Ordinance 16-04

Lexington County

Stormwater Management Ordinance

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DIVISION 1— GENERAL PROVISIONS

Sec. 1-1. Title.

This Ordinance shall be known as the "Stormwater Management Ordinance of Lexington County, South Carolina.

Sec. 1-2. Authority.

This Ordinance is adopted pursuant to the authority conferred upon Lexington County by the South Carolina Constitution, Act No. 194 of the Acts and Joint Resolutions of 1971 enacted by the General Assembly of the State of South Carolina, approved April 23, 1971, in 1976 South Carolina Code of Laws Sections 4-9-30, 4-9-40 and under State and Federal Stormwater Requirements.

Sec. 1-3. Jurisdiction.

The provisions of this Ordinance shall apply to all portions of the unincorporated Lexington County.

Sec. 1-4. Findings.

The Lexington County Council makes the following findings:

(a) Uncontrolled stormwater runoff may have significant, adverse impact on the health, safety, and general welfare of Lexington County and the quality of life of its citizens. The potential impacts of uncontrolled stormwater can lead to the degradation of water quality and the general riverine ecosystem.Degradation comes from increased runoff, pollutant discharges, streambank degradation, erosion, and flooding thereby limiting or eliminating a waterbody's designated and potential uses.

(b) Lexington County is required by Federal law [33 U.S.0 1342(p) and 40 CFR 122.26] to obtain coverage under a National Pollutant Discharge Elimination System (NPDES) permit from the South Carolina Department of Health and Environmental Control (SCDHEC) for stormwater discharges from the Lexington County Stormwater System. The NPDES permit requires Lexington County to impose controls to reduce the discharge of pollutants in stormwater to maximum extent practicable using management practices, control techniques and system, design and engineering methods, and such other provisions which are determined to be appropriate for the control of such pollutants.

(c) Additionally, certain facilities that discharge stormwater associated with an industrial activity, including construction activities, are required by the South Carolina Code of Regulations 61-9-122 to obtain coverage under a NPDES permits.

Sec. 1-5. Purpose.

(a) It is the purpose of this Ordinance to protect, maintain, and enhance water quality and the environment of Lexington County and the short- and long-term public health, safety, and general welfare of the citizens of Lexington County and minimize property damage by establishing requirements and procedures to control the potential adverse effects of increased stormwater runoff and related pollutant loads associated with both future development (including re-development) and existing developed land.

(b) It is further the purpose of this Ordinance to direct the development and implementation of a Stormwater Management Program and establish legal authority to authorize Lexington County at a minimum to comply with State and Federal requirements as well as to manage the County's stormwater system.

(c) It is still further the purpose of this Ordinance to establish standards for both the design and maintenance of both the County's stormwater system amd private systems within the County through Land Disturbance Permits and the Land Development Manual.

Sec. 1-6. Organization and Scope.

(a) The Director of Public Works or his designee shall be responsible for the implementation and enforcement of the provisions of this Ordinance and the Stormwater Management Program.

Sec. 1-7. Severability.

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

Sec. 1-8. Rules of Language and Interpretation.

(a) The word "shall" is mandatory; the word "may" is permissive.

(b) The particular shall control the general.

(c) Words used in the present tense shall include the future, and words used in the singular include the plural, and the plural the singular, unless the context clearly indicates the contrary.

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

Sec. 1-9. Relationship with other Laws, Regulations, and Ordinances.

Each municipality within Lexington County owns and operates its own stormwater system and may have more restrictive requirements including, but not limited to, system maintenance and enforcement of policies and procedures.

Whenever the provisions of this Ordinance impose more restrictive standards than are required in or under any other law, regulation, or ordinance, the requirements contained in this article shall prevail. Whenever the provisions of any other law, regulation, or ordinance require more restrictive standards than are required in this article, the requirements of such law, regulation, or ordinance shall prevail.

Sec. 1-10. Amendments.

This Ordinance may be amended in the same manner as prescribed by law for its original adoption.

