

Ordinance No. 392



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PICKENS COUNTY STORMWATER

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PICKENS COUNTY STORMWATER ORDINANCE

Section 1. Definitions.

For the purpose of this chapter, the following definitions shall apply: Words used in the singular shall include the plural, and the plural shall include the singular; words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may" is permissive. Words not defined in this section shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster's Dictionary.

- (1) **Architect** - an individual who, by reason of the individual's general knowledge of the principles of architecture acquired by professional education and practical experience, is qualified to engage in the practice of architecture as attested by the individual's registration as an architect.
- (2) **As built plans** - drawings depicting conditions as they were actually constructed.
- (3) **Best management practices or (BMP's)** - physical, structural, and/or managerial practices that have been approved by Pickens County, that when used singly or in combination, prevent or reduce pollution of water and that have been incorporated by reference into this ordinance as if fully set out therein.
- (4) **Channel** - a natural or artificial watercourse with a definite bed and banks that conducts flowing water continuously or periodically.
- (5) **Community water** - any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wetlands, wells and other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of Pickens County.
- (6) **Contaminant** - any physical, chemical, biological, or radiological substance or matter in water.
- (7) **Design storm event** - a hypothetical storm event, of a given intensity, frequency interval and duration, used in the analysis and design of a stormwater facility.
- (8) **Discharge** - dispose, deposit, spill, pour, inject, seep, dump, leak or place by any means, or that which is disposed, deposited, spilled, poured, injected, seeped, dumped, leaked, or placed by any means including any direct or indirect entry of any solid or liquid matter into Waters of the State.
- (9) **Easement** - an acquired privilege or right of use or enjoyment that a person, party, firm, corporation, municipality or other legal entity has in the land of another.
- (10) **Erosion** - the removal of soil particles by the action of water, wind, ice or other geological agents, whether naturally occurring or acting in conjunction with or promoted by anthropogenic activities or effects.

- (11) **Erosion and sediment control plan** - a written plan (including drawings or other graphic representations) that is designed to minimize the accelerated erosion and sediment runoff at a site during construction activities.
- (12) **FEMA** - The Federal Emergency Management Agency
- (13) **Hotspot (priority area)** - an area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater.
- (14) **Illicit connections** - illegal and/or unauthorized connections to the municipal separate stormwater system whether or not such connections result in discharges into that system.
- (15) **Illicit discharge** - defined at South Carolina Water Pollution Control Permits Regulation 61-9 122.26(b)(2) and refers to any discharges to a small municipal separate storm sewer system (SMS4) that is not composed of storm water, except discharges authorized under an NPDES permit (other than the NPDES permit for discharges from the SMS4) and discharges resulting from fire fighting related activities.
- (16) **Integrated management practice or IMP** - a LID practice or combination of practices that are the most effective and practicable (including technological, economic, and institutional considerations) means of controlling the predevelopment site hydrology.
- (17) **Land disturbing activity** - any activity on property that results in a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Land-disturbing activities include, but are not limited to, development, re-development, demolition, construction, reconstruction, clearing, grading, filling, and excavation.
- (18) **Landscape architect** - is (a) a person who is licensed to practice landscape architecture in this State or (b) Landscape architecture is the performance of professional services, such as consultation, investigation, research, planning, design, preparation of drawings and specifications, and responsible inspection in connection with the development of land areas where, and to the extent that, the dominant purpose of the services is the preservation, enhancement, or determination of proper site design, natural land features, planting, naturalistic and aesthetic values, the settings and approaches to structures or other improvements, the setting of grades and determining drainage and providing for drainage structures, and the consideration and determining of environmental problems.
- (19) **Large Construction Activity** - the construction industrial activity as defined at §122.26(b)(14)(x) of SC Regulation 61-9 and incorporated here by reference.
A large construction activity includes clearing, grading, and excavating resulting in a land

disturbance that will disturb equal to or greater than five acres of total land area or is part of a larger common plan of development or sale that will ultimately disturb equal to or greater than five acres. Large construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the site.

- (20) **Larger Common Plan of Development (LCP)** is a contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under one plan. For example, if a developer buys a 20-acre lot and builds roads, installs pipes, and runs electricity with the intention of constructing homes or other structures sometime in the future, this would be considered a larger common plan of development or sale. If the land is parceled off or sold, and construction occurs on plots that are less than one acre by separate, independent builders, this activity still would be subject to stormwater permitting requirements if the smaller plots were included on the original site plan. The larger common plan of development or sale also applies to other types of land development such as industrial parks or well fields. A permit is required if 1 or more acres of land will be disturbed, regardless of the size of any of the individually-owned or developed sites.
- (21) **Low- Impact Development or LID** - the integration of site ecological and environmental goal and requirements into all phases of urban planning and design from the individual residential lot level to the entire watershed.
- (22) **LID** - see 21
- (23) **Maintenance** - any activity that is necessary to keep a stormwater facility in good working order so as to function as designed. Maintenance shall include complete reconstruction of a stormwater facility if reconstruction is needed in order to restore the facility to its original operational design parameters. Maintenance shall also include the correction of any problem on the site property that may directly impair the functions of the stormwater facility.
- (24) **Municipal separate stormwater system or (separate storm sewer system) (MS4)** - the conveyances owned or operated by the municipality for the collection and transportation of stormwater, including the roads and streets and their drainage systems, catch basins, curbs, gutters, ditches, man- made channels, and storm drains.
- (25) **MS4** - see number 24.
- (26) **National Pollutant Discharge Elimination System Permit** - a permit issued to a discharger pursuant to regulations for all point source discharges into surface waters.
- (27) **NPDES permit** - See number 26.

