PCA and CWA within a geographical area.
14. “Contractor” means a person, group, company, etc. hired by the Developer to commence and complete construction activities cover by this Ordinance.
15. “County” means York County, South Carolina.
16. “County Council” means the governing body of York County, South Carolina.
17. “Design Storm” means a NOAA Atlas 14, 24 hour duration storm with a specified return interval or as otherwise specified by the Stormwater Administrator.

18. “Detention Structure” means a permanent stormwater management structure whose primary purpose is to temporarily store stormwater runoff and release the stored runoff at controlled rates.
19. “Development” or “Developed 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.
20. “Discharge” means any discharge or discharge of any sewage, industrial wastes or other waste into the York County MS4 and thus its receiving waters of the State, whether treated or not. When used without qualification, means the “discharge of a pollutant.”
21. “Discharge of a Pollutant” as defined at §122.2 of *SC Regulation 61-9*:
- A. Means:
    - 1. Any addition of any pollutant or combination of pollutants to Waters of the State from any point source; or
    - 2. Any addition of any pollutant or combination of pollutants to the Waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.
  - B. Includes additions of pollutants into Waters of the State from: surface runoff which is collected or channeled by man; discharges through pipes, sewers, or other conveyances owned by a State, municipality, or other person which do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works. This term does not include an addition of pollutants by any indirect discharger.
22. “Discharge of Pollutants During Construction Activity” means a discharge of pollutants in stormwater from areas where land disturbing activities (e.g., clearing, grading, or excavation), construction materials or equipment storage or maintenance (e.g., fill piles,

borrow areas, concrete truck washout, fueling), or other industrial stormwater directly related to the construction process (e.g., concrete or asphalt batch plants) are located.

23. “Ditch” is a man-made channel other than a modified natural stream. They are constructed for drainage purposes and typically dug through inter-stream divide areas. They may exhibit characteristics similar to streams.
24. “Drainage Area” means that area contributing runoff to a single point.
25. “Easement” means a grant or reservation by the owner of land for the use of such land by others for a specific purpose, and which must be included in the conveyance of land affected by such easement.
26. “Environmental Compliance Manager” is the person responsible for the coordination and enforcement of the York County Environmental Compliance Division and compliance with York County’s NPDES MS4 permit.
27. “Erosion” means the wearing away of land surface by the action of wind, water, gravity, ice, or any combination of those forces.
28. “Final Stabilization” means that all land disturbing activities at the construction site have been completed and that on all areas not covered by permanent structures, either of the following two criteria is met:
  - A. A uniform (e.g., evenly distributed, without large bare areas) perennial vegetative cover with a density of 70 percent of the native background vegetative cover has been established excluding areas where no natural background vegetation cover is possible (e.g. on a beach); or
  - B. Equivalent permanent stabilization measures (such as the use of landscape mulch, riprap, pavement or gravel) have been implemented to provide effective cover for exposed portions of the construction site not stabilized with vegetation.
  - C. For individual lots in residential construction, final stabilization means that either:
    1. The homebuilder has achieved final stabilization on all portions of the lot; or
    2. The homebuilder has established temporary stabilization, including perimeter controls for a residential lot, and has been achieved prior to occupation of the home by the homeowner and that the homeowner has been informed by the Primary/Secondary Permittee about the need for, and benefits of, final stabilization.
  - D. For construction Projects on land used for agricultural purposes (e.g., pipelines across crop or range land, staging areas for highway construction, etc.), either:

1. Final stabilization has been accomplished by returning the disturbed land to its preconstruction agricultural use; and
  2. For any areas disturbed that were not previously used for agricultural activities, such as buffer strips immediately adjacent to “Surface Waters of the State,” and areas which are not being returned to their preconstruction agricultural use must meet the final stabilization criteria (A) or (B) or (C) above.
- E. Land disturbance activities were never initiated on the construction site and the construction site remains permanently stabilized.
29. “Grading” means excavating, filling (including hydraulic fill) or stockpiling of earth material, or any combination thereof, including the land in its excavated or filled condition.
  30. "Illicit connection" means a connection to the York County Storm Water System which results in a discharge that is not composed entirely of storm water runoff except discharges pursuant to an NPDES permit (other than the NPDES permit for the York County Storm Water System).
  31. "Illicit discharge" means any activity which results in a discharge to the York County Storm Water System or receiving waters that is not composed entirely of storm water with the exception of permitted discharges as noted in § 152.041(D) of the York County Stormwater Management and Sediment Control Ordinance.
  32. “Impaired Waters” means waters identified by a State, Tribe or EPA pursuant to Section 303(d) of the Clean Water Act as not meeting applicable State water quality standards to support classified uses as promulgated in Regulations 61 – 68. Water Classifications and Standards and Regulations 61 – 69 Classified Waters impaired waters include both waters with approved or established TMDLs and those for which a TMDL has not yet been approved or established. A list of the streams and lakes not meeting water quality standards can be found on SCDHEC’s website at <https://www.scdhec.gov/>.
  33. “Impervious Surface” or “Impervious Area” means any land surfaces with a low or no capacity for stormwater infiltration, including but not limited to, building rooftops, sidewalks, impervious pavement, impervious parking areas and driveways and packed gravel and soil.
  34. “Infiltration” means the passage or movement of water through the soil or media profile.
  35. “Inspector” means refer to definition of “Certified Erosion Prevention and Sediment Control Inspector” or “CEPSCI” or “Certified Construction Inspector”.
  36. “Jurisdictional” in reference to wetland or stream features means that the US Army Corp of Engineers determined the water body to fall under their definition of Waters of the United State. SCDHEC has determined the presence and location of water bodies that falls under their definition of Waters of the State or the United States. Jurisdiction may overlap

and be concurrent with both levels of government or it may be reposed only to the state. Typically only perennial, intermittent and modified natural streams and wetlands are regulated by SCDHEC and the US Army Corp of Engineers.

37. “Land Disturbing Activity” means any use of the land by any person that results in a change in the natural cover or topography that may cause erosion and contribute sediment and alter the quality and quantity of stormwater runoff. Such activities include but are not limited to clearing, removal of vegetation that disturbs the soil, stripping, grading, grubbing, excavation, filling, logging and storing of materials. Clearing of areas where soils are not exposed and an adequate vegetative structure is left in place is not considered land disturbance, provided that the clearing is not in anticipation of other construction activities such as grubbing and grading.
38. “Land Disturbance Permit” means the instrument issued by York County that grants an Operator the right to perform land disturbance activities once York County has reviewed the applicant’s submitted SWPPP to ensure that it complies with federal, state and county requirements.
39. “Larger Common Plan” or “Larger Common Plan for Development or Sale” (LCP) is broadly defined as any announcement or piece of documentation, including a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, computer design, etc., or physical demarcation including boundary signs, lot stakes, surveyor markings, etc., indicating construction activities which may occur on a specific plot. [63 *Federal Register* No. 128, July 6, 1998, p. 36491]

A common plan for development or sale identifies a site where multiple separate and distinct construction activities (i.e. areas of disturbance) are occurring on contiguous areas. Such site may have one Operator or Owner or several Operators and Owners. Construction activities may take place at different times on different schedules, in separate stages, and/or in separate phases, and/or in combination with other construction activities. Each Developer, Operator or Owner for each Site or Project determined to be a part of a LCP are subject to permitting requirements as defined by this Ordinance.

Projects and sites identified as part of a larger common plan for development or sale are linked through permitting by York County as part of one plan, referred to as the Larger Common Plan. LCP projects must ensure that adequate stormwater management facilities are designed into the Project(s) or Site(s) to control pollution and protect water quality during all stages or phases of development. Project or sites added as part of a LCP may be required to expand existing or provide additional stormwater management facilities to control pollution from land disturbance activities from other contiguous areas or proposed additional phases as required by this Ordinance.

LCP projects are typically identified by the documentation that identifies the scope of the project including such things as plats, blueprints, marking plans, contracts, building permits, public notice or hearing, and zoning requests. If master calculations have been

prepared and/or submitted for an entire site, then all phases and parcels at that site would be considered part of a LCP.

40. “Landowner” means an owner of real property.
41. “Low Impact Development” (LID) means an approach to land development (or re-development) that works with nature to manage stormwater as close to its source as possible, the LID employs principles such as preserving and recreating natural landscape features, minimizing effective imperviousness to create functional and appealing site drainage that treat stormwater as a resource rather than a waste product. There are many practices that have been used to adhere to these principles such as bioretention facilities, rain gardens, vegetated rooftops, rain barrels, and permeable pavements. By implementing LID principles and practices, water can be managed in a way that reduces the impact of built areas and promotes the natural movement of water within an ecosystem or watershed. Applied on a broad scale, LID can maintain or restore a watershed’s hydrologic and ecological functions.
42. “Mass Clearing” is the movement of earth as a part of construction activities altering the topographic features of a site, including elevation and slope, in order to prepare the site to be pad ready and prepared for fine grading/construction activities. Soils are heavily disturbed and compacted in this process.
43. “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 Manual and to prevent structural failure of such facilities.
44. “Maintenance Agreement” means a written contract between the Responsible Party and the County to perform any action necessary to maintain stormwater management facilities and/or Best Management Practices in proper working condition as described in the Manual, in order to serve the intended purposes as originally designed, and as set forth in this Manual and also the York County Stormwater Management and Sediment Control Ordinance.
45. “Minimize” means to reduce and/or eliminate to the extent achievable using stormwater controls (including best management practices) that are technologically available and economically practicable and achievable in light of best industry practices.
46. “Municipal Separate Storm Sewer System” or “MS4” as defined at § 122.26(b)(8) of SC Regulation 61-9 means a conveyance or system of conveyances (including roads with drainage systems, streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains):
  - A. Owned and/or operated by a State, city, town, borough, county, parish, district, association or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under State law such as a sewer district, flood control district

or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or disposal of stormwater or other wastes as designated under section 208 of the CWA that discharges to Surface Waters of the United States;

- B. Designed or used for collecting or conveying stormwater;
  - C. Which is not a combined sewer; and
  - D. Which is not part of a Publicly Owned Treatment Works (POTW) as defined at § 122.2 of SC Regulation 61-9.
47. “National Pollutant Discharge Elimination System” (NPDES”) as defined at § 122.2 of SC Regulation 61-9 means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under sections 307,402,318, and 405 of National Pollutant Discharge Elimination System. See “Clean Water Act.” The term includes an “approved program.”
48. “Natural Waterways” means waterways that are part of the natural topography. They usually maintain a continuous or seasonal flow during the year and are characterized as being irregular in cross-section with a meandering course. Construction channels such as drainage ditches shall not be considered natural waterways.
49. "New Owner or New Operator" means an Operator or Owner that replaces an existing Operator or Owner on a construction project through transfer of ownership and/or operation.
50. “Nonerodible” means a material, e.g., natural rock, riprap, concrete, plastic, etc., that will not experience surface wear due to natural forces of wind, water, ice, gravity or a combination of those forces.
51. “Nonpoint Source Pollution” means pollution contained in stormwater runoff from ill-defined, diffuse sources.
52. “NPDES Permit” means the NPDES permit for stormwater discharges issued to York County by SCDHEC pursuant to the Clean Water Act and the federal stormwater discharge regulations (40 CFR 122.26) for all point source discharges into surface waters, and shall constitute a final determination of SCDHEC.
32. “One Hundred Year Frequency Storm” or “100-Year, 24-Hour Storm” means the maximum 24-hour precipitation event with a probable recurrence interval of once in one hundred years. It also may be expressed as an exceedance probability with a 1 percent chance of being equaled or exceeded in any given year.

