The Town of Elgin
Stormwater Management Ordinance

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DIVISION 1 – GENERAL PROVISIONS

Sec. 1-1. Title.

This ordinance shall be known as the "Stormwater Management Ordinance of the Town of Elgin, South Carolina."

Sec. 1-2. Authority.

This ordinance is adopted pursuant to the authority conferred upon the Town of Elgin (the "Town") by the South Carolina Constitution, the South Carolina General Assembly and in compliance with the requirements imposed upon the Town by the National Pollutant Discharge Elimination System ("NPDES") Phase II Permit No. SCR030000 issued in accordance with the federal Clean Water Act, the South Carolina Pollution Control Act and regulations promulgated thereunder.

Sec. 1-3. Findings.

The Town Council makes the following findings:

(a) Uncontrolled stormwater runoff has the potential for adverse impacts on the health, safety and general welfare of the Town and the quality of life of its citizens by transporting pollutants into receiving waters and by causing erosion or flooding.

(b) The Town is required by federal law[33 U.S.C 1342(p) and 40 CFR 122.26] to obtain coverage under a National Pollutant Discharge Elimination System (NPDES) permit from the South Carolina Department of Health and Environmental Control ("DHEC") for stormwater discharges from the Town of Elgin Municipal Separate Stormwater System. The NPDES permit requires the Town to manage their stormwater system in a manner that reduces 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 that are determined to be appropriate for the control of such pollutants.

(c) Additionally, certain facilities that discharge stormwater associated with an industrial activity and land disturbing activities are required to obtain coverage under an NPDES permit. Land disturbing activities are also required to comply with the South Carolina Stormwater Management and Sediment Reduction Act [S.C. Code 48-14-10 et seq.].

Sec. 1-4. Purpose.

(a) It is the purpose of this ordinance to protect, maintain, and enhance the environment of the Town of Elgin and the short-term and long-term public health, safety, and general welfare of the citizens of the Town by establishing requirements and procedures to control the potential adverse effects of increased stormwater runoff associated with both future development (including redevelopment) and existing developed land. Proper management of stormwater runoff will minimize damage to public and private property, 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, reduce pollutant loading to the maximum extent practicable and maintain to the extent practicable the pre-developed runoff characteristics of the area, and facilitate economic development while mitigating associated pollutant, flooding and drainage impacts.

Early interaction between the developer/land owner and the Town leads to better opportunities to protect water quality while maintaining reasonable land development options for the developer/land owner to

pursue. Therefore, the Town encourages developers/land owners to present development and their associated stormwater management concept plans as early as possible/practical in the land development process.

(b) It is further the purpose of this ordinance to direct the development and implementation of the Stormwater Management Program and to establish adequate legal authority to control pollutant discharges into and from the Town of Elgin stormwater system and to meet the requirements of the DHEC NPDES Municipal Separate Storm Sewer System permit. Specifically, the Town is authorized to:

(1) Control the contribution of pollutants to the Town of Elgin stormwater system and receiving waters by stormwater discharges .

(2) Prohibit illicit discharges, dumping and spills into the Town of Elgin stormwater system and receiving waters;

(4) Manage, through intergovernmental agreements, the contribution of pollutants from one municipal stormwater system to another;

(5) Require compliance with conditions in ordinances, permits, contracts or orders;

(6) Require sediment and erosion controls to protect the Town of Elgin stormwater system and stream water quality on all applicable land disturbing projects;

(7) Develop procedures to require adequate long term operations and maintenance of BMPs;

(8) Encourage the use of Low Impact Development as defined in the Unified Code of Zoning and Land Development Regulations (ZLDR).

(9) Carry out all inspection, surveillance and monitoring procedures necessary to determine compliance and noncompliance with the requirements of this ordinance and any permit conditions;

(10) Enable enforcement of all requirements of this ordinance and any permit conditions.

(c) The application of this Ordinance and the provisions expressed herein shall be the minimum erosion and sediment control and stormwater management requirements and shall not be deemed a limitation or repeal of any other powers granted by statute. In addition, if site characteristics indicate that complying with these minimum requirements are not protective enough to private property or natural resources, the owner shall employ additional controls.

(d) This Ordinance is to be construed to further its purpose of controlling and reducing pollutant discharges to the Town of Elgin stormwater system and to the Waters of the State to assure the obligations under its NPDES permit issued by the Department of Health and Environmental Control (DHEC) as required by 33 USC 1342 and 40 CFR 122.26.

