



**Stormwater Management and  
Sedimentation Control**

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**Article  
XV**

**Fort Mill Unified Development Ordinance**

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## Section 15.1 Purpose and Scope

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A. **Purpose.** This article shall have the following purposes:

1. To protect, maintain, and enhance the environment, public health, safety, and general welfare of the Town of Fort Mill by establishing requirements and procedures to control the potential adverse effects of stormwater runoff associated with development;
2. To result in reduction of the discharge of pollutants to the Town of Fort Mill storm sewer system (MS4) and receiving waters to the maximum extent practicable using management practices, control techniques, system design, engineering methods; and
3. To comply with the Federal and corresponding State stormwater discharge regulations developed pursuant to the Clean Water Act and to allow the Town of Fort Mill the authority to take any action required to obtain and comply with its NPDES permit for stormwater discharges.

B. **Authority.** This article is adopted pursuant to the authority conferred upon the Town of Fort Mill 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) regulations 40 CFR 122.26 and SC Regulation 61-9.122.26, NPDES General Permit (GP) for Stormwater; Discharges from Small Municipal Separate Storm Sewer Systems (MS4), Permit No. SCR030000; NPDES Construction General Permit (CGP) 100000 and SC Regulation 72-300 issued in accordance with the Federal Clean Water Act, the South Carolina Pollution Control Act and regulations promulgated thereunder. The Town Council hereby authorizes the stormwater manager all powers, including issuance of summons, necessary to enforce this article. This article will further the purpose of controlling and reducing pollutant discharges to the Town of Fort Mill MS4 and to the waters of the State to assure the obligations under its NPDES permit. Federal and state regulations require the Town of Fort Mill to establish legal authority, which authorizes or enables the Town of Fort Mill at a minimum to:

1. Control the contribution of pollutants to the Town of Fort Mill MS4 and receiving waters by stormwater discharges associated with residential, commercial, industrial, and related facilities activity and the quality of stormwater discharged from sites of residential, commercial, industrial, and related facilities activity;
2. Prohibit illicit discharges to the Town of Fort Mill MS4 and receiving waters;
3. Control the discharge to the Town of Fort Mill MS4 and receiving waters of spills, dumping, or disposal of materials other than stormwater;
4. Control through intergovernmental agreements, contribution of pollutants from one municipal stormwater system to another;
5. Require compliance with conditions in ordinances, permits, contracts or orders; and carry out all inspection, surveillance and monitoring procedures necessary to determine compliance and noncompliance with permit conditions including the prohibition on illicit discharges to the Town of Fort Mill MS4 and receiving waters;

C. **Scope.** This article shall apply throughout the incorporated areas of the Town of Fort Mill.

D. **Minimum necessary.** This article is the minimum stormwater management regulation and does not limit or repeal any other powers granted by statute. If site characteristics indicate that complying with this article will not provide adequate designs or protection for local property or residents, it is the owner and operator's responsibility to design additional management practices, control techniques system design and engineering methods, and other programs and controls as may be required by the Town of Fort Mill's NPDES permit. Nothing in this article or in this section shall be construed as a limitation or repeal of any ordinances of the Town of Fort Mill or of the powers granted to the Town by the South Carolina Constitution or South Carolina Statutes. This includes, without limitation, the power to require additional or more stringent stormwater management requirements within their jurisdictional boundaries.