33. “Operator” in context of Stormwater associated with construction activity, means any party associated with a construction project that meets one of the following two criteria:
- A. The person has operational or design control over construction plans, SWPPPs, and specifications, including the ability to request modifications to those plans, SWPPPs and specifications by a qualified individual. This person is typically the Owner or Developer of the project or a portion of the project (subsequent builders), and is considered the Primary Permittee; or
  - B. The person has day-to-day operational control of those activities at a construction site which are necessary to ensure compliance with a SWPPP for the site or other permitted conditions. This person is often referred to as the Operator of Day-to-Day Site Activities and is typically a contractor or a commercial builder who is hired by the Primary Permittee. This person is considered a Secondary Permittee.
34. “Outfall” means a point source where York County Stormwater System discharges into a receiving body of water. For the purpose of construction activities outfall means a point source at the discharge point of a waste stream, sewer, or drain into a receiving body of water.
35. “Perennial Stream” is a stream or river channel that has continuous flow in parts of its bed all year round during years of normal rainfall. Base flow is maintained by ground water discharge, as the stream channel is usually below the water table.
36. “Person” means any and all persons, natural or artificial and includes any individual, association, firm, public or private corporation, business trust, estate, trust, partnership, industry, two or more persons having a joint or common interest, political subdivision, municipality, state or federal or an agent or employee thereof, or any other legal entity whatsoever.
37. “Pollutant” as defined at § 122.2 of SC Regulation 61-9 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. Typical construction site pollutants include sediment, oil and grease, pesticides and fertilizers, pollutants from construction wastes, and pollutants from construction materials.
38. “Post-Development” means the conditions which exist following the completion of the land disturbing activity in terms of topography, vegetation, land use and rate, volume or direction of stormwater runoff.
39. “Pre-Development” means the conditions which existed prior to the initiation of the land disturbing activity in terms of topography, vegetation, land use and rate, volume or direction of stormwater runoff.

40. “Primary Permittee” means the person that has operational control over construction plans, SWPPPs and specifications, including the ability to request modifications to those plans, SWPPPS and specifications, by a qualified individual. This person is typically the Owner or Developer of the project or a portion of the project (subsequent builders).
41. “Receiving waters” means the waters into which the York County Stormwater System outfalls flow and which are located within the jurisdictional boundaries of unincorporated York County and include, without limitation, the lakes, rivers, streams, ponds, wetlands, and groundwater of York County.
42. “Redevelopment” means a land disturbance activity that alters the current use of the land but does not necessarily alter the pre-development runoff characteristics.
43. “Regulation” means any regulation, rule or requirement prepared by County, and adopted by the York County Council pursuant to this Manual.
44. “Responsible Party and/or Responsible Parties” means any Property (lot) Owner of a development, as defined in the original approved Stormwater Management Plan, Stormwater Pollution Prevention Plan, Maintenance Agreement, restrictive covenant, final plat, or are part of a larger common plan of development, and any Property Owner Association (POA), Home Owner Association (HOA), landowner, individual, partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns or successors in interest, who has stormwater responsibilities and/or requirements under the York County Stormwater Management and Sediment Control Ordinance.
45. “Responsible Personnel” means any foreman, superintendent, or similar individual who is the on-site person in charge of land disturbing activities and has signed the contractor certification form.
46. “Retention Basin” or “Retention Pond” means a permanent structure whose primary purpose is to permanently store a given volume of stormwater runoff. Release of the given volume is by infiltration and/or evaporation.
47. “Riparian Buffer” is a vegetated area boarding a body of water, such as a stream, lake or pond.
48. “Secondary Permittee” means the person who has day-to-day operational control of those activities at a residential development that are necessary to ensure compliance with a SWPPP for the site or other permit conditions. The person is typically an individual lot owner or residential builder.
49. “Sediment” means solid particulate matter, both mineral and organic, that has been or is being transported by water, air, ice, or gravity from its site of origin.

50. “Sensitive Waters” means any waters with approved or established TMDLs, any waters included in the most recent SCDHEC Bureau of Water Clean Water Act (CWA) Section 303(d) list, and/or any waters pursuant to South Carolina’s Classification and Standards (R.61-68) and Classified Waters (R.61-69) regulations that are classified as either Outstanding National Resource Waters, Outstanding Resource Waters, Trout Waters, or Shellfish Harvesting Waters.
51. “Simplified Stormwater Management and Sediment Control Plan” (Simplified SMSCP) means a submittal meeting the requirements in § 152.017(C) of the York County Stormwater Management and Sediment Control Ordinance by the Operator for land disturbing activities.
52. “Soil” means the unconsolidated mineral and organic material on the immediate surface of the earth that serves as a natural medium for the growth of plants.
53. “Stabilization” means the installation of vegetative or non-vegetative (structural measures) to establish a soil cover to prevent and/or reduce soil erosion and sediment loss in areas exposed during the construction process.
54. "Stop Work Order" means an order directing the Operator to cease and desist all or any portion of the work which violates the provisions of Chapter 152 – Stormwater Management and Sediment Control Ordinance of the York County Code of Ordinances.
55. “Stormwater” means rainfall, stormwater runoff, snow melt runoff, and surface runoff and drainage.
56. “Stormwater Administrator” means the York County staff employee or designee, as appointed by the York County Manager, which administers and enforces Chapter 152 - Stormwater Management and Sediment Control Ordinance of the York County Code of Ordinances and this Manual.
57. “Stormwater Management” for:
  - A. Quantitative control, means a system of vegetative or structural measures, or both 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, that control the increased volume and rate of stormwater runoff caused by manmade changes to the land;
  - B. Qualities control, means a system of vegetative, structural, or other measures that reduce or eliminate pollutants that might otherwise be carried by stormwater runoff.
58. “Stormwater Management and Sediment Control Plan or “SMSCP” means the set of drawings and other documents and supporting calculations submitted as a prerequisite to obtaining a permit to undertake a land disturbance activity. SMSCP must contain all

information and specifications identified in the Design Manual. In general the SMSCP is considered to be a part of the Stormwater Pollution Prevention Plan (SWPPP).

59. “Stormwater Management Design Manual” or “Manual” means the most recent edition of the York County manual for design, performance, and review criteria for stormwater management and best management practices.
60. “Stormwater Management Facility” means any structural stormwater management measure used to convey and treat stormwater runoff including, but not limited to basins, ponds, proprietary devices, low impact development features, water quality buffers, filtration and/or other treatment devices, ditches, swales, culverts, pipes and manholes.
61. “Stormwater Pollution Prevention Plan” (SWPPP) generally means a site-specific written document that (1) identifies potential sources of stormwater pollution at the construction site; (2) describes stormwater control measures to reduce or eliminate pollutants in stormwater discharges from the construction site; and (3) identifies procedures that Operator will implement to comply with the terms and conditions of this Ordinance. The SWPPP includes site map(s), drawings and plans, other documents, and supporting calculations, and identifications of construction/contractor activities that could cause pollutants in the stormwater, and a description of measures or practices to control these pollutants. “SWPPP” generally means Comprehensive Stormwater Pollution Prevention Plan, unless specific reference is given to the On-Site SWPPP.
62. “Stormwater Runoff” means direct response of a watershed to precipitation and includes the surface and subsurface runoff that enters a ditch, stream, storm sewer or other concentrated flow during and following the precipitation.
63. “Stream” is a body of concentrated flowing water in a natural low area or natural channel on the land surface. There are three stream types; perennial, intermittent and ephemeral.
64. "Subdivision" means all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose, whether immediate or future, of sale, lease, or building development, and includes all division of land involving a new street or change in existing streets, and includes re-subdivision which would involve the further division or relocation of lot lines of any lot or lots within a subdivision previously made and approved or recorded according to law; or, the alteration of any streets or the establishment of any new streets within any subdivision previously made and approved or recorded according to law, and includes combinations of lots of record.
65. “Ten-Year Frequency Storm” or “Ten Year Storm Event” means a storm that is capable of producing rainfall expected to be equaled or exceeded on the average of once in 10 years. It may also be expressed as an exceedance probability with a 10 percent chance of being equaled or exceeded in any given year.
66. “Total Maximum Daily Load” or “TMDL” is a calculation of the maximum amount of a specific pollutant(s) that a water body can receive and still meet water quality standards. It

is the sum of the allowable loads or allocations of a given pollutant from all contributing points (waste load allocations (WLA)) and nonpoint (load allocation (LA)) sources. It also incorporates a margin of safety and consideration of seasonal variation. For an impaired water body, the TMDL document Specifies the level of pollutant reduction needed for water body use attainment. TMDLs can be expressed in terms of either mass per time, toxicity, or other appropriate measure.

67. “Twenty-Five Year Frequency Storm” or “Twenty-Five Year Storm Event” means a storm that is capable of producing rainfall expected to be equaled or exceeded on the average of once in 25 years. It also may be expressed as an exceedance probability with a 4 percent chance of being equaled or exceeded in any given year.
68. “Two-Year Frequency Storm” or “Two Year Storm Event” means a storm that is capable of producing rainfall expected to be equaled or exceeded on the average of once in two years. It may also be expressed as an exceedance probability with a 50 percent chance of being equaled or exceeded in any given year.
69. “Variance” means the modification of the minimum sediment and stormwater management requirements for specific circumstances where strict adherence of the requirements would result in unnecessary hardship and not fulfill the intent of these regulations.
70. “Waiver” means the relinquishment from sediment and stormwater management requirements by the appropriate plan approval authority for a specific land disturbing activity on a case-by- case review basis.
71. “Water Quality” means those characteristics of stormwater runoff from a land disturbing activity that relate to the physical, chemical, biological, or radiological integrity of water.
72. “Water Quantity” means those characteristics of stormwater runoff that relate to the rate and volume of the stormwater runoff to downstream areas resulting from land disturbing activities.
73. “Watershed” means the drainage area contributing stormwater runoff to a single point.
74. “Watershed Master Plan” means a plan for a designated watershed that analyzes the impact of existing and future land uses and land disturbing activities in the entire watershed and includes strategies to reduce nonpoint source pollution, to manage stormwater runoff and control flooding. The plan must be developed for the entire watershed, regardless of political boundaries, and must include appropriate physical, institutional, economic and administrative data needed to justify the plan.
75. “Waters of the State” as defined in § 122.2 of S.C. Regulation 61-9 means 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, and all other bodies of surface or underground water, natural or artificial, public or private, inland

or coastal, fresh or salt, which are wholly or partially within or bordering the State or within its jurisdiction.

