

ORDINANCE NO. 2019-__

AN ORDINANCE TO AMEND CHAPTER 36, UTILITIES, OF THE MONCKS CORNER CODE OF ORDINANCES

WHEREAS, the Mayor and Town Council finds adoption of this ordinance to be in the public's best interest as it will amend the Code of Ordinances of the Town of Moncks Corner in order to address changing community needs, address deficiencies and ambiguities in the Code of Ordinances, and promote public health, safety, and well-being; and

WHEREAS, The Federal Clean Water Act, as amended by the Water Quality Act of 1987 (33 U.S.C. §1251 et seq.), other amendments, and rules promulgated by the United States Environmental Protection Agency pursuant to the Clean Water Act and its amendments has placed increased requirements and emphasis on the role of local governments in developing, implementing, and funding stormwater management programs which address water quality impacts of stormwater runoff; and

WHEREAS, the South Carolina General Assembly adopted the Stormwater Management and Sediment Reduction Act (the Act), Chapter 14, Title 48 of the Code of Laws of South Carolina Annotated (1976, as amended), which authorizes a local government to establish a Stormwater management Utility and adopt a fee system to help fund its stormwater management program, and the South Carolina Land Resources and Conservation Commission promulgated comprehensive regulations as required by said Act that regulate implementation of a Stormwater Management Utility; and

WHEREAS, the Moncks Corner Town Council believes the implementation of the Town Stormwater Management Program, including the adoption of this ordinance, is in the best interests of the Citizens of the Town of Moncks Corner and the economy, environment, and water quality in the Town; and

WHEREAS, the attached text amendments and additions to the Town of Moncks Corner Code of Ordinances have been proposed by Staff.

NOW, THEREFORE, BE IT ORDAINED and ordered by the Mayor and Town Council of the Town of Moncks Corner, South Carolina, in Council duly assembled on this 17th day of September, 2019, that the Ordinance of the Town of Moncks Corner is amended.

First Reading: August 20, 2019

Second Reading/Public Hearing: September 17, 2019

Attest:

Marilyn M. Baker, Clerk-Treasurer

Approved As To Form:

John S. West, Town Attorney

Michael A. Locklear, Mayor

CHAPTER 36 - UTILITIES
ARTICLE IV. - STORMWATER MANAGEMENT
DIVISION 1. - GENERAL PROVISIONS

Sec. 36-170. - Title.

This article shall be known as the "Stormwater Management Ordinance of the Town of Moncks Corner, South Carolina."

Sec. 36-171. - Jurisdiction.

The boundaries and jurisdiction of this article shall encompass all incorporated areas the Town of Moncks Corner defined as the "regulated area."

Sec. 36-172. - Findings.

The Town of Moncks Corner Council makes the following findings:

- 1) Uncontrolled stormwater runoff may have significant, adverse impact on the health, safety and general welfare of the Town of Moncks Corner and the quality of life of its citizens. The potential impacts of uncontrolled stormwater can lead to the degradation of water quality and general riverine ecosystem through excessive or illegal pollutant discharges, erosion, and flooding thereby limiting or removing its designated and potential uses.
- 2) The Town of Moncks Corner is or will be required by federal law [33 U.S.C 1342(p) and 40 CFR 122.26] and by State law [S. C. Code Reg. 61-9 122.32 & 122.33] to obtain a National Pollutant Discharge Elimination System (NPDES) permit from the South Carolina Department of Health and Environmental Control ("SCDHEC") for stormwater discharges from the stormwater systems within the Town of Moncks Corner. The NPDES General Permit for Storm Water Discharges from Regulated Small Separate Storm Sewer Systems (SMS4), SCR030000, requires or will require that The Town of Moncks Corner develop, implement, and enforce a stormwater management program (SWMP) in its regulated area designed to reduce the discharge of pollutants from its small municipal separate storm sewer systems (SMS4) to the maximum extent practicable (MEP), to protect water quality, and to satisfy the appropriate water quality requirements of the Clean Water Act.
- 3) The Town of Moncks Corner is or will be a regulated municipal separate storm sewer system (MS4) community and must be in compliance with the State of South Carolina NPDES General Permit for Stormwater Discharges from regulated small municipal separate storm sewer systems. Compliance with the NPDES MS4 permit requires substantial resources that cannot be supported without the adoption and implementation of a stormwater management utility program.
- 4) The management of stormwater runoff is necessary to reduce pollutants, siltation, sedimentation, flooding, inflow and infiltration into the Town of Moncks Corner MS4 and receiving waters, all of which adversely impact land and water resources and the health, safety, property, and welfare of the citizens of the county.
- 5) The Town of Moncks Corner maintains, or must ensure maintenance of, a system of stormwater management facilities, including but not limited to, inlets, conduits, manholes, channels, ditches, drainage easements, retention and detention basins, infiltration facilities, and other components as well as natural waterways.
- 6) The storm water management facilities of the Town must be regularly maintained, rehabilitated, upgraded or expanded in order to satisfy any NPDES MS4 permit requirements,

and additional stormwater management best management practices (BMP's) and measures will need to be installed or implemented in order to satisfy any NPDES MS4 permit requirements.

- 7) Current and anticipated growth within the Town of Moncks Corner will contribute to the need for improvements in and maintenance of the stormwater management system.
- 8) The Town of Moncks Corner needs to enhance the ability to maintain existing and future stormwater management facilities and measures.
- 9) Every built upon parcel of real property in the Town of Moncks Corner either uses or benefits from the stormwater management system and the improvement of existing facilities and construction of additional facilities in the system will directly benefit the owners of all real property.
- 10) In Moncks Corner the extent of use of the stormwater management system by each classification of real property is dependent on a variety of factors that influence runoff, such as land use, topography, intensity of development, amount of impervious surface, and location in a particular watershed or basin.
- 11) In Moncks Corner property owners and users should finance the stormwater management system to the extent they contribute to the need for the system and benefit from the system, and charges therefore should bear a reasonable relationship to the cost of the service, and every effort should be made to fairly and reasonably spread the cost of the system to all property owners and users.
- 12) To ensure that the Town is using the most defensible, fair, and equitable measure for its stormwater management utility fee and classification system, the Town will utilize a base equivalent residential unit (ERU), adjusted for calculated impervious surface to establish the permanent stormwater management utility fee.

Sec. 36-173. - Purpose.

