

ORDINANCE 2007-16

AN ORDINANCE ESTABLISHING A STORMWATER MANAGEMENT PROGRAM
("SWMP") FOR THE CITY OF ISLE OF PALMS

BE IT ORDAINED AND ENACTED BY THE MAYOR AND COUNCIL MEMBERS OF
THE CITY OF ISLE OF PALMS, SOUTH CAROLINA, IN CITY COUNCIL ASSEMBLED:

SECTION 1. Findings.

A. Uncontrolled stormwater runoff may have a significant, adverse impact on the health, safety and general welfare of the City and the quality of life of its residents. 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.

B. The City is required by federal law 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 City's Stormwater system. The NPDES permit requires the City to impose controls to reduce the discharge of pollutants in stormwater to the 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 which discharge stormwater associated with an industrial activity, including construction activities, are required by the South Carolina Code of Regulations 61-9-122 to obtain NPDES permits for construction activities.

D. That it is in the best interests of the City to enter into inter-governmental agreements with the County of Charleston for assistance from the County in implementing, administrating and enforcing the City's SWMP to provide effective, economical and efficient stormwater management.

SECTION 2. That the following Title 3, Chapter 3, Article C, Stormwater Management, is hereby adopted:

"Sec. 3-3-31 Definitions. Unless otherwise stated herein or the context specifically indicates otherwise, the meaning of the words and terms used in this Ordinance shall be as set forth in Section 48-10-20, South Carolina Code of Laws (1976), as amended, and South Carolina Code Annotated, Regulation 72-301.

The following words, terms and phrases, when used in this Ordinance, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

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

“As-built Drawings” are revised construction drawings that depict the final, 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 non-structural measures or facilities used for the control of stormwater runoff, whether for quantity or quality control. BMPs also include 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 activity involving clearing, grading, transporting, filling, or any other activity which causes land to be exposed to the danger of erosion, or which might create an alteration to any existing drainage way or other component of the City’s stormwater system or facility.

“Construction Activity Application” means the application, set of drawings, specifications, design calculations, SWPPP, and other documents necessary to demonstrate compliance with this Ordinance.

“Developer” means any person, or others who act in his behalf, who is required to submit an application for approval to disturb land or encroachment and is thereafter responsible for maintaining compliance with this Ordinance and conditions of the approved application.

“Erosion” means the general process by which soils or rock fragments are detached and moved by the action of wind, water, ice, or gravity.

“Easement” is an authorization by a property owner to the general public or a person or persons for the use of any designated part of his property for a specific purpose.

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

“Illicit Connection” means a connection to a City stormwater management system or facility which results in a discharge that is not composed entirely of stormwater runoff except discharges pursuant to an NPDES permit (other than the NPDES MS4 permit for the City).

“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.

“Illicit Discharge” or “Illegal Discharge” means any activity which results in a discharge into a City stormwater management system or facility or receiving waters that is not composed entirely of stormwater except (a) discharges pursuant to an NPDES permit

(other than the NPDES permit for the City) and (b) discharges resulting from fire-fighting activities.

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

“MS4” means a municipal separate storm sewer system and includes all conveyances or system of conveyances (including roads with drainage systems, highways, right-of-way, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, storm drains, detention ponds, and other stormwater facilities) which inlets, transports, stores, or treats stormwater runoff and which is (a) owned or operated by the City; (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 “Re-Development” means any of the following actions undertaken by any person, including, without limitation, any public or private individual or entity:

- (a) division or combination of lots, tracts, 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 changing the physical drainage characteristics of the 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 Permit” means the NPDES permit for stormwater discharges issued by SCDHEC pursuant to the Clean Water Act and the federal stormwater discharge regulations that allow for restricting pollutant loads as necessary to meet water quality standards.

“Operator” means the person who has operational control of the real 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 the point where a City stormwater management system or facility, or other municipal and private system, discharges into waters of the State or United States.