- (28) **Off-site facility** - a structural BMP located outside the subject property boundary described in the permit application for land development activity.
- (29) **On-site facility** - a structural BMP located within the subject property boundary described in the permit application for land development activity.
- (30) **Peak flow** - the maximum instantaneous rate of flow of water at a particular point resulting from a storm event.
- (31) **Person** - any and all persons, natural or artificial, including any individual, firm or association and any county, municipal or private corporation organized or existing under the laws of this or any other state or country.
- (32) **Person Responsible for the Land Disturbing Activity**
- i. the person who has or represents having financial or operational control over the land disturbing activity; and/or
 - ii. the landowner or person in possession or control of the land who directly or indirectly allowed the land disturbing activity or has benefited from it or who has failed to comply with any provision of this ordinance, or local ordinance adopted pursuant to the act as imposes a duty upon him.
- (33) **Priority area** - hot spot see number 13.
- (34) **Professional Engineer** - as defined in the South Carolina Code of Laws, Title 40, a Category A license holder who, by reason of his/hers special knowledge of the mathematical and physical sciences and the principles and methods of engineering analysis and design, acquired by professional education and practical experience, is qualified to practice engineering, all as attested by his/hers legal license a registration as a professional in this State.
- (35) **Professional Land Surveyor** - as defined in the South Carolina Code of Laws, Title 40, means a person who is qualified to practice any discipline of TIER A or TIER B land surveying in this State, as attested by his/hers license and registration as a TIER A or TIER B professional land surveyor in this State.
- (36) **Runoff** - precipitation from rain or snowmelt flows over the ground. Impervious surfaces like driveways, sidewalks, and streets prevent stormwater from naturally soaking into the ground.
- (37) **Sediment** - solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity, or ice and has come to rest on the earth's surface either above or below sea level.

- (38) **Sedimentation** - soil particles suspended in stormwater that can settle in streambeds and disrupt the natural flow of the stream.
- (39) **Stabilization** - providing adequate measures, vegetative and/or structural, that will prevent erosion from occurring.
- (40) **Small Construction Activity** - includes clearing, grading, and excavation resulting in a land disturbance that:
1. will disturb equal to or greater than one (1) acre and less than five (5) acres of land;
 2. will disturb less than one (1) acre of total land area but is part of a larger common plan of development or sale that will ultimately disturb equal to or greater than one (1) acre and less than five (5) acres.
- (41) **Small Municipal Separate Storm Sewer System (SMS4)** - is defined at South Carolina Water Pollution Control Permits Regulation 61-9 122.26 (b)(16) and refers to all small separate storm sewer systems that are owned or operated by the United States, a State, city, town, boroughs, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, 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 a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States, but is not defined as “large” or “medium” municipal separate storm sewer system. This term includes systems similar to separate storm sewer systems in municipalities, such as systems at military bases, large hospital or prison complexes, and highways and other thoroughfares. The term does not include separate storm sewers in very discrete areas, such as individual buildings.
- (42) **Stormwater** - stormwater runoff, snow melt runoff, surface runoff, street wash waters related to street cleaning or maintenance, infiltration and drainage.
- (43) **Stormwater management** - the programs to maintain quality and quantity of stormwater runoff to pre-development levels.
- (44) **Stormwater management facilities** - the drainage structures, conduits, ditches, combined sewers, sewers, and all device appurtenances by means of which stormwater is collected, transported, pumped, treated or disposed of.
- (45) **Stormwater management plan (SWMP)** - the set of drawings and other documents that comprise all the information and specifications for the programs, drainage systems, structures,

BMP's, concepts and techniques intended to maintain or restore quality and quantity of stormwater runoff to pre-development levels.

- (46) **Stormwater runoff** - flow on the surface of the ground, resulting from precipitation.
- (47) **Structural BMP's** - devices that are constructed to provide control of stormwater runoff.
- (48) **Subdivision** - all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions, or parcels less than five acres, for the purpose, whether immediate or future, of sale, legacy, or building development, or includes all division of land involving a new street or a change in existing streets, and includes re-subdivision and, where appropriate, in the context, shall relate to the process of subdividing or to the land or area subdivides.
- (49) **Surface water** - includes waters upon the surface of the earth in bounds created naturally or artificially including, but not limited to, streams, other watercourses, lakes and reservoirs.
- (50) **SWMP** - stormwater management plan see number 45.
- (51) **TIER B land surveyor** - includes all rights and privileges of the TIER A land boundary surveying discipline defined in South Carolina Code of Laws Section 40-22-20(23)(a); and in addition to these rights and privileges, TIER B land surveying includes, for subdivisions, preparing and furnishing subdivision plans for sedimentation and erosion control and storm drainage systems, if the systems do not require the structural design of system components and are restricted to the use, where relevant, of any standards prescribed by local, state, or federal authorities. Regulations defining the scope of the additional powers granted to TIER B land surveyors must be promulgated by the board.
- (52) **Watercourse** - a permanent or intermittent stream or other body of water, either natural or man-made, that gathers or carries surface water.
- (53) **Watershed** - all the land area that contributes runoff to a particular point along a waterway.
- (54) **Waters of the South Carolina, or Water of the State** - lakes, bays, sounds, ponds, wetlands, 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 and all waters of the United States within the political boundaries of the State of South Carolina. Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA are not waters of the South Carolina. This exclusion applies only to manmade bodies of water which neither was originally created in waters of South Carolina (such as disposal areas in wetlands)

nor resulted from the impoundment of waters of South Carolina.