- (a) It is the purpose of this article to protect, maintain, and enhance water quality and the environment of the Town of Moncks Corner and the short-term and long-term public health, safety, and general welfare of the citizens of the Town of Moncks Corner. This article is also designed to 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 and existing developed land. Proper management of stormwater runoff will further the purpose of this article to insure a functional drainage system, reduce the effects of development on land and stream channel erosion, attain and maintain water quality standards, enhance the local environment associated with the drainage system, reduce local flooding, maintain to the maximum extent practical pre-developed runoff characteristics of the area in terms of flow rate, volume and pollutant concentration, and facilitate economic development through residential, commercial, and industrial construction and development while mitigating associated pollutant, flooding, erosion, and drainage impacts.
- (b) It is further the purpose of this article to direct the development and implementation of a Stormwater Management Program (SWMP) and to establish legal authority which authorizes or enables the Town of Moncks Corner at a minimum to:
 - 1) Comply with state and federal requirements related to stormwater management developed pursuant to the Clean Water Act;

- 2) Prohibit illicit connections and discharges to the stormwater management systems, facilities, and waters of the state located within the Town of Moncks Corner;
- 3) Control to the maximum extent practical the discharge of spills, dumping, or disposal of materials other than stormwater to the stormwater management systems and facilities and waters of the state within the Town of Moncks Corner;
- 4) Address specific categories of nonstormwater discharges and similar other incidental nonstormwater discharges listed in the SWMP;
- 5) Require that violators cease and desist illicit discharges of stormwater in violation of any ordinance, permits, contracts or orders;
- 6) Require installation, implementation, and maintenance of control measures from owners/operators of construction sites, new development and redevelopment to minimize the discharge of pollutants to the MEP and to protect water quality;
- 7) Require from operators of construction sites, new or redeveloped land, including industrial and commercial facilities information including, but not limited to, specific requirements to control construction and post-construction discharges of pollutants in stormwater;
- 8) Enforce, penalize, stop work, and require compliance for controlling pollutants from construction sites, new or redeveloped land, including industrial and commercial facilities;
- 9) Where necessary, require stormwater discharge rate and volume control during and following development, redevelopment, or construction;
- 10) Define and implement procedures of site plan review and site inspection of all applicable construction projects within regulated areas of the Town of Moncks Corner;
- 11) Control the discharge from the stormwater management systems and facilities within the Town of Moncks Corner of pollutants in such quantity that water quality standards are met or to otherwise address post-construction, long-term water quality. This includes the necessary means needed to comply with state and federal regulations regarding stormwater management quantity and quality;
- 12) Define procedures for addressing citizen complaints of stormwater-related issues within the Town of Moncks Corner;
- 13) Provide for adequate long term operation and maintenance of Best Management Practices (BMPs);
- 14) Prior to applying for approval of construction activities within the Regulated Area of the Town of Moncks Corner that require DHEC construction general permit coverage, the Town must receive notification from DHEC's Office of Ocean and Coastal Resource Management (OCRM) that states the proposed project is consistent with the coastal zone management plan;
- 15) Carry out inspection, surveillance and monitoring procedures necessary to determine compliance and noncompliance with permit conditions and ordinance requirements including the prohibition on illicit discharges to the stormwater management systems and facilities and waters of the state within the Town of Moncks Corner;
- 16) Enter private property for the purpose of inspecting any facilities, equipment, practices, or operations related to stormwater discharges to determine whether there is compliance with conditions in ordinances, permits, contracts or orders;

- 17) Encourage the use of nontraditional strategies to control stormwater discharges;
 - 18) Encourage the creation of stream buffers and preservation of natural spaces to provide areas that could be used for flood storage, stormwater treatment and control, and recreation. Such areas may be required in special protection areas needed to protect, maintain, or enhance water quality and protect property from flooding problems;
 - 19) Develop, implement, and enforce action plans to address pollutant load reductions required in impaired waterbodies and to work towards compliance with total maximum daily loads (TMDLs) established by EPA or SCDHEC and to work towards meeting water quality standards.
 - 20) Enable enforcement of all said authorizations.
- (c) It is still further the purpose of this article to establish authority for the Town's Chief Building Official for determining consistency of construction projects with the Town of Moncks Corner SWMP.

Sec. 36-174. - Construction and scope.

- (a) The provisions of this article shall apply throughout those portions of the Town of Moncks Corner defined as the "regulated area."
- (b) The Town Administrator or designee shall be primarily responsible for the coordination and enforcement of the provisions of this article and the SWMP.
- (c) The application of this article and the provisions and references expressed herein shall be the minimum stormwater management requirements and shall not be deemed a limitation or repeal of any other ordinances of the Town of Moncks Corner or powers granted to the Town of Moncks Corner by the State of South Carolina statues, including, without limitation, the power to require additional or more stringent stormwater management requirements. If site characteristics on new development and/or redevelopment indicate that complying with these minimum requirements will not provide adequate designs or protection for local property, residents, or the environment, the property owner, operator, or person responsible for land disturbing activities shall be required to provide additional and appropriate management practices, control techniques, system design, and engineering methods to attain an adequate level of protection.

Sec. 36-175. - Severability.

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

Sec. 36-176. - 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 the Town of Moncks Corner, unless otherwise indicated.

Sec. 36-177. - Relationship with other laws, regulations and ordinances.

Whenever the provisions of this article 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. 36-178. - Amendments.

The Town of Moncks Corner Council, may, in its discretion and following procedures specified by State law, amend or change this article or adopt additional regulations or resolutions to implement this article, implement the SWMP, or to otherwise further the goal of protecting the quality of the waters into which the stormwater management systems and facilities within the Town of Moncks Corner outfall.

Sec. 36-179. - Conflicting ordinances repealed.

All ordinances or parts of ordinances related to stormwater management in conflict with the provisions of this article are hereby repealed. This article shall prevail in any and all conflicts with guidelines, manuals, or other publications pertaining to stormwater management.

Sec. 36-180. - Definitions.

Applicant is a person, firm, governmental agency, partnership, or any other entity who seeks to obtain approval under the requirements of this article and who will be responsible for the land disturbing activity and related maintenance thereof.

As-built drawings are revised construction drawings that show in the installed location of the new facilities on a project, including the stormwater system. This term and "record drawings" shall be synonymous.