76. “Waters of the United States” or “Waters of the U.S.” as defined in § 122.2 of S.C. Regulation 61-9 means:

- A. All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce;
- B. All interstate waters, including interstate “wetlands;”
- C. All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sand flats, “wetlands,” sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:
  - 1. Which are or could be used by interstate or foreign travelers for recreational or other purposes;
  - 2. From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
  - 3. Which are used or could be used for industrial purposes by industries in interstate commerce.
- D. All impoundments of waters otherwise defined as waters of the United States under this definition;
- E. Tributaries of waters identified in paragraphs (A) through (D) of this definition;
- F. The territorial sea;
- G. Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (A) through (F) of this definition; and
- H. Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA are not waters of the United States.

98 “Wetlands” means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

## **DIVISION 2 – ORGANIZATION AND ADMINISTRATION**

### **§ 152.011. Regulations.**

York County may amend or change this Chapter or adopt additional regulations or resolutions to implement this Chapter, to comply with the NPDES permit, to implement the Stormwater Management Program (SWMP), to further the goal of protecting the quality of the waters into which the York County MS4 outfalls flow, or to reduce the impact of flooding in the County.

### **§ 152.012. York County Stormwater Management Program.**

- A. The SWMP developed by the County to comply with the NPDES Stormwater Permit serves as the basis for the County's program implementation and administration. The SWMP, as amended from time to time by the County, is hereby adopted for the life of York County's Stormwater System NPDES permit as the official operational SWMP. The mapping and geographic information system developed as part of the SWMP shall serve as the official authoritative information source for program administration.
- B. The Stormwater Administrator shall implement and conduct the County's operations according to the SWMP. The SWMP serves as the basis for compliance with the NPDES Stormwater Permit granted to York County under the provisions of the Water Quality Act of 1987 and 40 C.F.R. 122.26. This SWMP is more fully described in the NPDES Stormwater Permit which defines the terms and conditions of York County's authority to operate its stormwater system. By way of summary only, the SWMP includes the following mandated elements:
1. A description of structural and source control measures to reduce pollutants from runoff from commercial and residential areas, the "Post-Construction Stormwater Management for New Development and Redevelopment Minimum Measure";
  2. A description of a program, including a schedule, to detect and remove illicit discharges and improper disposal into the stormwater system or to require the discharger to the stormwater system to obtain a separate NPDES permit, the "Illicit Discharges and Improper Disposal Program";
  3. A description of 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 Minimum Measure."
- C. The Stormwater Administrator shall implement and conduct the County's flood control and drainage programs according to the SWMP.

### **§ 152.013. Duties of Stormwater Administrator.**

The Stormwater Administrator shall be responsible for day to day coordination, implementation and enforcement of this Chapter and the SWMP. This includes but is not limited to, the SWMP's

monitoring program and the SWMP's stormwater management programs for commercial and residential activities, construction site runoff, industrial and related facilities, illicit discharges and improper disposal, and the flood and drainage programs. Without limitation of the foregoing, the Stormwater Administrator shall have the following specific powers and duties:

- A. To issue any permit, certification or license that may be required by the SWMP.
- B. To deny a facility connection to the MS4 or discharge into Waters of the State if State, Federal, or County Stormwater Ordinances and Regulations are not met.
- C. To approve C-SWPPP BMP plans, and to require as a condition of such approvals structural or non-structural controls, practices, devices, or operating procedures, required under the SWMP.
- D. To require performance security in the form of Remediation Fees, Letters of Credit, or other forms of performance security acceptable to the County, of any applicant or responsible party to secure that person's or party's compliance with any BMP Plan, permit, certificate, license or authorization issued or approved by the Stormwater Administrator pursuant to the SWMP.
- E. To comply with all Federal and State regulatory requirements, promulgated or imposed pursuant to the Clean Water Act, South Carolina Water Pollution Control Act, the South Carolina Stormwater Management and Sediment Reduction Act, and any South Carolina NPDES General Permit that is applicable to the management of stormwater discharges to or from the County MS4.
- F. To conduct all activities necessary to carry out the stormwater management program and other requirements included in the York County NPDES permit, the SWMP and this Chapter, and to pursue the necessary means and resources required to properly fulfill this responsibility.
- G. To develop and implement programs to reduce the impacts of flooding and drainage on the citizens and property of York County.
- H. To direct, review and recommend for approval by County Council the SWMP operating budget.
- I. To direct, review and recommend for approval by County Council necessary changes to the existing County SWMP.
- J. To determine appropriate fees, to impose penalties, and to take necessary and appropriate actions to collect any fee or enforce any penalty assessed pursuant to this Chapter.
- K. Any and all duties and powers 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 this County.

**§ 152.014. Coordination with Other Agencies.**

The Stormwater Administrator 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 Administrator for the protection and preservation of receiving waters. The Stormwater Administrator shall coordinate with state and federal agencies having jurisdiction.

**§ 152.015. Cooperation with Other Governments.**

The County may enter into agreements with other governmental and private entities to carry out the purposes of this Chapter including, but not limited to, the development and implementation of total maximum daily loads (TMDLs). 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 Chapter 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.

**DIVISION 3 – PERMIT AND SUBMITTAL REQUIREMENTS**

**§ 152.016. General Requirements.**

Federal regulations governing stormwater management, as specified in 40 C.F.R. 122.26, and State regulations, as specified in R. 61-9.122.26 adopted pursuant thereto, and State regulation R. 72-300, et seq. are adopted as the minimum requirements for all facilities as defined in the respective regulations,

**§ 152.017. Submittal Requirements.**

A. Requirements of Operators:

1. The Primary Permittee is responsible for preparation and submittal of the C-SWPPP and to comply with the requirements of this Chapter and the most current South Carolina NPDES Construction General Permit (NPDES-CGP).
2. In developing plans for residential subdivisions, individual lots in a residential subdivision development shall be required to obtain and comply with the OS-SWPPP. The residential subdivision development, as a whole, shall be considered a Larger Common Plan (LCP) and to be a single land disturbing activity requiring a C-SWPPP. Hydrologic parameters that reflect the LCP shall be used in all engineering calculations.
3. If individual lots or sections in a residential subdivision are being developed by different Operators, all land disturbing activities related to the residential subdivision shall be covered by the approved C-SWPPP for the residential subdivision. If the Primary Permittee obtains coverage under a C-SWPPP for the development and thereafter sells lots within the

development, then, at the discretion of the Primary Permittee, permit coverage shall be one of the following:

- a. The Primary Permittee may require that the new lot owner obtain their own coverage under the C-SWPPP as a Secondary Permittee. The Primary Permittee must make the OS-SWPPP, design plans and a copy of the CGP available to the new owner seeking individual lot(s) coverage., or
  - b. The Primary Permittee may require that the new lot owner obtain their own permit coverage as a new Primary Permittee with their own C-SWPPP.
4. When the Operator (new Owner) makes changes after the C-SWPPP has been approved the new Owner must notify the County in writing within fourteen (14) calendar days. The new Owner may not commence work at the construction site until the C-SWPPP has been modified with the new Owner information, and they have received NOI coverage from SCDHEC. If the new Owner elects to modify the layout of the construction site, thereby altering the approved C-SWPPP, the new Owner must apply for a new permit and new NOI coverage.
  5. If an individual lot Owner or residential builder elects not to follow the drainage provisions in the Primary Permittee's approved OS-SWPPP, the County will require the individual lot Owner or residential builder to obtain coverage under their own C-SWPPP as a Primary Permittee.
  6. If a lending institution takes operational control of a construction site due to foreclosure, Permittee filing for bankruptcy, abandonment etc., then the lending institution is responsible for the construction site's stormwater discharges. A permit is required under this Chapter prior to the entity initiating construction activity at the site.
  7. Contractors employed by the Primary or Secondary Permittee, whose work at the construction site may disturb soils or whose work may otherwise be necessary to implement the OS-SWPPP, must complete a contractor certification form or must submit an annual Blanket NOI covering all construction activities within a LCP statewide to SCDHEC.
- B. Residential subdivisions, which were approved prior to the effective date of these regulations and have an active approved land disturbance permit from York County, are exempt from these requirements. Previously approved subdivisions must comply with the Chapter requirements in effect at the time the phase of development was approved. They must also comply with the requirements of the most current SC NPDES-CGP as outlined under Section 2.4.2 of that permit. Development of new phases of existing subdivisions which were not included in the total disturbed area of an active land disturbance permit shall comply with the provisions of these regulations and the most current SC NPDES-CGP.
1. When the subdivision development reaches the condition where it is fifty percent built, the following actions must be taken:

- a. The detention pond shall be cleaned of all deposited sediment, overgrowth of invasive vegetation (weeds, vines, shrubs, trees) shall be removed, and all areas draining to and including the detention pond shall have reached final stabilization; and
  - b. A new home owner's association document must be filed with the Stormwater Administrator defining the new contact person for the responsible party for maintaining the detention pond and/or any water quality features or BMP's installed in the subdivision.
  - c. The Primary Permittee may elect at this stage of development to request a Notice of Termination of the permit coverage and closure of the land disturbance permit with the County as long as all common area and rights of way have reached final stabilization and Secondary Permittees have NOI coverage for the lots under their ownership.
2. When the subdivision development is developed to a point between fifty and ninety percent built, individual lot controls as well as other erosion and sediment control BMPs shall provide the sediment control to meet 80 percent trapping efficiency rather than only the sediment/detention pond.
  3. Once the subdivision is ninety percent or greater built and the disturbed areas are stabilized according to the requirements of SC NPDES-CGP and State regulation R. 72-300, et seq., then all Permittees may file a request for a Notice of Termination of the permit coverage for the subdivision. As a precondition to requesting a Notice of Termination, the Applicant shall submit as-built drawings of the stormwater management facilities and certification that all work has been performed in accordance with the requirements to the Stormwater Administrator.
- C. For land disturbance activities involving 10,000 square feet but less than one (1.0) acre of actual land disturbance which are not part of a LCP, the Operator shall submit a simplified Stormwater Management and Sediment Control Plan (SMSCP) meeting the requirements listed below. This plan does not require approval by SCDHEC and is not required to be prepared by an engineer, Tier B surveyor, or landscape architect; however, if an individual with one of these licenses prepares the plan, then they must sign and seal the plans. The appropriate SCDHEC Notice of Intent form will be required to be submitted to the County for approval and then submitted to SCDHEC for notification.
1. A narrative description of the stormwater management facilities to be used.
  2. A general description of topographic and soil conditions of the development site.
  3. A general description of adjacent property and a description of existing structures, buildings, and other fixed improvements located on surrounding properties.
  4. Anticipated starting and completion dates of the various stages of land disturbing activities and the expected date the final stabilization will be completed.