(55) **Waters of the United States, or Waters of the U.S.:**

(a) All waters, which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all water, which are subject to the ebb and flow of the tide;

(b) All interstate waters, including interstate “wetlands”;

(c) All other waters such as interstate lakes, rivers, streams (including intermittent streams), mudflats, sand flats, wetlands, sloughs, wet meadows, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:

(d) All impoundments of waters otherwise defined as waters of South Carolina under this definition;

(e) Tributaries of waters identified in paragraphs (a) through (d) of this definition;

(f) The territorial sea; and

(g) Wetlands adjacent to waters (other than water that is themselves wetlands) identified in paragraphs (a) through (f) of this definition.

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

Section 2. General provisions.

(1). **Purpose.** It is the purpose of this ordinance to:

(a) Protect, maintain, and enhance the environment of Pickens County and the public health, safety and the general welfare by establishing minimum requirements and procedures to control the adverse effects of increased stormwater runoff associated with both future land development and existing developed land within the County. Proper management of stormwater runoff will minimize damage to public and private property, ensure a functional drainage system, reduce the effects of development on land and stream channel erosion, assist in the attainment and maintenance of water quality standards, enhance the local environment associated with the drainage system, reduce local flooding, maintain as nearly as possible the pre-developed runoff characteristics of the area, and facilitate economic development while mitigating associated flooding and drainage impacts.

- (b) The objectives of this ordinance include the following:
- (1) Protect, maintain, and enhance the short-term and long-term public health, safety, and general welfare. This objective will be achieved by:
 - a. Establishing minimum requirements and procedures to control the adverse effects of increased stormwater runoff associated with both future land development and existing developed land within the county;
 - b. Providing proper management of stormwater runoff to minimize damage to public and private property and reduce the effects of land disturbing activities on land and stream channel erosion;
 - c. Protecting, preserving, and enhancing water quality and fish and wildlife habitat within the county and in downstream receiving waters; and
 - d. Alleviate street and property flooding and its adverse impacts caused by urban development.
 - 2) Comply with state and federal (EPA) stormwater regulations developed pursuant to the Clean Water Act. These requirements include:
 - a. Control pollutants from stormwater discharges associated with commercial and industrial activity and the quality of stormwater discharge from residential, commercial and industrial developments;
 - b. Prohibit illicit connections to the stormwater drainage system;
 - c. Control discharges to the stormwater drainage system from spills and dumping or disposal of materials other than stormwater; and
 - d. Allow Pickens County to exercise the powers granted in South Carolina Stormwater Management and Sediment Reduction Regulations 72-300, that provides, among other powers Pickens County has with respect to stormwater facilities, the power by ordinance or resolution to:
 - (1) Exercise general regulation over the planning, location, construction, and operation and maintenance of stormwater facilities in the county, whether or not owned and operated by the county;
 - (2) Adopt any rules and regulations deemed necessary to accomplish the purposes of this statute, including the adoption of a system of fees for services and permits;
 - (3) Establish standards to regulate the quantity of stormwater discharged and

to regulate stormwater contaminants as may be necessary to protect water quality;

- (4) Review and approve plans and plats for stormwater management in proposed new developments;
- (5) Issue permits for stormwater discharges, or for the construction, alteration, extension, or repair of stormwater facilities;
- (6) Suspend or revoke permits when it is determined that the permittee has violated any applicable ordinance, resolution, or condition of the permit;
- (7) Regulate and prohibit discharges into stormwater facilities of sanitary, industrial, or commercial sewage or waters that have otherwise been contaminated.

Section 3. Submittal Requirements

A. Sites with less than one disturbed acre unless otherwise exempt

Land disturbing activities that disturb less than one acre of land, and is NOT part of a larger common plan of development or sale that will ultimately disturb one acre, is not required to apply for a land disturbing permit.

B. Sites With Greater Than One Disturbed Acre

Land disturbing activities that disturb one acre or greater is required to apply for a land disturbing permit. Each application for land disturbing activities of one acre or greater or less than one acre if it is part of a larger common plan for development or sale that would ultimately disturb one acre, shall be accompanied by:

- ⇒ A Stormwater Management Plan (SWMP) providing for stormwater management during the land disturbing activity and after the activity has been completed.
- ⇒ A Sediment and Erosion Control plan.

Professionally certified site plans, erosion and sediment control plans, specification, and supporting calculations and computations shall be submitted and stamped/sealed by a professionally licensed engineer, landscape architect or Tier B land surveyor.

Section 4. Scope

- (a) No person shall conduct any land disturbing activities without having provided for appropriate stormwater management measures that control or manage runoff, in compliance with this ordinance, unless exempted in Section 5.3

(b) The provisions of this ordinance shall apply throughout the unincorporated areas in the County and in the City limits of Pickens and Liberty.

(c) The Pickens County Stormwater Design Manual shall give guidance to persons preparing stormwater management and sediment control plans, and designing or operating stormwater management systems.

(d) The application of this ordinance and the provisions expressed herein shall be the minimum stormwater management requirements and shall not be deemed a limitation or repeal of any other local requirements. Where other requirements are more stringent those shall apply. This ordinance does not eliminate the necessity for obtaining other permits as may be required by other government entities.

Section 5. Land disturbance permits.

