

CITY OF EASLEY

STORMWATER MANAGEMENT ORDINANCE

Introduction

It is hereby determined that:

All land disturbing activities described as development projects, land use conversions, and their associated changes to land cover, permanently alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, which in turn increase flooding, stream channel erosion, and sediment transport and deposition, and decrease groundwater recharge;

Land disturbing activities also contribute to increased nonpoint source pollution and degradation of receiving waters;

The impacts of stormwater runoff quantity and quality from land disturbing activities can adversely affect public safety, public and private property, surface water drinking water supplies, groundwater resources, drinking water supplies, recreation, aquatic habitats, fish and other aquatic life, property values and other uses of lands and waters;

These adverse impacts can be controlled and minimized through the regulation of stormwater runoff quantity and quality from new development and redevelopment, by the use of both structural and nonstructural Best Management Practices;

Communities designated by the NPDES Phase II rule are required to comply with a number of both State and Federal laws, regulations and permits which require designated entities to address the impacts of post-development stormwater runoff quality and nonpoint source pollution.

Therefore, the *City of Easley* has established this stormwater management ordinance to provide reasonable guidance for the regulation of land disturbing activity and post-development stormwater runoff for the purpose of protecting local water resources from degradation. This ordinance regulates the post-construction stormwater controls for both new and re-development projects.

It has been determined that it is in the public interest to regulate land disturbing activities and post-development stormwater runoff discharges in order to control and minimize increases in stormwater runoff rates and volumes, post-construction soil erosion and sedimentation, stream channel erosion, and nonpoint source pollution associated with post-development stormwater runoff.

Purpose.

It is the purpose of this ordinance to:

- a) Protect, maintain, and enhance the environment of the City of Easley and the public health, safety and the general welfare of the community, by controlling discharges of pollutants to the city's stormwater system and to maintain and improve the quality of the receiving waters into which the stormwater outfalls flow, including, without limitation, lakes, rivers, streams, ponds, wetlands, and groundwater of the City.
- b) Enable City of Easley to comply with the National Pollution Discharge Elimination System permit (NPDES) and applicable regulations, R.61-9 (122.26) for stormwater discharges.
- c) Allow City of Easley to exercise the powers granted in South Carolina Stormwater Management and Sediment Reduction Regulations 72-300, that provides, among the other powers City of Easley 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 city, whether or not owned and operated by the city;
 - 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 and redevelopment;
 - 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.

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Section 1. Definitions.

For the purpose of this ordinance, 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) **Adequate downstream stormwater capacity** – a stormwater management system shall be considered adequate downstream stormwater capacity if the system can be shown to store or convey up to and including the 100-year stormwater runoff without increasing damage to adjoining properties or to a point downstream known to the regulatory authority to be a restriction causing significant backwater.
- 2) **Adverse impact** – 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 quality; increased sedimentation; reduced groundwater recharge; negative impacts on aquatic organisms; negative impacts on wildlife and other resources; and threatened public health.
- 3) **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.
- 4) **Applicant** – a person, firm, or governmental agency who executes the necessary forms to obtain approval or a permit for land disturbing activity.
- 5) **Appropriate Plan Approval Agency** – the Commission, Local Government, or Conservation District that is responsible in a jurisdiction for review and approval of stormwater management and sediment control plans.
- 6) **As-Built Plans or Record Drawings** – Upon completion of the development a registered professional engineer or land surveyor, in accordance with SC law, shall certify Construction drawings of what was build and that the development is built in accordance with the

submitted plans and previous pre-development certifications (depicting conditions as they were actually constructed), or certify that the as built conditions meet or exceed pre-post runoff requirements. As built drawings should show contours, fence, cross section of outlet structure showing orifice size and elevations.

- 7) **Base flood** – the flood having a one percent probability of being equaled or exceeded in any given year. The base flood is also known as the 100-year frequency flood event.
- 8) **Base flood elevation (BFE)** – the elevation delineating the level of flooding resulting from the one percent chance (100-year flood) frequency storm event.
- 9) **Basement** – any area of a building having its floor subgrade (below grade level) on all sides.
- 10) **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.
- 11) **Buffer** – an area of predominantly vegetated land to be left open, adjacent to drainage ways, wetlands, lakes, ponds or other surface waters for the purpose of eliminating or minimizing adverse impacts to such areas.
- 12) **Certified Erosion Prevention and Sediment Control Inspector** - a person with the responsibility for conduction inspections during construction and maintenance inspections after the land disturbing activity is completed as certified by SCDHEC.
- 13) **Certified Stormwater Plan Reviewer**- a person with the responsibility for reviewing stormwater management and sediment control plans for an appropriate plan approval agency as certified by SCDHEC.
- 14) **City**- For purposes of this Ordinance only, “the City” refers to the City of Easley.
- 15) **Channel** – any river, stream, creek, brook, branch, natural or artificial depression, ponded area, lake, flowage, slough, ditch, conduit, culvert, gully, ravine, swale, wash, or natural or man-made drainage ways, in or into which surface or groundwater flows, either perennially or intermittently, continuously or periodically.
- 16) **Channel modification** - alteration of a channel by changing the physical dimensions or materials of its bed or banks. Channel modification includes damming, rip-rapping or other armoring, widening, deepening, straightening, relocation and lining and significant removal

of bottom or woody vegetation of the channel. Channel modification does not include the clearing of dead or dying vegetation, debris, or trash from the channel.

- 17) **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.
- 18) **Contaminant** - any physical, chemical, biological, or radiological substance or matter in water.
- 19) **Control Structure** – a structure designed to control the rate of flow that passes through the structure, given a specific upstream and downstream water surface elevation.
- 20) **Dam** – all obstructions, wall embankments or barriers, together with their abutments and appurtenant works, if any, constructed for the purpose of storing or diverting water or creating a pool. Underground water storage tanks are not included.
- 21) **Deed or plat restriction** – permanent easements, covenants, deed restricted open spaces, outlets, reserved plat areas, and conservation easements dedicated to meet the requirements of this Ordinance, or public road rights of way that contain any part of the stormwater management system of a development.
- 22) **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.
- 23) **Detention facility** - a man made structure for the temporary storage of stormwater runoff with controlled release during or immediately following a storm.
- 24) **Developed property** - real property which has been altered from its natural state by the addition and attachment of any improvements such as buildings, structures or other impervious area. For new construction, property shall be considered developed upon final approval of site improvements by the City.
- 25) **Develop** - completion of a final plat, replat, or man-made change to real estate by private or public agencies including:
 - a). Construction, reconstruction, repair, or placement of a building or any addition to a building or any addition to a building;

- b). Installation of a manufactured home on a site, preparation of a site for a manufactured home, or the placement of a recreational vehicle on a site for more than 180 days;
- c). Drilling, mining, installation of utilities, construction of roads, bridges, or similar projects;
- d). Clearing of land as an adjunct of construction;
- e). Construction or erections of levees, walls, fences, dams, or culverts; channel modification; filling, dredging, grading, excavating, paving, or other alterations of the ground surface; storage of materials; deposit of solid or liquid waste;
- f). Any other activity that might change the direction, height, volume or velocity of flood or surface water, including the drainage of wetlands and removal of vegetation to the extent such that the wetland would no longer meet the criteria of supporting hydrophytic vegetation as defined in this Ordinance except that which would be considered appropriate for management purposes.