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

“Person” means any and all persons, natural or artificial, and includes any individual, association, firm, corporation, limited liability company, business trust, estate, trust, partnership, two or more persons having a joint or common interest, state or federal agency or an agent or employee thereof, or any other legal entity.

“Pollutant” means anything which may cause or contribute to violation of water quality standards, including but not limited to sediment, bacteria, nutrients, 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.

“Property Owner” means the record owner of the real property.

“Receiving Waters” mean 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, whether natural or artificial, public or private, inland or coastal, fresh or salt.

“Regulation” means any regulation, rule or requirement prepared by or adopted by City Council pursuant to this Ordinance.

“Spill” means any accidental or intentional discharge of any pollutants, hazardous materials, or other substances which are potentially detrimental to the designated use of a receiving water.

“SWMP” means the City of Isle of Palms Stormwater Management Program, which may describe the components to be used by the City to control stormwater discharges, address flooding, and meet water quality standards.

“Stormwater” 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 Ordinance and its terms, including, but not limited to, measures that control the increased volume and rate of stormwater runoff and water quality impacts caused by man-made changes to the land.

“Stormwater 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, whether for quantity or quality control.

“TMDL” means the Total Maximum Daily Load which is the regulatory value developed to represent the amount of a pollutant that a water body can incorporate while maintaining water quality standards. TMDL is further defined as the pollutant load developed by the Environmental Protection Agency (EPA) and SCDHEC that designates the permitted amount of discharge allowed to flow into a water body of this State or the United States.

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

“Watercourse” is a conveyance used to transport runoff from one location to another.

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

“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.

Sec. 3-3-32 Title. This Ordinance shall be known as the “City of Isle of Palms Stormwater Management Ordinance.”

Sec. 3-3-33 Authority. This Ordinance is adopted pursuant to the authority conferred upon the City by applicable Federal and State laws and regulations.

Sec. 3-3-34 Jurisdiction. The boundaries and jurisdiction of this Ordinance shall encompass the incorporated area of the City, as it may exist from time to time.

Sec. 3-3-35 Purposes.

A. A primary purpose of this Ordinance is to protect, maintain, and enhance water quality and the environment of the City of Isle of Palms and the short-term and long-term public health, safety, and general welfare of the City’s residents. This Ordinance 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 Ordinance 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 where necessary pre-developed runoff characteristics of the area in terms of flow rate,

volume and pollutant concentration, and facilitate economic development while mitigating associated pollutant, flooding, erosion, and drainage impacts.

B. Another primary purpose of this Ordinance is to direct the development and implementation of a Stormwater Management Program (“SWMP”), establishing authority which authorizes or enables the City 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 discharges into the City’s stormwater systems and facilities and receiving waters;
3. Control to the maximum extent practicable the discharge into the City’s stormwater systems and facilities and receiving waters of spills, dumping, or disposal of materials other than stormwater;
4. Address specific categories of non-stormwater discharges and similar other incidental non-stormwater discharges listed in the SWMP;
5. Require erosion and sediment controls to protect water quality on all applicable new and re-development projects both during and after construction;
6. Where necessary, require stormwater discharge rate and volume control during and following development, redevelopment, or construction;
7. Define and implement procedures of site plan review and site inspection of all applicable construction projects within the City;
8. Control the discharge from the City’s stormwater systems and facilities and receiving waters 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;
9. Define procedures for addressing resident complaints of stormwater-related issues within the City;
10. Provide for adequate long-term operation and maintenance of existing stormwater systems and facilities.
11. Carry out inspection, surveillance and monitoring procedures necessary to determine compliance and noncompliance with permit conditions including the prohibition on illicit discharges to the City’s stormwater system and receiving waters;
12. Encourage the creation of stream buffers and preservation of natural spaces to provide areas that may 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;

13. Develop, implement, and enforce action plans to address pollutant load reductions required in impaired water bodies and to work towards compliance with Total Maximum Daily Loads (TMDLs) established by EPA or SCDHEC and to work toward meeting water quality standards.