- (1). When required. All land disturbing activities of one acre or greater or less than one acre if it is part of a larger common plan for development or sale that would ultimately disturb one acre, will be required to obtain a land disturbance permit from the Pickens County Office of Stormwater Management. Each application for a land disturbance permit shall be accompanied by payment for plan review, NPDES permit fee, and any other stormwater management fees that may apply, which shall be set by resolution.
- (2). Building permit. No building permit shall be issued until the applicant has obtained a land disturbance permit where the same is required by this ordinance.
- (3). Exemptions. The following activities are exempt from the permit requirement but they are not exempt under the provisions of the Clean Water Act:
 - (a) Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.
 - (b) Existing nursery and agricultural operations conducted as a permitted main or accessory use.
 - (c) Logging activities on forestland for the production and harvesting of timber and timber products.
 - (d) Agricultural land for the production of plants and animals useful to man.
 - (e) Construction or improvement of a single-family residence (single family residence separately built) or their accessory buildings, or mobile home, that is separately built and not part of multiple construction or a subdivision developments approved under this ordinance. If included in a subdivision plan, all land disturbing activities must follow the stormwater management and sediment control plan that has been approved for the subdivision.
 - (f) Minor land disturbing activities that do not disturb one acre or greater of land area.
 - (g) Any maintenance or renovation of an existing structure or system not materially changing or affecting the rate, concentration or volume of stormwater runoff.

(4). Review and approval of application.

- (a) Pickens County will review each application for a land disturbance permit to determine its conformance with the provisions of this ordinance, the South Carolina NPDES General Permit for Storm Water Discharges From Large and Small Construction Activities and Pickens County's NPDES General Permit for Storm Water Discharges From Regulated Small Municipal Separate Storm Sewer Systems (MS4s). For land disturbing activities of one acre or greater or less than one acre if it is part of a larger common plan of development or sale that will ultimately disturb one acre, within twenty (20) calendar days after receiving an application, Pickens County shall provide one of the following responses in writing:
- ⇒ Approval of the permit application;
 - ⇒ Denial of the permit application, indicating the reason(s) for the denial.
- (b) No development plans will be released until the land disturbance permit has been approved.

(5). Permit duration.

Every land disturbance permit shall expire and become null and void if substantial work authorized by such permit has not commenced within one hundred eighty (180) calendar days of issuance. Extensions or renewals of the plan approvals may be requested by written request by the person responsible for the land disturbing activity. The permit expires in five years from the date of issuance.

(6). Notice of construction.

The applicant must notify Pickens County at least three (3) working days in advance of the commencement of construction.

(7). Construction and Inspections

- (a) Prior to the approval of the stormwater management and sediment control plan, the applicant shall submit a proposed staged construction and inspection control schedule.
- (b) The applicant shall notify the Stormwater Office before commencing any work to implement the stormwater management a sediment control plan and upon completion of the work.
- (c) The staff of the Pickens County Stormwater Office shall conduct periodic inspections of the stormwater management system construction. Construction inspections shall utilize the approved stormwater management plan for establishing compliance.

All inspections shall be documented with written reports that contain the following information:

- (1) The date and location of the inspection;
- (2) Whether construction is in compliance with the approved stormwater management plan;
- (3) Variations from the approved construction specifications; and,

- (4) Any other variations or violations of the conditions of the approved stormwater management plan.

If any violations are found, the applicant shall be notified in writing of the nature of the violation and the required corrective actions. The Stormwater Office shall maintain a file of inspection reports and provide copies of all inspection reports to the applicant.

(d) Any area of land from which the natural vegetative cover has been either partially or wholly cleared by development activities shall be re-vegetated according to a schedule approved by Pickens County.

(8) Final Inspection and As Built Plans

Upon completion of a project, and before a certificate of occupancy shall be granted, the applicant is responsible for certifying that the completed project is in accordance with the approved stormwater management plan. All applicants are required to submit actual “as built” plans for any stormwater management facilities or practices after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and practices and must be certified by a Professional Engineer, Landscape Architect or Tier B Land Surveyor.

The registered professional shall state that:

- (1) The facilities have been constructed as shown on the “as-built” plan; and
- (2) The facilities meet the approved stormwater management and sediment control plans and specification or achieve the function for which they were designed.

A final inspection shall be conducted by the Stormwater Office upon completion of the work included in the approved stormwater management and sediment control plan to determine if the completed work is constructed in accordance with the plan.

No stage work, related to the construction of stormwater management facilities and BMPs, shall proceed until the next preceding stage of work, according to the sequence specified in the approved stated construction and inspection control schedule, is inspected and approved.

Section 6. Maintenance

(A). Responsibility

All temporary and permanent on-site stormwater management facilities and Best Management Practices (BMPs) required by this ordinance shall be maintained by the owner during and after site development. The owner shall provide adequate ingress and egress for county personnel to inspect the premises at reasonable times. Pickens County Stormwater Personnel will conduct periodic inspections of all stormwater management facilities at a minimum of once per calendar year.

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(B) Failure to maintain

Should the owner fail to properly maintain the drainage system, stormwater management facilities, and best management practices as required by this ordinance, Pickens County shall give written notice to the owner of record as appears on the latest property tax record, by certified mail, of the nature of the violation and the corrective action necessary. Should the owner fail, within fifteen (15) working days from the date of notice, to take corrective action to the satisfaction of Pickens County office of Stormwater Management or appeal the notice, the county may enter upon the lands, take corrective action as the County may deem necessary, and place a lien on the property owner for the costs thereof.

Section 7. Ongoing Inspection and Maintenance of Stormwater Facilities and Practices

(A) Long-Term Maintenance Inspection of Stormwater Facilities and Practices

Stormwater management facilities and practices included in a stormwater management plan which are subject to an inspection and maintenance agreement must undergo ongoing inspections to document maintenance and repair needs and ensure compliance with the requirements of the agreement, the plan and this ordinance. The responsible person in accordance with the approved inspection and maintenance agreement shall inspect a stormwater management facility or practice on a periodic basis. In the event that the stormwater management facility has not been maintained and/or becomes a danger to public safety or public health, Pickens County shall notify the person responsible as specified in the inspection and maintenance agreement of the deficiency. The notice shall specify the measures needed to comply with the maintenance agreement and shall specify the time within which such measures shall be completed. If the responsible person fails or refuses to meet the requirements of the inspection and maintenance agreement, Pickens County, may correct the violation as provided in Section 6.B hereof. Inspection programs by Pickens County may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; and joint inspections with other agencies inspecting under environmental or safety laws. 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 practices.