Sec. 1-5. Construction and Scope

(a) It is the goal of the Town Council that the provisions of this Ordinance will result in reduction of the discharge of pollutants to the Town of Elgin stormwater system and receiving waters to the maximum

extent practicable using management practices, control techniques and system, design and engineering methods and such other programs and controls.

(b) The application of this Ordinance, the provisions expressed herein, and the Federal and State stormwater regulations shall be minimum erosion and sediment control and stormwater management requirements and shall not be deemed a limitation or repeal of any other ordinances of the Town or powers granted to the Town by the State of South Carolina statues, including, without limitation, the power to require additional or more stringent stormwater management requirements.

(c) The Town shall be primarily responsible for the implementation and enforcement of the provisions of this Ordinance, the Town's Stormwater Management Program, and the Town's NPDES Permit.

Sec. 1-6. Severability.

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

Section 1-7. Definitions.

For the purpose of this Ordinance, definitions contained in South Carolina regulations 61-9.122.2 and 72-301 are incorporated herein by reference. Where the same words are defined in both the aforementioned regulations, but are not the same, the definitions contained in R. 61-9.122.2 shall be used for the purposes of this Ordinance. Additional terms, phrases and words shall have the meaning given in the Appendix.

Section1-8. Rules of Language and Interpretation

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

(b) The particular shall control the general.

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

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

Secs. 1-9 – 1-10 Reserved.

DIVISION 2 – ORGANIZATION AND ADMINISTRATION

Sec. 2-1. Regulations.

The Town Council, may, in its discretion, amend or change this Ordinance or adopt additional regulations or resolutions to implement this Ordinance to comply with the NPDES permit, implement the Stormwater

Management Program ("SWMP"), or to otherwise further the goal of protecting the Town of Elgin stormwater system and water quality.

Sec. 2-2. The Town of Elgin Stormwater Management Program.

The Stormwater Management Program developed by the Town to comply with the NPDES Stormwater Permit serves as the basis for the Town's program implementation and administration. The SWMP, as amended from time to time by the Town, is hereby adopted for the life of the Town of Elgin Stormwater System NPDES permit as the official operational Program.

Sec.2-3. Coordination with Other Agencies.

The Town shall coordinate its activities with other federal, state, and local agencies, including Kershaw County, which manage and perform functions relating to the protection of receiving waters. Authority not expressly reserved for other agencies or restricted by statue is placed with the Town for the protection and preservation of receiving waters. The Town shall coordinate with State and Federal Agencies having jurisdiction over receiving streams and wetlands, when appropriate.

Sec. 2-4. Cooperation with Other Governments.

The Town may enter into agreements with other governmental and private entities to carry out the purposes of this Ordinance. These agreements may include, but are not limited to enforcement, resolution of disputes, cooperative monitoring, cooperative management of stormwater systems, and cooperative implementation of stormwater management programs. Nothing in this Ordinance or in this Section shall be construed as limitation or repeal of any ordinances of other local governments or of the powers granted to other local governments by the South Carolina Constitution or South Carolina statues, including, without limitation, the power to require additional or more stringent stormwater management requirements within other jurisdictional boundaries.

Secs. 2-5 – 2-10 Reserved.

DIVISION 3 – STORMWATER QUANTITY AND QUALITY MANAGEMENT REQUIREMENTS

Sec. 3-1. Regulations.

a) Federal regulations governing stormwater management, as specified in State Code of Laws 40 C.F.R. 122.26, and State Code of Regulations R. 61-9.et. seq. and R. 72-300 et. Seq., are adopted pursuant thereto, the current version of the state NPDES General Permit for Storm Water Discharges from Construction Activities (NPDES Permit No. SCR100000), or any revisions made by SCDHEC replacing such in the future, and the technical requirements of state regulations 72.305 and 72.307 are adopted as the minimum requirements for all facilities as defined in the respective regulations.

(b) The Town of Elgin shall have the following specific authority:

(1) To authorize Kershaw County to issue any permit, certification or license that may be required to comply with this Ordinance and the Federal and State regulations referenced in 3-1.a) above.

(2) To deny and to authorized Kershaw County to deny a facility connection to the Town of Elgin stormwater system or to discharge to Waters of the State if State and Federal regulations and this Ordinances are not met.