Best Management Practices (BMPs) are any structural or nonstructural measure or facility used for the control of stormwater runoff, be it for quantity or quality control. BMPs also includes schedules of activities, prohibitions of practices, maintenance procedures, treatment requirements, operating procedures, and other management practices to control site runoff, spillage or leaks, sludge or waste disposal, drainage from raw material storage, or otherwise prevent or reduce the pollution of waters of the State.

Construction or construction activity is a land-disturbing activity involving clearing, grading, excavating, transporting, filling, or any other activity which results in a change in the natural cover or topography that may cause erosion and contribute to sediment and alter the quality and quantity of stormwater runoff.

Design manual refers to the Town of Moncks Corner Stormwater Design Standards Manual.

Developer means any person, or others who act on their own behalf, who is required to submit an application for approval of construction activities and is thereafter responsible for maintaining compliance with this article and conditions of the approved application.

Easement is an authorization by a property owner to the general public, a corporation, or a certain person or persons for the use of any designated part of their property for a specific purpose.

Erosion means the wearing away of the land surface by the action of wind, water, gravity, ice, or any combination of those forces.

Flood/flooding is a temporary rise in the level of water which results in the inundation of areas not ordinarily covered by water.

Hazardous material is any item or agent (biological, chemical, physical) which has the potential to cause harm to humans, other living organisms, or the environment, either by itself or through interaction with other factors.

Illicit connection means a man-made conveyance connecting an illicit discharge directly to a stormwater management system or facility within the Town of Moncks Corner that results in a discharge that is not composed entirely of stormwater runoff except discharges pursuant to an NPDES permit (other than any NPDES MS4 permit for the Town of Moncks Corner).

Illicit discharge or illegal discharge is defined in South Carolina Water Pollution Control Permits Regulation 61-9 122.26(b)(2) and refers to any discharge to a stormwater management system or facility or waters of the State within the Town of Moncks Corner that is not composed entirely of stormwater except (a) discharge pursuant to an NPDES permit (other than any NPDES MS4 Permit for the Town of Moncks Corner) and (b) discharges resulting from the fire-fighting activities.

Improper disposal means any disposal other than through an illicit connection that results in an illicit discharge, including, but not limited to the disposal of used oil and toxic materials resulting from the improper management of such substances.

Low impact development (LID) means an approach to land development (or re-development) that works with nature to manage stormwater as close to its source as possible.

Maintenance means any action necessary to preserve stormwater system component, including conveyances, facilities and BMPs in proper working condition, in order to serve the intended purposes set forth in this article and to prevent structural failure of such components.

MS4 means municipal separate storm sewer system and includes all conveyances or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) which is (a) located within the Town of Moncks Corner; (b) designed or used for collecting or conveying stormwater; (c) not a combined sewer system; and (d) not part of a publicly owned treatment works (POTW).

New Development or redevelopment means any of the following actions undertaken by any person, including, without limitation, any public or private individual or entity:

- (a) Division of a lot, tract, or parcels or other divisions by plat or deed;
- (b) The construction, installation, or alteration of land, a structure, impervious surface or drainage facility;
- (c) Clearing, scraping, grubbing or otherwise significantly disturbing the soil, vegetation, mud, sand or rock of a site; or
- (d) Adding, removing, exposing, excavating, leveling, grading, digging, burrowing, dumping, piling, dredging, or otherwise disturbing the soil, vegetation, mud, sand or rock of a site.

NPDES means National Pollutant Discharge Elimination System.

NPDES MS4 permit means the general permit for storm water discharges from regulated small separate storm sewer systems (SMS4), SCR030000, issued by SCDHEC pursuant to the Clean Water Act and the federal stormwater discharge regulations (40 CFR 122.26) that allows for restricting pollutant loads as necessary to meet water quality standards.

Operator means the person who has operational control of the property, including an operator or person who is in charge of any activity related to land disturbance, construction or post construction stormwater quality or quantity.

Outfall or discharge point means a point source as defined by section 122.2 of SC Regulation 61-9 at the point where a stormwater management system or facility within the Town of Moncks Corner discharges to waters of the state and does not include any conveyances connecting two municipal

separate storm sewers, or pipes, tunnels or other conveyances which connect segments of the same stream or other waters of the state and are used to convey waters of the state.

Owner means the property owner, or any person who acts in his or her own behalf, that submits an application for approval to disturb land or vegetation or encroachment and the person, if so designated by default or on legal documents, as the responsible party for maintenance of a stormwater system(s) and facility(s).

Person means any individual, public or private corporation, political subdivision, association, partnership, corporation, municipality, state or federal agency, industry, firm, trust, estate, any other legal entity whatsoever, or an agent or employee thereof.

Pollutant is defined at §122.2 of SC Regulation 61-9 as dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water. Typical construction site pollutants include sediment, oil and grease, pesticides and fertilizers, pollutants from construction wastes, and pollutants from construction materials.

Property owner means the legal owner of the property.

Receiving waters or receiving water body refers to any 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 of South Carolina, and all other bodies of surface or underground water, natural or artificial, public or private, inland or coastal, fresh or salt.

Regulated area refers to the boundaries of the Town of Moncks Corner as shown on the official Town Map, maintained by the Community Development Department. Areas added through annexation are added to the regulated area without additional approval by Town Council.

Regulation means any regulation, rule or requirement prepared by and/or adopted by the Town of Moncks Corner Council pursuant to this article.

Spill means any accidental or purposeful discharge of any pollutants, hazardous materials, or other substance which is otherwise potentially detrimental to the designated use of a receiving water.

SWMP means the Town of Moncks Corner Stormwater Management Program, which may describe the components to be used by the Town of Moncks Corner to control stormwater discharges, address flooding, and meet water quality standards discharged from the stormwater management systems and facilities within the Town of Moncks Corner.

Stormwater is defined at South Carolina Water Pollution Control Permits Regulation 61-9 122.26(b)(13) and means stormwater runoff, snowmelt runoff, and surface runoff and drainage.

Stormwater management means the collection, conveyance, storage, treatment and disposal of stormwater runoff in a manner to meet the objectives of this article and its terms, including, but not limited to, measures that control the increased volume and rate of stormwater runoff and water quality impacts caused by manmade changes to the land.

Stormwater management systems and facilities means those natural and man-made channels, swales, ditches, swamps, rivers, streams, creeks, branches, reservoirs, ponds, drainage ways, inlets, catch basins, pipes, head walls, storm sewers, lakes and other physical works, properties, and improvements which transfer, control, convey, or otherwise influence the movement of stormwater runoff, be it for quantity or quality control.