Section 8. Waivers and Variance

(1). General. If the 2- and 10-year, 24- hour post-developed flow rates exceed the pre-developed rates, waiver from detention maybe granted in accordance with State regulation 72-302(B) and Pickens County Stormwater

Ordinance, on a case-by-case basis. Every applicant shall provide for stormwater management as required by this ordinance, unless justification and a written request are filed to waive this requirement. Pickens County may grant waivers from the stormwater management requirements for individual land disturbing activities provided that a written request is submitted by the applicant containing descriptions, drawings, and any other information that is necessary to evaluate the proposed land disturbing activity. A separate written waiver request shall be required if there are subsequent additions, extensions, or modifications which would alter the approved stormwater runoff characteristics to a land disturbing activity receiving a waiver. Requests to waive the stormwater management plan requirements shall be submitted to Pickens County Stormwater staff for approval.

(2). Conditions for waiver. The minimum requirements for stormwater management may be waived in whole or in part upon written request of the applicant, provided that at least one of the following conditions applies:

- a. A project may be eligible for a waiver of stormwater management for both quantitative and qualitative control if the applicant can demonstrate that the proposed project will return the disturbed area to a pre-development runoff condition and the pre-development land use is unchanged at the conclusion of the project.
- b. A project may be eligible for a waiver or variance of stormwater management for water quantity control if the applicant can demonstrate that:
 - (i) The proposed project will have no significant adverse impact on the receiving natural waterway or downstream properties; or
 - (ii) The imposition of peak control requirements for rates of stormwater runoff would aggravate downstream flooding; or
 - (iii) It can be demonstrated that the proposed development is not likely to impair attainment of the objectives of this ordinance.
 - (iv) Alternative minimum requirements for on-site management of stormwater discharges have been established in a stormwater management plan that has been approved by the Pickens County Stormwater Department.
- c. Justification and a written request, including the following statement: “the increased flows will not have a significant adverse impact on the downstream/adjacent properties” must be submitted with the request.
- d. The project’s Professional Engineer must sign the waiver request and a variance application must be submitted to the Stormwater Office.

- (3). Downstream damage, etc. prohibited. In order to receive a waiver, the applicant must demonstrate to the satisfaction of the Pickens County Stormwater Department that the waiver will not lead to any of the following conditions downstream:
 - (a) Deterioration of existing culverts, bridges, dams, and other structures;
 - (b) Degradation of aquatic ecosystem or habitat;
 - (c) Accelerated stream bank or streambed erosion or sedimentation;
 - (d) Increased threat of flood damage to public health, life or property.
- (4). Land disturbance permit not to be issued where waiver requested. No land disturbance permit shall be issued where a waiver has been requested until the waiver is granted or denied. If no waiver is granted, the plans must be resubmitted with a stormwater management plan.
- (5). Variance. Pickens County may grant a written variance from any requirement of this ordinance if there are exceptional circumstances applicable to the site such that strict adherence to the provisions of these regulations will result in unnecessary hardship and not fulfill the intent of this ordinance. A written request for variance shall be provided to Pickens County and shall state the specific variances sought and the reasons with supporting data for their granting. A variance shall not be granted unless and until sufficient specific reasons justifying the variance are provide by the applicant.

Section 9. Permit Procedures and Requirements

(1) Stormwater Design and/or BMP Manual.

To assist in the design and evaluation of stormwater management facilities in the county, a *Stormwater Design Manual* has been developed. Design procedures and criteria are presented for conducting hydrologic and hydraulic evaluation and evaluation of best management practices (BMPs). Although the intention of the 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 if approved by the county. The county adopts the *Stormwater Design Manual* by reference in this ordinance. The *Pickens County Stormwater Design Manual* will be reviewed and updated as necessary. Contact the Pickens County Stormwater Management Office, or the Pickens County website at: www.co.pickens.sc.us, for information on how to obtain the *Stormwater Design Manual*.

(2). General performance criteria for stormwater management

No owner or developer shall perform any land development activities without first meeting the requirements of this ordinance prior to commencing the proposed activity. Unless granted a waiver or variance by Pickens County, or unless specifically exempted by this ordinance, the following performance criteria shall be addressed for stormwater management at all sites:

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- (a) All site designs shall control the peak flow rates of stormwater discharge associated with design storms specified in this ordinance or in the *Stormwater Design Manual* and reduce the generation of post construction stormwater runoff to pre-construction levels. These practices should seek to utilize pervious areas for stormwater treatment and to infiltrate stormwater runoff from driveways, sidewalks, rooftops, parking lots, and landscaped areas to the maximum extent practical to provide treatment for both water quality and quantity. Low-impact Development (LID) development is encouraged.
 - (b) To protect stream channels from degradation, specific channel protection criteria as prescribed in the *Stormwater Design Manual* or the *DHEC Stormwater BMP Handbook*, shall be met.
 - (c) Stormwater discharges to critical areas with sensitive resources (i.e., cold water fisheries, swimming beaches, recharge areas, water supply reservoirs) may be subject to additional performance criteria, or may need to utilize or restrict certain stormwater management practices.
 - (d) Stormwater that discharges from or to any hot spots may require the application of specific structural BMP's and pollution prevention practices.
- (3). Minimum control requirements.
- (a) Stormwater designs shall meet the multi-stage storm frequency storage requirements as identified in the Stormwater Design Manual.
 - (b) If hydrologic or topographic conditions warrant greater control than that provided by the minimum control requirements, Pickens County may impose any and all additional requirements deemed necessary to control the volume, timing, and rate of runoff.