Development does not include maintenance of existing buildings and facilities such as resurfacing of roadways when the road elevation is not increased, or gardening, or plowing, and similar agriculture practices outside of the Regulatory Floodplain involving filling or grading as part of a Natural Resources Conservation Service designed and approved conservation project. Additionally, development does not include fence installation, pole placement, drilling or other minor auxiliary construction activity which does not affect stormwater runoff rates or volumes as long as the development activity is not located in a Regulatory Floodplain, wetland, or channel.

- 26) **Developer** – a person undertaking, or for whose benefit, activities covered by state and federal regulations and this ordinance are commenced and/or carried out.
- 27) **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.
- 28) **Drainage Area** – the land area contributing runoff to a single point.

- 29) **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.
- 30) **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.
- 31) **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.
- 32) **FEMA** - The Federal Emergency Management Agency and its regulations codified as 44 CFR 59-79 effective as of October 1, 1986.
- 33) **Flood** - a general and temporary condition of partial or complete inundation of normally dry land areas from overflow of inland or tidal waves, or the unusual and rapid accumulation of runoff of surface waters from any source.
- 34) **Flood frequency** - a period of years, based on a statistical analysis, during which a flood of a stated magnitude may be expected to be equaled or exceeded.
- 35) **Grading** - excavating, filling (including hydraulic fill) or stockpiling of earth material, or any combination thereof, including the land in its excavated or filled condition.
- 36) **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.
- 37) **Illicit connections** - illegal and/or unauthorized connections to the municipal separate stormwater system whether or not such connections result in discharges into that system.
- 38) **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.
- 39) **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.
- 40) **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.

41) **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. This practice includes the design of tangible objects, drainage structures and systems, and features as are incidental and necessary to an overall or ongoing landscape plan and site design, and the landscape architect may certify the design of the tangible objects, drainage structures and systems, features as to structural soundness and as to compliance with all requirements and standards of a government or subdivision of it. This practice does not include the design of structures, drainage structures and systems, and features which are not incidental and necessary to an overall landscape plan and site design and which have separate and self-contained purposes such as are ordinarily included in the practice of engineering or architecture and does not include the making of land surveys or final plats for official approval or recordation. Nothing contained in this definition precludes a duly licensed landscape architect from performing the services described in the first sentence of this definition in connection with the settings, approaches, or environment for buildings, structures, or facilities. Nothing contained in this ordinance may be construed as authorizing a landscape architect to engage in the practice of architecture, engineering, or land surveying as these terms are defined in South Carolina Code of Law s Section 40-28-150 and in this ordinance, except that a landscape architect may prepare and certify all design, grading, drainage, and construction plans for roads and site-related projects which are incidental and necessary to an overall or ongoing landscape plan and site design.

42) **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 but 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.

- 43) **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.
- 44) **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.
- 45) **Municipal separate stormwater system or (separate storm sewer system)** - 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.
- 46) **MS4** - see number 45.
- 47) **National Pollutant Discharge Elimination System Permit** - a permit issued to a discharger pursuant to regulations for all point source discharges into surface waters.
- 48) **NPDES permit** - See number 47.
- 49) **Off-site facility** - a structural BMP located outside the subject property boundary described in the permit application for land development activity.
- 50) **On-site facility** - a structural BMP located within the subject property boundary described in the permit application for land development activity.
- 51) **Peak flow** - the maximum instantaneous rate of flow of water at a particular point resulting from a storm event.
- 52) **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.

53) **Person Responsible for the Land Disturbing Activity**

(a) the person who has or represents having financial or operational control over the land disturbing activity; and/or (b) 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.

54) **Priority area** - hot spot see number 35.

55) **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.

56) **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.

57) **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.

58) **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.

59) **Sedimentation** - soil particles suspended in stormwater that can settle in streambeds and disrupt the natural flow of the stream.

60) **Stabilization** - providing adequate measures, vegetative and/or structural, that will prevent erosion from occurring.

61) **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.

62) **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.

63) **Stormwater** - stormwater runoff, snow melt runoff, surface runoff, street wash waters related to street cleaning or maintenance, infiltration and drainage.

64) **Stormwater management** - the programs to maintain quality and quantity of stormwater runoff to pre-development levels.

65) **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.

66) **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.

67) **SWPPP** - Stormwater Pollution Prevention Plan

68) **Stormwater runoff** - flow on the surface of the ground, resulting from precipitation.

- 69) **Structural BMP's** - devices that are constructed to provide control of stormwater runoff.
- 70) **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.
- 71) **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.
- 72) **Watercourse** - a permanent or intermittent stream or other body of water, either natural or man-made, that gathers or carries surface water.
- 73) **Watershed** - all the land area that contributes runoff to a particular point along a waterway.
- 74) **Waters of the South Carolina, or Water of the State** - 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 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 12 neither were originally created in waters of South Carolina (such as disposal areas in wetlands) nor resulted from the impoundment of waters of South Carolina.
- 75) **Waters of the United States, or Waters of the U.S.** - 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;
- a) All interstate waters, including interstate "wetlands";
 - b) 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:

- c) All impoundments of waters otherwise defined as waters of South Carolina under this definition;
- d) Tributaries of waters identified in paragraphs (a) through (d) of this definition; The territorial sea;
- e) and Wetlands adjacent to waters (other than water that are themselves wetlands) identified in paragraphs (a) through (f) of this definition.