## Section 15.2 Organization and Administration

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### A. Stormwater Manager

1. The stormwater manager shall be responsible for day-to-day coordination, implementation and enforcement of this article, the Town's stormwater management plan (SWMP), the Town of Fort Mill's NPDES Permit and any identified best management practices (BMPs).
2. The stormwater manager shall have the following specific powers and duties:
  - a. To issue any permit, certification or license that may be required by the SWMP.
  - b. To deny a facility connection to the MS4 or discharge to waters of the State if State, Federal, or stormwater ordinances and regulations are not met.
  - c. To approve land disturbance plans, and to require as a condition of approval any structural or non-structural controls, practices, devices, or operating procedures as required under the SWMP.
  - d. To require performance bonds of any person to secure that person's compliance with any land disturbance plan, permit, certificate, license or authorization issued or approved by the stormwater manager pursuant to the SWMP.
  - e. 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 of Fort Mill MS4.
  - f. To conduct all activities necessary to carry out the land disturbance plan and other requirements included in the Town of Fort Mill NPDES permit, this article, and to pursue the necessary means and resources required to properly fulfill this responsibility.
  - g. 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.
  - h. To maintain the stormwater system consistent with the provisions of the Town of Fort Mill NPDES permit, the SWMP and this article.
  - i. To direct, review and recommend for approval by Town council the stormwater management operating budget. To direct, review and recommend for approval by Town Council necessary changes to the existing SWMP.
  - j. To determine appropriate fees, to impose penalties, and to take necessary and appropriate actions to collect any fee or enforce any penalty assessed pursuant to this article.
3. The stormwater manager shall coordinate the Town's activities with other Federal, State, and local agencies, which manage and perform functions relating to the protection of receiving waters. Authority not expressly reserved for other agencies or restricted by statute is placed with the stormwater manager for the protection and preservation of receiving waters.
4. The stormwater manager will consult with the South Carolina Department of Transportation regarding litter control, the management of pesticide and herbicide use, control of runoff, and the use of BMPs along State roads within the incorporated areas of the Town of Fort Mill. The stormwater manager shall advise South Carolina Department of Transportation of its recommendations for the construction, operation, and maintenance of State roads within the Town of Fort Mill.
5. The stormwater manager shall have the right to establish a schedule of appropriate fees for any person or property owner establishing a new discharge to waters of the State within the Town of Fort Mill or to a wet weather conveyance. The fee shall be payable as part of any permit application or submission, 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.

6. For landowners and developers, costs associated with field inspection of land development or construction activities other than those routinely performed by the stormwater manager as part of compliance monitoring shall be assessed a fee representing the cost in labor, equipment, and materials expended in the conduct of the inspection.
- B. The Fort Mill Town Council may amend or change this article or adopt additional regulations or resolutions to implement this article to comply with the NPDES permit, implement the SWMP or to otherwise further the goal of protecting the quality of the waters into the Town of Fort Mill MS4.
- C. The stormwater management program developed by the Town to comply with the NPDES stormwater permit serves as the basis for the Town of Fort Mill'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 Fort Mill's Stormwater System NPDES permit as the official operational program.
- D. The Town of Fort Mill may enter into agreements with other governmental and private entities to carry out the purposes of this article. Examples of these agreements include educational programs, enforcement, resolution of disputes, cooperative monitoring, and cooperative management of stormwater systems and cooperative implementation of stormwater management programs.
- E. In addition to all other charges, fees, and penalties, the Town of Fort Mill shall have the right to develop and impose a stormwater service fee to fund implementation of this stormwater management and sediment control ordinance and its associated programs and plans.

### **Section 15.3 Water Quality Control**

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- A. Federal regulations governing stormwater management are hereby adopted as the minimum requirements for all facilities, as defined in the respective regulations.
- B. All land disturbance activities, except as exempt within this article, will require a land disturbance permit and the submission of a land disturbance plan.
- C. Land disturbance plans will consider both pre- and post-construction use and are required for both new development and redevelopment activities. Special emphasis will be placed on redevelopment activities with the intention of slowing runoff velocities within the system to non-erosive velocities for the 10-year 24-hour storm event. The Town of Fort Mill promotes the concept of planned development, as provided in this Unified Development Ordinance, as a means of achieving stormwater goals.
- D. Land disturbance plans shall include appropriate BMPs for stormwater management and sediment control.
- E. BMPs are to be installed in a timely sequence during the land disturbing activity process and maintained to insure their proper function.
- F. BMPs shall be designed, installed and maintained in accordance with requirements set forth in the Town of Fort Mill's SWMP.
- G. The Town of Fort Mill has adopted BMPs for good housekeeping, preventative maintenance, and spill prevention at its currently permitted wastewater treatment facilities. Through the adoption of this SWMP the Town of Fort Mill will promote the extension of these good housekeeping practices to its other municipal operations.
- H. Reference to the SWMP shall not limit the Town from the opportunity to develop additional design and engineering standards for the achievement of stormwater management and water quality objectives.
- I. Information in the SWMP in affect at the time of acceptance of a complete application shall control and be used in reviewing the application and in implementing this article.
- J. The application for a land disturbance permit in the Town of Fort Mill shall be accompanied by a nonrefundable fee according to the following:
  1. For sites disturbing up to two (2) acres, a minimum review fee, which shall be established by the Town Council during the adoption of the annual budget ordinance, shall be assessed.