Section 10. Stormwater Management Plan Requirements

The stormwater management plan shall detail how post-development stormwater runoff will be controlled or managed and how the proposed project will meet the requirements of this ordinance, including the performance criteria set forth in Section 9.2 above. Additionally the stormwater management plan shall provide details for Pickens County Stormwater Office to evaluate the environmental characteristics of the project site, the potential impacts of all proposed development of the site, both present and future, on the water resources, and the effectiveness and acceptability of the measures proposed for managing stormwater generated at the project site. The plan must show the final design specifications for all stormwater management facilities and must be sealed by a qualified individual who is licensed as follows: 1) registered professional engineer licensed to practice in South Carolina, 2) Registered landscape architect, or 3) Tier B land surveyors, as described by South Carolina Code of Laws, Title 40.

The stormwater management plan must ensure that the requirements and criteria in the ordinance are being
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complied with and that opportunities are being taken to minimize adverse post-development stormwater runoff impacts from the development. The plans shall consist of maps, narrative, and supporting design calculations (hydrologic and hydraulic) for the proposed stormwater management system. The plan shall include all of the information required in the Stormwater Management Site Plan checklist found in the Stormwater Design Manual. This includes:

- ⇒ *Name of Applicant*
- ⇒ *Business or residence address of applicant*
- ⇒ *Name, address and telephone number of the owner of the property*
- ⇒ *Address and legal description of subject property*
- ⇒ *Name, address and telephone number of the contractor and any subcontractor(s)*
- ⇒ *Vicinity map*
- ⇒ *Landscaping Plan*
- ⇒ *Maintenance Easements*
- ⇒ *Maintenance Inspection and Agreement*
- ⇒ *Sediment and Erosion Control Plans*
- ⇒ *All other appropriate state or federal environmental permits (i.e. Septic tank permit)*
- ⇒ *Post-Development Hydrologic Analysis*
- ⇒ *Stormwater Management System*

See the latest edition of the Pickens County Stormwater Design Manual for a complete description of each requirement.

Section 11. Sediment and Erosion Control Plan Requirements

The sediment and erosion control plan shall accurately describe the potential for soil erosion and sedimentation problems likely to result from the land disturbing activity, and shall explain and illustrate the measures that is to be taken to control these problems. The plan shall conform to the requirements found in the Stormwater Design Manual and shall include the following:

- ⇒ *Project Description*
- ⇒ *A topographic map*
- ⇒ *All existing drainage ways*
- ⇒ *A general description of existing land cover*
- ⇒ *Stands of existing trees, as they are to be preserved upon project completion*
- ⇒ *Approximate limits of proposed clearing, grading and filling*

- ⇒ *Approximate flows of existing stormwater leaving any portion of the site*
- ⇒ *A general description of existing soil types*
- ⇒ *Location, size and layout of proposed stormwater and sedimentation control improvements*
- ⇒ *Proposed drainage network*
- ⇒ *Proposed drain tile or waterway sizes*
- ⇒ *Approximate flows leaving site after construction*
- ⇒ *The projected sequence of work*
- ⇒ *Specific remediation measures to prevent erosion and sedimentation run-off*
- ⇒ *Specific details for the construction of rock pads and wash down pads*
- ⇒ *Proposed structure location (to the extent possible)*

See the latest edition of the *Pickens County Stormwater Design Manual* for a complete description of each requirement.

Section 12. Water Quality

Permanent water quality must be addressed on all projects or larger common plans of development that disturbs five (5) or more acres.

(A) Treatment

All stormwater runoff generated from a site shall be adequately treated before discharge. It will be presumed that a stormwater management system complies with this requirement if:

- (1) It is sized to treat the prescribed water quality treatment volume from the site, as defined in the *Stormwater Design Manual* or the *DHEC Stormwater BMP Handbook*;
- (2) Appropriate structural stormwater controls or nonstructural practices are selected, designed, constructed or preserved, and maintained according to the specific criteria in the *Stormwater Design Manual* or the *DHEC Stormwater BMP Handbook*; and,
- (3) Runoff to or from hotspot land uses and activities identified by Pickens County are adequately treated and addressed through the use of appropriate structural stormwater controls, nonstructural practices and pollution prevention practices.

(B) Stream Channel Protection

Protection of stream channels from bank and bed erosion and degradation shall be provided by using the following approaches:

- (1) Preservation, restoration and/or reforestation (with native vegetation) of the applicable stream buffer;
- (2) Erosion prevention measures such as energy dissipation and velocity control.

- (3) Waters of the U.S./State are not used for permanent water quality control (alternative means of treatment must be used if an existing pond is to be used for water quantity control.)

(C) Structural Stormwater Controls

All structural stormwater management facilities shall be selected and designed using the appropriate criteria from the *Stormwater Design Manual* or the *DHEC Stormwater BMP Handbook*. All structural stormwater controls must be designed appropriately to meet their intended function. For other structural stormwater controls not included in the Pickens County Design Manual, or for which pollutant removal rates have not been provided, the effectiveness and pollutant removal of the structural control must be documented through prior studies, literature reviews, or other means and receive approval from Pickens County before being included in the design of a stormwater management system. In addition, if hydrologic or topographic conditions, or land use activities warrant greater control than that provided by the minimum control requirements, Pickens County may impose additional requirements deemed necessary to protect upstream and downstream properties and aquatic resources from damage due to increased volume, frequency, and rate of stormwater runoff or increased nonpoint source pollution loads created on the site in question.