Sec. 1-11. Conflicting Ordinances Repealed.

All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed. This Ordinance shall prevail in any and all conflicts with guidelines, manuals, or other publications.

Sec. 1-12. Definitions.

For the purpose of this Ordinance, definitions contained in the Lexington County Land Development Manual are incorporated herein by reference.

Sec. 1-13. Reserved.

DIVISION 2 — ORGANIZATION AND ADMINISTRATION

Sec. 2-1. Lexington County Stormwater Management Program (SWMP).

The Stormwater Management Program was developed by Lexington County to administer and implement the provisions of this Ordinance. The Land Development Manual, as amended from time to time by Lexington County, shall be viewed as an extension of this Ordinance and is hereby given identical authority to see that its requirements are both complied with and enforced.

Sec. 2-2. Coordination with Other Agencies.

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

Sec. 2-3. Cooperation with Local Governments and Entities.

Lexington County may enter into agreements with other governmental and private entities to carry out the purposes of this Ordinance.

Nothing in this Ordinance or in this Section shall be construed as limitation or repeal of any ordinances adopted by other local governments or of the powers granted to other local governments by the South Carolina Constitution or South Carolina statutes.

Sec. 2-4. Right-of-Entry.

(a) The Director of Public Works or his designee shall have right-of-entry on or upon the property of any person subject to (or that is believed to be subject to) this Ordinance and any permit/document issued hereunder. The Director of Public Works or his designee, with proper identification, shall be provided ready access to all parts of the premises for the purposes of inspecting, monitoring, sampling, inventorying, examining, photographing, videoing, copying of records, and performing any other duties necessary to determine compliance with this Ordinance.

(b) Where the property owner or lessee has security measures in force requiring proper identification and clearance before entry onto the premises, the property owner or lessee shall make necessary arrangements with the necessary parties so that, upon presentation of suitable identification, the Director of Public Works or his designee will be permitted to enter without delay for the purposes of performing such responsibilities identified in Sec. 2-4.

(c) The Public Works Department shall have the right to set up on the person's property such devices as are necessary to ensure compliance with this Ordinance.

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

(e) In cases where an imminent threat to the health or safety of the general public or the environment is suspected, the Director of Public Works or his designee shall perform said responsibilities to determine if immediate action is necessary. Such responsibilities shall be made with or without the consent of the property owner or lessee. If such consent is refused, the Director of Public Works or his designee may seek issuance of an

administrative search warrant or other enforcement measures authorized in this Ordinance to remove such threat. In such cases, the property owner or lessee, as the case may be, shall reimburse the County for its direct and related expenses.

(f) Where illicit discharges from private property are occurring, Lexington County may enter onto the property and take immediate action to stop the discharge from entering the County's stormwater system or Waters of the State. In such cases, the property owner or lessee, as the case may be, shall reimburse the County for its direct and related expenses.

Delays or refusals in allowing the Director of Public Works or his designee access to a facility is a violation of this Ordinance.

Sec. 2-5. Reserved.

DIVISION 3 — STORMWATER QUANTITY AND QUALITY MANAGEMENT REQUIREMENTS

Sec. 3-1. Regulations.

(a) Federal regulations governing stormwater management, as specified in State Code of Laws 40 C.F.R. 122.26, and State Code of Regulations R. 61-9 et. seq. and R. 72.300 et seq. are adopted as the minimum requirements for the management of stormwater within Lexington County as defined in the respective regulations.

(b) The Public Works Stormwater Division shall have the following specific authority:

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

(2) to deny a facility connection to the County's stormwater system or discharge to Waters of the State if State and Federal Regulations and/or this Ordinance are not met.

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

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

(5) to require Land Disturbance Permit coverage for all applicable land disturbing activities prior to commencing land disturbance activities.

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

(7) to require the development of a Stormwater Pollution Prevention Plan (SWPPP) for all applicable new and re-development projects and enforcement of such SWPPP.