(3)To adopt the Kershaw County ZLDR as an extension of this Ordinance. The ZLDR shall be used to convey design and engineering standards, construction management processes and procedures, and other aspects necessary for compliance with this Ordinance. Subsequent revisions of the Kershaw County ZLDR shall include approval by Town Council.

(4) To require the submittal of a Land Disturbance Permit Application for all applicable land disturbing activities, as outlined in the Kershaw County ZLDR.

(5) To require the development of a Storm Water Pollution Prevention Plans (SWPPP) for all applicable new and redevelopment projects and to enforce such SWPPP.

(6) Along with the SWPPP, to require as a condition of the SWPPP, installation, operation, and maintenance of construction and post-construction structural and non-structural control measures to minimize the discharge of pollutants to the maximum extent practicable.

(7) To authorized Kershaw County to require performance bonds, when necessary, of any person to secure that person's compliance with the land disturbance permit or the SWPPP Plan, as well as other permits, certificates, licenses or authorization issued or approved by the Town pursuant to this Ordinance, the Stormwater Management Program and related Federal and State laws.

(8) To comply with all Federal and State regulatory requirements promulgated or imposed pursuant to the Clean Water Act and the SC Stormwater Management Act, applicable to the management of stormwater discharges to or from the Town.

(9) To conduct all activities necessary to carry out the stormwater management program and other requirements included in the Town's NPDES permit, the SWMP, the Kershaw County ZLDR, and this Ordinance, and to pursue the necessary means and resources required to properly fulfill this responsibility.

(10) To enter into agreements with other governmental entities or private persons or entities to provide or procure services to conduct and carry out stormwater management activities.

(11) To maintain the Stormwater Management Program consistent with the provisions of the Town's NPDES permit, the SWMP, the ZLDR and this Ordinance.

(12) To determine necessary and appropriate actions to enforce this Ordinance and the Stormwater Management Program.

(13) Provide for the protection of the natural resources to the impacts of stormwater runoff and associated pollutants. This may include the creation of watershed-specific plans that will guide land development activities in a manner to allow development and be protective of natural resources.

(14) To require encroachment permits, as necessary.

Sec. 3-2. Prohibitions and Exemptions

(a) No person shall (1) develop any land, (2) engage in any industry or enterprise, (3) construct, operate or maintain any landfill, hazardous waste treatment, disposal or recovery facility, or any other industrial or related facility (4) dispose of any hazardous or toxic substance or other pollutant (5) or otherwise cause and/or allow the transport of sediment and other pollutants associated with stormwater runoff into the Town of Elgin stormwater system or streams without having provided for compliance with this Ordinance and with any program, plan, permit, or regulation of the Town's Stormwater Management Program (SWMP) adopted in accordance with this Ordinance and all other related State and Federal regulations.

(b) The following development activities are exempt from the provisions of this Ordinance.

(1) Construction or improvement of single family residences or their accessory buildings which are separately built and not part of a common plan of development such as a subdivision development; and which are anticipated to disturb an area of less than 5000 square feet are exempted from Sec.3-2 (a) (1) of this Ordinance.

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

(3) Agricultural land disturbances that disturb more than one acre and do not create new impervious surfaces.

(4) 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.

Sec. 3-3. Stormwater Management Program.

The Town, in cooperation with Kershaw County, shall implement and conduct the Town's stormwater program according to the Town's Stormwater Management Program (SWMP). The SWMP serves as the basis for compliance with the NPDES Stormwater Permit issued to the Town under the provisions of the Water Quality Act of 1987 and State Code of Laws 40 C.F.R. 122.26. This Stormwater Management Program is more fully described in the NPDES Stormwater Permit (SCR030000) which defines the terms and conditions of the Town's authority to operate its stormwater system. By way of summary only, the Stormwater Management Program includes the following mandated elements:

(a) A public education and outreach on stormwater impacts, as they related to at least three high priority community issues with potential to decrease the pollutants' of concern effect on water quality;

(b) A public involvement/participation in the stormwater program and activities;

(c) An illicit discharge detection and elimination program;

(d) A program to implement and maintain structural and non-structural best management practices to reduce pollutants in stormwater runoff from construction sites to the stormwater system, the "Construction Site Stormwater Runoff Control Program";

(e) A program to implement and maintain structural and non-structural and source control measures to reduce pollutants from runoff from commercial and residential areas, the "Post-Construction Stormwater Management Program";

(f) A pollution prevention/good housekeeping program to prevent or reduce pollutant runoff from municipal operations.