14. Enable enforcement of all of the authorizations stated herein.

C. Another purpose of this Ordinance is to establish review authority for the City's Zoning Administrator to provide consistency of construction projects with the SWMP.

Sec. 3-3-36 Construction and Scope.

A. The City's Zoning Administrator shall be primarily responsible for the coordination and enforcement of the provisions of this Ordinance and the SWMP; provided, however, that City Council may, from time to time, delegate some or all of the rights and duties of the Zoning Administrator to Charleston County or its duly authorized representatives pursuant to an inter-governmental agreement for same.

B. The application of this Ordinance 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 City or powers granted to the City by the State of South Carolina statutes, including, without limitation, the power to require additional stormwater management requirements as set forth in Section 3-3-42 A. 3. If site characteristics on new development, redevelopment, and existing developments indicate that complying with these minimum requirements will not provide adequate designs or protection for real property, residents, or the environment, the property owner, operator, or person responsible for land disturbing activities is required to provide additional and appropriate management practices, control techniques, system design, and engineering methods to attain an adequate level of protection, in accordance with the City's Stormwater Program Permitting Standards and Procedures Manual (the "Manual").

Sec. 3-3-37 Relationship with other Laws, Regulations and Ordinances. 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 the provisions of this Ordinance shall prevail. Whenever the provisions of any other law, regulation or ordinance impose more restrictive standards than are required in the provisions of this Ordinance, the requirements of such law, regulation or ordinance shall prevail.

Sec. 3-3-38 Amendments. City Council may adopt additional regulations or resolutions to implement this Ordinance, implement the SWMP, or to otherwise further the goal of protecting the quality of the waters which the City's stormwater system drains into.

Sec. 3-3-39 City of Isle of Palms Stormwater Management Program (SWMP). The SWMP which has been developed by the City to implement the purposes of this Ordinance shall serve as the basis for directing the City's efforts to control stormwater runoff and discharge. The SWMP

is incorporated by reference and is hereby a part of this Ordinance. The SWMP requirements are to be complied with and shall be enforced in accordance with the provisions of this Ordinance.

Sec. 3-3-40 Coordination with Other Agencies. City Council may coordinate the City's activities with other Federal, State, and local agencies which manage and perform functions relating to the protection of receiving waters, through a written agreement with those other agencies. Authority not expressly reserved for other agencies or restricted by statute is placed with the Zoning Administrator for the protection and preservation of receiving waters. The Zoning Administrator should coordinate with Federal, State and local agencies having jurisdiction of those receiving waters.

Sec. 3-3-41 Right-Of-Entry.

A. The Zoning Administrator may with the consent of the property owner enter upon the real property of any Person subject to this Ordinance. The Zoning Administrator shall be provided immediate access to the necessary portion of the real property for the purposes of inspecting, monitoring, sampling, inventorying, examining and copying of records, and performing any other duties necessary to determine compliance with this Ordinance.

B. Where the property owner or operator has security measures in place requiring proper identification and consent before entry upon the real property, the property owner, operator, or person shall make the necessary arrangements with the necessary parties so that the Zoning Administrator will be permitted to enter the property without delay for the purposes of performing such responsibilities identified in Subsection A.

C. The Zoning Administrator shall seek the consent of the Owner before entry upon the real property. If such consent is denied or unable to be obtained from the Owner, then in addition to any other remedies allowed by law, the Zoning Administrator shall by affidavit based upon the reasonable suspicion that a violation exists, obtain an ex-parte order from a court of competent jurisdiction to enter upon the property for the limited purposes stated in Subsection A.

Sec. 3-3-42 Regulations.