(8) to approve land disturbing plans for new development and redevelopment and to require as a condition of such approvals, installation, operation, and maintenance of

construction and post-construction structural and non-structural control measures, to minimize the discharge of pollutants to the maximum extent practicable.

(9) to require performance bonds when necessary of any person to secure that person's compliance with Land Disturbance Permit, as well as other permits, certificate, license or authorization issued or approved by the Public Works Stormwater Division pursuant to this Ordinance, the Stormwater Management Program and Federal and State laws.

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

(11) to conduct all activities necessary to carry out the SWMP and other requirements included in the Lexington County NPDES permit, the SWMP, this Ordinance, and the LDM to pursue the necessary means and resources required to properly fulfill this responsibility.

(12) to develop and implement strategic plans for complying with TMDLs. Such plans shall include an initial due diligence procedures to fully assess the problem and alternative solutions so as to proceed with cost-effective solutions.

(13) to enact special cost- and credit-sharing programs that would assist land developers and the Public Works Stormwater Division in meeting the water quantity and quality discharge requirements of this Ordinance and the LDM.

(14) to enter into agreements with other governmental entities or private persons or entities to provide or procure services to conduct and carry out such activities as authorized by this Ordinance.

(15) to maintain the County's stormwater system consistent with the provisions of the Lexington County NPDES permit, the Land Development Manual, and this Ordinance.

(16) to direct, review and recommend for approval by Lexington County Council, the stormwater management operating budget.

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

(18) to determine appropriate fees, to impose penalties, and to take necessary and appropriate actions to collect any fee or enforce any penalty assessed pursuant to this Ordinance. The Public Works Department shall seek approval from County Council on development and revision of the fee and penalty schedules through resolution from the Director.

(19) to require encroachment permits as necessary.

Sec. 3-2. Prohibitions and Exemptions.

No person shall (1) develop any land, (2) engage in any industry or enterprise, (3) construct, operate or maintain any landfill, hazardous waste treatment, disposal or recovery facility, or any other industrial or related facility, (4) dispose of any hazardous or toxic substance or other pollutant or (5) otherwise promote and/or allow the transport of sediment or other pollutants associates with stormwater runoff beyond property boundaries without having provided for compliance with this Ordinance and all other applicable State and Federal regulations.

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

(a) Land disturbance activities undertaken on forestland for the production and harvesting of timber and timber products and conducted in accordance with best management practices and minimum erosion protection measures established by the South Carolina Forestry Commission.

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

(c) Agricultural land disturbing activities that disturb more than one acre and do not create new impervious surfaces.

Sec. 3-3. Design and Engineering Standards.

The County shall develop and administer standards for the design and engineering of private stormwater systems and the County's stormwater system in the Land Development Manual and associated policies and procedures

Sec. 3-4. Land Disturbance Permit Application Process.

All land disturbing activities, as outlined in the Land Development Manual, shall require the submittal and approval of a Land Disturbance Permit Application. The application process and requirements shall be detailed in the Land Development Manual.

It shall be the responsibility of the applicant (property owner, lessee or person responsible for land disturbing activities) to provide a complete Land Disturbance Permit Application Package that meets all the requirements of this Ordinance, the Land Development Manual, and other Federal and State regulations.

Sec. 3-5. Maintenance.

The following are maintenance activities which shall be adhered.

(a) Lexington County shall maintain drainage system components within easements and rights-or-way that are accepted into the County's maintenance system.

(b) Privately owned stormwater systems shall be properly maintained and inspected regularly to assure correct function as designed. Inspection documentation shall be submitted to the County as outlined in the Land Development Manual.

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

(d) When the Director of Public Works or his designee determines that additional storage capacity or pollution reduction beyond that required by the applicant for on-site stormwater management is necessary in order to enhance or provide for the public health, safety and general welfare, to correct unacceptable or undesirable existing conditions, or to provide protection in a more desirable fashion for future development, Lexington County may:

(1) require that the applicant grant any necessary easements over, through, or under the

applicant's property to provide access to or drainage for such a facility;

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

(3) implement the provisions of additional stormwater control where deemed warranted by the Director of Public Works and the Director of Public Safety.