(g) Monitoring and assessment of municipal outfalls and/or streams in MS4 portion of TMDLs.

(h) Implementation of TMDLs located in the MS4.

(i) Enforcement of this Ordinance.

Sec.3-4. Design/Engineering Standards.

The Town adopts the Kershaw County ZLDR as the standards for the design and engineering of the Town of Elgin stormwater system

Sec. 3-5. Stormwater Management Best Management Practices (BMP) Handbook.

The Town shall require the use of the South Carolina Stormwater Management BMP Handbook (BMP Handbook), as developed by SCDHEC, in accordance with the approved Stormwater Management Program. The BMP Handbook (including future additions or revisions) shall serve as the minimum requirements for guidance for the design, construction, and maintenance of facilities which discharge stormwater. The BMP Handbook shall be used to provide, at a minimum, the following information:

(a) Guidance and specifications for the preparation of erosion and sediment control and stormwater management plans; acceptable techniques for obtaining, calculating and presenting the information required in the plans; and determining design conditions.

(b) Guidance in selecting environmentally sound practices for managing stormwater; description of specific techniques and practices; and the development and use of techniques emphasizing use of natural systems.

(c) Minimum specifications for designing, constructing, and maintaining stormwater management facilities.

(d) Minimum easement requirements.

(e) Post-development performance standards for stormwater management facilities and practices (BMPs), and the methodology/criteria for BMPs.

Sec. 3-6. Reserved

Sec. 3-7. Reserved

Sec. 3-8. Reserved

Sec. 3-9. Reserved

Sec. 3-10. Minimum Runoff Control Requirements

The minimum stormwater control requirements shall conform to all applicable sections of the Kershaw County ZLDR including, but not limited to: Article 5 – Land Development Regulations; the current version, or future replacement versions, of the South Carolina NPDES General Permit for Stormwater Discharges from Construction Activities.

Sec. 3-11. Reserved

Sec. 3-12. Reserved

Sec. 3-13. Plan Hydrologic Criteria

The hydrologic criteria to be used for the stormwater concept and drainage plans shall be as described in Article 5 – Land Development Regulations, Division 3 – Land Development Design Standards and Required Improvements of the Kershaw County ZLDR.

Sec. 3-14 Maintenance

(a) All stormwater management facilities shall be privately owned and maintained unless the Town accepts the facility for Town ownership and maintenance. The owner of all private facilities shall grant to the Town, a perpetual, non-exclusive easement which allows for public inspection and emergency repair.

(b) All stormwater management measures relying on designated vegetated areas or special site features shall be privately owned and maintained as defined on the SWPPP plan.

(c) Privately owned stormwater systems shall be inspected annually by the owner and the inspection report submitted to the Kershaw County Stormwater Manager by December 31 of each year.

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

(e) When the Town determines that additional storage capacity 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 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 attempt to obtain from the owners of property over, through or under where the stormwater management facility is to be located, any easements necessary for the construction and maintenance of same (and failing to obtain such an easement, the Town may, at its option, assist in such matter by purchase, condemnation, dedication or other means, and subject to Sec. 3-14 (c) of this Ordinance, with any cost incurred thereby to be paid by the Town); and/or

(3) participate financially in the construction of such facility to the extent that such facility exceeds the required on-site stormwater management as determined by the Town.

(4) Implement the provisions of additional stormwater control where deemed warranted by the Town.

Sec. 3-15 Watercourse Protection and Special Protection Areas

(a) Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition,

the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

(b) To assist in the compliance with related State and Federal laws and regulations, the Town may develop special protection areas which require additional control of stormwater quality and/or quantity than provided by minimum design standards.

Sec. 3-16. Performance Bonds.

A person is required to obtain a surety or cash performance bond, irrevocable letter of credit, or other means of security acceptable to Kershaw County Stormwater Manager to secure compliance with Land Disturbance Permit, as well as other permits, certificate, license or authorization issued or approved by the Town or Kershaw County pursuant to this Ordinance, the Stormwater Management Program and Federal and State laws. The performance bond shall be obtained prior to the issuance of any building and/or land disturbance permit for construction of a development requiring a stormwater management facility, and in accordance with all applicable portions of Article 5:2.12- (Financial Guarantees) of the ZLDR.