2. For sites disturbing more than two (2) acres, the minimum review fee, as defined in paragraph J.1. above, shall be assessed for the first two (2) acres. An additional fee, as established by the Town Council during the adoption of the annual budget ordinance, shall be assessed for each additional acre, or fraction of an acre, that will be disturbed beyond two (2) acres.
  3. In addition to the fees outlined above, a nonrefundable fee, made payable to SCDHEC, shall also be submitted along with the land disturbance permit. The stormwater manager will forward this fee along with the permit application to SCDHEC. An additional review fee may be assessed if SCDHEC elects to review the entire application package. All fees referenced in this paragraph shall be established from time to time by SCDHEC.
- K. The following development activities are exempt from the provisions of this article.
1. Construction or improvement of single family residences or their accessory buildings which are separately built and not part of multiple construction of a subdivision development and which are anticipated to disturb an area of less than 5,000 square feet.
  2. Agricultural land for production of plants or animals, including, but not limited to crops, dairy animals, poultry, livestock, bees, and fur bearing animals. However, construction of an agricultural structure of one (1) or more acres, such as broiler houses, machine sheds, and repair shops which require the issuance of a building permit shall require the submittal and approval of a land disturbance plan prior to the start of the land disturbing activity.
  3. Land disturbing activities undertaken on forestland for the production and harvesting of timber and timber products.
  4. Activities undertaken by persons who are otherwise regulated by the provisions of Chapter 20 of Title 48, the South Carolina Mining Act.
  5. Certain land disturbing activities undertaken by persons who are exempt from the provisions of the Stormwater Management and Sediment Reduction Act as set forth in S.C. Code 1976 § 48-14- 40, as amended.
- L. Erosion and sediment control measures and practices shall be selected which allow for the achievement of the stormwater management and identified water quality objectives, as well as the following:
1. Identify areas, on and off site, which are subject to severe erosion and are especially vulnerable to damage from erosion and/or sedimentation;
  2. Identify and evaluate potential accelerated erosion, sediment and stormwater problems, and select appropriate control measures;
  3. Expose the smallest practical land area for the least possible time during land disturbing activity;
  4. Retain and protect natural vegetation when feasible;
  5. Place emphasis on conservation of existing on-site soil;
  6. Save topsoil for replacing on graded areas;
  7. Use such measures as temporary vegetation cover, geotextiles, mulching, grassed or surfaced waterways and outlets, or straw and silt traps in order to control runoff, protect areas subject to accelerated erosion and remove heavy sediment loads from runoff; and
  8. Provide for the management of runoff resulting from changed soil conditions and surface conditions.

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## **Section 15.4            Management Program**

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- A. The stormwater manager shall implement and conduct the Town's operations according to the Town of Fort Mill SWMP. The SWMP serves as the basis for compliance with the NPDES stormwater permit granted to the Town of Fort Mill under the provisions of the Water Quality Act of 1987 and 40 C.F.R. 122.26.
- B. The stormwater management program includes the following mandated elements:

1. Programs to educate and involve the general public of the stormwater system and detail regarding the stormwater management plan that can relate to them. These programs will also allow the general public to participate in stormwater prevention and clean-up activities, the "public education and outreach on stormwater impacts" and "public involvement/participation";
2. A description of a program, including a schedule, to detect and remove illicit discharges and improper disposal into the stormwater system or to require the discharger to the stormwater system to obtain a separate NPDES permit, the "illicit discharges and improper disposal program";
3. A description of a program to control pollutants in stormwater discharges to the stormwater system from Town municipal operations and Town disposal and recovery facilities. This program will also focus on updating and placing more emphasis on municipal maintenance practices, such as increasing street-sweeping frequency in problem-prone areas and installation of adequate controls at the Town's municipal facilities, the "pollution prevention/good housekeeping for municipal operations"; and
4. A description of a program to implement and maintain structural and non-structural BMPs to reduce pollutants in stormwater runoff from construction sites to the stormwater system, the "construction site runoff program."