TMDL is a total maximum daily load wasteload allocation designation. It is a regulatory value developed to represent the amount of a pollutant that a waterbody can incorporate while meeting water quality standards. TMDL is further defined as the legal document developed by EPA and SCDHEC designating the pollutant load a permitted discharge is allowed to input into a waterbody. It is a calculation of the maximum amount of a specific pollutant that a waterbody can receive and still meet water quality standards. It is the sum of the allowable loads or allocations of a given pollutant from all contributing point (wasteload allocation (WLA)) and nonpoint (load allocation (LA)) sources. It also incorporates a margin of safety and consideration of seasonal variation. For an impaired waterbody, the TMDL document specifies the level of pollutant reductions needed for waterbody use attainment. TMDLs can be expressed in terms of either mass per time, toxicity, or other appropriate measure.

Variance means the modification of the minimum stormwater management requirements contained in this article and the SWMP for specific circumstances where strict adherence to the requirements would result in unnecessary hardship and not fulfill the intent of this article.

Watercourse is any natural or man-made conveyance used to transport runoff from one location to the next.

Watershed is a drainage area or drainage basin contributing to the flow of stormwater to a single point into a receiving watercourse or water body.

Waters of South Carolina, or *Waters of the state* means lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within the territorial limits of the state, and all other bodies of surface or underground water, natural or artificial, public or private, inland or coastal, fresh or salt, which are wholly or partially within or bordering the state or within its jurisdiction and all waters of the United States within the political boundaries of the State of South Carolina. Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA are not waters of the South Carolina. This exclusion applies only to manmade bodies of water which neither were originally created in waters of South Carolina (such as disposal areas in wetlands) nor resulted from the impoundment of waters of South Carolina.

Waters of the United States, or Waters of the U.S. means:

- (a) All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
- (b) All interstate waters, including interstate "wetlands";
- (c) All other waters such as interstate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, 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:
 - (1) Which are or could be used by interstate or foreign travelers for recreational or other purposes;
 - (2) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
 - (3) Which are used or could be used for industrial purposes by industries in interstate commerce;

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

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

Water quantity means those characteristics of stormwater runoff that relate to the rate and volume of the stormwater runoff.

Secs. 36-181—36-190. - Reserved.

DIVISION 2. - ORGANIZATION AND ADMINISTRATION

Sec. 36-191. - The Town of Moncks Corner Stormwater Management Program (SWMP).

The SWMP being developed by the Town of Moncks Corner to implement the purposes of this article shall serve as the basis for directing the Town of Moncks Corner's efforts to control stormwater and to comply with all applicable state and federal regulatory and permitting requirements. The SWMP and any modifications and/or revisions to the SWMP are incorporated by reference and is hereby a part of this article. The SWMP requirements and any modifications and/or revisions to the SWMP are to be complied with and shall be enforced in accordance with the provisions of this article.

Sec. 36-192. - Coordination with other agencies.

The Town Administrator or designee may coordinate the Town of Moncks Corner's activities with other federal, state, and local agencies that manage and perform functions relating to the protection of receiving waters through written agreement.

Sec. 36-193. - Right of entry.

- (a) The Town Administrator or designee shall have right-of-entry on or upon the property of any person subject to this article. The Town Administrator or designee shall, upon showing satisfactory credentials, be provided ready access to the necessary parts of the premises for the purposes of inspecting, monitoring, sampling, inventorying, examining and copying of records, and performing any other duties necessary to determine compliance with this article.
- (b) Where the property owner or operator has security measures in force requiring proper identification and clearance before entry onto the premises, the person shall make necessary arrangements with the necessary parties so that, upon presentation of suitable identification, the Town Administrator or designee will be permitted to enter without delay for the purposes of performing such responsibilities identified in (a).

Secs. 36-194—36-200. - Reserved.

DIVISION 3. - STORMWATER QUANTITY AND QUALITY MANAGEMENT REQUIREMENTS

Sec. 36-201. - Regulations.

- a) Town Council hereby establishes a stormwater management utility (utility) to carry out the purposes, functions, and responsibilities herein set forth. The governing body of the utility shall be the Town Council. The Town Administrator shall administer the utility. The utility shall have the duties and powers set forth below, which powers are not necessarily exclusive to the utility, to wit:
- 1) Development and implementation of the Town Stormwater Management Program.
 - 2) Development and implementation of the minimum control measures (MCM's), best management practices (BMP's) and other regulatory requirements as contained in any NPDES MS4 permit
 - 3) Stormwater management planning and preparation of any required comprehensive watershed master plans for stormwater management.
 - 4) Regular inspections of public and private stormwater management facilities and measures and the construction thereof.
 - 5) Maintenance and improvement of stormwater management facilities that have been accepted for maintenance by the Town for that purpose.
 - 6) Plan review and inspection of sediment control and stormwater management measures, and practices.
 - 7) Retrofitting existing stormwater management facilities to reduce existing flooding problems or to improve water quality.
 - 8) Acquisition of interests in land, including easements.
 - 9) Design and construction of stormwater management facilities and measures and acquisition of equipment.
 - 10) Water quantity and water quality management, including monitoring and surveillance.
 - 11) Billing and collecting stormwater management utility fees pursuant to this ordinance.
 - 12) Any and all duties and powers delegated or granted to it as a local government implementing agency under the laws and regulations of the State of South Carolina, and the ordinances of this county.
- b) The Town Administrator or designee shall be responsible for day to day coordination, implementation, and enforcement of this article and the SWMP as well as the long-term management of the Town's drainage. Without limitation, the Town Administrator or designee shall have the following authority:
- 1) To issue any approval, certification, or license that may be required to comply with this article.
 - 2) To deny a connection to the stormwater management system or facility within the Town of Moncks Corner, if state requirements and this article are not met.
 - 3) To enact and amend the Town of Moncks Corner Stormwater Designs Standards Manual (Design Manual). The design manual may be used to convey design and engineering standards, construction management processes and procedures, and other aspects necessary for compliance with this article.
 - 4) To require the submittal of an application for all applicable construction activities that result in construction activities with a land disturbance area of greater than or equal to one acre, or other sites as deemed necessary by the stormwater design standards manual.