A. The Zoning Administrator shall be responsible for the coordination, implementation, and enforcement of this Ordinance and the SWMP, in addition to the long-term management of the City's drainage systems. Without limitation, the Zoning Administrator shall have the following authority:

1. To issue any approval, certification, or license that may be required to comply with this Ordinance.
2. To deny a facility connection to the City's stormwater systems or facilities or discharge to waters of the State if State requirements and this Ordinance are not met.
3. To create the City of Isle of Palms Stormwater Program Permitting Standards and Procedures Manual. The Manual may be used to convey design and engineering standards, construction management processes and procedures, and other aspects necessary for

compliance with this Ordinance. The City Administrator is authorized to approve the adoption and subsequent revisions of the Manual.

4. To require the submittal of an application for all applicable construction activities that alter any portion of land for development or alter the storm drainage characteristics of the land. The application shall include the information required to control stormwater pollutants and other components in accordance with the Manual.

5. To require the development and enforcement of a Stormwater Pollution Prevention Plan (SWPPP) for all new and re-development projects.

6. To require proper long-term maintenance of stormwater management systems and facilities through the use of an operating permit or other applicable measures in accordance with the manual.

7. To approve construction activities and to require as a condition of such approval, structural or non-structural controls, practices, devices, operating procedures, or other mechanisms to protect public and private property from flooding and erosion and attain TMDL pollutant load reductions and water quality standards.

8. To require performance bonds as necessary of any Owner to secure the Owner's compliance with approvals, certificates, licenses, or authorizations issued by the Zoning Administrator pursuant to this Ordinance, the SWMP, and Federal and State laws. The Zoning Administrator shall develop a process that organizes the closure of bonds and construction projects to accommodate phases of development and the transfer of the ownership of real property.

9. To conduct all activities necessary to carry out the SWMP and other requirements included in this Ordinance and to pursue the necessary means and resources required to properly fulfill this responsibility.

10. To require appropriate post construction best management practices and appropriate continued maintenance of those best management practices.

11. To determine appropriate fees, to impose penalties, and to take necessary and appropriate actions to enforce this Ordinance.

12. To require encroachment permits as necessary.

Sec. 3-3-43 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) prevent the transport of sediment and other pollutants associated with stormwater runoff beyond the real property boundary lines other than in full compliance with this Ordinance.

In instances where an imminent threat to the health, safety, or general welfare of the public or the environment is suspected, the Zoning Administrator shall determine if immediate

action is necessary. Such action may be taken with or without the consent of the owner, operator or other responsible person. If such consent is denied, the Zoning Administrator shall follow the provisions in Section 3-3-41 for entry upon the real property to remove such threat. In such instances, the owner, operator, or other responsible person shall reimburse the City for any and all expenses associated with removal of such threat. If the Owner or operator fails to reimburse the City for such expenses, the City may recover the expenses from the Owner, operator or other responsible person through any remedies available at law or in equity. Any fees or costs associated with any collection effort by the City are in addition to the recovery of the expenses.

The following development activities are exempt from the provisions of this Ordinance:

A. 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 Section 48-18-70 of the Code of Laws of South Carolina 1976, as amended.

B. Activities undertaken by persons who are otherwise regulated by the provisions of Chapter 20 of Title 48, the South Carolina Mining Act, raising 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 an application in accordance with the Manual prior to the start of the land disturbing activity.

C. 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 a Land Disturbance Application prior to the start of the land disturbing activity.

Sec. 3-3-44 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 Ordinance. The standards establish the minimum technical requirements needed to demonstrate compliance.

The Zoning Administrator is authorized to develop and adopt policies, criteria, specifications, and standards for the proper implementation of the requirements of this Ordinance, 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 provided in the Manual.

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

Sec. 3-3-45 Construction Activity Approval Process. An application for review and approval shall be made for all applicable construction activities. Applications required under this Ordinance shall be submitted in a format and in such numbers as required by the Zoning Administrator. Applications may be initiated by the property owner, operator, or person responsible for construction activities. Applications that meet the requirements of this Ordinance, the SWMP, and State and Federal regulations are considered complete. The application process and requirements to establish a complete application will be provided in the Manual.