5. A plat of the property illustrating property boundaries including any utility and storm drainage easements.
  6. A map of the parcel on which the land disturbance activities will take place, printed from York County's Geographic Information System (GIS) Division's internet mapping system.
  7. A sketch plan to accompany the narrative containing:
    - a. Site location drawing of the proposed project, indicating the location of the proposed project in relation to roadways, jurisdictional boundaries, streams and rivers, and the boundary lines of the site on which the work is to be performed. GIS mapping information may be utilized;
    - b. All areas within the site which will be included in the land disturbing activities shall be identified and the total disturbed area calculated;
    - c. Topographic contours of the site;
    - d. Anticipated start and completion dates of the various stages of land disturbing activities and the expected date final stabilization will be completed.
    - e. The location of temporary and permanent vegetative and structural sediment/erosion control BMPs and stormwater management control measures (if applicable).
    - f. The simplified SMSCP shall contain the following certifications by the Operator:
      1. Land disturbing activities will be accomplished pursuant to the plan,
      2. Construction site inspections will be conducted by the Operator on a routine basis,
      3. A copy of each inspection report shall be provided to the Stormwater Administrator,
      4. The Stormwater Administrator has the right to conduct on-site inspections.
- D. For land disturbance activities of one (1.0) or more acres, or that creates 8,700 square feet or greater of impervious surface area that will result in more than one (1.0) cubic foot per second increase in peak runoff rates between pre-development and post development conditions for the 10-year, 24-hour storm event, or that require a storm drain pipe or culvert conveyance system (one or more pipes), or which alter the existing storm drain systems, or cause downstream impact, or otherwise require engineering design and calculation preparation by an engineer or design professional, all of the requirements of C-SWPPP as described in § 152.018 shall apply. For sites that disturb less than one (1.0) acre but meet one or more of the other criteria listed, the Stormwater Administrator has the discretion to reduce some of the requirements of the C-SWPPP as described in § 152.018.

- E. Commercial and industrial sites which disturb 10,000 square feet but less than one (1.0) acre of area and otherwise are not part of a LCP may be eligible to submit a simplified plan as described in § 152.017(C). If any of the constraints listed in § 152.017(D) are required as part of the C-SWPPP, then the plan must meet all of the requirements of § 152.018.
- F. York County shall require a land disturbance permit for those individual residential lot sites which may receive automatic permit coverage under the South Carolina NPDES-CGP.

**§ 152.018. Comprehensive Stormwater Pollution Prevention Plan Requirements.**

A Comprehensive Stormwater Pollution Prevention Plan (C-SWPPP) is a fundamental requirement for permit approval. Each C-SWPPP must include a Stormwater Management and Sediment Control Section. The C-SWPPP must be in compliance with state regulations 72-300 and the most current SCDHEC NPDES CGP. The C-SWPPP must be in compliance with the County's Stormwater Design Manual. Additionally, the C-SWPPP shall include, as a minimum, the following:

- A. A vicinity map indicating a north arrow, scale, boundary lines of the site and other information necessary to locate the development site.
- B. Information concerning location and permitting for off-site material, waste, borrow or construction material storage or disposal areas to be used during construction activities.
- C. The existing and proposed topography of the development site except for individual lot grading plans in single-family subdivisions if the subdivisions or phases of the subdivision are not mass graded. In subdivisions that are not mass graded drainage flow patterns will be shown for each lot by arrow indicators showing the general direction of surface flow.
- D. Physical improvements on the site, including present development and proposed development.
- E. Drainage easements shall have the following characteristics:
  - 1. Provide adequate access to all portions of the drainage system and structures.
  - 2. Provide sufficient land area for maintenance equipment and personnel to adequately and efficiently maintain the drainage system and all storm water facilities.
  - 3. Restriction on easements shall include prohibiting all fences and structures which would interfere with access to the easement areas and/or the maintenance function of the drainage system.
- F. An anticipated starting and completion date of the various stages of land disturbing activities as specifically outlined in the CGP and the expected date the final stabilization will be completed.

- G. A determination that the development is in compliance with the York County Code of Ordinances, Chapter 151 – Floodplain Management.
- H. At the discretion of the Stormwater Administrator, for all portions of the drainage system which are expected to carry over 50 cubic feet per second (cfs) for the 100-year, 24-hour storm, the 100-year plus one foot flood elevation analysis shall be required if one of the following criteria apply:
  - 1. The estimated runoff would create a hazard for adjacent property or residents;
  - 2. The flood limits would be of such magnitude that adjacent residents should be informed of these limits.
- I. For all portions of the drainage system which are expected to carry 150 cfs or more for the 100-year, 24-hour storm, the 100-year plus one foot flood elevation analysis shall be done and flood limits shall be shown on the drainage plans. Such data shall be submitted in digital form, as well as in print, in a format specified by the Stormwater Administrator.
- J. A tree saving and planting plan consistent with the requirements in the York County Code of Ordinances, Chapter 155 – Zoning Code or meeting the buffer requirement of the Construction General Permit (whichever is more restrictive).
- K. Construction and design details for structural controls.
- L. The expected timing of flood peaks through the downstream drainage system shall be assessed when planning the use of detention facilities.
- M. All stormwater management facilities and all major portions of the conveyance system through the proposed development (i.e., channels, culverts) shall be analyzed, using the 100-year, 24-hour design storm, for design conditions and operating conditions which can reasonably be expected during the life of the facility. The results of the analysis shall be included in the hydrologic-hydraulic study.
- N. If the site development plan and/or design report indicates that there may be a drainage or flooding problem or potential of a problem at the exit to the proposed development or at any point downstream as determined by the Stormwater Administrator, the Stormwater Administrator may require as outlined in the Design Manual:
  - 1. Water surface profiles plotted for the conditions of pre-development and post-development for the 25-year, 24-hour and 100-year, 24-hour storm events;
  - 2. Elevations of all structures potentially impacted by the 25-year, 24-hour and 100-year, 24-hour flows.
- O. All plans submitted for approval shall comply with the applicable requirements of this Chapter.

- P. All plans submitted for approval shall contain certification by the Operator that the land disturbing activity will be accomplished pursuant to the approved plan and that responsible personnel will be assigned to the project.
- Q. The C-SWPPP shall contain certification by the applicant that all land clearing, construction, development and drainage will be done according to the C-SWPPP or any approved revisions. Any and all SWPPPs may be revoked at any time if the construction of stormwater management facilities or other elements of the plan is not in strict accordance with approved plans.
- R. All plans shall contain certification by the Operator of the right of the Stormwater Administrator to conduct on-site inspections.
- S. The plan shall not be considered approved without the inclusion of an approval stamp with a signature and date on the plans by the York County Planning and Development Department. The stamp of approval on the plans is solely an acknowledgement of satisfactory compliance with the requirements of these regulations. The approval stamp does not constitute a representation or warranty to the applicant or any other person concerning the safety, appropriateness or effectiveness of any provision or omission from the C-SWPPP.
- T. Approved plans remain valid for five (5) years, at the discretion of the applicant, from the date of an approval. Renewals of the plan approvals will be granted by the Stormwater Administrator upon written request by the Operator accompanied with a revised contact list and submittal of the renewal fees.

**§ 152.019. Stream Protection**

Perennial “blue-line” streams shall have an undisturbed riparian buffer on each side of the channel as specified in York County Code of Ordinances, Chapter 155 – Zoning Ordinance.

**DIVISION 4 – GRADING AND SEDIMENT CONTROL**

**§ 152.020. General.**

Except as provided in § 152.007 of this Chapter, a person may not perform clearing, stripping, excavating, or grading of land or create borrow pits, spoil areas, quarries, material processing plants or related facilities without first obtaining a land disturbance permit from the County. An Owner of real property may not conduct grading or the creation of borrow pits, spoil areas, quarries, material processing plants or related facilities on the real property owned unless appropriate permits are received from the County and/or the SCDHEC.

**§ 152.021. Basic Grading and Sediment Control Requirements.**

The C-SWPPP must include a Best Management Practices (BMP) section that accurately and descriptively addresses the use, installation, maintenance and inspection for each measure outlined

in the Stormwater Management and Sediment Control section. This BMP section must be in accordance with SCDHEC's NPDES-CGP. In addition, the plan must include the following:

- A. Development shall be fitted to the topography and soils to create the least erosion potential.
- B. Natural vegetation shall be retained and protected wherever possible.
- C. Natural vegetation and non-structural methods shall be employed, to the extent possible, for stream bank stabilization and erosion control wherever possible.
- D. Only the smallest practical area shall be exposed and then only for the shortest practical period of time. Effort should be made not to disturb more than 20 acres at any one time. If more than 20 acres are to be disturbed at any one time, the plan shall contain the following:
  1. The method of limiting the time of exposure and amount of exposed area to achieve the objectives of this chapter.
  2. A cut/fill analysis that shows where soil will be moved from one area of the tract to another as ground elevation is changed.
  3. Construction sequence and construction phasing to justify the time and amount of exposure.
  4. Techniques to be used to prevent sedimentation associated with larger disturbed areas.
  5. Additional erosion control measures, structures, and devices to prevent sedimentation.
- E. Waterway stabilization structures such as drop structures, grade stabilization structures, and channel liners shall be utilized to dissipate the energy of flowing water by holding the waterway slopes and velocities within non-erosive limits.
- F. All sediment control BMP's shall be designed and installed to meet a minimum sediment removal efficiency of 80 percent for total suspended solids (TSS) or greater or a 0.5 ml/l settleable solid effluent concentration using a 10-year, 24-hour design storm event, whichever is less.
  1. For construction sites located within 3/4 mile of Lake Wylie, Catawba River, Broad River, a drinking water supply source, or within 500 feet of a perennial stream as designated on the USGS map or as delineated by a professional wetlands consultant:
    - a. All sediment control BMPs shall be designed to achieve a sediment removal efficiency of 85 percent or greater for total suspended solids (TSS).
    - b. Use of additional erosion and sediment control treatment measures to enhance sediment removal efficiency, including the use of polymer flocculants, shall be required. Site specific soil sampling and analysis will be required to determine the reaction time and most effective polymer blend.

G. Sediment basins and traps:

1. The structure may be removed once stabilization is reached in the development of the area draining to that sediment basin or trap.
2. A sediment basin or sediment trap may be required to be enclosed with temporary fencing in the event public safety is a concern. If fencing is to be provided, the type of fence and its location shall be shown in the C-SWPPP.
3. Sediment basins and traps shall be designed to achieve a sediment removal efficiency of 80 percent or greater for total suspended solids (TSS) or meet a 0.5 ml/l settleable solids effluent standard using a 10-year, 24-hour design storm event, whichever is less.
4. For construction sites located within 3/4 mile of Lake Wylie, Catawba River, Broad River, a drinking water supply source, or within 500 feet of a perennial stream, as designated on the USGS map or as delineated by a professional wetlands consultant, all sediment basins and traps shall be designed to provide storage for a calculated volume of runoff from the entire drainage area using, at a minimum, a 10-year, 24-hour storm event and designed to achieve a sediment removal efficiency of 85 percent or greater for total suspended solids (TSS). Sediment basins shall be designed to drain out over a period no less than 72-hours, using the calculated storage volume from the 10-year, 24-hour storm event.
5. Sediment basins and traps must remain in place until 80% of the contributing drainage area is permanently stabilized.
6. On-site stormwater retention structures (wet basins) shall not be utilized as a sediment basin during construction.

H. Cut and fill slopes and other exposed areas shall be stabilized as soon as practical to limit the duration of the exposed soil.

I. Description of spill prevention and response practices.

J. Temporary erosion and sediment control measures shall be maintained continuously until permanent soil erosion control measures have reached final stabilization.