Applicants should consult the *Stormwater Design Manual* or the *DHEC Stormwater BMP Handbook* for guidance on the factors that determine site design feasibility when selecting and locating a structural stormwater control.

(D) Drainage System Guidelines

Stormwater conveyance facilities, which may include but are not limited to culverts, stormwater drainage pipes, catch basins, drop inlets, junction boxes, headwalls, gutter, swales, channels, ditches, and energy dissipaters shall be provided when necessary for the protection of public right-of-way and private properties adjoining project sites and/or public right-of-ways. Stormwater conveyance facilities that are designed to carry runoff from more than one parcel, existing or proposed, shall meet the following requirements:

- (1) Methods to calculate stormwater flows shall be in accordance with the *Stormwater Design Manual* or the *DHEC Stormwater BMP Handbook*
- (2) All culverts, pipe systems and open channel flow systems shall be sized in accordance with the stormwater management plan using the methods included in the *Stormwater Design Manual*; and,
- (3) Design and construction of stormwater conveyance facilities shall be in accordance with the criteria and specifications found in the *Stormwater Design Manual*.

(E) Dam Design Guidelines

Any land disturbing activity that involves a site, which proposes a dam, shall comply with the South Carolina Safe Dams Act and Rules for Dam Safety as applicable.

Section 13. Existing locations and developments

(1). Requirements for all existing locations and developments. The following requirements shall apply to all locations and development at which land disturbing activities have occurred previous to the enactment of this ordinance:

- (a) Denuded areas must be vegetated or covered under the standards and guidelines specified in the Stormwater Design Manual and on a schedule acceptable to Pickens County
- (b) Cuts and slopes must be properly covered with appropriate vegetation and/or retaining walls constructed.
- (c) Drainage ways shall be properly covered in vegetation or secured with riprap, channel lining, etc., to prevent erosion.
- (d) Trash, junk, rubbish, etc. shall be cleared from drainage ways.
- (e) Stormwater runoff shall be controlled to the maximum extent practical to prevent pollution of local waters.

(2). Requirements for existing problem locations. Pickens County shall in person or in writing notify the owners of existing locations and developments of specific drainage, erosion or sediment problem affecting such locations and developments, and the specific actions required to correct those problems. The notice shall also specify a reasonable time for compliance.

(3). Inspection of existing facilities. Pickens County may, to the extent authorized by state and federal law, establish inspection programs to verify that all stormwater management facilities, including those built before as well as after the adoption of this ordinance, are functioning within design limits. These inspection programs may be established on any reasonable basis, including but not limited to routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries associated with higher than usual discharges of contaminants or pollutants or with discharges which are more likely than the typical discharge to cause violations of Pickens County 's NPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control

facilities and other BMP's.

- (4). Corrections of problems subject to appeal. Corrective measures imposed by Pickens County under this section are subject to appeal under Section 18 of this ordinance.

Section 14. Illicit discharges.

- (1). Scope. This section shall apply to all water generated on developed or undeveloped land entering Pickens County's separate storm sewer system.
- (2). Prohibition of illicit discharges.
 - (a) It is unlawful for any person, company, corporation, etc., to throw, drain, run, or otherwise discharge to any component of the county's stormwater system, including streets, highways, right-of-ways, or to cause, permit or suffer to be thrown, drain, run, or allow to seep or otherwise discharge into such system, any organic or inorganic matter that shall cause or tend to cause pollution or blockages to such waters, as provided for in this ordinance. No person shall introduce or cause to be introduced into Pickens County's storm sewer system any discharge that is not composed entirely of stormwater. The commencement, conduct or continuance of any non-stormwater discharge to Pickens County's separate storm sewer system is prohibited except as identified in the *Stormwater Design Manual*.
 - (b) Except discharges specified in writing by Pickens County as being necessary to protect public health and safety.
 - (c) In the event of an accidental discharge to the county drainage system of any material or substance other than stormwater runoff, the person concerned shall inform the Pickens County Stormwater Department immediately of the nature, quantity and time of occurrence of the discharge. The person concerned shall take immediate steps to contain treat or take other actions to minimize the effects of the discharge on the county drainage system and receiving streams. The person shall take immediate steps to ensure no recurrence of the discharge.
- (3). Prohibition of illicit connections.
 - (a) It is unlawful for any person, company, corporation, etc, to connect any pipe, open channel, or any other conveyance system to the county drainage system that discharges anything except stormwater discharge that are identified on the approved stormwater management and sediment control plan.
 - (b) Improper connections in violation of this ordinance must be disconnected and redirected to an acceptable outlet as approved by Pickens County Stormwater Office.
 - (d) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

- (4). Reduction of stormwater pollutants by the use of best management practices. Any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at the person's expense, the BMP's necessary to prevent the further discharge of pollutants to the separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section.

Section 15. Right of Entry

- (1). Pickens County shall have the right of entry on or upon the property of any person subject to this article and any permit/document issued hereunder.
- (2). Where a person has security measures in force requiring proper identification and clearance before entry onto the premises, the person shall make necessary arrangements with security guards so that, upon presentation of suitable identification, Pickens County Personnel will be permitted to enter without delay.
- (3). Pickens county shall have the right to set up on the person's property such devices as are necessary to conduct sampling and/or metering of the person's operations as they relate to stormwater management.
- (4). In cases where an imminent threat to the health or safety of the general public or the environment is suspected Pickens County shall inspect existing stormwater management facilities to determine if immediate action is necessary. Such inspection shall be made with or without the consent of the owner, manager, or signatory official. If such consent is refused, Pickens County may seek issuance of an administrative search warrant.