Section 2. Authority

This Ordinance is adopted under authority granted by South Carolina Department of Health and Environmental Control (SCDHEC) by the National Pollution Discharge Elimination System (NPDES) General Permit for Storm Water Discharges from Regulated Small Municipal Separate Storm Sewer Systems (MS4s), Permit Number SCR030000, pursuant to the regulations of the federal Clean Water Act found at 40 CFR 122.34, and as authorized by the City of Easley through council approval.

Section 3. Administration

The City of Easley shall administer, implement and enforce this Ordinance. Any powers granted to or duties imposed upon the City of Easley may be delegated in writing by the City of Easley to its employees or agents.

- A. **Stormwater Regulations.** The City of Easley may adopt, and periodically amend, rules and regulations relating to the terms, conditions, definitions, enforcement, fees (including application, inspection, and/or consultant fees), procedures and administration of this Stormwater Management Ordinance by majority vote of the City of Easley's city council, and after conduction a public hearing to receive comments on any proposed revisions. Such hearing dates shall be advertised in a newspaper of general local circulation. After public notice and public hearing, the City of Easley may promulgate rules and regulations
- B. **Actions by City of Easley Stormwater Management Division (SWMD).** SWMD may take any of the following actions as a result of an application for a Stormwater Permit as more specifically defined as part of Stormwater Regulations promulgated as a result of this

Ordinance: Approval, Approval with Conditions, Disapproval, or Disapproval without Prejudice.

- C. **Appeals of Action by the SWMD.** A decision of the SWMD shall be final. Further relief of a decision by the SWMD made under this Ordinance shall be reviewed by the City of Easley's Director of Public Works in accordance with Section 17 of this Ordinance.
- D. **Stormwater Credit System.** The SWMD may adopt, through the Regulations authorized by this Ordinance, a Stormwater Credit System. This credit system will allow applicants the option, if approved by the SWMD, to take credit for the use of stormwater better site design practices to reduce some of the requirements specified in the criteria section of the Regulations. Failure by the SWMD to promulgate such a credit system through its Regulations or a legal declaration of its invalidity by a court shall not act to suspend or invalidate the effect of this Ordinance.

Section 4. Stormwater Permits - Submittal Requirements

General Criteria: No person, firm, corporation or governmental agency shall commence any land disturbing activity regulated by this Ordinance on any undeveloped or vacant lot or parcel of land without first obtaining a Stormwater Permit from the City. A permit shall be issued if the proposed development meets the requirements of this Ordinance. A Stormwater Permit is required for any development which:

- a) is located in a floodplain; or
- b) is located in a flood-prone area with 100-acres of tributary drainage area or more; or
- c) is located in a depressional storage area with a storage volume of 0.75 acre-feet or more for the base flood; or
- d) creates a wetland impact within an area defined as Waters of the U.S.; or
- e) Modifies the flood-prone area of a channel where the tributary drainage area is twenty (20) or more acres; or
- f) Includes the total land area of an ownership parcel, that results in:
 - 1) More than one (1) acre of new impervious surface area; or
 - 2) More than two (2) acres of hydrologically disturbed area, unless the total new impervious surface area is less than 0.25 acre; or

- 3) An impervious surface area ratio of 40 percent or greater, unless the total new impervious surface area is less than 0.25 acre; or
- 4) Increase in runoff volume is more than one (1) cfs.

The term “new” in this article refers to impervious surface area created after the original effective date of this Ordinance. Redevelopment of previously developed sites shall maintain existing storage volume and shall not increase the rate of runoff from the site. The applicant shall provide supporting data and calculations to the satisfaction of the SWMD to ensure the site design either provides a watershed benefit or meets the requirements of NPDES General Permit for Storm Water Discharges From Large and Small Construction Activities, SCR100000, and Standards for Stormwater Management and Sediment Reduction Regulation 72-300 thru 72-316; or

- g) Any public road development resulting in one (1.0) acres or more of additional impervious surface per mile, for linear or nonlinear projects; or
- h) Any development which hydrologically disturbs 5,000 square feet or more. This development activity shall at a minimum meet the soil erosion and sediment control performance standards set forth by this Ordinance and SCDHEC’s Stormwater BMP Manual.

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

All land disturbing activities that fall under these criteria are required to submit an application for less than one acre land disturbance. Refer to the SCDHEC’s Stormwater BMP Manual (link attached to City website and copies available for use at City’s Stormwater Management Division) for assistance with this application. Applicant must indicate what BMP’s will be used on site to ensure proper sediment and erosion control during and after construction.

The person or entity responsible for any land disturbing activity that disturbs less than one acre of land, and is NOT part of a larger common plan development, shall submit an application for a Stormwater Permit – less than one acre. This permit application shall be accompanied the following items, where applicable:

1. Narrative description of the stormwater management facilities to be used.
2. General description of topographic and soil conditions at the development site/

3. General description of the adjacent property and description of existing structures, buildings, and other fixed improvements located on surrounding properties.
4. A sketch to accompany the narrative containing the following when applicable:
 - Site location drawing of the proposed project showing project location in relation to roadways, jurisdictional boundaries, streams, rivers and the boundary lines of the site to be developed.
 - All areas within the site that will be included in the land disturbing activities shall be calculated.
 - Anticipated starting and completion dates of various stages of the land disturbing activities and the expected date of final stabilization shall be noted.
 - Location of temporary and permanent stormwater management controls.
5. Stormwater Management plans shall contain certification by the person(s) responsible for the land disturbing activities pursuant to the approved plan.

Application approval will be granted based upon proper completion of Stormwater Permit - less than one acre form. A copy of a Stormwater Permit Application – Less Than One Acre can be found in Appendix D. of this Ordinance. A stamped approved permit application will be accepted at the Planning and Development Department for purchase of a Building Permit.

B. Sites With Greater Than One Disturbed Acre

Each application for 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 shall be accompanied by at a minimum:

- ⇒ 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 architects or Tier B land surveyors.

⇒ A Performance Bond may be required prior to the issuance of any building and/or grading permit for construction of a development requiring a stormwater management. A person is required to obtain a surety or cash bond, irrevocable letter of credit, or other means of security acceptable to the City of Easley, made payable to the City of Easley when downstream impacts are likely. The amount of the security shall not be less than three-thousand (\$3,000) dollars per acre of disturbed area or amended in the fee schedule as published and approved by the Easley City Council. The bond so required in this section shall include provisions relative to forfeiture for failure to complete work specified in the approved stormwater management plan, compliance with all the provisions of this Ordinance and other applicable laws and regulations, and any time limitations. The bond shall not be fully released without submission of As-Built Certification documents as submitted by the Design Professional and inspection and certification by the SWMD that work has been completed in compliance with the provisions of this ordinance. A provision may be made for acceptance of the various stages of development as specifically delineated, described, and scheduled on the required plans and specifications. The person listed developer shall notify the SWMD upon completion of each stage that is ready for inspection.