Sec. 3-3-46 City of Isle of Palms Stormwater Program Permitting Standards and Procedures Manual (the "Manual"). The 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. It is the intention of the Manual to establish uniform design practices; however, it neither replaces the need for engineering judgment nor precludes the use of information not submitted. Other accepted engineering procedures may be used to conduct hydrologic, hydraulic and pollutant load studies if approved by the Zoning Administrator.

The Manual will contain at a minimum the following components:

- A. Construction Activity Application contents and approval procedures;
- B. Construction Completion and Closeout processes;
- C. 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;
- D. 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 City and the public health, safety, and general welfare of the City's residents.
- E. Construction document requirements;
- F. Long-term Maintenance & Maintenance Plan;
- G. Minimum easement requirements;
- H. Required and recommended inspection schedules and activities for all components of the stormwater management system, including construction-related BMPs.

The Manual will be updated periodically to reflect advances in technology and experience.

Sec. 3-3-47 Maintenance, Construction, Inspection, and Notice of Termination (NOT).

Maintenance of the stormwater management system is critical for the achievement of its purpose of controlling stormwater runoff quantity and quality and providing for the public health, safety, and general welfare of the residents of the City.

In accordance with the Manual, a maintenance plan for the stormwater management system shall be included in an application to perform a construction activity to cover activities to be conducted during and after construction. As part of the maintenance plan, the property owner, operator, or person of such system or facility shall agree to be responsible for keeping the system and facility in working order. The Zoning Administrator shall develop procedures to provide reasonable assurances that maintenance activities are performed in accordance with the Manual for both City and privately maintained stormwater systems and facilities. The Zoning Administrator will provide the procedures for transferring maintenance responsibilities to another entity.

- A. The Zoning Administrator will define procedures for conducting site inspections.
- B. As part of any application to perform a construction activity, the applicant shall submit construction and BMP maintenance and inspection schedules, and a long-term maintenance plan shall be covered by an operating permit for new stormwater management systems and facilities. Required and recommended schedules for BMP maintenance and inspection and long-term plans are provided in the Manual.
- C. If the construction is to be phased, no phase of the work related to the construction of stormwater management facilities shall commence until the preceding phase of the work is completed in accordance with an approved application to perform a construction activity. The procedure for construction phases beginning and ending and what constitutes such conditions shall be submitted with the application.
- D. The applicant shall notify the Zoning Administrator before commencing any work, in accordance with the Manual, and upon completion of any phase or designated component of the site. Notification schedules shall be provided for in the Manual. All self-inspections, maintenance actions, BMP replacements, and changes to the approved application shall be documented and presented upon request to the Zoning Administrator.
- E. The NOT process as identified in the Manual must be completed by the Zoning Administrator prior to any of the following actions, as applicable:
 - 1. The use or occupancy of any newly constructed components of the site.
 - 2. Final acceptance of any road into a public road maintenance system or designation of road owner and associated stormwater management system.
 - 3. Release of any bond held by the City, if applicable.
 - 4. Approval 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. 3-3-48 Watercourse Protection. Every owner, operator, or person responsible for any land disturbance activity on property through which a watercourse passes shall keep and maintain that portion of the watercourse within the property free of trash, debris, and other obstacles that would pollute, contaminate, or retard the flow of water through the watercourse. In addition, the owner, operator, or person shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not interfere with the use, function, or physical integrity of the watercourse.

To assist in the compliance with State and Federal laws and regulations, the Zoning Administrator 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 adopted TMDLs, known flooding problems and pollution impairments, or other areas necessary to protect, maintain, and enhance water quality and the environment of the City and the public health, safety, and general welfare of the City's residents. These areas may 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 in a manner so as not to degrade the integrity of any existing stormwater system, whether natural or manmade, and shall demonstrate this to the Zoning Administrator, in accordance with the Manual. Discharge points shall be confined to connections with an existing stormwater system. When stormwater discharges are to flow into collection systems not owned and maintained by the City, the owners of these systems shall maintain the right to disapprove new connections to their systems.