Secs. 3-17 – 3-20 Reserved.

DIVISION 4 - ILLICIT CONNECTIONSAND DISCHARGES AND IMPROPER DISPOSAL

Sec. 4-1. Prohibition of Illicit Connections, Illicit Discharges, and Improper Disposal.

(a) It is unlawful for any person to construct, connect, use, or maintain any pipe, open channel, or any other conveyance system that discharges anything into the Town of Elgin stormwater system or a Water of the State, except stormwater or an allowed non-stormwater discharge according to4-1 (e) and is approved by the Town.

(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 or connected. Improper connections in violation of this Ordinance must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or the sanitary sewer system upon approval by the Town and any other federal, state, or local agencies or departments regulating the discharge.

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

(d) It is unlawful for any person to throw, drain, spill or otherwise discharge or cause, permit, or allow others under its control to throw, drain, spill, or otherwise discharge into the Town of Elgin stormwater system or to the Waters of the State a discharge that is composed of anything except stormwater or an allowed non-stormwater discharge according to 4-1 (e) and is approved by the Stormwater Manager.

(e) The Town may allow the following non-stormwater discharges, provided that the Town has determined the discharges and/or the resulting impact(s) of the discharges(to include but not limited to erosion and/or

sediment transport)not to be a substantial contributor of pollutants to the Town of Elgin stormwater system or a Water of the State:

1) Water line flushing performed or required by a government agency
2) Landscape irrigation
3) Diverted stream flows
4) Rising groundwaters
5) Uncontaminated pumped groundwater
6) Uncontaminated groundwater infiltration (here "infiltration" is defined as water, other than wastewater or wastewater effluent, that enters a sewer system, including foundation drains, from the ground through such means as defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished from, inflow).
7) Discharges from potable water sources
8) Foundation drains
9) Air conditioning condensate
10) Irrigation water (not consisting of treated, or untreated wastewater)
11) Springs
12) Water from crawl space pumps
13) Footing drains
14) Lawn watering
15) Individual residential car washing
16) Dechlorinated swimming pool discharges
17) Natural flows from riparian habitats and wetlands
18) Street wash water.
19) Discharges or flows from fire fighting activities.

(f) The Town may develop procedures for allowing other non-stormwater discharges not listed in (e) (1-4).

(g) Spills

1) Any person responsible for accidental discharges or unavoidable spills of non-stormwater discharges into the Town of Elgin stormwater system or Waters of the State must take the following actions:

    i. Immediately control and contain the materials to prevent migration into or further into the Town of Elgin Stormwater System or Waters of the State;

    ii. Clean up the spill materials; and

    iii. Where the non-stormwater discharges have migrated into the Town of Elgin Stormwater System or into Waters of the State, notify the Town.

2) Where hazardous materials have been discharged or spilled, Kershaw County Safety and Emergency Services Department shall be immediately contacted.

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

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

5) The owner, operator, or other designated responsible party will bear all costs of cleaning up any spills, immediately stopping illicit discharges, and removing the illicit connection or providing spill prevention. In the event that the Town, Kershaw County or their contractor removes or immediately stops the discharge and provides spill abatement, the owner, operator, or designated responsible party shall reimburse the Town for funds used in the removal and clean-up. To facilitate timely removal of illicit discharges, the Town or Kershaw County may order a cessation of activities, revocation of any active permits, and other means to halt the illicit discharge.

Sec. 4-2. Detection of Illicit Connections and Improper Disposal.

(a) The Town shall take appropriate steps to detect and eliminate illicit connections to the Town of Elgin 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 Town shall 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, levy fines, and other appropriate activities to facilitate the proper management and disposal of used oil, toxic materials, and household hazardous waste.

Sec 4-3. Waste Disposal Prohibitions.

(a) 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, excessive fecal matter, or other discarded or abandoned objects, articles, and accumulations, so that the same may cause or contribute to pollution. Yard debris, including natural foliage, may be deposited in the public right of way but not in or on any stormwater conveyance structures, including inlets, gutters and ditches, 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 is in place. No waste or yard debris shall be placed in the street without such a collection service.

Sec. 4-4. Discharges from an Industrial or Construction Activity NPDES Storm Water Discharge or ND Permitted facility.

Any person subject to an industrial or construction activity NPDES Storm Water Discharge Permit or ND Permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required, as requested, in a form acceptable to the Town. Proof of compliance may also be required prior to or as a condition of the issuance of a Land Disturbance Permit, and/or a building permit.