Sec. 3-6. Project Closure.

A permanent operation and maintenance plan for the stormwater management system shall be included in the Land Disturbance Permit Application. As part of the operation and maintenance plan, the property owner or lessee of such facility shall specifically agree to be responsible for permanent maintenance. In order to transfer maintenance responsibility, a letter of acceptance by the new owner(s) accepting permanent maintenance responsibility shall be filed with the Public Works Department.

The project closure process includes the following:

(a) A finalized operation and maintenance plan for the stormwater system, including an as-built certification that all components of the stormwater system have been installed and meet the requirements of this ordinance and the Land Development Manual.

(b) A final plat showing the location of all stormwater components, easements and responsible party(ies) for the maintenance of the overall system. References shall be made to any all ownership and lessee Covenants established for ensuring the maintenance and long term functioning of the stormwater system. The plats shall also show conflicts with other new or existing easement;

(c) A final inspection conducted by the Director of Public Works or his designee

The project closure process must be completed by the Public Works Department prior to any of the following actions, as applicable:

(a) The use or occupancy of any newly constructed components of the site.

(b) Acceptance of any road into the Lexington County Road Inventory or designation of road owner and associated stormwater management system.

(c) Release of any bond held by Lexington County.

(d) Approval and/or acceptance for recording of map, plat, or drawing, the intent of which is to cause a division of a single parcel of land into two or more parcels.

Sec. 3-7. Watercourse Protection and Special Protection Areas.

Pursuant to South Carolina Code of Law, Title 49, Section 49-1-30 every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

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

Sec. 3-8. Reserved.

DIVISION 4 — ILLICIT CONNECTIONS AND DISCHARGES.

Sec. 4-1. Prohibition of Illicit Connections and Illicit Discharges.

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

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

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

(d) The Director of Public Works or his designee may allow the following non-stormwater discharges, provided the Public Works Director or his designee has determined the discharges and/or the resulting impact(s) of the discharges not to be a substantial contributor of pollutants to the County's stormwater system:

(1) Non-stormwater discharges in compliance with a separate NPDES permit.
(2) Water line flushing performed or required by a government agency
(3) Diverted stream flows
(4) Rising groundwater
(5) Uncontaminated pumped groundwater
(6) Uncontaminated groundwater infiltration
(7) Discharges from potable water sources
(8) Foundation drains
(9) Air conditioning condensation
(10) Irrigation water (not consisting of treated or untreated wastewater)
(11) Springs
(12) Water from crawl space pumps
(13) Footing drains,
(14) Lawn watering
(15) Individual residential car washing
(16) Dechlorinated swimming pool discharges
(17) Natural flows from riparian habitats and wetlands.
(18) Uncontaminated groundwater.
(19) Discharges or flows from fire fighting activities.

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

(f) Spills:

(1) Any person responsible for accidental discharges or unavoidable spills of unauthorized non-stormwater discharges into the Lexington County stormwater system must take the following actions:

a. Immediately control and contain the materials to prevent migration into or further into the Lexington County stormwater system;

b. Clean up the spill materials; and

c. Where the unauthorized non-stormwater discharges have migrated into the Lexington County stormwater system, notify the Lexington County Public Works Department.

(2) Where hazardous materials have been discharged or spilled, Lexington County Public Safety shall be immediately contacted.

(3) Immediate steps shall be taken to ensure no recurrence of the discharge or spill.

(4) Failure to provide notification of a release as provided above is a violation of this Ordinance.

(5) The owner, operator, or other designated responsible party will bear all costs of cleaning up any spills, immediately stopping illicit discharges, and removing the illicit connection or providing spill prevention. In the event that Lexington County departments remove or immediately stop the discharge and provide spill abatement, the owner, operator, or designated responsible party shall reimburse the County for funds used in the removal and clean-up. To facilitate timely removal of illicit discharges, the Director of Public Works or his designee, may order a cessation of activities, revocation of any active permits, and other means to halt the illicit discharge.