These applications must include a plan to control stormwater pollutants and other components detailed in the Town of Moncks Corner's Stormwater Design Standards Manual.

- 5) To require the development of stormwater management and sediment/erosion control plans for all applicable new and re-development projects and enforcement of these plans.
- 6) To approve applicable construction activities and to require as a condition of such approvals, structural or nonstructural controls, practices, devices, operating procedures, or other mechanisms to protect public and private property from flooding and erosion and attain TMDL-mandated pollutant load reductions and water quality standards.
- 7) To require performance bonds as necessary of any person to secure that person's compliance with approval, certificates, licenses, or authorizations issued by the Chief Building Official pursuant to this article, the SWMP and federal and state laws. The Town Administrator or designee shall develop a process that organizes the closure of bonds and construction projects to accommodate development phases and property ownership transfers.
- 8) To conduct all activities necessary to carry out the SWMP and other requirements included in this article, and to pursue the necessary means and resources required to properly fulfill this responsibility.
- 9) To require appropriate post construction best management practices and appropriate continued maintenance of those best management practices.
- 10) To require maintenance bonds as necessary to ensure the long-term maintenance of stormwater management best management practices.
- 11) To determine appropriate fees, to impose penalties, and to take necessary and appropriate actions to enforce this article.
- 12) To require encroachment permits as necessary.

Sec. 36-202. - 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 material or toxic substance or other pollutant; or (5) otherwise allow the transport of sediment and other pollutants associated with stormwater runoff beyond their property boundaries without having provided for compliance with this article.

In cases where an imminent threat to the health or safety of the general public or the environment is suspected, the Chief Building Official or designee shall perform an assessment to determine if immediate action is necessary. Such assessment may be made with or without the consent of the owner or operator. If such consent is refused, the Chief Building Official or designee may utilize the enforcement measures authorized in this article to remove such threat. In such cases, the owner or operator, as the case may be, shall reimburse the Town for its direct and related expenses. If the owner or operator, as the case may be, fails to reimburse the Town, the Town is authorized to file a lien for said costs against the property, file an action in magistrate or civil court for recovery of incurred expenses, and enforce such actions in magistrate or civil court.

The following development activities are exempt from the provisions of this article.

- (1) Land disturbing activities undertaken on forestland for the production and harvesting of timber and timber products and conducted in accordance with best management practices and minimum erosion protection measures established by the South Carolina Forestry Commission pursuant to S.C. 1976 § 48-18-70, as amended.

- (2) Land disturbing activities on agricultural land for production of plants and animals, including but not limited to: forages and sod crops, grains and feed crops, tobacco, cotton, and peanuts; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules, or goats, including the breeding and grazing of these animals; bees, fur animals, and aquaculture. The construction of an agricultural structure that requires the disturbance of one or more acres, such as, but not limited to, broiler houses, machine sheds, repair shops, coops, barns, and other major buildings shall require the submittal and approval of necessary application materials as outlined in the design manual prior to the start of the land disturbing activity.
- (3) Linear utility installation activities that are covered under their own DHEC approved utility general permit requiring associated assurance of proper stormwater management.
- (4) Activities undertaken by persons who are otherwise regulated by the provisions of Chapter 20 Title 48, the South Carolina Mining Act.
- (5) Discharges of dredged or fill material into waters of the United States which are regulated under section 404 of the Clean Water Act (CWA).

Sec. 36-203. - Design and engineering standards.

Design and engineering standards must define the desired level of quality and performance for stormwater management systems on all applicable construction activities in order to meet the purpose of this article. The standards establish the minimum technical requirements needed to express compliance through calculations, maps and drawings, or others as necessary.

The Town Administrator is authorized to develop and adopt policies, criteria, specifications, and standards for the proper implementation of the requirements of this article, federal and state laws, and the SWMP, and to provide a sound technical basis for the achievement of stormwater management, including water quality and quantity objectives. These standards may be presented in the stormwater design standards manual.

It shall be the responsibility of the property owner, operator, or person responsible for land disturbing activities to provide adequate controls to meet the design and engineering standards.

Sec. 36-204. - Application approval process.

The entire application process and requirements as described in the design manual must be adhered to for all applicable construction activities.

It shall be the responsibility of the applicant (property owner, operator, or person responsible for construction activities) to provide a complete application package that meets the requirements of this article, the SWMP, and other state and federal regulations.

Sec. 36-205. - Stormwater design standards manual.

The Town Administrator of designee is authorized to develop and adopt a stormwater design standards manual. The design manual may include design standards, procedures and criteria for conducting hydrologic, hydraulic, pollutant load evaluations, and downstream impact for all components of the stormwater management system. Although the intention of the manual is to establish uniform design practices, it neither replaces the need for engineering judgment nor precludes the use of information not presented. Other accepted engineering procedures may be used to conduct hydrologic, hydraulic and pollutant load studies if approved by the Town Chief Building Official.

The design manual, shall contain at a minimum the following components:

- (1) Required application and approval procedures for all applicable construction activities;

- (2) Construction completion and closeout processes;
- (3) Hydrologic, hydraulic, and water quality design criteria (i.e., design standards) for the purposes of controlling the runoff rate, volume, and pollutant load. Suggested reference material shall be included for guidance in computations needed to meet the design standards;
- (4) Information and requirements for new and re-development projects in special protection areas necessary to address TMDLs, known problem areas and other areas necessary to protect, maintain, and enhance water quality and the environment of the Town of Moncks Corner and the public health, safety, and general welfare of the citizens of the Town of Moncks Corner.
- (5) Construction document requirements;
- (6) Minimum easement requirements;
- (7) Required and recommended inspection schedules and activities for all components of the stormwater management system, including construction-related BMPs.

The design manual shall be updated periodically to reflect the advances in technology and experience gathered with time.

Sec. 36-206. - Ownership and The Town of Moncks Corner participation.