Sec. 3-3-49 Notification of Spills. The owner, operator, or person responsible for any land disturbance activity shall immediately notify the Zoning Administrator of any known or suspected release of materials or discharges that are currently resulting in or may result in any illegal discharges of pollutants to an existing stormwater system.

Sec. 3-3-50 Illicit Connections, Illicit Discharges and Improper Disposal.

A. It is unlawful for any owner, operator, or person to connect any pipe, open channel, or any other conveyance system that discharges anything, except stormwater or other approved discharges, into the City's stormwater system or facility, or waters of the State.

B. It is unlawful for any owner, operator, or person to continue the operation of any 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 the satisfaction of the Zoning Administrator in compliance with Federal, State, or local agencies or departments regulating the discharge.

C. It is unlawful for any owner, operator, or person to throw, drain, or otherwise discharge to any existing stormwater system, the waters of the State or to cause, permit, or allow a discharge that is composed of anything except stormwater or other discharges authorized by the Zoning Administrator.

D. The Zoning Administrator will develop procedures for detecting, tracking, and eliminating illicit discharges and improper disposals to the stormwater system.

E. After a reasonable determination is made by the Zoning Administrator that the discharge is not a significant source of pollution, the Zoning Administrator may require controls for, or exempt from the prohibition provisions in Subsection A, B and C, the following:

1. Unpolluted industrial cooling water, but only under the authorization and direction of the Zoning Administrator and if 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 Zoning Administrator may develop procedures for allowing other non-stormwater discharges.

Sec. 3-3-51 Detection of Illicit Connections and Improper Disposal.

A. The Zoning Administrator will take appropriate steps to detect and eliminate illicit connections to the City's stormwater system, 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. The Zoning Administrator will take appropriate steps to detect and eliminate improper discharges. 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 illicit discharges.

Sec. 3-3-52 Waste Disposal Prohibitions. This Ordinance prohibits non-authorized discharges, illicit dumping, or disposal of waste into any stormwater system or waters of this State.

Sec. 3-3-53 Discharges in Violation of NPDES General Permit for Stormwater Discharges Associated with Industrial Activity Permit. Any owner, operator, or person subject to a violation of the NPDES General Permit for Stormwater Discharges Associated with Industrial Activity Permit (except construction activities) shall comply with all provisions of the permit. Proof of compliance with the permit will be required in a form acceptable to the Zoning Administrator prior to or as a condition of the issuance of approval of an application or a building permit.

Sec. 3-3-54 Monitoring. The Zoning Administrator may monitor the quantity and concentration of pollutants in stormwater discharges from the areas or locations designated in the City's SWMP.

Sec. 3-3-55 Inspections.

A. The Zoning Administrator, subject to the provisions of Section 3-3-41, may enter upon and inspect all properties for regular inspections, periodic investigations, monitoring, observation measurement, enforcement, sampling and testing, to effectuate the provisions of this Ordinance and the SWMP programs.

B. Upon refusal by any property owner, operator, or person to permit an inspector to enter upon the property or continue an inspection on the property, the inspector shall terminate the inspection or confine the inspection to portions of the property to which no objection is raised. The Zoning Administrator will document the refusal and proceed according to the provisions of Section 3-3-41.

C. In the event that the Zoning Administrator reasonably believes that discharges from the property into a stormwater system may cause an imminent and substantial threat to the health, safety or welfare of the public or the environment, an inspection may be conducted.

D. Inspection reports will be maintained in a permanent file located in the City's Building Department.

E. At any time during an inspection or at such other times as the Zoning Administrator may request information from an owner, operator, or other responsible person, that owner, operator, or other responsible person may identify areas of his system or facility, any material, processes, or information that contain or might reveal a trade secret. If the Zoning Administrator has no 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 Zoning Administrator does not agree with the trade secret designation, the material shall be temporarily designated a trade secret, and the owner or representative may appeal the Zoning Administrator's decision in the manner in which all such appeals are handled in this Ordinance.