If 80% stabilization can no be attained at the time the certificate of occupancy is requested, a temporary occupancy permit may be issued if the developer posts a surety bond, cash bond, irrevocable letter of credit or other means of security acceptable to the City of Easley, made payable to the City of Easley, for 125% of the remaining stormwater costs.

- 1) **When required.** All land disturbing activities of one acre and greater than one acre, if not part of a larger common plan of development or sale, will be required to obtain a stormwater permit from the City of Easley Stormwater Management Division. Each application for a stormwater permit shall be accompanied by payment of the stormwater permit and other stormwater

management fees, which shall be set by separate resolution or ordinance of the City of Easley.

- 2) **Building permit.** No building permit shall be issued until the applicant has obtained a stormwater permit where the same is required by this Ordinance. Stormwater Management systems shall be functional and certified by either a City official or by the registered professional engineer for the site before building permits are issued.
- 3) **Exemptions.** The following activities are exempt from the City of Easley's Stormwater 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.

Refer to Standards for Stormwater Management and Sediment Reduction Regulation 72-302 for a full complete listing of exemptions of the City's Stormwater Permit as regulated by this Ordinance.

- 4) **Review and approval of application**
 - a) City of Easley will review each application for a stormwater permit to determine its conformance with the provisions of this ordinance. 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, the City 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 for construction until the stormwater 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, or is not complete within eighteen (18) months from the date of the commencement of construction. Extensions or renewals of the plan approvals will be granted by the Stormwater Management Division upon written request by the person responsible for the land disturbing activity.
- 6) **Notice of Start of Land Disturbing Activity:** The applicant must notify City of Easley three (3) working days in advance of the commencement of land disturbing activity. Refer to Appendix C. Notification of Start of Land Disturbing Activity.
- 7) **Inspections:** A City of Easley Official shall conduct inspections of the stormwater management system construction as per City approved and permitted plans. Inspections shall be documented and reports prepared that contain the following information:
 - a) The date and location of the inspection;
 - b) Whether construction is in compliance with the approved stormwater management plan;
 - c) Variations from the approved construction specifications;
 - d) Any violations that exist.

Section 5. Waivers and Variance

(1). **General.** Every applicant shall provide for stormwater management as required by this ordinance, unless a written request is filed to waive this requirement. Requests to waive the stormwater management plan requirements shall be submitted to the City of Easley's Director of Public Works 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) It can be demonstrated that the proposed development is not likely to impair attainment of the objectives of this ordinance.

(b) Alternative minimum requirements for on-site management of stormwater discharges have been established in a stormwater management plan that has been approved by the Director of Public Works.

(3). **Downstream damage, etc. prohibited.** In order to receive a waiver, the applicant must demonstrate to the satisfaction of the Director of Public Works 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). **Stormwater permit not to be issued where waiver requested.** No stormwater permit shall be issued where a waiver has been requested until the waiver is granted. If no waiver is granted, the plans must be resubmitted with a stormwater management plan.

(5) **Variance.** The Director of Public Works 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 the Director of Public Works and shall state the specific variances sought and the reasons with supporting data for their granting. The SWMD shall not grant a variance unless and until sufficient specific reasons justifying the variance are provided by the applicant. The Director of Public Works will conduct its review of the request for variance within thirty (30) working days.

Section 6. Stormwater System Design and Management Standards.

(1) City of Easley's Land Development Regulations (LDR's) and/or SCDHEC Storm Water BMP Handbook. The City's LDR's includes a list of acceptable BMP's, including

the specific design performance criteria and operation and maintenance requirements for each stormwater practice. The manual may be updated and expanded from time to time. The City's Stormwater Management Division also recognizes and accepts SCDHEC's Storm Water BMP Handbook as a guideline for design requirements for the City's Stormwater Permit. This handbook may be downloaded from SCDHEC's website. Contact the City of Easley Stormwater Management Division at (864) 855-7900 for information on how to obtain a copy of the City's LDR's.

(2). General performance criteria for stormwater management. Unless granted a waiver or variance by the Director of Public Works, the following performance criteria shall be addressed for stormwater management at all sites:

- (a) All site designs shall control the peak flow rates of stormwater discharge associated with design storms specified in this ordinance or in the City's LDR's or State Regulations, and reduce the generation of post construction stormwater runoff rates 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 City's LDR's 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 hot spots may require the application of specific structural BMP's and pollution prevention practices.
- (e) For construction projects that disturb 25 acres or more and discharge the pollutant or pollutants of concern to a water on the South Carolina 303 (d) List of Impaired Waters, the Stormwater Pollution Prevention Plan (SWPPP) prepared by the applicant must contain a written quantitative and qualitative assessment

showing that the BMPs selected will control the construction and post construction stormwater discharges so that the stormwater discharges will not cause or contribute to a violation of water quality standards. A copy of the most current 303 (d) List of Impaired Waters can be downloaded at the following DHEC Website: www.scdhec.gov/water/html/tmdl.html

(e) All site designs are required to show appropriate erosion and sediment control BMPs accompanied by design calculations to support chosen controls.

(f) All site designs are required to exhibit control of waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality

(3). Minimum control requirements.

(a) Stormwater designs shall meet the multi-stage storm frequency storage requirements as identified in the City's LDR's.

(b) If hydrologic or topographic conditions warrant greater control than that provided by the minimum control requirements, the City's Stormwater Management Division (SWMD) may impose any and all additional requirements deemed necessary to control the volume, timing, and rate of runoff.

(c) A 25 foot undisturbed no-build buffer zone is required to be left from top of bank on both sides for the entire length of streams that the City of Easley SWMD determines to be a perennial or intermittent stream. This is required for areas of new development and redevelopment. Buffer means a vegetated area, including trees and shrubs which exists or is established to protect a stream system, lake or reservoir area. This buffer also applies to other sensitive areas such as springs, wetlands, and sinkholes.

(d) Stream destruction or relocation is prohibited.

(e) Sediment and erosion control measures shall be designed to control the rainfall and runoff from a 2 year, 24 hour storm, as a minimum.