(g) Any drain or conveyance that has not been documented in plans, maps, or equivalent, and which may be connected to the municipal separate stormwater system, shall be located by the owner or occupant of that property upon receipt of written notice of violation from the Public Works Department requiring that such locating be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be completed, that the drain or conveyance be identified as storm sewer, sanitary sewer, or other, and that the outfall location or point of connection to the storm sewer system, sanitary sewer system, or other discharge point be identified. Results of these investigations are to be documented and provided to the Public Works Department.

Sec. 4-2. Waste Disposal Prohibitions.

No person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, left, or maintained, in or upon any public or private property, driveway, parking area, street, alley, sidewalk, component of the storm drain system any refuse, rubbish, garbage, litter, pet fecal matter, or other discarded or abandoned objects, articles, and accumulations, so that the same may cause or contribute to pollution. Yard debris, including natural foliage, may be deposited in the public right of way but not in or on any stormwater conveyance structures, including inlets gutters, and swales, but only if a collection service is available. Wastes in proper waste receptacles may be placed in the street for collection, but again only if collection by or through the County is in place. No waste or yard debris shall be placed in the street without such a collection service.

Sec. 4-3. Reserved.

DIVISION 5 — MONITORING AND INSPECTIONS

Sec. 5-1. Authority to Sample and Monitor.

The Public Works Department may/or monitor stormwater or instream water quality and/or quantity on public and private properties and facilities located in Lexington County.

Sec. 5-2. Reserved.

DIVISION 6 — VIOLATIONS, ENFORCEMENT, PENALTIES, AND ABATEMENT

Sec. 6-1. Violations.

(a) When the Director of Public Works or his designee finds that work done under any Land Disturbance Permit for new and re-developments issued under the provisions of this Ordinance fails to conform to the approved Land Disturbance Permit, or that the work has not been done, or that other conditions are causing a violation of this Ordinance the Director of Public Works or his designee may, as deemed necessary and after due process, implement enforcement actions. Actions may include, but not limited to the following:

(1) issuing a written order to comply, to suspend work, or to revoke the permit issued.

(2) seeking redress through legal action.

(3) withholding the release of permanent electric power to the site.

(4) withholding other needed permits for the site.

(b) When the Director of Public Works or his designee determines that land disturbing activities have been initiated without coverage under a required Land Disturbance Permit, a written NOV shall be provided to the owner of the property and any other known financially responsible parties, citing the nature of the violation, permit requirements, next steps to obtain a permit, and immediate corrective actions that may be needed on the property to prevent damage to streams, stormwater systems, or adjacent properties.

(c) The County Attorney is hereby directed to take all legal actions necessary to correct situations described in Sec 6-1 (a), (b) and (c), including actions that are necessary to remove from the property such objectionable conditions constituting non-compliance with this Ordinance.

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

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

(f) This Ordinance may be enforced by any other remedy of law or equity that the Public Works Stormwater Department is authorized to pursue, to include the authorities and powers conferred to local governments by the General Assembly of South Carolina. The penalties and other remedies provided in this Ordinance are cumulative and not exclusive, and may be independently and separately pursued against the same person for the activity constituting a violation of this Ordinance. The enforcement of any remedy provided herein shall not prevent the enforcement of any other remedy or remedies in other provisions of this Code or other laws and regulations.

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

(h) It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Ordinance or the Land Disturbance Permit. Any person who has violated or continues to violate the provisions of this Ordinance or the Land Development Permit, shall be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise abated in a manner provided by law.

(i) In the event the violation constitutes an immediate danger to public health or public safety, the Director of Public Works or his designee is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property. The Department of Public Works is authorized to seek costs of the abatement as outlined in Section 6-5.

Sec. 6-2. Information.