Section 16. Pickens County Stormwater Board

The Pickens County Stormwater Board shall function as an appeals board to the County Stormwater Program and shall be composed of six members who shall be resident electors of the county and who shall continue to serve as members of this board for their specified terms of appointment and until a successor is appointed. In the original appointments, four shall be appointed for terms of two years and two for terms of four years. Upon the termination of the original terms, the county council shall appoint their successors for terms of four years, one member being nominated by each of the six council members.

Section 17. Violations, Enforcement and Penalties

- (1). Violations It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Ordinance. Any person who has violated or continues to violate the provisions of this ordinance, may be subject to the enforcement actions outlined in this section or may be restrained by

injunction or otherwise abated in a manner provided by law.

In the event the violation constitutes an immediate danger to public health or public safety, Pickens County Personnel is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore property. Pickens County is then authorized to seek costs of the abatement as outlined in Section 6.B.

(A) Notice of Violation. Whenever Pickens County finds that any permittee or any other person discharging stormwater has violated or is violating this ordinance or a permit or order issued hereunder, Pickens County may serve upon such person written notice of the violation. Within seven (7) working days of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention there of, to include specific required actions, shall be submitted to the Stormwater Manager. Submission of this plan in no way relieves the discharger of liability for any violations occurring before or after receipt of the notice of violation.

The notice shall contain:

- (a) The name and address of the owner or the applicant or the responsible person;
- (b) The address when available or a description of the building, structure or land upon which the violation is occurring, or has occurred;
- (c) A statement specifying the nature of the violation
- (d) A description of the remedial measures necessary to restore compliance with this ordinance and a time schedule for the completion of such remedial action;
- (e) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed; and,
- (f) A statement that the determination of violation may be appealed to the Pickens County Stormwater Board by filing a written notice of appeal within fifteen (15) days of service of notice of violation.

(B) Penalties

In the event the remedial measures described in the notice of violation have not been completed by the date set forth for such completion in the notice of violation, any one or more of the following actions or penalties may be taken or assessed against the person whom the notice of violation was directed. Before taking any of the following actions or imposing any of the following penalties, the Pickens County Office of Stormwater Management shall first notify the applicant or other responsible person in writing of its intended action, and shall provide seven (7) working days (except in the event the violation constitutes an immediate danger to public health or public safety, 24 hours notice shall be sufficient) to cure such violation. In the event the

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applicant or the responsible person fails to cure such a violation after such notice and cure period, Pickens County may take any one or more of the following actions or impose any one or more of the following penalties.

- (a) **Stop Work Order** –Pickens County may issue a stop work order, which shall be served on the applicant or other responsible person. The stop work order shall remain in effect until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein, provided the stop work order may be withdrawn or modified to enable the applicant or other responsible person to take the necessary remedial measures to cure such violation or violations. Initiation of land disturbing activity without obtaining a stormwater permit, unless otherwise exempt, will be issued a stop work order until such permit is obtained.
- (b) **Withhold Certificate of Occupancy** – Pickens County Building Codes may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.
- (c) **Suspension, Revocation or Modification of Permit** – Pickens County may suspend, revoke or modify the permit authorizing the land development project. A suspended, revoked or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated [upon such conditions as the County may deem necessary] to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.
- (d) **Civil Penalties** - In the event the applicant or other responsible person fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within ten days, or such greater period as Pickens County shall deem appropriate (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours notice shall be sufficient) after the county has taken one or more of the actions described above, the Pickens County Stormwater Office may impose a penalty not to exceed \$1,000 (depending on the severity of the violation) for each day the violation remains unremedied after receipt of the notice of violation.
- (e) **Criminal Penalties** - For intentional and flagrant violations of this ordinance, the Pickens County Stormwater Office may issue a citation to the applicant or other responsible person, requiring

such person to appear in court to answer charges for such violation. Upon conviction, such person shall be punished by a fine not to exceed \$1,000 or imprisonment for 60 days or both. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.

Section 18. Appeals.

- a. Appeals may be taken to the Pickens Stormwater Board by any person aggrieved by any personnel, department, board, or bureau of the County. The appeal must be filed within 15 days of the grievous action, by filing a complaint with the Pickens County Stormwater Board specifying the grounds of the appeal.
- b. The Board shall within 45 days from the date of the appeal meet for the hearing of the appeal or other matter referred to the board. At the hearing any party may appear in person by agent or by attorney.
- c. In exercising the above power, the Pickens County Stormwater Board may reverse or affirm, wholly or in part, or may modify the order, requirements, decision, or determination, and to that end shall have all the powers of the officer from whom the appeal is taken and may issue or direct the issuance of a permit.
- d. The chairman or, in his or her absence, the acting chairman, may administer oaths and compel the attendance of witnesses by subpoena. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating that fact, and shall keep records of its examinations and other official actions, all of which must be public record.

Section 19. Severability

If a section, subsection, or part of this ordinance shall be deemed or found to conflict with a provision of South Carolina law, or other pre-emptive legal principle, then that section, subsection, or part of this ordinance shall be deemed ineffective, but the remaining parts of this ordinance shall remain in full force and effect. Whenever there is a conflict between any standard contained in this ordinance and in the Stormwater Design Manual adopted by Pickens County under this ordinance, the strictest standard shall prevail.

Section 20. Conflict with preceding ordinance

If a section, subsection or provision of this article shall conflict with the provisions of a section, subsection or part or a preceding ordinance of the county, then the preceding section, subsection, or part shall be deemed repealed and no longer in effect.