Sec. 4-5. Reserved.

DIVISION 5 – MONITORING AND INSPECTIONS

Sec. 5-1. Authority to Sample and Monitor

The Stormwater Department may sample and/or monitor stormwater or in-stream water quality and/or quantity on public and private properties and facilities located in the Town.

Sec. 5-2. Inspections.

(a) An inspector designated by the Town bearing proper credentials and identification, shall have right-of-entry on or upon the property of any person subject to (or that is believed to be subject to) this Ordinance and any permit/document issued hereunder for regular inspections, periodic investigations, monitoring, observation measurement, enforcement, sampling and testing, inventorying, examining, photographing, videoing, copying of records and performing any other duties necessary to determine compliance with this Ordinance. The Town shall duly notify the owner of said property or the representative on site and the inspection shall be conducted at reasonable times.

(b) Where the property owner or lessee has security measures in force requiring proper identification and clearance before entry onto the premises, the property owner or lessee shall make necessary arrangements with the necessary parties so that, upon presentation of suitable identification, an inspector designated by the Town will be permitted to enter without delay for the purposes of performing such responsibilities identified in Sec. 5-2.

(c) An inspector designated by the Town shall have the right to set up on the person's property such devices as are necessary to ensure compliance with this Ordinance.

(d) Upon refusal by any property owner to permit an inspector designated by the Town to enter or continue an inspection, the inspector shall terminate the inspection or confine the inspection to areas concerning which no objection is raised. The inspector shall immediately report the refusal and the grounds to the Town, and the Town shall promptly seek the appropriate enforcement measures authorized in this Ordinance.

(e) In cases where an imminent threat to the health or safety of the general public or the environment is suspected, an inspector designated by the Town shall investigate to determine if immediate action is necessary. Such responsibilities shall be made with or without the consent of the property owner or lessee. If such consent is refused, the Town may take enforcement measures authorized in this Ordinance to remove such threat. In such cases, the property owner shall reimburse the Town for its expenses. If the property owner fails to reimburse the Town, the Town is authorized to file a lien for said costs against the property.

(f) Where illicit discharges from private property are occurring, an inspector designated by the Town may enter onto the property and take immediate action to stop the discharge from entering the Town of Elgin's stormwater system or Waters of the State. In such cases, the property owner or lessee, as the case may be, shall reimburse the Town for its direct and related expenses. If the property owner or lessee, as the case may be, fails to reimburse the Town, the Town is authorized to file a lien for said costs against the property or the lessee's leasehold interest, as the case may be, and to enforce the lien by judicial foreclosure proceedings.

(g) Any temporary or permanent obstruction to safe and easy access to the necessary areas to perform the said responsibilities shall be removed promptly by the property owner or lessee at the written or verbal request of an inspector designated by the Town. The costs of clearing such access shall be borne by the property owner or lessee.

(h) Delays or refusals to allow an inspector designated by the Town access to a property is a violation of this Ordinance.

Sec. 5-3. Information.

Operators of construction sites of new or redeveloped land, when requested by the Town or Kershaw County Stormwater Department, must provide information relevant to compliance with this Ordinance and the ZLDR.

Secs. 5-4 – 5-10 Reserved.

DIVISION 6 – VIOLATIONS, ENFORCEMENT, PENALTIES, ANDABATEMENT

Sec. 6-1. Violations

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

(b) In the event the violation constitutes an immediate danger to public health or public safety, the an inspector designated by the Town is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property. The Town is authorized to seek costs of the abatement as outlined in Section 6-2.

(c) When the Town or Kershaw County finds a violation to the Stormwater Ordinance or a Land Disturbance Permit, the Town or Kershaw County may, as deemed necessary, implement enforcement actions. Actions may include, but are not limited to, the following:

(1) A duly appointed police officer issuing a citation.

(2) Issuing a Notice of Violation stating the nature of the violation; citing the section of the county code being violated; giving the violator a time within which to remedy the violation; and providing the penalties for non-compliance; where violations are not corrected within the timeframe stated, the Town may enter upon the lot or parcel of land and correct the violation, and the owner or responsible party shall be responsible for reimbursing the Town for any costs incurred as a result of such action

(3) The County Attorney may seek injunctive relief with the Court of Common Pleas for continued or repeated violations

(4) Issuing a written order to comply, to stop work, or to revoke the permit issued;

(5) Withholding the release of permanent electric power to the site;

(6) Assessment of a civil penalty for ongoing or egregious violations; and/or

(7) Withholding other needed permits for the site.