(f) Stabilization measures must be performed as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased, but in no case more than fourteen (14) days after work has ceased. Where

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

(g) Litter, construction debris, oils, fuels, sanitary waste, and building products with significant potential for impact (such as stockpiles of freshly treated lumber) and construction chemicals that could be exposed to stormwater must be prevented from becoming a pollutant source in stormwater discharges by use of proper site design controls.

(h) For Common drainage locations that serve an area with 10 or more acres disturbed at one time, a temporary (or permanent) sediment basin that provides storage for a calculated volume of runoff from the drainage are from at least a 10-year, 24hour storm, or equivalent control measures, must be provided where attainable until final stabilization of the site. Where no such calculation has been performed, a temporary (or permanent) sediment basin providing at least 3,600 cubic feet of storage per acre drained, or equivalent control measure, must be provided where attainable until final stabilization of the site. (Refer to NPDES General Permit for Storm Water Discharges From Large and Small Construction Activities, SCR100000 for more information pertaining to this item.

Section 7. Stormwater Management Plan Requirements

The stormwater management plan shall include sufficient information to allow the City of Easley 's SWMD 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.

*Plans are not required for single-family homes where a subdivision plat is not required provided:

- a. Disturbed lots are protected with properly installed silt fencing and gravel entrances, and
- b. Stormwater runoff does not damage downstream structures

The Stormwater Management Plan shall include the following:

- ⇒ 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
- ⇒ Maintenance and Repair Plan
- ⇒ Landscaping Plan:
- ⇒ Maintenance Easements:
- ⇒ Maintenance Agreement:
- ⇒ Sediment and Erosion Control Plans
- ⇒ All other appropriate state or federal environmental permits

See the latest edition of the City of Easley's Land Development Regulations and Plan Review Checklist for a complete description of each requirement.

Section 8. 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 are to be taken to control these problems.

The plan shall conform to the requirements found in the City's LDR's 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 wash down pads.
 - ⇒ Proposed structures, location (to the extent possible)
- See the latest edition of the City of Easley Land Development Regulations and SC DHEC's Storm Water BMP Handbook for a complete description of each requirement.

Section 9. Post-Development Stormwater Management – General Criteria

The following general performance criteria shall be applicable to all stormwater management plans, unless otherwise provided for in this Ordinance:

1. No Untreated Discharges

All stormwater runoff generated from land development and land use conversion activities shall not discharge untreated stormwater runoff directly to a wetland, local water body, municipal drainage system, or abutting property, without adequate treatment.

2. Channel Protection

Protection of channels from bank and bed erosion and degradation shall be provided by attenuating the 24-hour extended detention storage of runoff of the post-development 1-year, 24-hour return frequency storm event OR

controlling the peak discharge rate from the 2-yr storm event to the pre-development rate.

3. Overbank Flooding Protection

Downstream overbank flood and property protection shall be provided by attenuating the post-development peak discharge rate to the pre-development rate for the 10-year, 24-hour return frequency storm event.

4. Extreme Flooding Protection

Extreme flooding and public safety protection shall be provided by attenuating the peak discharge rate from the 100-yr, 24-hour return frequency storm event to the pre-development rates OR controlling and safely conveying the 100-year, 24 hour return frequency storm event such that flooding is not exacerbated OR evaluating the 100-year, 24-hour return frequency storm event to demonstrate no increased flooding impacts off-site.

5. Recharge

- a) Annual groundwater recharge rates shall be maintained, by promoting infiltration through the use of structural and non-structural methods. At a minimum, annual recharge from the post development site shall mimic the annual recharge from pre-development site conditions.
- b) The stormwater runoff volume to be recharged to groundwater should be determined using the methods prescribed in the latest version of City of Easley's Land Development Regulations and or the SCDHEC Storm Water BMP Handbook. The recharge requirements shall apply to all activities within the jurisdiction of this Ordinance except as noted, and unless specifically waived by the SWMD or the City of Easley's Director of Public Works. The recharge criterion is not required for any portion of a site designated as a stormwater hotspot (see Section 7.10 of this Ordinance). In addition, the SWMD may relax or eliminate the recharge requirement at its discretion, if the site is situated on unsuitable soils or is in a redevelopment area with documentation of prior contaminated soils.

6. Structural Practices for Water Quality

- a) Presumed Compliance with SCDHEC Water Quality Standards. All structural stormwater management facilities shall be selected and designed using the appropriate criteria from the most recent version of the City of Easley's Land Development Regulations and or the SCDHEC BMP Manual. For other structural stormwater controls not included in these manuals, 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 the SWMD before being included in the design of a stormwater management system. Structural best management practices (BMPs) must be designed to remove [80%] of the average annual post

development total suspended solids (TSS). It is presumed that a BMP complies with this performance goal if it is:

- i) Sized to capture the prescribed water quality volume;
- ii) Designed according to the specific performance criteria outlined in the City of Easley's Land Development Regulations and or the SCDHEC BMP Manual
- iii) Constructed properly; and
- iv) Maintained regularly.

b) Pollutant Loading Calculation Assessment

i) For subdivisions of 30 lots or more, any commercial project with a building 10,000 square feet or more, or any project in an area designated by the SWMD as a sensitive/critical area, a pollutant loading calculation shall be conducted to document compliance with water quality standards by calculating pre-development loads, calculating uncontrolled post-development loads and then applying a prescribed pollutant removal efficiency to selected practices to arrive at a net pollutant load delivery. The post-developed load must be equal to or less than the pre-developed load

ii) The methodology for this calculation shall be in accordance with method provided in Appendix A of this Ordinance.
(See Appendix A. of this Ordinance for an example methodology for calculating pollutant load and assessing compliance.)

7. Water Quality Volume

The prescribed water quality volume required in the sizing of a structural stormwater practice shall be [calculated as $1.2 \times \text{total watershed area} \times \text{runoff coefficient (Rv)}$, where $Rv = 0.05 + 0.009 (I\%)$ and $I\% = \text{percent of impervious area}$] (default option – optimal) OR [0.50 inches x the total impervious area of the drainage area and 1.0 inches x the total impervious area of the drainage area in critical areas.

8. Hydrologic Basis for Design of Structural Practices

For facility sizing criteria, the basis for hydrologic and hydraulic evaluation of development sites are as follows:

- a) Impervious cover is measured from the site plan and includes any material or structure on or above the ground that prevents water from infiltrating through the underlying soil. Impervious surface is defined to include, without limitation: paved parking lots, sidewalks, roof tops, driveways, patios, and paved, compacted gravel and compacted dirt surfaced roads.
- b) Off-site areas shall be assessed based on their “pre-developed condition” for computing the water quality volume (i.e, treatment of only on-site

areas is required). However, if an offsite area drains to a proposed BMP, flow from that area must be accounted for in the sizing of a specific practice.