Sec. 3-3-56 Enforcement.

A. If the Zoning Administrator determines that work performed for new development and re-development fails to conform to the approved application, or that the work has not been performed, the Zoning Administrator may direct conformity by sending written Notice of Violation ("NOV") to the property owner, operator, or other responsible person. Such notice of violation will be in accordance with the Manual. The actions of the Zoning Administrator may include:

1. issuing a written order to comply, to suspend work, or to revoke the approval issued;

2. withholding or revoking other permits related to the site;
3. withholding the release of permanent electric power to the site or certificate of occupancy; and/or
4. seeking redress through legal action.

The NOV shall serve as notice to remove the violation(s). The NOV shall be provided to the owner, operator, or person responsible for the land disturbing activities stating the nature of the violation, the amount of time to correct deficiencies, the date on which an inspection will be made to ensure that corrective action has been performed, and the applicable penalty or fine if corrective action is not taken by the inspection date. After the issuance of the NOV, the Zoning Administrator may issue a uniform summons citation in accordance with the Manual.

B. When the Zoning Administrator determines that an owner, operator, or other responsible person has failed to maintain a stormwater system or facility, the NOV shall be provided to the owner, operator, or other responsible person 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 ensure that corrective action has been performed, and the applicable penalty or fine if corrective action is not taken. It shall be sufficient notification to deliver the notice in accordance with the Manual.

C. When the Zoning Administrator determines that an owner, operator, or other responsible person of any property is causing or partially causing flooding, erosion, or is in non-compliance with water quality standards or this Ordinance, the Zoning Administrator may require the owner, operator, or other responsible person to remedy the violation and restore the impacted property. A NOV will be issued in accordance with the Manual.

D. This Ordinance may be enforced by any remedy at law or in equity available to the Zoning Administrator under any Federal and State laws and regulations. The penalties and 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.

Sec. 3-3-57 Penalties.

A. Civil: Any person violating any provision of this Ordinance shall be subject to a civil penalty of up to One Thousand Dollars (\$1,000) for each violation. Each separate day of a violation constitutes a new and separate violation.

B. Criminal: In addition to any applicable civil penalties, any owner, operator, or other person who willfully, with wanton disregard, or intentionally violates any provision of this Ordinance shall be guilty of a misdemeanor and shall be punished within the jurisdictional limits of the City's Municipal Court. The Zoning Administrator may issue a uniform summons citation for a violation of this Ordinance. Fines imposed under the NOV may not exceed \$500.00 per violation or thirty (30) days in jail, or both. Each day a violation remains constitutes a separate offense.

Sec. 3-3-58 Additional Legal Measures. If the City is fined or subjected to a compliance schedule by the State or Federal government for a violation of its NPDES permit by any owner, operator, or other person, the owner, operator, or other person shall be liable to the City for any and all penalties, expenses, fees and costs of compliance associated therewith.

Sec. 3-3-59 Corrective Action. In the event a violation of this Ordinance has not been corrected within the applicable time period for correction, the City may, subject to the provisions of Section 3-3-41, enter upon the real property and correct the violation. Any penalties, expenses, fees and costs incurred as a result of such action, including but not limited to the inspection, administration, labor and equipment costs, shall be forfeited from any bond issued for the project.

Sec. 3-3-60 Stop Work Order. The Zoning Administrator may issue a stop work order if any construction activity is conducted in violation of this Ordinance. The stop work order shall require correction of the NOV. Any owner, operator, or other 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. 3-3-61 Approval Suspension and Revocation An approved application may be suspended or revoked if one or more of the following violations have been committed:

- A. violations of the conditions of the approved application,
- B. construction is not in accordance with the letter or intent of the approved plans,
- C. non-compliance with correction notice(s) or stop work order(s), or
- D. the existence of an immediate danger to a downstream area.