K. Stockpiles shall be temporary and shall be leveled to conform to surrounding elevation as a precondition for any of the following, whichever occurs first:

1. Request for a Notice of Termination, or,
2. Request for York County acceptance of a road or street in accordance with the road/street acceptance requirements of Chapter 154 – Subdivision Code of the York County Code of Ordinances.

L. Stockpiles shall not be located within 50-feet of any water quality buffer zone.

§ 152.022. – § 152.023.       **RESERVED.**

**DIVISION 5 – STORMWATER MANAGEMENT**

**§ 152.024.     Minimum Runoff Control Requirements.**

- A. The Stormwater Management and Sediment Control section of the C-SWPPP shall comply with SCDHEC’s Regulations 72-300, the NPDES–CGP and the County’s Stormwater Design Manual.
- B. Stormwater management facilities shall limit the 2-year, 10-year and 25-year developed peak discharge rates to pre-developed peak discharge rates using a storm with a duration of 24 hours with a NOAA Atlas 14 distribution and pass the 100-year, 24-hour storm event. The design of these facilities shall be based on procedures contained in the County’s Stormwater Design Manual or as approved by the Stormwater Administrator.
- C. For all stormwater management facilities, a hydrologic-hydraulic study shall be done showing how the drainage system will function with and without the proposed facilities. For such studies, the following land use conditions shall be used. Existing land use data shall be determined by comparing the most recent aerial photograph to historical aerial photographs at the period of time prior to the County adopting stormwater management requirements and field checked to confirm the current site conditions.
  - 1. For the design of the facility outlet structure, use developed land use conditions for the area within the proposed development and existing land use conditions for upstream areas draining to the facility.
  - 2. For any analysis of flood flows downstream from the proposed facility, use existing land use conditions for all downstream areas.
  - 3. All stormwater management facilities emergency spillways shall be checked using the 100-year, 24-hour storm and routing flows through the facility and emergency spillways. For this analysis, developed land use conditions shall be used for all areas within the analysis.
  - 4. The effects of existing upstream detention facilities can be considered in the hydrologic-hydraulic study.
- D. A downstream peak flow analysis which includes the assumptions, results and supporting calculations to show safe passage of post-development design flows downstream. The analysis of downstream conditions in the report shall address each and every point or area along the project site’s boundaries at which runoff will exit the property. The analysis shall focus on the portion of the drainage channel or watercourse immediately downstream from the project. This area shall extend downstream from the project to a point in the drainage basin where the total area of the development comprises ten percent (10%) of the total basin area. In calculating runoff volumes and discharge rates, consideration may need to be given to any planned future

upstream land use changes. The analysis shall be performed in accordance with the County's Stormwater Design Manual.

- E. All stormwater systems shall be checked to demonstrate no increase in velocity, peak flow, water surface level elevation in relationship to upstream, adjacent, and downstream property in the 100-year storm, unless an adequate permanent drainage easement is dedicated and obtained. Open channels and closed storm sewers and culverts shall be sized to carry runoff from the appropriate design storm event and to preclude the creation of backwater inundation of any area outside of a dedicated drainage easement.

**§ 152.025. Minimum Water Quality Requirements.**

- A. The Stormwater Quality section of the C-SWPPP shall comply with SCDHEC's Regulations 72-300, the NPDES-CGP, and the County's Stormwater Design Manual.
- B. All stormwater runoff generated from a site shall be adequately treated before discharge in order to ensure maximum pollutant removal is achieved to the extent where these discharges shall not cause or contribute to violations of the water quality standards. It will be presumed that a stormwater management system complies with this requirement if:
  - 1. For sites one acre and greater, the preferred method is to design water quality BMPs to trap 80% of total suspended solids (TSS) based on annual loadings by particle class. Other alternative methods as a default criterion include (1) designing BMPs to capture separately through BMP applications the first 1.0-inch of runoff volume from the entire drainage area of the site and discharge it over a twenty-four (24) hour period, or (2) employing an anti-degradation approach to pre-development versus post development. The specific requirements for these approaches shall be described further in the Design Manual.
    - a. For construction sites located within 3/4 mile of Lake Wylie, Catawba River, Broad River, a drinking water supply source, or within 500 feet of a perennial stream, as designated on the USGS map or as delineated by a professional wetlands consultant, all water quality BMPs shall be designed to achieve a sediment removal efficiency of 85 percent or greater for TSS.
  - 2. The Stormwater Administrator has discretion to require more stringent controls for water quality where the Stormwater Administrator determines the minimum standards of this section are not adequate. Areas where more stringent controls may apply include outstanding resource waters, trout waters, wetlands, steep slopes, 303 (d) listed waters, TMDLs or other sensitive areas.
- C. All development and redevelopment projects and portions of redevelopment projects disturbing one (1.0) acre or more of area and that will result in more than one (1) cubic foot per second increase in peak runoff rates shall meet the requirements of this section even though there is not a change in land use.

**§ 152.026. Stormwater Management Facilities.**

- A. Stormwater management facilities may include any structural and non-structural stormwater management measure used to convey and treat storm water runoff including, but not limited to piping, ditches, basins, ponds, proprietary devices, low impact development features, water quality buffers, filtration and/or other treatment devices. Natural swales and other natural runoff conduits shall be retained where practicable.
- B. Where additional stormwater management facilities are required to satisfy the minimum control requirements, the following measures are examples of what may be used in their order of preference or used in conjunction with multiple measures:
  - 1. Green Infrastructure (GI) or Low impact development (LID) practices, such as minimizing the area of streets, parking lots and rooftops; bio-retention swales and basins; porous pavement; or other innovative measures to reduce runoff volume and protect water quality when used in conjunction with onsite detention for larger storm events;
  - 2. Facilities designed to encourage overland flow, slow velocities of flow, and flow through buffer zones;
  - 3. Regional stormwater detention structures (dry basins);
  - 4. Regional stormwater retention structures (wet basins);
  - 5. On-site stormwater detention structures (dry basins);
  - 6. On-site stormwater retention structures (wet basins); and
  - 7. Infiltration practices, where permeable soils are present.
- C. Where detention and retention structures are used, designs which consolidate these facilities into a limited number of large structures are preferred over designs which utilize a large number of small structures, unless GI/LID features are used to provide post construction water quality. Individual lot LID's will be limited for use up to a maximum of six lots in a proposed subdivision unless approved by the Stormwater Administrator.
- D. C-SWPPPs can be rejected by the Stormwater Administrator if they incorporate structures and facilities which have the potential to result in significant long-term maintenance problems. The structure design parameters outlined in the Design Manual must be met to prevent being rejected.
- E. The drainage system and all stormwater management structures within the County (including both public and private portions) will be designed to the same engineering and technical criteria and standards. Environmental Compliance's review will be the same whether the portion of the drainage system will be under public or private control or ownership.
- F. All stormwater management measures shall be designed in accordance with the design criteria contained in the Stormwater Management Design Manual using procedures contained in this manual or procedures approved by the Stormwater Administrator.

**§ 152.027. Hydrologic Criteria.**

The hydrologic criteria to be used for the C-SWPPP's Stormwater Management and Sediment Control section shall be as follows:

- A. The 25-year, 24-hour duration design storm for all cross-drain culverts and drainage designs.
- B. The 10-year design storm for all interior culverts and drainage conveyance system designs, plus 25-year design storm for all channel conveyances.
- C. The 2-year, 10-year and 25-year, 24-hour design storms for all detention and retention basins using procedures contained in the Stormwater Management Design Manual or approved by the Stormwater Administrator. All drainage designs shall be checked using the 100-year, 24-hour storm for analysis of local flooding, and possible flood hazards to adjacent structures and/or property.
- D. All hydrologic analysis will be based on pre-development and post-development land use conditions.
- E. For the design of storage facilities, a secondary outlet device or emergency spillway shall be provided to discharge the excess runoff in such a way that no danger of loss of life or facility failure is created. The size of the outlet device or emergency spillway shall be checked for passing the 100-year, 24-hour storm, as a minimum requirement.

**§ 152.028. Consistency with Watershed Master Plans, Watershed Restoration Plans or Flood Studies.**

If applicable, the C-SWPPP's Stormwater Management and Sediment Control Section shall be consistent with watershed master plans, watershed restoration plans or flood studies adopted and approved by the County.

**§ 152.029. Ownership and County Participation.**

All stormwater management facilities required by this Chapter shall be privately owned and maintained unless the County accepts the facility for County ownership and maintenance.

**§ 152.030. RESERVED.**

**DIVISION 6 – ON-GOING INSPECTION AND MAINTENANCE OF  
STORMWATER FACILITIES AND PRACTICES**

**§ 152.031. Long-Term Maintenance Inspection of Stormwater Facilities and/or Best Management Practices.**

Stormwater management facilities and Best Management Practices, included in a C-SWPPP or older site development plan, must undergo ongoing inspections by the Responsible Parties, to

document maintenance and repair needs. The Responsible Parties must ensure that maintenance is completed in compliance with the SWPPP, Maintenance Agreements, Stormwater Management Design Manual, and this Chapter.

- A. The Stormwater Administrator may, to the extent authorized by federal law, state law, and/or this Chapter, establish inspection programs to verify that all stormwater management facilities and/or Best Management Practices including those built after the adoption of this Chapter, are functioning within the design limits.
- B. Subdivision stormwater facilities and/or BMPs must be located within dedicated common areas or easement.
- C. Stormwater easements and restrictions shall be provided by the landowner(s)/person responsible for land disturbance activities to ensure access for inspection and maintenance. Easements and the Maintenance Agreements must be recorded prior to the issuance of the land disturbance permit. The restrictive covenants must be recorded prior to approval of the final plat. The maintenance agreement shall be recorded in the office of the York County Register of Deeds and the maintenance agreement shall constitute a covenant running with the land, and shall be binding upon the Responsible Parties, heirs, administrators, executors, assigns and any other successors in interest.
- D. The landowner(s)/person responsible for land disturbance activities shall record a plat showing and accurately defining the easements for stormwater management facilities and/or BMPs. The plat must reference the Instrument Number where this agreement and its or attachments are recorded and contain a note that the Responsible Parties are responsible for maintaining the stormwater management facilities and/or BMPs.
- E. All stormwater management facilities and/or BMPs shall be maintained to the measures outlined in the SWPPP, the Stormwater Management Design Manual and/or as approved in the land disturbance permit by the Responsible Parties, to ensure the proper operation and application of the facilities, and/or BMPs at all times.
- F. The Responsible Parties shall be designated in the SWPPP, the Maintenance Agreement, and final plat.
- G. For developments which establish a property owner's association (POA) or home owner's association (HOA) or other common owner entity, provisions for long term maintenance of site stormwater facilities and/or BMPs, as outlined in the SWPPP, must be defined in the Maintenance Agreement. The provisions of this agreement must also identify a source of funding to support future required maintenance and upkeep activities, and an entity responsible for general upkeep, maintenance and repair. The Stormwater Administrator must be notified prior to any changes in status and personnel or contact information for record keeping and inventory purposes in accordance with its NPDES MS4 permit requirements.
- H. If the Stormwater Administrator determines that the stormwater management facilities and/or BMPs were specifically designed as part of a LCP to receive stormwater runoff from properties

other than just the parcel the feature is located on, then the County may determine that each parcel located within the LCP served by the stormwater management facilities, and/or BMPs constitutes a Responsible Party. The County may issue a Notice of Violation and/or impose a percentage of the maintenance and repair costs to each Responsible Party.