- c) Off-site areas draining to a proposed facility should be modeled as "present condition" for peak-flow attenuation requirements.
- d) The length of sheet flow used in time of concentration calculations is limited to no more than 50 feet for predevelopment conditions and 50 feet for post development conditions.
- e) Detention time for the one-year storm is defined as the center of mass of the inflow hydrograph and the center of mass of the outflow hydrograph.
- f) The models TR-55 and TR-20 (or approved equivalent) will be used for determining peak discharge rates.
- g) The standard for characterizing pre-development land use for on-site areas shall be woods.
- h) For purposes of computing runoff, all pervious lands in the site shall be assumed prior to development to be in good condition regardless of conditions existing at the time of computation.

- i) If an off-site area drains to a facility, off-site areas should be modeled, assuming an "ultimate buildout condition" upstream.
- j) Determination of flooding and channel erosion impacts to receiving streams due to land development projects shall be measured at each point of discharge from the development project and such determination shall include any runoff from the balance of the watershed which also contributes to that point of discharge.
- k) The specified design storms shall be defined as a 24-hour storm using the latest published rainfall distribution for Pickens County by National Oceanic and Atmosphere Administration (NOAA) on their website; http://hdsc.nws.noaa.gov/hdsc/pfds/orb/sc_pfds.html.
- l) Proposed residential, commercial, or industrial subdivisions shall apply these stormwater management criteria to the land development as a whole. Individual lots in new subdivisions shall not be considered separate land development projects, but rather the entire subdivision shall be considered a single land development project. Hydrologic parameters shall reflect the ultimate land development and shall be used in all engineering calculations.
- m). Detention must be addressed whenever there is an increase in stormwater runoff resulting from the proposed development. This can be achieved by appropriate detention facilities including wet or dry bottom reservoirs, flat or green roofs, parking lots, underground storage, and appropriate LID techniques such as rain gardens. The following shall govern the design of detention facilities:
 - Storm Volume - The volume of storage potential provided in detention facilities shall be sufficient to control the excess stormwater runoff, as determined to be the difference between the stormwater quantity from the site in its developed state for a 10-year, 24-hour frequency rainfall less the 10-year runoff quantity from the site prior to development.
 - Release Velocity - Detention facilities shall release stormwater at a nonerosive velocity. Protected channels receiving detention discharge shall incorporate features to reduce velocity to nonerosive levels at the point where such discharge enters the unprotected channel. If release is into a subsurface conduit the energy gradient in the receiving facility shall not be increased beyond the slope of the conduit.
 - Spillway - Emergency spillways shall be provided to permit the safe passage of runoff generated from a 100-year, 24-hour storm.
 - Freeboard - Detention facilities shall have adequate capacity to contain the storage volume of tributary stormwater runoff with at least one (1) foot of freeboard above the water surface of flow in the emergency spillway in a 100-year storm event.

- Fencing – ground reservoir detention facilities with a depth greater than twenty-four (24) inches shall be enclosed within a permanent six (6) foot high fence. Wet ponds do not have to be fenced when they are also used for an aesthetic reason. All detention facilities shall be landscaped on the outside of the fence or reservoir by a screen of the owner’s choosing, including berms, trees, shrubbery, etc.

9. Sensitive Areas

Stormwater discharges to critical areas with sensitive resources (i.e., aquifer recharge areas, water supply reservoirs, wetlands, buffer areas) may be subject to additional criteria, or may need to utilize or restrict certain stormwater management practices at the discretion of the SWMD. The SWMD may designate sensitive areas and specific criteria for these areas after conducting a public hearing in accordance with the provisions of Section 2.0 of this Ordinance.

10. Hotspots

Stormwater discharges from land uses or activities with higher potential pollutant loadings, known as “hotspots”, as defined in this Ordinance– require the use of specific stormwater management BMPs as specified in the most recent version of the Land Development Regulations and SCDHEC BMP Manual. The use of infiltration practices without pretreatment is prohibited.

11. Stormwater Credits

The use of Better Site Design and nonstructural stormwater management measures is encouraged to minimize reliance on structural stormwater management measures. The use of one or more site design measures by the applicant may allow for a reduction in the water quality treatment volume required and the stream channel protection volume required. The applicant may, if approved by the SWMD, take credit for the use of stormwater better site design practices to reduce some of the requirements specified in the criteria section of these regulations. The site design practices that qualify for these credits and procedures for applying and calculating the credits are identified in Appendix B of this Ordinance.

12. As-builts

All applicants are required to submit actual As-built plans and certificates for any structures located on-site after final construction is completed submit to SWMD. In addition, occupation permits shall not be granted until corrections to all BMP’s have been made and accepted by the City of Easley’s SWMD.

13. Easements.

Stormwater Management facilities located outside of existing or proposed right-of-ways shall be located within and accessible by easement as follows:

- where a tract is traversed by a watercourse, drainageway, channel or stream, there shall be provided a drainage easement paralleling the line of such watercourse, drainageway, channel or stream. The width of the drainage easement will be adequate to preserve the unimpeded flow of natural drainage of the 100-year.
- Drainage easements shall provide for occasional maintenance and for the purpose of widening, deepening, improving or protecting such drainage facilities.
- Easements shall stipulate that no trees, shrubs, structures, excavation, or fill be placed, and no regarding be performed within the area of the easement without written approval from the City of Easley, upon review by the SWMD and/or City Engineer. Such landscaping may be placed in maintenance easement, provided it does not impede access.
- Whenever practicable, easements shall be parallel with and conjunctive to property lines of the subdivision.
- All easement agreements shall be recorded with a reference to the recorded easement indicated on the site plan. The format and content of the easement agreement shall be reviewed and approved by the Public Works Director, SWMD personnel, and/or the City Engineer prior to the issuance of a certificate of occupancy.

14. Landscaping and stabilization requirements.

Any area of land from which the natural vegetative cover has been either partially or wholly cleared by development activities shall be revegetated according to a schedule approved by the City of Easley's SWMD prior to the issuance of a certificate of occupancy.