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## Section 15.5 Design Standards

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- A. **Minimum design requirements.** Provisions for stormwater runoff control shall meet the following minimum requirements:
1. Post development peak discharge rates shall not exceed pre-development discharge rates for the two- and ten-year frequency 24-hour duration storm events.
  2. The requirements of paragraph A.1. may be waived by the stormwater manager if it can be shown by detailed engineering calculations and analysis that one of the following exists:
    - a. The installation of stormwater management facilities would have insignificant effects on reducing downstream flood peaks; or
    - b. Stormwater management facilities are not needed to protect downstream developments and the downstream drainage system has sufficient capacity to receive any increase in runoff for the design storm; or
    - c. It is not necessary to install stormwater management facilities to control developed peak discharge rates at the exit to a proposed development if installing those facilities would result in increased flood peaks at downstream locations; or
    - d. The stormwater manager determines that stormwater management facilities are not needed to control developed peak discharge rates and/or that installing those facilities would not be in the best interest of water quality.
  3. The requirements of paragraph A.1. shall not be waived if the stormwater manager determines that not controlling downstream flood peaks would increase known flooding problems or exceed the capacity of the downstream drainage system.
  4. A waiver shall only be granted after a written request is submitted by the applicant. The request shall contain descriptions, drawings, and any other information necessary to evaluate the proposed land disturbing activity. A separate written waiver request shall be required if there are subsequent additions, extensions, or modifications that would alter the approved stormwater runoff characteristics. The stormwater manager will conduct a review of the request for a waiver within 20 business days from receipt of the waiver. Failure of the stormwater manager to act by the end of the 20th business day will result in the automatic approval of the waiver.

5. Off-site discharges of closed storm sewers or improved open channels will be permitted only at natural streams or man-made drainage channels. Discharge velocities shall be reduced to provide a non-erosive velocity flow from a structure, channel, or other control measure or the velocity of the ten-year 24-hour storm runoff in the receiving waterway prior to the land disturbing activity, whichever is greater.

**B. Channel modification.** Design criteria for channel modification will be as follows:

1. Open channels shall provide an improved cross-section that will carry the runoff from the appropriate design rainfall and preclude backwater inundation of any area outside dedicated drainage easements.
2. Closed storm sewers and culverts shall be constructed of prefabricated pipe or box design, in conformance with standards adopted by the Town of Fort Mill, and be sized to carry runoff from the appropriate design rainfall and to preclude backwater inundation of any area outside dedicated drainage easements.
3. When work in a live waterway is performed, precautions shall be taken to minimize encroachment, to control sediment transport, and to stabilize the work area to the greatest extent possible during construction.
4. Vehicle tracking of sediments from land disturbing activities onto paved roads shall be minimized and cleaned up daily.
5. The stormwater management and sediment control plan shall not be implemented until all Federal and State permits regarding wetlands management have been obtained.
6. Ease of maintenance must be considered as a site design component. Access to the stormwater management structures must be provided.
7. Sediment basins and traps shall be designed to achieve an 80 percent efficiency in removing suspended solids from the discharge effluent from a site or 0.5 ML/L peak settleable solids concentration, whichever is less. The efficiency shall be calculated for disturbed conditions for the ten-year and 24-hour design storm.
8. Stormwater runoff and drainage to a single outlet from land disturbing activities totaling 10 acres or more shall be controlled by a sediment basin. The basin shall have sufficient space to allow it to be used until the final inspection. The outfall device or system design shall take into account the total drainage area flowing through the disturbed area to be served by the basin.
9. A regional approach to stormwater management is an acceptable alternative to site specific requirements and is encouraged.
10. All stormwater management and sediment control practices shall be designed, constructed and maintained with consideration for the proper control for mosquitoes and other vectors. These requirements shall be part of the required inspection and maintenance agreement.
11. Use of ponds.
  - a. The use of measures other than ponds to achieve water quality improvement is recommended on sites containing less than 10 acres.
  - b. Where ponds are proposed, the responsible party for the land disturbing activity shall submit an analysis of the impacts of stormwater flows downstream in the watershed for the 10- and 100-year frequency storm event. The analysis shall include hydrologic and hydraulic timing modifications of the proposed land disturbing activity, with and without the pond. The results of the analysis will determine the need to modify the pond design or to eliminate the pond requirement. If a clearly defined downstream point of constriction is not available, the downstream impacts shall be established with the concurrence of the development services director.
  - c. Ponds shall be designed as both quantity and quality control structures. Sediment storage volume shall be calculated considering the clean out and maintenance schedules specified by the designer during the land disturbing activity. Sediment storage volumes may be predicted by the universal soil loss equation.