Operators of construction sites of new or redeveloped land, when requested by the Public Works Department or his designee, must provide information relevant to compliance with this Ordinance and the Land Development Manual.

Sec. 6-3. Stop Work Order.

(a) The Director of Public Works, his designee, or other authorized personnel may issue a stop work order if it is found that a land disturbance activity is being conducted in violation of this Ordinance.

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

Sec. 6-4. Permit Suspension and Revocation.

A Land Disturbance Permit may be suspended or revoked if one or more of the following violations have been committed:

(a) violation of the conditions of the approved Land Disturbance Permit Application,

(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 damage to a downstream area in the judgement of the Director of Public Works or his designee.

Sec. 6-5. Corrective Action.

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

Sec. 6-6. Civil Penalties.

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

Sec. 6-7. Criminal Penalties.

In addition to any applicable civil penalties, any person who negligently, willfully, or intentionally violates any provision of this Ordinance shall be guilty of a misdemeanor and shall be punished subject to the penalty jurisdictional of Magistrate Court. Each day of a violation shall constitute a new and separate offense.

Sec. 6-8. Additional Legal Measures.

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

The Lexington County 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 shall have the right to issue restraining orders, temporary or permanent injunctions, mandamus, or other appropriate forms of remedy or relief.

Sec. 6-9. Reserved.

DIVISION 7 — THE STORMWATER BOARD OF APPEALS

Sec. 7-1. Authorization of the Stormwater Advisory Board.

The Stormwater Advisory Board has been authorized by Lexington County and shall be referred to in this division as the Board. It shall consist of nine members who are qualified by experience and training. The board shall consist of one professional engineer licensed in South Carolina, one developer, one contractor, two environmental stewards, two environmental consultants, and two stormwater professionals. The Board shall be appointed by Lexington County Council. No person holding any other public office or position in Lexington County or a municipality within the county shall be eligible to serve on the Board concurrently.

Sec. 7-2. Terms of Office of Board Members.

The members of the Board shall serve for overlapping four-year terms, or until their respective successors are appointed. Lexington County Council shall maintain a schedule of staggered appointments with the terms of at least two members expiring each year.

Sec. 7-3. Removals and Vacancies.

A member of the Board may be removed from the Board by the County Council for continued absence or other just causes. Any member being so removed shall be provided, upon his request, a public hearing on the removal decision before the County Council. Vacancies on the Board shall be filled (for the unexpired term of those members whose positions have become vacant) in the same manner as the appointment of a new member.

Sec. 7-4. Election of Officers.

The Board shall elect from its members its own chairman and vice-chairman, who each shall serve for one year. After the initial formation of the Board and subsequent election of the first chairman and

vice-chairman, the vice-chairman shall automatically assume the chairman position upon completion of serving as the vice-chairman. The Public Works Director or his designee shall appoint a secretary to serve the board, who may be an employee of Lexington County.

Sec. 7-5. Powers of the Board.

The Board is hereby vested with the following powers:

(a) To hear and make recommendations to the Director of Public Works as to appeals where it is alleged in writing that there is an incorrect interpretation of any order, requirement, decision, or determination of this Ordinance and/or the Land Development Manual.

(b) To hear and make recommendations to the Director of Public Works upon applications for a variance from this Ordinance and the Land Development Manual, where a literal enforcement of these regulations will, in an individual case, result in an unnecessary hardship. A variance may grant relief from any of the regulations as outlined in the divisions and sections above.

(c) To hear and make recommendations to the Director of Public Works as to all matters referred to by provisions of this Ordinance and the Land Development Manual.

Sec. 7-6. Meetings of the Board.

The Board shall meet when there are appeals or applications for variances or as needed. Special meetings may be held at the call of the chairman provided that at least a 24-hour notice of such a meeting is given to every member.

Sec. 7-7. Rules and Proceedings of the Board.