- I. The Responsible Parties shall inspect the stormwater management facilities and/or BMPs at the frequencies listed in the maintenance agreement, SWPPP, or the Stormwater Management Design Manual (whichever applies) and perform any necessary maintenance including routine and non-routine activities.
- J. It shall be unlawful to alter or remove any permanent stormwater management facilities and/or BMPs required by an approved SWPPP or stormwater plan, or to allow property to remain in a condition that does not conform to the approved SWPPP or as outlined the Stormwater Management Design Manual.
- K. It shall be unlawful for any Responsible Parties responsible for maintenance and repair of stormwater management facilities and/or BMPs to fail to maintain the facilities and/or BMPs as required by the approved SWPPP, Maintenance Agreement, or stormwater plan.
- L. No person shall modify, remove, fill, or alter any existing stormwater management facilities and/or BMPs, areas or structures unless it is part of the approved maintenance program, Maintenance Agreement, or modified SWPPP without the written approval of the County.
- M. No person shall place any structure, equipment, fill, landscaping or vegetation into stormwater management facilities and/or BMPs, or within a drainage easement that transport stormwater to the stormwater management facilities and/or BMPs which would limit or alter the functioning of the stormwater management facilities and/or BMPs without the written approval of the County.
- N. The Responsible Parties may landscape the stormwater management facilities, BMPs and other areas if the landscaping is designed, installed and maintained as prescribed in the Stormwater Management Design Manual. The Responsible Parties shall take reasonable care to ensure that the stormwater management facilities and/or BMPs do not contain conditions that are unsafe or that adversely affect water quality including, but not limited to, leaving tools or equipment or misusing pesticides and/or herbicides in the stormwater management facilities and/or BMPs.
- O. The County must be notified in writing of any changes in maintenance responsibility for the stormwater management facilities and/or Best Management Practices. In order to transfer maintenance responsibilities a letter of acceptance by the entity accepting permanent maintenance responsibilities shall be filed with the Stormwater Administrator.

**§ 152.032. Right-of-Entry for Inspection.**

- A. The Stormwater Administrator or designee shall have right-of-entry on or upon the property of any person subject to this Chapter and any permit/document issued hereunder. Right-of-Entry shall be with probable cause and after actual notice to the Landowner. The Stormwater

Administrator or designee shall be provided ready access to all parts of the premises for the purposes of inspecting, monitoring, sampling, inventorying, examining and copying of records, and performing any other duties necessary to determine compliance with this Chapter.

- B. The terms of the County's inspection may be on any reasonable basis, including but not limited to:
1. Routine inspections;
  2. Random inspections;
  3. Inspections based upon complaints or other Notice of possible Violations;
  4. Inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants;
  5. Inspection of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharges to cause violations of the County's NPDES Stormwater Permit; and
  6. Joint inspections with other agencies inspecting under environmental or safety laws.
- C. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in stormwater management facilities; and evaluating the condition of stormwater management facilities and other Best Management Practices. In the event that the stormwater management facility has not been maintained and/or becomes a danger to public safety or public health, the corrective actions procedures as outlined in Sections 152.034 and 152.064 apply.
- D. The County shall have the right of entry to private property for the purpose of determining if a land disturbing activity is being conducted without an approved stormwater sediment and control plan, conducting inspections and taking enforcement actions. Right of entry shall be with probable cause.

**§ 152.033. Records of Maintenance Activities.**

The Responsible Parties and/or manager of the property responsible for the maintenance of stormwater management facilities and/or BMPs shall document the inspection, maintenance and repair activities performed annually and shall submit an annual report of these activities to the County by January 31 of each year for the prior calendar year and shall keep copies of those inspections on record for future verification by the County for a period of at least five (5) years. Those records shall be made available to the County upon request.

**§ 152.034. Failure to Maintain.**

- A. If the County determines at any time that any permanent stormwater management facilities and/or BMPs have been eliminated, altered or improperly maintained, the Responsible Parties

shall be issued a Notice of Violation by mail. The Notice shall specify the corrective measures required to bring the facility and/or BMP back into compliance with the design parameters and specified period of time within which the necessary corrective actions must take place.

- B. For a minor maintenance repair, a second Notice and final Notices will be issued by both regular and certified mail.
- C. If the Responsible Parties fail or refuse to meet the requirements of the inspection and maintenance agreement, or as outlined in the Stormwater Management Design Manual, the County, after thirty (30) days of the final written Notice (except, that in the event the Violation constitutes an immediate danger to public health or public safety, then one-24-hour notice shall be sufficient), may correct a Violation of the design standards or maintenance requirements by performing or having performed the necessary work to place the facility or practice in proper working condition. The County may assess the Responsible Parties for the cost of repair work, including any associated plans, permits, oversight, inspection, and maintenance reporting, which shall become a lien on the property, and which lien may be placed on the ad valorem tax bill for such property and collected in the ordinary manner for such taxes.

#### **DIVISION 7 – Easements and Right-of-Ways**

##### **§ 152.035. Drainage Easements and Right-of-Ways.**

- A. All stormwater drainage easements and rights-of-way shall be indicated and properly labeled on design plans and final plats. An adequate drainage system, including necessary open ditches, pipes, culverts, storm sewers, intersectional drains, drop inlets, bridges and other necessary appurtenances shall be installed according to plans and specifications approved by the County. Drainage easements should be located, as consistently as possible, in naturally occurring draws, swales and similar topographic locations. In cases when it is necessary to construct a new drainage easement at a location where a concentration of runoff has not occurred before, the new drainage easement shall be located and constructed to minimize land disturbance, minimize flow velocity and discharge into another drainage easement or stream.
- B. The design and construction of an approved stormwater drainage system is viewed (by York County Planning and Development Services Department) as equal in importance to all other items of road and subdivision construction. Extreme caution shall be utilized in design to minimize changes in naturally occurring stormwater runoff features. All Owners / Operators undertaking stormwater drainage improvements shall first obtain for that purpose a land disturbance permit from the county prior to commencing any such improvements. This permit is obtained from the York County Planning and Development Services Department.

##### **§ 152.036 Acceptance by County.**

The County shall be presented with a written recorded drainage easement, in addition to referencing on the final plat, and either a separate easement or combined with the drainage easement for any post-construction BMP. Such easements shall run with the land and provide York

County or its designated agents the right to access, inspect, monitor, maintain, repair, or replace any portion of or infrastructure contained within the easement. Generally, the owner of the property for which the easement is written will be responsible for maintenance, repair, or replacement of the easement and any infrastructure contained within the easement. The York County Council must specifically approve any drainage or other easement before the County has the duty or responsibility to maintain the easement(s). The County reserves the right to accept only those easements which are a direct result of the collection and distribution of stormwater related to County-dedicated roadway construction and maintenance. Any facilities conveyed to York County under the provisions of this Chapter shall contain a covenant obligating the grantor to be responsible for the maintenance of the facilities for a period of two years after the facilities have been accepted by the county governing body.

**§ 152.037 - § 152.040. RESERVED.**

### **DIVISION 8 – DETECTION AND REMOVAL OF ILLICIT CONNECTIONS AND DISCHARGES AND IMPROPER DISPOSAL**

**§ 152.041. Illicit Connections, Illicit Discharges and Improper Disposal.**

- A. It is unlawful for any person to connect any pipe, open channel, or any other conveyance system that discharges anything except stormwater or unpolluted water, which is approved by the Stormwater Administrator, into receiving waters.
- 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. Improper connections in violation of this Chapter must be disconnected and redirected, if necessary, to the satisfaction of the Stormwater Administrator and any other federal, state, or local agencies or departments regulating the discharge.
- C. It is unlawful for any person to throw, drain, run or otherwise discharge to any component of the County MS4 or to the Waters of the State or to cause, permit or allow to suffer to be thrown, drained, run, or allow to seep or otherwise discharge into such system or receiving water all matter of any nature excepting only such storm or surface water as herein authorized.
- D. The Stormwater Administrator may require controls for or exempt from the prohibition provision in (A), (B) and (C) above. All authorized non-stormwater discharges shall not cause erosion of soil or the stream bank or result in sediment impacts to the receiving stream. The following discharges are permitted provided the Stormwater Administrator determines these discharges are not a significant source of pollution, or do not cause an adverse impact to adjacent properties:
  - 1. Unpolluted industrial cooling water, but only under the authorization and direction of the Stormwater Administrator and appropriate NPDES permit.
  - 2. Water line and fire hydrant flushing performed or required by a government agency.

3. Diverted stream flows or rising ground waters.
  4. Unpolluted discharges from the following:
    - a. Pumped ground water,
    - b. Potable water sources,
    - c. Foundation drains and dewatering,
    - d. Uncontaminated air conditioning or compressor condensate,
    - e. Irrigation water,
    - f. Springs,
    - g. Water from crawl space pumps,
    - h. Footing drains,
    - i. Lawn watering,
    - j. Waters used to wash vehicles that do not use detergents,
    - k. Routine external building wash down that does not use detergents,
    - l. Dechlorinated swimming pool discharges,
    - m. Flows from riparian habitats and wetlands,
    - n. Pavement wash waters where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled material has been removed) and where detergents are not used, and,
    - o. Water used to control dust in accordance with Section 3.2.2 (Stormwater Management and Sediment Control) of the NPDES–CGP.
  5. Discharges or flows from firefighting activities.
  6. Other unpolluted water.
- E. In the event of an accidental discharge or an unavoidable loss to the County MS4 of any pollutant, the responsible person shall inform the York County Environmental Compliance Division as soon as possible, but not to exceed 24 hours, of the nature, quantity and time of occurrence of the discharge. The responsible person shall take immediate steps to contain the waste, treat the waste or other actions to minimize effects of the discharge on the MS4 and receiving waters. The responsible person shall also take immediate steps to ensure no recurrence of the discharge.

**§ 152.042. Detection of Illicit Connections and Improper Disposal.**

- A. The Stormwater Administrator shall take appropriate steps to detect and eliminate illicit connections to the County Stormwater System, including the adoption of a program to screen illicit discharges and identify their source or sources.
- B. The Stormwater Administrator shall take appropriate steps to detect and eliminate improper discharges, including programs to screen for disposal and programs to provide for public education, public information, and other appropriate activities to facilitate the proper management and disposal of used oil, toxic materials and household hazardous waste.