- d. Permanent water quality ponds having a permanent pool shall be designed to store and release the first 0.5 inch of runoff from the site over a 24-hour period. The storage volume shall be designed to accommodate, at least, 0.5 inch of runoff from the entire site.
  - e. The bottom of retention and detention ponds shall be graded and have a slope not less than 0.5 percent. There should be no depressions in a normally dry detention facility where water might pocket when the water level is receding.
  - f. Normally dry swales and detention pond bottoms should be utilized in permanently wet structures to prevent an overgrowth of vegetation in the pond. Manual harvesting is preferred.
  - g. Fish may be stocked in permanently wet retention and detention ponds;
  - h. Normally dry swales and detention pond bottoms should be constructed with a gravel blanket or other measures to minimize the creation of tire ruts during maintenance activities.
12. Infiltration practices have some limitations on their use on certain sites. These limitations include the following:
- a. Permanent infiltration practices, when used, shall be designed to accept, at a minimum, the first inch of runoff from all impervious surfaces.
  - b. Areas draining to these practices must be stabilized and vegetative filters established prior to runoff entering system. Infiltration practices shall not be used if a suspended solids filter system does not accompany the practice. If vegetation is the intended filter, there shall be a minimum 20-foot length of vegetative filter prior to stormwater runoff entering the infiltration practice;
  - c. The bottom of the infiltration practice shall be at least 0.5 feet above the seasonal high water table, whether perched or regional, determined by direct piezometer measurements which can be demonstrated to be representative of the maximum height of the water table on an annual basis during years of normal precipitation, or by the depth in the soil at which mottling first occurs;
  - d. The infiltration practice shall be designed to completely drain water within 72 hours;
  - e. Infiltration practices are limited to soils having an infiltration rate of at least 0.3 inches per hour. Initial consideration will be based on a review of the appropriate soil survey, and the survey may serve as a basis for rejection. On-site soil borings and textural classifications must be accomplished to verify the actual site and seasonal high water table conditions when infiltration is to be utilized;
  - f. Infiltration practices greater than three (3) feet deep shall be located at least 10 feet from basement walls;
  - g. Infiltration practices designed to handle runoff from impervious parking areas shall be a minimum of 150 feet from any public or private water supply well;
  - h. The design of an infiltration practice shall provide an overflow system with measures to provide a non-erosive velocity of flow along its length and at the outfall;
  - i. The slope of the bottom of the infiltration practice shall not exceed five (5) percent. Also, the practice shall not be installed in fill material as piping along the fill/natural ground interface may cause slope failure;
  - j. An infiltration practice shall not be installed on or atop a slope whose natural angle of incline exceeds 20 percent;
  - k. Provide cleanouts at minimum of every 100 feet along the infiltration practice to allow for access and maintenance.
13. Where detention and retention structures are used, designs which consolidate these facilities into a limited number of large structures will be preferred over designs which utilize a large number of small structures.
14. Stormwater management facilities may include both structural and non-structural elements. Natural swales and other natural runoff conduits shall be retained where practicable.

15. Land disturbance plans may be rejected by the stormwater manager if they incorporate structures and facilities that will demand considerable maintenance, will be difficult to maintain, or utilize numerous small structures if other alternatives are physically possible.
16. Discharge velocities shall be reduced to provide a non-erosive velocity flow from a structure, channel, or other control measure or the velocity of the two-year 24-hour design storm runoff in the receiving waterway prior to the land disturbing activity, whichever is greater.