(d) When it is determined that land disturbing activities have been initiated without coverage under a required Land Disturbance Permit, the Town or Kershaw County shall automatically place a stop work order on the subject property and notify the Kershaw County Stormwater Manager who will issue a fine double the normal amount of applicable fees. The violator must pay to Kershaw County the fees and any

other applicable penalties, prior to the lifting of the stop work order. The stop work order may allow or require correction of violations but no other project related activities. Any person in continued violation of a stop work order is subject to impoundment of any and all equipment on the property, and payment of all fees, bonds, penalties and payment of impoundment charges prior to retrieving such equipment.

(e) When the Town determines that an owner of any property is causing or partially causing flooding, erosion, or non-compliance with SCDHEC water quality standards or with this Ordinance, upon providing notice of such impacts, the Town may require the owner to remove or mitigate the impact.

(f) The Town Attorney is hereby empowered to take all legal actions necessary to correct situations described above, including actions that are necessary to remove from the property such objectionable conditions constituting non-compliance with this Ordinance.

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

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

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

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

Sec. 6-2. Corrective Action

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

Sec. 6-3. Stop Work

(a) Either the Town or Kershaw County may issue a stop work order if it is found that a land disturbance activity is being conducted in violation of this Ordinance.

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

Sec. 6-4. Permit Suspension and Revocation

A land disturbance permit may be suspended or revoked if one or more of the following violations have been committed:

(a) Violations of the conditions of the approved Land Disturbance Permit

(b) Construction not in accordance with the letter or intent of the approved plans

(c) Non-compliance with correction notice(s) or stop work order(s), or

(d) The existence of an immediate danger in a downstream area in the judgment of the Town or Kershaw County.

Sec. 6-5. Civil Penalties

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

Sec. 6-6 Criminal Penalties

Any person who negligently, willfully or intentionally violates any provision of this Article shall be guilty of a misdemeanor and shall be punished within the jurisdictional limits of the Magistrate's Court. Each day of a violation shall constitute a new and separate offense.

Sec. 6-7. Additional Legal Measures

(a) Where the Town 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 can identify the person(s) who caused such violation(s) to occur, the Town 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 Ordinance or to correct violations of this Ordinance, and any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions, mandamus or other appropriate forms of remedy or relief.

Secs. 6-8 – 6-10 Reserved.

DIVISION 7 – WAIVERS

Sec. 7-1. Waivers

The Kershaw County Stormwater Manager may grant a waiver from the construction requirements of this ordinance if exceptional circumstances applicable to a site exist such that strict adherence to the provisions of the ordinance will result in unnecessary hardship and will not fulfill the intent of the ordinance. Financial hardship alone cannot be the basis for the waiver.

Secs. 7-2 – 7-10 Reserved.

DIVISION 8 – APPEALS

Sec. 8-1. Appeals
Any person aggrieved by a decision or enforcement action of the Town or of Kershaw County may appeal the same by filing a written notice of appeal with the Kershaw County Board of Appeals following the procedures noted in Article 5:2.4-8 – Appeal to Planning and Zoning Commission of the ZLDR.

Secs. 8-2 – 8-10 Reserved.

DIVISION 9 – CHARGES AND FEES

Sec. 9-1. Funding.

Kershaw County shall impose fees for processing land development permit applications that are adequate to offset the costs of administering the permit review, inspection and monitoring costs. Kershaw County Administration shall periodically evaluate costs to administer the land development permit program and adjust the fees as required. Furthermore, in addition to all other charges, fees, and penalties, the Town shall have the right to develop and impose a Stormwater Service Fee to fund implementation of this Stormwater Management and Water Quality Ordinance and its associated programs and plans.

Sec. 9-2. Connection to Conveyances.

The Kershaw County Stormwater Manager shall have the right to establish a schedule of appropriate fees for any person or property owner establishing a new discharge to the Town of Elgin stormwater system. Such fee shall be payable as part of any permit application or submission, including plans reviews and field inspections, and regulating the discharge of stormwater runoff. Permit fees shall be established on the basis of facility classes relating to the quantity and quality of permitted discharge.

Sec. 9-3. Plan Review.