- (a) Property owners are responsible for maintaining stormwater quantity and quality facilities and all conveyance structures located on their property. Prior to the issuance of any approval of construction plans or applications required by the design manual, the property owner shall execute a legal document entitled "Covenants for Permanent Maintenance of Stormwater Systems". The property owner shall record the covenants in the office of the Berkeley County Register of Deeds. The location of the facility, the recorded location of the covenants document, and a statement of the property owner's responsibility for maintenance shall be included and also shown on a plat. In the case of an operator other than the property owner, a copy of a maintenance agreement between the operator and the property owner shall be included with the covenants, defining the operators' duties and responsibilities and that the property owner shall be responsible for maintenance activities upon the termination of the agreement.
- (b) The property owner shall grant to the Town of Moncks Corner a perpetual, nonexclusive, transferable easement, beginning or ending at a public street or other access point that allows for public inspection and emergency repair of all components of the drainage system, including all conveyances and all water quantity and quality control facilities. At the request of the Town Administrator or designee, the property owner shall grant to the Town of Moncks Corner right-of-ways.
- (c) Stormwater quantity and quality control facilities shall be located so that required easements can be effectively used and ownership and maintenance responsibility can be clearly defined in deeds and plats.
- (d) The Town of Moncks Corner shall be responsible for maintenance activities for stormwater collection/conveyance systems associated with Town projects.
- (e) The Town of Moncks Corner may in its sole discretion either accept or decline ownership and/or maintenance of all or part of a stormwater system.
 - (1) Prior to accepting all or part of any stormwater system located on private property for ownership and/or maintenance, a permanent drainage maintenance easement of at least twenty (20) feet must be granted to allow for access by machinery and personnel.

- (2) The Town of Moncks Corner may in its sole discretion choose to perform maintenance in perpetuity on all or part of a stormwater system located on private property once an easement has been granted.
 - (3) Nothing in this ordinance shall or may construe that the Town of Moncks Corner is perpetually responsible for any stormwater systems located on private property.
 - (4) The Town is not responsible for any damage to the property or structures within said easement.
- (f) Nothing in this article and no action or failure to act under this article shall or may be construed to:
 - (1) Impose any liability on the Town, or its departments, agencies, officers, or employees for the recovery of damages; or
 - (2) Relieve any person engaged in a land disturbing activity of duties, obligations, responsibilities, or liabilities arising from or incident to operations associated with such activity or imposed by the provisions of this article or the laws and regulations pursuant to which it was adopted.
 - (g) The minimum maintenance requirements will be performed at necessary intervals by the property owner or operator during construction and for as long as a stormwater management system or component is in use. Failure to perform such activities will constitute a violation of this article.
 - (h) If a facility or any portion of the stormwater system is not being maintained as required, the Town Administrator or designee will notify the property owner or operator in writing. If the property owner or operator fails to repair or maintain the facility within the allotted time, the Town Administrator may authorize the work to be performed by the Town or others. In such cases, the property owner or operator may be required to reimburse the Town for its direct and related expenses. If the property owner or operator fails to reimburse the Town, the Town is authorized to file a lien for said costs against the property, file an action in magistrate or civil court for recovery of incurred expenses, and enforce such actions in magistrate or civil court.
 - (i) A property owner or operator may hire or contract others to perform necessary maintenance actions, but the Town of Moncks Corner will hold the person named in the covenants as the responsible party should legal actions described in (g) be necessary.
 - (j) When the Town Administrator or 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, the Town of Moncks Corner 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.

Sec. 36-207. - Maintenance, construction, inspection, and closeout.

Maintenance of the stormwater management system is critical for the achievement of its purpose of controlling stormwater runoff quantity and quality and the short-term and long-term public health, safety, and general welfare of the citizens of the Town of Moncks Corner.

- (1) A maintenance plan for the stormwater management system shall be included as part of the submittal required by the design manual to perform a construction activity, and must address activities to be conducted during and after construction. As part of the maintenance plan, the property owner or operator of such facility shall specifically agree, through recordation of covenants, to be responsible for keeping the system and facilities in working order. The Town Administrator shall develop procedures to provide reasonable assurance that maintenance activities are performed for both the Town of Moncks Corner and privately maintained systems. The Town Administrator shall also define procedures for transferring maintenance responsibilities to another entity.
- (2) The Chief Building Official shall define procedures for conducting site inspections during construction and after construction until a stormwater management system or facility is no longer in use. Such inspections may be performed by Town staff or an approved inspector. The Town of Moncks Corner has the authority to levy fees for inspections and re-inspections as described in the stormwater design standards manual.
- (3) As required in the design manual, the applicant shall submit their own maintenance and inspection schedules to be implemented during construction and for as long as a stormwater management system or facility is in use. Required and recommended schedules for BMP maintenance and inspection are to be provided in the design manual.
- (4) If the construction is to be phased, no stage work, related to the construction of stormwater management facilities shall commence until the preceding stage of work is completed in accordance with any approved construction plans or applications required by the design manual. The procedure for construction phases beginning and ending and what constitutes such conditions shall be developed.
- (5) The applicant shall notify the Chief Building Official or designee before commencing any work and upon completion of any phase or designated component of the site. Notification schedules shall be provided for in the design manual. All self-inspections, maintenance actions, BMP replacements, and changes to the approved application shall be documented and presented upon request to the Chief Building Official or designee.
- (6) The construction project completion and closeout process must be completed prior to any of the following actions, as applicable:
 - a. The use or occupancy of any newly constructed components of the site.
 - b. Final acceptance of any road into the official Berkeley County road inventory or designation of road owner and associated stormwater management system.
 - c. Release of any bond held by the Town of Moncks Corner.
 - d. Approval and/or acceptance for recording of maps, plats, or drawings, the intent of which is to cause a division of a single parcel of land into two or more parcels, and/or acceptable bonding is provided.

Sec. 36-208. - Watercourse protection.

Every person owning or operating property through which a watercourse passes 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 operator 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 Town Council may develop special protection areas which require additional control of stormwater quality and quantity than provided by minimum design standards. Such areas may consist of watersheds corresponding to established TMDLs, known flooding problems and pollution impairments, or other areas necessary to protect, maintain, and enhance water quality and the environment of the Town of Moncks Corner and the public health, safety, and general welfare of the citizens of the Town of Moncks Corner. These areas can be expected to change with time as development continues and as federal and state law demands.

New stormwater systems created as the result of any new and re-development project shall be connected to the existing drainage system in a manner so as not to degrade the integrity of the existing system, whether natural or manmade, and shall have demonstrated this prior to project closeout. Discharge points shall be confined to connections with an existing natural or man-made drainage system. When there is a direct stormwater discharge into collection systems not owned and/or maintained by the Town of Moncks Corner, the owners of these systems shall maintain the right to disapprove new connections to their system.