The Board shall adopt rules for the conduct of its meetings. Such rules shall include at least the following requirements:

(a) The presence of five members shall constitute a quorum and motions shall pass or fail by the majority vote of those members actually voting. Motions which receive an equal number of votes for and against shall be deemed to fail. Only members in attendance at a meeting shall be eligible to vote upon motions before the board. Proxy votes shall not be used.

(b) All meetings shall be open to the public and the Freedom of Information Act shall be applicable to all proceedings.

(c) The board may call upon any other agency of Lexington County for information in the performance of its duties and it shall be the duty of such other agency to render such information to the Board as may be reasonably required.

(d) An appeal must be filed within 30 days from the date of refusal by the Director of Public Works or his designee to issue a Land Disturbance Permit or certify compliance with this Ordinance and Land Development Manual.

(e) Any member of the Board who shall have a direct or indirect interest in any property that is the subject of or affected by a decision of the Board shall be disqualified from participating in the discussion, decision, or proceedings of the Board in connection with that case.

Sec. 7-8. Application for Appeals and Variances.

A written application for an appeal or variance shall be filed with the Director of Public Works or his designee by the property owner or his designated agent or the aggrieved party. Copies of the application shall be transmitted to the members of the Board. A fee established by County Council shall accompany every application.

Sec. 7-9. Standard for Variances.

The Board shall consider the following factors in making its recommendation:

(a) Are there extraordinary and exceptional conditions pertaining to the particular piece of property?

(b) Do these conditions generally apply to other properties in the vicinity?

(c) Because of these conditions, would the application of this Ordinance and Land Development Manual as defined in Section 7-5, to the particular piece of property effectively prohibit or unreasonably restrict the utilization of the property?

(d) Would authorization of a variance be of substantial detriment to adjacent property or to the quality of life for the residents of the county?

(e) Would authorization of a variance cause noncompliance of the requirements set forth for the Small Municipal Separate Storm Sewer Systems (MS4) program?

(f) Would authorization of a variance impede standard design requirements which are recognized for criteria of public safety?

(g) Financial hardship alone cannot be the basis for the appeal or variance.

Sec. 7-10. Decisions.

Every recommendation of the Board shall be given to the Director of Public Works in writing and shall indicate the vote of the recommendation. The Director of Public Works shall consider the recommendation, but the Director of Public Works shall make the final decision on the appeal.

Sec. 7-11. Appeal or Director of Public Works Decision.

Any appeal from the decision of the Director of Public Works shall be as provided by State law.

DIVISION 8 —FUNDING AND FEES

Sec. 8-1. Funding.

In addition to established fees and penalties, Lexington County shall have the right to develop and impose a stormwater fee to fund implementation of this Stormwater Management Ordinance and its associated programs and plans. Establishment and revision of such fees shall be approved by the Lexington County Council.

Sec. 8-2. Fees.

The Public Works Department shall have the right to establish a schedule of fees for the following:

(a) Plan Review. Fees associated with plan review of land development construction documents by the Public Works Department represent the cost in labor, equipment, and materials expended in the conduct of the review. Establishment and revision of such fees shall be approved by the Lexington County Council.

(b) Field Inspection. Costs associated with field inspection of land development or construction activities performed by the Public Works Department as part of compliance monitoring may be assessed a fee representing the cost in labor, equipment, and materials expended in the conduct of the inspection. Establishment and revision of such fees shall be approved by the Lexington County Council.

(c) Permanent Stormwater Control Inspection. Costs associated with the inspection of permanent stormwater quality and/or quantity controls may be assessed. Such fees shall represent the cost in labor, equipment and materials expended in the conduct of the inspection. Establishment and revision of such fees shall be approved by the Lexington County Council.

Sec. 8-3. Reserved.

ENACTED this 26th day of July, 2016

LEXINGTON COUNTY, SOUTH CAROLINA

By: M. Todd Cullum
M. Todd Cullum, Chairman
Lexington County Council

Attest:

By: Diana W. Burnett
Diana W. Burnett
Clerk to Council

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