Costs associated with plan reviews of land development or construction plans other than those routinely performed by the Kershaw County Stormwater Manager or his/her designee as part of compliance reviews, or as described in Sec. 9-2 of this Ordinance, shall be assessed a fee according to the Kershaw County Schedule of Fees.

Sec. 9-4. Field inspection.

Costs associated with field inspection of land development or construction activities other than those routinely performed by the Kershaw County Stormwater Manager or his/her designee as part of compliance monitoring, or as described in Sec. 9-2 of this Ordinance, shall be assessed a fee according to the Kershaw County Schedule of Fees.

Secs. 9-5 – 9-10 Reserved.

Appendix

Definitions

"Accidental Discharge" means a discharge prohibited by this article into the Town of Elgin Stormwater System or receiving waters, which occurs by chance and without planning or consideration prior to occurrence.

"Clean Water Act" means the Federal Water Pollution Control Act, as amended, codified at 33 U.S.C §1251 et. seq.

"Town" means Town of Elgin, South Carolina.

"Town Council" means the elected officials of the Town of Elgin, South Carolina.

"Development" or **"Develop Land"** 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 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.

"The Town of Elgin Stormwater System" means the conveyance 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 is (a) not owned or operated by any of the incorporated municipalities of the Town of Elgin; (b)designed or used for collecting or conveying stormwater; (c) not a combined sewer system; (d) not part of a Publicly Owned Treatment Works (POTW); and (e) not privately owned.

"Illicit connection" means a connection to the Town of Elgin Stormwater System which results in a discharge that is not composed entirely of stormwater runoff except discharges pursuant to an NPDES permit (other than the NPDES permit for the Town of Elgin Stormwater System).

"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" means any activity which results in a discharge to the Town of Elgin Stormwater System or receiving waters that is not composed entirely of stormwater except (a) discharge pursuant to an NPDES permit and (b) authorized non-stormwater discharges according to 4-1 (e).

"Maintenance" means any action necessary to preserve stormwater management facilities in proper working condition, in order to serve the intended purposes set forth in this ordinance and to prevent structural failure of such facilities.

"NPDES" means National Pollutant Discharge Elimination System. See "Clean Water Act"

"NPDES permit" means the NPDES permit for stormwater discharges issued to the Town of Elgin pursuant to the Clean Water Act and the federal stormwater discharge regulations (40CFR 122.26).

"Outfall" means the point where the Town of Elgin Stormwater System discharges to waters of the United States.

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

"Pollutant" means 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.

"Receiving waters" means the waters into which the Town of Elgin Stormwater System outfalls flow and which are located within the jurisdictional boundaries of the Town of Elgin and include, without limitation, the lakes, rivers, streams, ponds, wetlands, and groundwater of the Town of Elgin.

"Regulation" means any regulation, rule or requirement prepared by the Town of Elgin, and adopted by the Town Council pursuant to this Article.

"SWMP" means the Town of Elgin Stormwater Management Program.

"Stormwater" means stormwater runoff, snow melt 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 manmade changes to the land.

"Stormwater Management Program" or **"SWMP"** means the set of drawings and other documents that comprise all of the information and specifications for the programs, drainage systems, structures, BMPs, concepts, and techniques for the control of stormwater and which is incorporated as part of the NPDES permit for the Town of Elgin and as part of this Article.

"Total Maximum Daily Load" or **"TMDL"** is a regulatory term in the U.S. Clean Water Act, describing a value of the maximum amount of a pollutant that a body of water can receive while still meeting water quality standards, and an allocation of that load among the various sources of that pollutant.

"Waiver" means the modification of the minimum stormwater management requirements contained in this Article and the Stormwater Management Program for specific circumstances where strict adherence of the requirements would result in unnecessary hardship and not fulfill the intent of this Ordinance.

"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.

"Zoning and Land Development Regulations" or **"ZLDR"** means the latest version of Kershaw County's Unified Code of Zoning and Land Development Regulations.

DONE, RATIFIED, AND ADOPTED IN REGULAR MEETING OF ELGIN TOWN COUNCIL THIS 17th DAY OF September, 2015

ELGIN, SOUTH CAROLINA

Melissa Emmons

Melissa Emmons
Town of Elgin Mayor

ATTEST:

Melony Hudson Martin
Clerk of Court

First Reading: 9-1-15
Second Reading: 9-17-15