15. Records of installation and maintenance activities. Parties responsible for the operation and maintenance of a stormwater management facility shall make records of the installation of the stormwater facility, and of all maintenance and repairs to the facility, and shall retain the records for at least 3 years. These records shall be made available to a City official during inspection of the facility and at other reasonable times upon request. All plans must be kept on site at all times. In addition, a Permanent BMP Maintenance Agreement must be signed for each Permanent BMP on site and submitted to the City of Easley's SWMD before permit is issued.

16. Failure to meet or maintain design or maintenance standards. If a responsible party fails or refuses to meet the design or maintenance standards required for stormwater facilities under this ordinance, the City of Easley's SWMD after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition. In the event that the stormwater management facility becomes a danger to public safety or public health, the City of Easley shall notify in writing the party responsible for maintenance of the stormwater management facility. Upon receipt of that notice, the responsible person must

achieve maintenance and repair of the facility in an approved manner. A fine may be levied for no response to notification and no corrective action taken, in accordance to Section 14 of this Ordinance. In the event that corrective action is not undertaken within the time set forth in notification, City of Easley may take necessary corrective action. The cost of any action by City of Easley under this section shall be charged to the responsible party.

Section 10. Existing locations and developments.

(1). **Requirements.** 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 City of Easley's LDR and SCDHEC's Storm Water Management BMP Handbook, and on a schedule acceptable to the City.
- (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 rip-rap, 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). **Existing problem locations.** The City of Easley 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.** The City of Easley 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 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 discharge to cause violations of the City of Easley's NPDES MS4 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). **Appeals.** Corrective measures imposed by City of Easley under this section are subject to appeal under Section 15 of this ordinance.

Section 11. Illicit discharges.

(1). **Scope.** This section shall apply to all water generated on developed or undeveloped land entering the City of Easley's separate storm sewer system.

(2). **Prohibition of illicit discharges.**

(a) No person shall introduce or cause to be introduced into the City of Easley's storm sewer system any discharge that is not composed entirely of stormwater. The commencement, conduct or continuance of any non-stormwater discharge to the City's separate storm sewer system is prohibited except as identified in section 4 of this ordinance and State Regulation 72-300 thru 72-316.

(b) Except discharges specified in writing by the City of Easley as being necessary to protect public health and safety.

(3). **Prohibition of illicit connections.**

(a) The construction, use, maintenance or continued existence of illicit connections to the City's separate storm sewer system is prohibited.

(b) 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.** 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.

(5). **Notification of spills.** Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting in, or may result in, illicit discharges or pollutants discharging into stormwater, the separate storm sewer system, the person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials the person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, the person shall notify the City of Easley in person or by telephone or facsimile no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed, post marked, and mailed to the City of Easley Stormwater Management Division within three (3) business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least 3 years.

(6). **Violations.** When an illicit discharge has been identified, the City will use a stepped enforcement approach to notify and penalize parties responsible for the discharge.

The steps include:

1. Verbal and/or written notification of illicit discharge
2. Notice of non-compliance
3. Notice of violation
4. Citations and/or fines

It should be noted that steps could be skipped depending on the severity and impact of the illicit discharge. See Section 13 Enforcement for details.

*Note: Refer to City of Easley Ordinance # 2004-19 City of Easley's Illicit Discharge and Illegal Connection Ordinance for further detail of prohibition of illicit discharges and illegal connections and penalties enforced by the city related to illicit discharges and illegal connections

Section 12. Right of Entry

(1). The City of Easley 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, City of Easley Personnel will be permitted to enter without delay.

(3) City of Easley 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 the City of Easley 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, City of Easley may seek issuance of an administrative search warrant.

Section 13. Violations and Enforcement

(1). Enforcement authority. A duly appointed City Official shall hereby be given authority and responsibility to enforce the provisions of this Ordinance. If the City Official shall find that any of the provisions of this ordinance are being violated, he or she shall notify the person or persons responsible for such violations, indicating the nature of the violation, and order the action or actions necessary to correct the violation or violations. He or she shall order the discontinuance of any illegal work being done, or shall take any other corrective action authorized by this ordinance and /or applicable public law to ensure compliance with its provisions. The City Administrator shall designate a person or persons and empower them with the authority to determine violations of this ordinance, issue citations and assess penalties as provided herein.

(2). 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, the City Official(s) 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. The City Official is then authorized to seek costs of the abatement as outlined in Section 13.2.d.

(a) Notice of Violation. Whenever a City Official finds that any permittee or any other person discharging stormwater has violated or is violating this ordinance or a permit or order issued hereunder, the City Official may serve upon such person written notice of the violation. 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:

- ⇒ The name and address of the alleged violator;
- ⇒ The address when available or a description of the building, structure or land upon which the violation is occurring, or has occurred;
- ⇒ A statement specifying the nature of the violation
- ⇒ A description of the remedial measures necessary to restore compliance with this ordinance and a time schedule for the completion of such remedial action;
- ⇒ 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,
- ⇒ A statement that the determination of violation may be appealed to the Director of Public Works by filing a written notice of appeal after receipt of notice of violation.

(b) Such notice may require without limitation:

- ⇒ The performance of monitoring, analyses, and reporting;
- ⇒ The elimination of illicit discharges and illegal connections;
- ⇒ That violating discharges, practices, or operations shall cease and desist;
- ⇒ The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
- ⇒ Payment of costs to cover administrative and abatement costs;
- ⇒ The implementation of pollution prevention practices.

(c) Appeal of Notice of Violation.

Any person receiving a Notice of Violation may appeal. Hearing on the appeal before the Director of Public Works shall take place during their regularly scheduled meetings that meet every third Monday of the month. The decision of the Director of Public Works shall be final.

(d) Enforcement Measures After Appeal.

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal of the decision of the Director of Public Works upholding the decision of the notice of violation, then representatives of City of Easley may enter upon the subject private property and are authorized to take any and all measures necessary, and may utilize City personnel or employ qualified outside contractors capable of performing any work required, as appropriate, in order to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

(e) Costs of Abatement of Violation

Pursuant to Section 13.2. (c), the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the assessment or to the amount of the assessment after receipt of such notice. However, if no formal protest is made and if the amount due is not paid within *thirty (30) days* after receipt of the notice, or if an appeal is taken, within *thirty (30) days* after a decision on said appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. Any person violating any of the provisions of this article shall become liable to the City of Easley by reason of such violation.

(f) Violations Deemed a Public Nuisance.

In addition to the enforcement processes and penalties provided in Section 13 and 14, any condition caused or permitted to exist in violation of any of the provisions of this ordinance is a threat to public health, safety, welfare, and environment and is declared and deemed a nuisance, and may be abated by injunctive or other equitable relief as provided by law.