Sec. 36-209. - Notification of spills.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or the facility's operation and maintenance, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the storm drain system, or waters of the state, said person shall take all necessary steps to discover, contain, and cleanup any such releases. The person shall also take immediate steps to protect against future recurrences of the discharge. In the event of such a release of hazardous materials, including but not limited to oils, greases, engine fluids and fuels, chemicals, herbicides and pesticides, and fertilizers, said person shall immediately notify all necessary agencies of the occurrence. This shall include E911, the Berkeley County Emergency Preparedness, and the Town Chief Building Official. Such notifications of hazardous spills shall be confirmed by written notice addressed and mailed to the Town Chief Building Official within five business days of the spill event. In the event of a release of nonhazardous materials, said person shall record an on-site written record of the spill. The owner or operator of such facility shall retain an onsite written record of any and all spills that will include information on cleanup measures taken and the actions to prevent its recurrence. Such records shall be retained for at least five years. Failure to provide notification of a release as provided above is a violation of this article.

Sec. 36-210. - Cleanup procedures.

The Town of Moncks Corner may develop spill procedures on how spills are cleaned up, and who is responsible for the cleanup in terms of the activities to be performed and cost of such actions.

Secs. 36-211—36-220. - Reserved.

DIVISION 4. - DETECTION AND ELIMINATION OF ILLICIT CONNECTIONS AND ILLICIT DISCHARGES AND IMPROPER DISPOSAL

Sec. 36-221. - Illicit connections, illicit discharges, and improper disposal.

- (a) It is unlawful for any person to connect any pipe, open channel, or any other conveyance system that discharges anything except stormwater or other approved discharges into a stormwater management system or waters of the state within the Town of Moncks Corner.

- (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 article must be disconnected and redirected, if necessary, to the satisfaction of the Town Chief Building Official or designee and any other federal, state, or local agencies or departments regulating the discharge.
- (c) It is unlawful for any person to throw, drain, or otherwise discharge to a stormwater management system or facility or to waters of the state within the Town of Moncks Corner or to cause, permit, or allow a discharge that is composed of anything except stormwater or unpolluted water which is approved by the Town Chief Building Official.
- (d) The Town Chief Building Official shall develop procedures for detecting, tracking, and eliminating illicit discharges and improper disposals to the stormwater system.
- (e) The Town Chief Building Official or designee may require controls for or exempt the following discharges from the prohibition provision in (a), (b), and (c) above, provided that a reasonable determination is made that they are not a significant source of pollution:
 - (1) Unpolluted industrial cooling water, but only under the authorization and direction of the Town Chief Building Official or designee and if an appropriate industrial NPDES permit is in place.
 - (2) Water line flushing, diverted stream flows, rising ground waters, and uncontaminated pumped ground waters, and uncontaminated ground water infiltration.
 - (3) Discharges from potable water sources, foundation drains, air conditioning condensation, landscape irrigation, springs, water from crawl space pumps, footing drains, lawn watering, individual car washing, dechlorinated swimming pool discharges, flows from riparian habitats and wetlands, and street wash water.
 - (4) Discharges or flows from fire fighting.
- (f) The Town Chief Building Official may develop procedures for allowing other nonstormwater discharges.

Sec. 36-222. - Detection of illicit connections, illicit discharges, and improper disposal.

- (a) The Town Chief Building Official shall take appropriate steps to detect and eliminate illicit connections and illicit discharges to stormwater management systems and facilities within the Town of Moncks Corner, including the adoption of a program to screen illicit discharges and identify their source or sources, perform inspections, and levy fines if not removed.
- (b) Town staff shall take appropriate steps to detect and eliminate improper disposal. These steps may include programs to screen for disposal, programs to provide for public education and public information, inspection, levying fines, and other appropriate activities to facilitate the proper management and elimination of improper disposal.

Sec. 36-223. - 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, or waters of the state, 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 and gutters, 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 Town of Moncks Corner is in place. No waste or yard debris shall be placed in the street without such a collection service.

Secs. 36-224—36-230. - Reserved.

DIVISION 5. - MONITORING AND INSPECTIONS

Sec. 36-231. - Monitoring.

The Town staff may monitor the quantity and concentration of pollutants in stormwater discharges from the areas and/or locations designated in the Town of Moncks Corner's SWMP.

Sec. 36-232. - Inspections.

- (a) The Town Chief Building Official or designee, bearing proper credentials and identification, may enter and inspect all properties for regular inspections, periodic investigations, monitoring, observation measurement, enforcement, sampling and testing, to effectuate the provisions of this article and the SWMP programs. Such inspections may be made at active construction sites or at any stormwater management system or facility in perpetuity. The Town Chief Building Official or designee shall duly notify the owner of said property or the representative on site and the inspection shall be conducted at reasonable times.
- (b) Upon refusal by any property owner to permit an inspector to enter or continue an inspection, the inspector shall terminate the inspection or confine the inspection to the areas where no objection is raised. The Town Chief Building Official or designee shall document the refusal and the grounds for such and promptly seek appropriate compulsory process.
- (c) In the event that the Town Chief Building Official or designee reasonably believes that discharges from the property into a stormwater management system or facility within the Town of Moncks Corner may cause an imminent and substantial threat to human health or the environment, the inspection may take place at any time and without notice to the owner of the property or a representative on site. The inspector shall present proper credentials upon reasonable request by the owner or representative.
- (d) Inspection reports shall be maintained in a file located in the Community Development Department's office.
- (e) At any time during an inspection or at such other times as the Town Chief Building Official or designee may request information from an owner or representative, the owner or representative may identify areas of his or her facility or establishment, material, or processes that contain or might reveal a trade secret. If the Town Chief Building Official or designee has no clear and convincing reason to question such identification, all material, processes and information obtained within such areas shall be conspicuously labeled "CONFIDENTIAL - TRADE SECRET." The trade secret designation shall be freely granted to any material claimed to be such by the owner or representative unless there is clear and convincing evidence for denying such designation. In the event the Town Chief Building Official or designee does not agree with the trade secret designation, the material shall be temporarily designated a trade secret and the owner or representative may request an appeal of the Town's decision in the manner in which all such appeals are handled in this article.

Secs. 36-233—36-240. - Reserved.

DIVISION 6. - ENFORCEMENT, PENALTIES, AND ABATEMENT

Sec. 36-241. - Enforcement.