Sec. 3-3-62 Design Criteria. The Zoning Administrator may grant a variance from the requirements of this Ordinance if exceptional circumstances exist such that strict adherence to the provisions of the Ordinance will result in unnecessary hardship to the owner, operator, or other person and will not fulfill the intent of the Ordinance.

A written request for a variance shall be required and shall be submitted in accordance with the Manual.

Sec. 3-3-63 Appeals Process. Excluding any action taken pursuant to Section 3-3-57 B, an applicant may appeal the decision of the Zoning Administrator to the City's Code Board of Adjustments and Appeals within thirty (30) days after the date of the Zoning Administrator's action. The Zoning Administrator shall provide the petition form to the applicant.

- A. The petition must be accompanied with a \$50.00 fee that will be used to partially defray the costs incurred in connection with the administration of petitions filed pursuant to this Section.

B. The Code Board of Adjustments and Appeals shall hear the petition within a reasonable period of time. At the hearing, any party may appear in person or by agent or attorney.

C. The Code Board of Adjustments and Appeals shall render a written decision on the petition and such written decision shall be issued within twenty (20) calendar days from the day the Board heard the petition. The decision of the Code Board of Adjustments and Appeals shall contain findings of fact and conclusions of law and the decision shall be sent to the petitioner by first class mail.

D. The decision of the Code Board of Adjustments and Appeals shall be final unless the petitioner appeals the decision to the circuit court in Charleston County within thirty (30) days after the date of the decision.

Sec. 3-3-64 Funding. In addition to all other charges, fees, and penalties, the City shall have the right to develop and impose a service fee to fund implementation of the City's Stormwater Management Ordinance and its associated programs and plans.

Sec. 3-3-65 Connection to Conveyances. The Zoning Administrator shall have the right to establish a schedule of appropriate fees for any owner, operator, or person establishing a new discharge to waters of the State within the City. Such fees shall be payable as part of any application related to the discharge of stormwater runoff. Application fees shall be established on the basis of facility classes relating to the quantity and quality of approved discharge. Establishment and revision of such fees shall be approved by City Council.

Sec. 3-3-66 Plan Review. A fee associated with the plan review of land development construction documents may be assessed. Establishment and revision of such fees shall be approved by City Council.

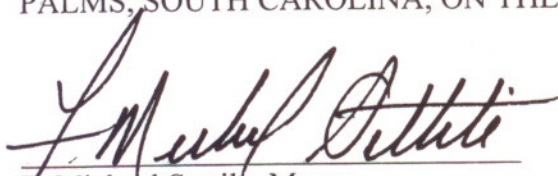
Sec. 3-3-67 Field Inspection. A fee associated with the field inspection and re-inspections of land development or construction activities may be assessed. Establishment and revision of such fees shall be approved by City Council.

SECTION 3. That should any part of this Ordinance be held invalid by a Court of competent jurisdiction, the remaining parts shall be severable therefrom and shall continue to be in full effect.

SECTION 4. That all ordinances or parts of ordinances conflicting with the provisions of this Ordinance are hereby repealed insofar as the same affect this Ordinance.

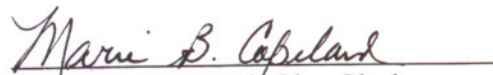
SECTION 5. That this Ordinance take effect and be in full force immediately.

PASSED AND APPROVED BY THE CITY COUNCIL FOR THE CITY OF ISLE OF PALMS, SOUTH CAROLINA, ON THE 28th DAY OF AUGUST, 2007.


F. Michael Sottile, Mayor

(Seal)

Attest:


Marie B. Copeland, City Clerk



First Reading: July 24, 2007
Public Hearing: August 28, 2007
Second Reading: August 28, 2007
Ratification: August 28, 20007