## **Section 15.6 Permit Application Process**

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- A. Residential subdivisions are considered to be a single land disturbing activity and shall require a land disturbance permit. Individual lots in a residential subdivision development shall comply with the subdivision's land disturbance permit, even if individual lots are developed by different property owners. Hydrologic parameters that reflect the final subdivision development shall be used in all engineering calculations. Individual lot owners or developers shall sign a certificate of compliance that all activities on that lot will be carried out in accordance with the approved land disturbance plan for the residential subdivision. Residential subdivisions that were approved prior to the effective date of this article are exempt. Development of new previously unapproved phases of existing subdivisions shall comply with the provisions of this article.
- B. For requirements of the permit application and development of plans, the approval process will generally be based on the extent of the land disturbing activity and will be as follows:
  1. For land disturbing activities involving two (2) acres or less of actual land disturbance, which are not part of a larger common plan of development or sale, the person responsible for the land disturbing activity shall submit a type I permit for stormwater management and sediment control meeting the requirements of South Carolina Standards for Stormwater Management and Sediment Reduction (SCSSMSR) R.72-307(H). This plan requires approval by the stormwater manager, or his designee, but does not require preparation or certification by the designers specified in SCSSMSR R.72-305(H) and SCSSMSR R.72-305(I).
  2. For land disturbing activities involving more than two (2) acres and less than five (5) acres of actual land disturbance, which are not part of a larger common plan of development or sale, the person responsible for the land disturbing activity shall submit a type II permit for stormwater management and sediment control meeting the requirements of SCSSMSR R.72-307(I). These activities are required to utilize BMP's to control accelerated erosion and sediment and to utilize appropriate measures to control the quantity of stormwater runoff. Plans and specifications for these activities will be prepared by the designers cited in SCSSMSR R.72-305(H) and SCSSMSR R.72-305(I).
  3. For land disturbing activities disturbing more than five (5) acres, the requirements of R.72-305 and SCSSMSR R.72-307 will apply. However, the use of measures other than ponds to achieve water quality improvements are recommended on sites containing less than 10 disturbed acres. Plans and specifications for these activities will be prepared by the designers specified in SCSSMSR R.72-305(H) or SCSSMSR R.72-305(I).
  4. All construction projects that disturb 25 acres or more and discharge the pollutant or pollutants of concern to a water body on the South Carolina 303(d) List of Impaired Waters must contain a written quantitative and qualitative assessment showing that the BMPs selected will control the construction and post-construction stormwater discharges of concern. The plans shall also include a statement that the stormwater discharges will not cause or contribute to a violation of water quality standards. Adequate testing of post construction effluents will be required to prove no negative impact on water quality.
  5. These permit requirements may be modified on a case-by-case basis to address specific stormwater quantity or quality problems. Requests for waivers or variances from these requirements will be made in accordance with the provisions of SCSSMSR R.72-302.

6. When the land disturbing activity consists of the construction of a pond, lake or reservoir which is singly built and not part of a permitted land disturbing activity, the following procedures will apply:
  - a. Stormwater management and sediment control plan will not be required if the pond, lake or reservoir is permitted under the South Carolina Dams and Reservoirs Safety Act (SCDRA) or has received a Certificate of Exemption from SCDRA.
  - b. A stormwater management and sediment control plan will be required for the construction of all ponds, lakes or reservoirs not meeting the conditions in SCSSMSR R.72-305 that otherwise meet the size requirements for stormwater management and sediment control plan approval.