- (a) The Town Administrator or designee may initiate an enforcement action when violations of this article occur, including:
 - (1) When the Town Chief Building Official or designee finds that work done for new development and re-development fails to conform to any approved applications or plans as required by the design manual, or finds that the approved work has not been done;
 - (2) When the Town Chief Building Official or designee determines that an owner or operator has failed to maintain a stormwater management facility;
 - (3) When the Town Administrator or designee determines that an owner of any property is causing or partially causing flooding, erosion, or noncompliance with water quality standards or this article.
- (b) The Town Chief Building Official or designee shall direct conformity to approvals and this article by written notice of violation (NOV). The NOV shall serve as a legal requirement to remove the violation(s). The written NOV shall be provided to the owner or the person responsible for land disturbing activities, illicit connections, illicit discharges, and improper disposals, stating the nature of the violation, the amount of time in which to correct deficiencies, the date on which an inspection will be made to make sure that corrective action has been performed, and the proposed penalty structure if corrective action is not taken by the inspection date. It shall be sufficient notification to deliver the notice to the person to whom it is addressed, or to deposit a copy of such in the United States Mail, properly stamped and/or certified and addressed to the address used for tax purposes or the address provided on submittals required by the design manual. The NOV may address the entire site or a specific portion of the site so as not to unduly impede the development of areas being managed for the control of stormwater runoff and associated pollutants. The NOV may be via email when a permit has been issued.
- (c) After the issuance of the NOV, the Town Chief Building Official or designee is hereby given the authority to proceed with enforcement actions which may include:
 - (1) Issuing a written order to comply, to suspend work, or to revoke the approval issued;
 - (2) Seeking redress through legal action;
 - (3) Withholding the release of permanent electric power to the site or certificate of occupancy;
 - (4) Withholding or revoking other permits related to the site; and/or
 - (5) Levying fines.
- (d) The Town attorney is hereby directed to take all legal actions necessary to correct situations described in (a), (b) and (c), including actions that are necessary to remove from the property such objectionable conditions constituting noncompliance with this article.
- (e) Nothing contained in this article shall impair the right or ability of the Town attorney to exercise any and all other remedies available, of-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.
- (f) The authorized enforcement agency or its appointed agent may obtain injunctive relief to enjoin violations of the provisions of this article, and any person damaged as a result of such violations may, upon a proper showing of such damages, obtain payment therefore by a civil action.

- (g) This article may be enforced by any other remedy of law or equity that the Town attorney 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 article are cumulative and not exclusive, and may be independently and separately pursued against the same person for the activity constituting a violation of this article. 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.

Sec. 36-242. - Fines.

Any person violating any provision of this article shall be subject to a fine of not more than \$1,000.00 for each violation. Each separate day of violation constitutes a new and separate violation. Notice of civil penalty shall be provided via the issuance of a uniform summons.

Sec. 36-243. - Additional legal measures.

- (a) Where the Town of Moncks Corner 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 Town of Moncks Corner can identify the person(s) who caused such violation(s) to occur, the Town of Moncks Corner may pass through the penalty and cost of compliance to that person(s).
- (b) The Town attorney may institute injunctive, mandamus or other appropriate action or proceedings at law or equity, including criminal conviction, for the enforcement of this article or to correct violations of this article, 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. 36-244. - Criminal penalties.

In addition to any applicable civil penalties, any person who willfully, with wanton disregard, or intentionally violates any provision of this article shall be guilty of a misdemeanor and upon conviction shall pay a fine of not more than \$500.00 or imprisoned for not more than 30 days. Each day of violation shall constitute a new and separate offense.

Sec. 36-245. - Corrective action.

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

Sec. 36-246. - Stop work order.

The Town Chief Building Official, designee, or other authorized personnel may issue a stop work order if it is found that a construction activity is being conducted in violation of this article.

The stop work order may allow or require correction of notice of violation (NOV) issues, but shall otherwise stop all other construction related activities. A stop work order may carry with it civil penalties as well. 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. 36-247. - Approval suspension and revocation.

Any approved plans or applications required by the design manual may be suspended or revoked if one or more of the following violations have been committed:

- (1) Violations of the conditions in any approved plans or applications required by the design manual;
- (2) Construction is not in accordance with the approved plans;
- (3) Noncompliance with correction notice(s) or stop work order(s);
- (4) The existence of an immediate danger to a downstream area (in the judgment of the Town Chief Building Official or designee);
- (5) Other violations of this article.

Secs. 36-248—36-250. - Reserved.

DIVISION 7. - VARIANCES

Sec. 36-251. - Variance criteria.

The Town Chief Building Official may grant a variance only upon a determination that:

- (1) The variance will not be detrimental to the public health, safety, and general welfare of the Town, and
- (2) The variance will not adversely affect the reasonable development of adjacent property, and
- (3) The variance is justified because of topography or other special conditions unique to the property involved, and the variance is not requested due to mere inconvenience or financial disadvantage, and
- (4) The variance is consistent with the objectives of this article and will not have the effect of nullifying the intent or purpose of this article, or any other pertinent Town or state regulations.

A written request for a variance shall be required and shall state the specific variance sought and the reasons, with supporting data, a variance should be granted. The request shall include all information necessary to evaluate the proposed variance.

Secs. 36-252—36-260. - Reserved.

DIVISION 8. - APPEALS

Sec. 36-261. - Appeals process.

Any person aggrieved by a decision, notice of violation, or denial of a variance by the Town Chief Building Official or designee may appeal the same by filing a written notice of appeal with the Town of Moncks Board of Zoning Appeals within 15 days of the issuance of said decision, notice of violation, or denial of a variance. The Town of Moncks Board of Zoning Appeals (BZA) will review the appeal and will either reverse or preserve the previous decision. In either case, a notice of decision from the BZA will state the reason for their appeal decision.

The BZA shall hear such appeals in a quasi-judicial capacity within 45 days, at the next regularly scheduled meeting or such other time as may be mutually agreed upon and will render a decision within ten working days after the appeal has been heard.

If The BZA fails or neglects to repeal the said decision, notice of violation, or denial of a variance within 60 days of the appeal request, the appeal of the said decision, notice of violation, or denial of a variance is automatically granted.

Any person aggrieved by the decision of the Town of Moncks Board of Zoning Appeals may appeal the decision to the Circuit Court in accordance with its rules and procedures.

Secs. 36-262—36-270. - Reserved.