**§ 152.043. – § 152.044. RESERVED.**

## **DIVISION 9 – PERFORMANCE SECURITY**

### **§ 152.045. Resource Remediation Fund.**

- A. Each and every new development is required to contribute to the Resource Remediation Fund. This fund will provide assurance that all exposed soil surfaces will be stabilized, and any other areas of storm water management and sediment control deficiency will be addressed, in the event a development discontinues or proper control measures are not installed and/or maintained.
- B. Prior to the issuance of any building and/or land disturbance permit for a development or phase of development, every applicant must pay York County a non-refundable Resource Remediation Fee in accordance with York County Code of Ordinances, Chapter 31 – County Polices. These Fees will be held in a separate, use restricted, interest bearing account known collectively as the Resource Remediation Fund (the "RRF"). Monies deposited into the RRF may be used by the County to remediate sites that, in the determination of the Stormwater Administrator: are under construction or post-construction and developed; have been abandoned; have been left in an unstable condition; or contain stormwater management or sediment control deficiencies in violation of this Chapter. By submitting an application for land disturbing activity, each applicant gives the County express authority to enter upon the subject property during and after development activities for the purpose of performing inspections and/or needed remediation, as determined by the Stormwater Administrator.
- C. For all new development and all redevelopment of sites, an applicant must provide to the County a notarized certification that the applicant has no known direct or indirect contractual, business, financial, or familial relationship ("Relationship") to a RRF site where fund money is outstanding or Operator at such site. Based on this statement, the County has the right to request, and the applicant must supply, additional specific information concerning any such affiliations.
- D. For sites at which monies from the RRF are spent, an applicant with a Relationship to any Operator on such RRF site(s) or a Relationship with a person who in the past has significantly failed to comply with any provision of this Chapter or previously issued permit, will not be allowed to further participate in this program and no further review of a permit for land disturbing activity will be conducted by the County or permit issued, until such time that all RRF monies are repaid to the County in full by the applicant or other such related person. This is in addition to any other penalty or injunctive relief authorized under this Chapter.
- E. Staff will review funding on an annual basis and recommend any needed changes.

### **§ 152.046. Performance Guarantees**

- A. A performance guarantee may be requested by York County for any commercial and subdivision project. The performance guarantee provides funds to assure that all exposed soil

surfaces will be stabilized should development discontinue, proper control measures are not installed and/or maintained, or provide for remedy should the permittee fail to comply with the soil erosion permit and the approved soil erosion plan.

- B. A performance guarantee can be applied for the following situations:
  - 1. Offsite Sedimentation,
  - 2. Final Stabilization.
- C. As a precondition for County consideration of a Final Stabilization performance guarantee, Permittee shall make all necessary effort to attempt full and complete stabilization of the site in accordance with the approved C-SWPPP and the NPDES-CGP. As determined by the Stormwater Administrator, if, after 14 calendar days, there is no visual evidence of germination and the extended 10-day weather forecast predicts unfavorable conditions for precipitation, the County may consider a Final Stabilization performance guarantee at that time.
- D. This performance guarantee shall cover all expenses incurred by York County, including administrative and legal costs and remediation required to implement and maintain soil erosion and sedimentation controls until the site is stabilized. If the performance guarantee does not cover the cost of remediating the site, the permit holder will be responsible for the additional costs. The performance guarantee may be used to pay outstanding permit/inspection fees.
- E. The performance guarantee shall be in the form of a bank/cashier's check or irrevocable letter of credit and shall be in the amount professionally determined to complete the remediation, subject to the Stormwater Administrator's approval.
- F. The performance guarantee shall be an amount that is at least 150% of the estimated costs and expenses.
- G. This performance guarantee must be submitted prior to a final plat approval of a subdivision or the issuance of a certificate of occupancy/completion for a commercial building or single-family dwelling.
- H. This performance guarantee shall be issued for a period that extends for the duration of the permit through project completion and issuance of a Notice of Termination. The performance guarantee maybe released to the applicant only upon the issuance of a Notice of Termination, or, in the case of a transfer of permit, a new performance guarantee that meets all the requirements of this section. In the case of off-site sedimentation, the performance guarantee shall be released once all remediation has been completed. If the owner/operator fails to complete the required remediation satisfactorily within the required period of time, the performance guarantee shall be forfeited and applied to the cost of completion of the required remediation.
- I. Additional funds required for the completion of the remediation will be the sole responsibility of the developer.

- J. If permitting and construction takes in excess of one year to complete, the Stormwater Administrator may allow for the surety period to be extended. This must be requested by the owner prior to the expiration date.

**§ 152.047 – § 152.050. RESERVED.**

## **DIVISION 10 – MONITORING AND INSPECTIONS**

### **§ 152.051. Monitoring.**

The Stormwater Administrator shall monitor the quantity and concentration of pollutants in stormwater discharges from the areas and/or locations designated in the SWMP.

### **§ 152.052. Inspections.**

- A. The Stormwater Administrator and/or other authorized personnel, may enter and inspect all properties for regular inspections, periodic investigations, monitoring, observation measurement, enforcement, sampling and testing to effectuate the provisions of this Chapter and of the SWMP programs. The Stormwater Administrator shall duly notify the Owner of said property or the representative on site and the inspection shall be conducted at a reasonable time.
- B. 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 Administrator. The Stormwater Administrator and/or other authorized personnel shall promptly seek appropriate compulsory process.
- C. In the event that the Stormwater Administrator or designee reasonably believes that discharges from the property into the County MS4 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.
- D. Inspection reports shall be maintained, pursuant to County record retention policies, at the Department.

### **§ 152.053. Construction Inspection.**

- A. Inspection and enforcement can be divided into two distinct categories, during construction and post-construction. Construction inspection ensures that the storm drainage systems, stormwater management facilities and erosion and sediment control measures are constructed and installed in accordance with the approved C-SWPPP and OS-SWPPP. All construction

inspection shall conform as outlined in the most current SCDHEC NPDES-CGP. In addition, the following apply:

1. No stage of work, related to the construction of stormwater management facilities, shall proceed the next subsequent stage of work, according to the sequence specified in the approved staged construction and inspection control schedule until it is inspected and approved.
2. The Permittee shall notify York County Environmental Compliance before commencing any work to implement the OS-SWPPP and upon completion of the work.
3. Third party inspections, by a qualified individual who is independent of the Owner, must comply as outlined in the most current SCDHEC NPDES-CGP or may be required at the discretion of the Stormwater Administrator at sites that have compliance problems and at sites where stormwater discharges to environmentally sensitive waters. Copies of all inspection reports shall be submitted to the County within three (3) working days from the date of the inspection.
4. Once construction is complete and final stabilization is reached, the permittee may request Notice of Termination approval. Minimum requirements include the following:
  - a. A final inspection shall be conducted by the County.
  - b. Any changes to final plat showing the location of all stormwater easements and the responsible party for the maintenance of the system shall be submitted. References shall be made to any and all ownership and lessee Covenants established for ensuring the maintenance and long term functioning of the stormwater system. The plats shall also show conflicts with other new or existing easements.
  - c. As-built construction drawings of the stormwater management facilities, including detention ponds, basins, ditches, swales, culverts, piping, manholes and other related structures and features, shall be submitted to show that the constructed project meets the requirements of the approved C-SWPPP and on-site stormwater pollution prevention plan (OS-SWPPP).
  - d. Verification from the design professional that all components of the storm water management system meet the approved Land Disturbance Permit and specifications or achieve the function for which they were designed. In addition, the site shall be cleared of all temporary BMPs (i.e. silt fence, waddles, rock check dams, etc.) and all construction trash and debris from the storm water system and the site as a whole.
  - e. Upon receipt of the MS4 Certification Statement from the County, the permittee shall submit a signed Notice of Termination form to SCDHEC. At this point, the land disturbance permit is closed and the responsibility for the operation and maintenance of the storm drainage systems and stormwater management facilities are transferred from the Operator to the persons responsible for maintenance.

5. "As-built" plans, certified by a registered professional, shall be submitted upon completion of the stormwater management facilities. The registered professional shall certify that:
  - a. The facilities have been constructed as shown on the "as-built" plan; and
  - b. The facilities meet the approved C-SWPPP or achieve the function for which they were designed.
6. Acceptable "as-built" plans shall be submitted prior to:
  - a. The use or occupancy of any commercial or industrial site.
  - b. 90% build out of a residential subdivision once the multi-purpose basin has been converted from a sediment basin to the post-construction water quality feature.
  - c. Release of any performance security held by the County.
  - d. Approval of a new C-SWPPP if the plan proposes to use existing stormwater management facilities that does not have an acceptable "as-built" plan on file at the Environmental Compliance office.
  - e. Approval and/or acceptance for recording of plat or drawing, the intent of which is to cause a division of a single parcel of land into two or more parcels.

**§ 152.054. – § 152.060. RESERVED.**

## **DIVISION 11 – ENFORCEMENT, PENALTIES, AND CORRECTIVE ACTION**

### **§ 152.061. Violations.**

- A. Upon determination that a violation of any of the provisions of this Chapter or the SWMP has occurred, the Stormwater Administrator may give timely Notice at the property where the violation has occurred or at the address of the permit holder. To the furthest extent practicable, Written Notice shall be provided within five business days of the observed violation. This Notice shall specify: the nature of the violation, the potential penalty, if applicable, the corrective action required, which may include restoration of impact to offsite land and waters, and the amount of time in which to correct deficiencies, if appropriate. It shall be sufficient notification to deliver the Notice to the person to whom it is addressed via email or by placing Written Notice in the on-site construction mailbox, or by depositing a copy of such in the United States Mail, sufficient postage prepaid, certified and addressed to the address used for tax purposes.
- B. Upon determination that a violation of any of the provisions of this Chapter or the SWMP has occurred, the County may choose to pursue in magistrate court action for criminal fines and

penalties to the maximum extent allowed by law. The County may also choose, at its sole discretion, to proceed with imposing civil fines and corrective action requirements via a consent process. The consent process consists of the following procedures: First, the County's Stormwater Administrator shall hold a fact finding meeting with the violator. Second, the Stormwater Administrator shall develop a draft consent agreement that contains corrective actions and penalties based on the facts found. Third, the draft consent agreement is presented to the violator which may be negotiated for a mutually agreeable action resolution. Should the parties fail to agree on the consent agreement terms, the administrative process shall conclude and the Stormwater Administrator will present an administrative order to be enforced against the violator to the fullest extent of the violations issued. Where the violator refuses to comply with the administrative order, the County may pursue criminal and/or civil penalties for all Violations as authorized by this Chapter in a court of competent jurisdiction. Nothing in this section shall limit the ability of the County to pursue corrective action, including, but not limited to, Stop Work Orders under § 152.065.

- C. Notwithstanding the foregoing, at all times, the County Attorney or associated legal counsel may institute injunctive, mandamus or other appropriate action or proceedings at law or equity, including criminal proceedings, for the enforcement of this Chapter or to correct Violations of this Chapter, 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.

**§ 152.062. Criminal Penalties.**

The County has the authority to charge any person violating any provision of this Chapter with a misdemeanor punishable within the jurisdictional limits of magistrate's court. Each day of a Violation shall constitute a new and separate offense.

**§ 152.063. Additional Legal Measures.**

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 the penalty and cost of compliance through to the responsible person(s).

**§ 152.064. Corrective Action.**

Any person violating any of the provisions of this Chapter shall be required to comply with the Stormwater Administrator's Notice. Where a Violation of this Chapter has not been corrected by the violator within the applicable time period for correction, York County, or its contractor, may enter upon the lot or parcel of land and correct the Violation, including offsite impact, and the costs incurred as a result of such action (including inspection, administration, labor and equipment costs) shall be collected from the remediation fee, other means of security 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. These costs shall be assessed in addition to any other penalty or injunctive relief authorized under this Chapter.