(g) Remedies Not Exclusive.

The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable Federal, State or local law and the City of Easley may seek cumulative remedies. The City of Easley may recover attorney's fees, court costs, and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

(3) Consent Orders. The City of Easley is empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the person to correct the noncompliance within a time period also specified by the order.

(4) Show Cause Hearing. City of Easley may order any person who violates this ordinance or permit or order issued hereunder, to show cause why a proposed enforcement action should not be taken. Notice shall be served on the person specifying the time and place for the meeting, the proposed enforcement action and the reasons for such action, and a request that the violator show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) prior to the hearing.

(5) Compliance Order. When City of Easley finds that any person has violated or continues to violate this ordinance or a permit or order issued there under, the City may issue an order to the violator directing that, following a specific time period, adequate structures, devices, be installed or procedures implemented and properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the construction of appropriate structures, installation of devices, self-monitoring, and best management practices.

(6) Cease and Desist Orders (Stop Work Order). Any person who shall proceed with any work which requires a stormwater management plan hereunder without first submitting a plan and obtaining a permit, where applicable, shall have automatically placed on the subject property a stop work order, pay to City of Easley Stormwater Management Division, a fee approved by City Council under separate ordinance, and payment of any other applicable penalties, prior to lifting of the stop work order. The stop work order may allow or require correction of violations, but no other project related activities. Any person in violation of a stop work order is subject to impoundment of any and all equipment on the property, and payment of all fees, penalties and payment of impoundment charges prior to retrieving such equipment. When a City of Easley Official or a duly authorized official working on behalf of the City finds that any person has violated or continues to violate this ordinance or any permit or order issued hereunder, City of Easley may issue an order to cease and desist all such violations, and freeze the request for all any other permits requested, and direct those persons in noncompliance to:

- (a) Comply forthwith; or
- (b) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.

(7) Permit Suspension and Revocation. A stormwater permit may be suspended or revoked if one or more of the following violations have been committed:

- (a) Violations of the conditions of the drainage plan approval
- (b) Construction not in accordance with the letter or intent of the approved plans
- (c) Non-compliance with correction notice(s) or stop work order(s), or
- (d) The existence of an immediate danger in a downstream area in the judgment of the City of Easley.

Section 14. Penalties.

(1). Violations. Any person who shall commit any act declared unlawful under this ordinance, who violates any provision of this ordinance, who violates the provisions of any permit issued pursuant to this ordinance, or who fails or refuses to comply with any

lawful communication or notice to abate or take corrective action by City of Easley shall be guilty of a civil offense.

(2). Penalties. The City of Easley declares that any person violating any of the provisions of this ordinance, or who initiates or continues a land disturbing activity for which a stormwater management and sediment control plan is required except in accordance with the terms, conditions, and provisions of an approved plan, may be issued a municipal summons by the City of Easley. No penalty may be assessed until the person alleged to be in violation has been notified of the violation. Each day of a violation constitutes a separate violation.

(3). Measuring civil penalties. In assessing a civil penalty, the City of Easley may consider:

- (a) The harm done to the public health or the environment;
- (b) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;
- (c) The economic benefit gained by the violator;
- (d) The amount of effort put forth by the violator to remedy this violation;
- (e) Any unusual or extraordinary enforcement costs incurred by the City;
- (f) The amount of penalty established by ordinance or resolution for specific categories of violations; and
- (g) Any equities of the situation, which outweigh the benefit of imposing any penalty or damage assessment.

(4) Payment. Written demand for payment upon the person responsible for the violation and set forth in detail the violation for which the penalty has been invoked. If payment is not received or equitable settlement reached after demand for payment is made, a civil action may be filed in the circuit court in which the violation is alleged to have occurred to recover the amount of the penalty.

(5). Recovery of damages and costs. In addition to the civil penalty in subsection (2) above, the City of Easley may recover;

- (a) all damages proximately caused by the violator to the City, which may include any reasonable expenses incurred in investigating violations of, and enforcing compliance with, this ordinance, or any other actual damages caused by the violation.
- (b) The costs of the City's maintenance of stormwater facilities when the user of such facilities fails to maintain them as required by this ordinance.

(6). Other remedies. The City of Easley may bring legal action to enjoin the continuing violation of this ordinance, and the existence of any other remedy, at law or equity, shall be no defense to any such actions.

(7). Remedies cumulative. The remedies set forth in this section shall be cumulative, not exclusive, and it shall not be a defense to any action, civil or criminal that one (1) or more of the remedies set forth herein has been sought or granted.

(8). Additional Legal Measures. Where the City of Easley 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 City of Easley can identify the person(s) who caused such violation(s) to occur, the City of Easley may pass through the penalty and cost of compliance to that person(s). The City Attorney may institute injunctive, mandamus or other appropriate action or proceedings at law or equity, including criminal conviction, for the enforcement of this Ordinance or to correct violations of this Ordinance, and any court of competent jurisdiction or permanent injunctions, mandamus or other appropriate forms of remedy or relief.

Section 15. Appeals.

Appeals may be taken to the City of Easley's Director of Public Works by any person aggrieved or by any officer, department, board, or committee of the City. The appeal must be taken after the grievous action, by filing with the officer from whom the appeals

are taken and with the Director of Public Works specifying the grounds of the appeal. The officer from whom the appeal is taken immediately shall transmit to the Director all the papers constituting the record upon which the action appealed from was taken.

- a) An appeal stays all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Director, after the notice of appeal has been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life and property. In that case, proceedings may not be stayed otherwise than by a restraining order which may be granted by the Director or by a court of record on application, on notice to the officer from whom the appeal is taken, and on due cause shown.
- b) The Director shall meet for the hearing of the appeal or other matter referred to it, and give public notice in a newspaper of general circulation in the City, as well as due notice to the parties of interests. At the hearing any party may appear in person by agent or by attorney.
- c) In exercising the above power, the Director of Public Works 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 a may issue or direct the issuance of a permit. The Director in the execution of the duties specified in this chapter may subpoena witnesses and in case of contempt may certify this fact to the circuit court having jurisdiction.

Section 16. Severability

Whenever there is a conflict between any standard contained in this ordinance and in the Land Developing Regulations and in City of Easley Ordinance #2004-19, Illicit Discharge and Illegal Connection, for the City of Easley adopted by the City of Easley under this ordinance, the strictest standard shall prevail.

APPENDICES