**§ 152.065. Stop Work and Associated Fees, Penalties and Costs.**

- A. The following activities shall result in an immediate Stop Work Order placed on the subject property which shall carry with it a civil penalty, as enforced by the Stormwater Administrator:
  - 1. Any person who proceeds with any work which requires a Land Disturbance Permit, a SMSCP hereunder without first submitting a plan and obtaining the permit, where applicable,
  - 2. Any person who proceeds with any land disturbance on any project without a pre-construction conference or issuance of the final land disturbance permit.
  - 3. Any illicit discharge, illicit connection or improper disposal as defined per § 152.041,
  - 4. Off-site sedimentation, which is actively entering or threatening to enter a surface water or natural waterway, or has entered upon and accumulated on an adjacent property, as a result of failure of a BMP or stormwater management facility, or noncompliance with an approved SMSCP or C-SWPPP.
- B. A stop work order may be issued for violations of the conditions of the Land Disturbance Permit, C-SWPPP or SMSCP, not specifically identified in § 152.065(A), or construction not in accordance with the letter or intent of the approved plans, the existence of which poses an immediate and substantial danger to a downstream area or adjacent property in the judgment of the Stormwater Administrator or designee.
- C. The stop work order will require correction of NOV issues, and shall otherwise stop all other project related activities.
- D. The County retains the right to place a hold on any building permit applications pending before the County and any building permits issued by the County to the financially responsible party, owner of the property or contractor until violations identified in the NOV are corrected.
- E. 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.

**§ 152.066. 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 C-SWPPP or the OS-SWPPP;
- 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);

- D. The existence of an immediate danger in a downstream area in the judgment of the Stormwater Administrator; or
- E. The Operator did not renew the land disturbance permit upon the permit's expiration date or renew NOI coverage from SCDHEC upon its expiration date.

**§ 152.067. Civil Penalties.**

In addition to or in lieu of the criminal penalties authorized by this Chapter, the County has the authority to assess a civil penalty of not more than one thousand dollars (\$1,000.00) per Violation against any person who has violated any provision of this Chapter. Each separate day of a Violation constitutes a new and separate Violation. A person assessed a civil penalty under this section may appeal the assessment to the magistrate's court, who may waive, modify, or affirm the civil penalty. All civil fines collected pursuant to the provisions of this section shall be directed to fund the costs associated with stormwater education, correcting Violations and/or enforcing the provisions of this Chapter.

**§ 152.068. – § 152.070. RESERVED.**

**DIVISION 12 – WAIVERS AND VARIANCES**

**§ 152.071. General.**

The Stormwater Administrator may grant a waiver or variance from the requirements of this Chapter where it does not conflict with Federal or State regulations. These situations apply where there are exceptional circumstances applicable to a site exist such that strict adherence to the provisions of the Chapter will not fulfill the intent of the Chapter.

**§ 152.072. Requesting a Waiver or Variance.**

A written request for a waiver or variance shall be required and shall state the specific waiver or variance sought and the reasons, with supporting data, that a waiver or variance should be granted. The request shall include all information necessary to evaluate the proposed waiver or variance and shall be submitted as a stand-alone document at the front of the C-SWPPP submittal. A request for a waiver or variance shall be accompanied by a fee in accordance with York County Code of Ordinances, Chapter 31 – County Polices.

**1. Waiver from Permanent Water Quality Control:**

A project may be eligible for a waiver of stormwater management requirements for water quality control if the applicant can justly verify that:

- A. The proposed land development activity will return the disturbed areas to the pre-development land use and runoff conditions.
- B. The proposed land development will create land use conditions that are highly likely to discharge less pollutants than the pre-development land use conditions.

C. The pre-development land use conditions are unchanged at the end of the project.

This waiver does not exclude water quality, erosion prevention, sediment control and water quantity controls from being implemented during the active construction phases of a particular project.

2. Waiver from Permanent Water Quantity Control:

A project may be eligible for a waiver of stormwater management requirements for water quantity control if the applicant can justly verify that:

A. The proposed project and reasonable assumptions for future development conditions in the watershed will not create any adverse impacts on the receiving natural waterway or road crossings downstream of the property.

These adverse impacts may include but are not limited to the following:

- i. Increased flow velocity or volume that would increase channel erosion.
- ii. Increased peak flow rates or volumes that are higher than the capacity of downstream bridges and culverts.
- iii. Increased flow depth or volume that would flood outbuildings, air conditioning units, crawl spaces, or finished floor elevations.

Reasonable assumptions for future development conditions shall be made for undeveloped properties upstream of the construction site. The Engineering Department can aid in the determination of future watershed development conditions.

B. The installation of stormwater management facilities would have insignificant effects on reducing downstream peak flow rates and flood peaks.

C. Stormwater management facilities are not needed to protect downstream developments and the downstream drainage system has sufficient capacity to receive the increases in runoff from the development.

D. The imposition of peak flow rate control for stormwater management would create, aggravate, or accelerate downstream flooding.

This waiver does not exclude water quality, erosion prevention, sediment control and water quantity controls from being implemented during the active construction phases of a particular project. The Stormwater Administrator will grant waivers based on the review of the items listed above.

**§ 152.073. Review Procedure.**

The Stormwater Administrator shall conduct a review of the request for a variance and issue a decision within 10 working days of receiving the request. Any person aggrieved by the decision of the Stormwater Administrator may appeal such decision as specified in § 152.081.

**§ 152.074. – § 152.080. RESERVED.**

### **DIVISION 13 – APPEALS**

**§ 152.081. Appeal Procedure.**

- A. Any person aggrieved by a written administrative decision by the Stormwater Administrator, may appeal the decision within 30 days from the date of the written decision to the Stormwater Appeals Board (Board), as described and constituted under § 153.082. The appeal must be submitted on the application form provided by the Department and must state with specificity the grounds for the appeals. The person appealing may submit supporting documentation with the appeals application.
- B. Upon receipt of an appeal, the Stormwater Administrator must convene the Board within 30 days, or as soon thereafter as practicable. The Board will conduct a hearing on the matter after notifying the appellant and the Stormwater Administrator of the date, time, and place of the hearing. Such notice shall not be less than seven days before the date of the hearing. At the hearing, the Board may accept testimony, documents, or other materials from the property owner and the Stormwater Administrator. To the furthest extent practicable, the Board shall issue a final written decision within 30 days of the hearing.
- C. The County or any person aggrieved by the Board’s decision may appeal within 30 days to the court of common pleas.

### **DIVISION 14 – STORMWATER APPEALS BOARD**

**§ 153.082. Stormwater Appeals Board.**

- A. *Creation.* The Stormwater Appeals Board is hereby authorized by York County and shall be referred to in Divisions 13 and 14 as the Board. The Board shall consist of five members appointed by the County Council. Members shall have professional or educational experience in engineering, land surveying, hydrology, geology, landscape architecture, ecology, environmental sciences, earth science, soil science, natural resources, chemistry, or other commensurate professional or educational background. Of the members first appointed, three members shall serve for three years and two members shall serve for two years. Subsequent terms for all members shall be for three years. Members shall serve a maximum of two terms. The Stormwater Administrator shall serve as staff liaison to the Board. Annually, the members shall select a Chairman and Vice-Chairman. The Planning and Development Services Director shall appoint a staff member to serve as a secretary for the Board.
- B. *Duties.* The Board shall have the following duties and responsibilities:

1. Hear appeals and provide recommendations from the Stormwater Administrator's administrative decisions and variances regarding interpretation and implementation of this Chapter;
- C. *Meetings.* The Board shall meet as necessary but no less than twice per calendar year, as determined by the Chairman and the Stormwater Administrator, for the purpose of hearing appeals per § 152.081. All meetings shall be properly noticed, and an agenda shall be prepared and posted in compliance with South Carolina State Statutes and County Ordinances.
  - D. *Quorum.* Three members of the Board shall constitute a quorum.
  - E. *Attendance:* Members may not be absent from three consecutive called meetings. A member who fails to meet the minimum attendance requirements shall be deemed to have forfeited the membership and shall be removed without further action by the Board or the County Council. The secretary shall notify the Board, the absent member, and the County Council (through the Clerk to Council) of the absences, removal, and vacancies, on the Board. The County Council shall fill the vacancy created thereby in the manner of the original appointment, for the unexpired term of the member.
  - F. *Procedures.* The Board shall adopt by-laws establishing rules and procedures consistent with State law and County ordinances.
  - G. *Decisions.* The vote of a majority of the Board present and constituting a quorum at any called meeting will be necessary to reverse the administrative decision of the Stormwater Administrator. The Board will keep minutes of its proceedings, showing the record of vote for each member upon each question and will keep records of its examinations and other official actions, all of which will be filed, as soon as practicable, in the office of the Board. Upon the conclusion of all appeals brought before the Stormwater Appeals Board, the Board shall provide all parties with a written decision indicating its determination and the basis therefore.. In no event shall the Stormwater Appeals Board issue a decision that in any way conflicts or contradicts these Regulations or any other federal, state or local laws or regulations relating to stormwater and sediment control.
  - H. *Appeal of Board Decision.* Appeals of Board decisions shall be made to the court of competent jurisdiction per § 152.081. All decisions of the Board shall be made in writing, and a copy, either by mail or electronic format, shall be provided to the person appealing the decision. For purposes of appeals, the date on the written decision shall be the official decision date.

## **DIVISION 15 – CHARGES AND FEES**

### **§ 152.083. Connection to Conveyances.**

The York County Council 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 York County or to a wet weather conveyance. Such fee shall be payable as part of any permit application or

submission, 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. All fees are identified in York County Code of Ordinances, Chapter 31 – County Polices.”

**SECTION 3. Approval of York County Stormwater Design Manual**

The York County Council hereby approves the County Stormwater Management Design Manual, the design requirements, terms, and provisions, established therein, which are being promulgated contemporaneously with the passage of this Ordinance, and which Manual is presented to Council in conjunction with this Ordinance.

**SECTION 4. Public Hearing Required.**

The York County Council shall conduct a public hearing, which shall be held after publishing a notice of the date, time and place of such hearing at least fifteen (15) days in advance of such hearing and before final legislative action is taken for the adoption of this ordinance.

**SECTION 5. Severability.**

The provisions of this ordinance are hereby declared to be severable, and if any provision or section of this ordinance is declared to be unconstitutional or unenforceable by the final order of a court of competent jurisdiction, such declaration shall not affect the constitutionality, legality, or enforceability of any other section or provision of this ordinance, which shall be deemed severable, valid, enforceable, and effective.

**SECTION 6. Repeal of inconsistent sections and ordinances.**

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

**SECTION 7. Effective date.**

This ordinance shall take effect immediately upon adoption.

**ADOPTED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2019.**

YORK COUNTY COUNCIL

BY: \_\_\_\_\_  
R. Michael Johnson, Jr., Chairman

Attest: \_\_\_\_\_  
William P. Shanahan, Jr.  
York County Manager

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

Public Hearing: \_\_\_\_\_

Third Reading: \_\_\_\_\_