C. Land disturbance plan approval process

1. The stormwater manager will review, within 20 days of submittal, a completed land disturbance plan consisting of the permit application and the accompanying documents. If the plan conforms to the requirements of this article, the stormwater manager shall approve the plan. Upon approval by the stormwater manager, the plan will be forwarded to SCDHEC for their review. The SCDHEC will review the plan within seven (7) business days. If action is not taken within 27 business days (i.e., both review periods) the plan will be considered approved.
2. A land disturbance permit will not be issued or modified without the following:
  - a. Right-of-entry for emergency maintenance and inspections.
  - b. Recorded easements for stormwater management facilities.
  - c. Certification by the persons responsible for the land disturbing activity that the land disturbing activity will be accomplished pursuant to the plan.
  - d. Any off-site easements needed.
  - e. Evidence of a receipt of all other required permits.
3. The land disturbance plan shall not be considered approved without the inclusion of an approval stamp with a signature and date on the plans by the planning department. The stamp of approval on the plans is solely an acknowledgement of satisfactory compliance with the requirements of these regulations. The approval stamp does not constitute a representation or warranty to the applicant or any other person concerning the safety, appropriateness or effectiveness of any provision, or omission from the land disturbance plan.
4. Approved land disturbance plans and accompanying permits remain valid for two (2) years from the date of an approval. If no work on the site in furtherance of the plan has commenced within the two (2) year period, the permit and plan approval shall become null and void and a new application will be required to develop the site. If work on the site involving any utility installations or street improvements, except grading, has commenced in furtherance of the plan, the permit and plan shall remain valid and in force and the project may be completed in accordance with the approved plan. Extensions or renewals of the plan approvals may be granted by the stormwater manager upon written request by the person responsible for the land disturbing activity.
5. A copy of the approved land disturbance plan should be reasonably available to the job site and the issued land disturbance permit shall be posted at the job site in a conspicuous place.
6. Approval of plans **prior to the effective** date of this article shall remain in effect for the original terms of the approval. If the term of the permit expires before the land disturbing activities are initiated, the applicant shall resubmit the land disturbance plan for review in accordance with the requirements of this section.
7. In addition to the plans and permits required from the Town, applicants shall obtain all State and Federal permits required for the proposed development.

D. Land disturbance plan requirements

1. Land disturbance plans shall be prepared in accordance with the applicable requirements of SCSSMSR R.72- 307 and the Town of Fort Mill Type I and Type II Land Disturbance Permit Application, as amended to date. Plans will include the following details:
  - a. Site drainage features;
  - b. Proposed accelerated erosion control measures;
  - c. Site drainage features;
  - d. Permanent water quality;
  - e. Vegetative stabilization;
  - f. Construction waste removal;
  - g. The requirement of paragraphs D.2. through D.6. below;
  - h. The designation of all easements needed for inspection and maintenance of the drainage system and stormwater management facilities;
  - i. BMPs to control the water quality of the runoff during the land disturbing activities and during the life of the development;
  - j. All engineering calculations needed to design the system and associated structures including pre- and post-development velocities;
  - k. Peak rates of discharge, and inflow and outflow hydro-graphs of stormwater runoff at all existing and proposed points of discharge from the site;
  - l. Certification by the person responsible for the land disturbing activity and the responsible personnel that will be assigned to the project;
  - m. Certification by the person responsible for the land disturbing activity of the right of the stormwater manager to conduct on-site inspections;
  - n. A permanent maintenance plan for each stormwater management facility;
  - o. Any additional information necessary for a complete review as required by the Town of Fort Mill.
2. Easements shall have the following characteristics.
  - a. Provision of adequate access to all portions of the drainage system and structures;
  - b. A minimum of 10 feet along both sides of all drainage ways, streams, channels, ditches, and around the perimeter of all detention and retention facilities, or sufficient land area for equipment access for maintenance of all stormwater management facilities. This distance shall be measured from the top of the bank or toe of the dam whichever is applicable;
  - c. Restriction on easements shall include prohibiting all fences and structures which would interfere with access to the easement areas and/or the maintenance function of the drainage system.
3. The engineering analysis shall be included in a hydrologic-hydraulic study included with the application package and shall include, but not be limited to, the following:
  - a. All stormwater management facilities and all major portions of the conveyance system through the proposed development (i.e., channels, culverts) shall be analyzed, using the design and 100-year storms, for design conditions and operating conditions which can reasonably be expected during the life of the facility.
  - b. For all stormwater management facilities, a hydrologic-hydraulic study shall be done showing how the drainage system will function with and without the proposed facilities. Hydrologic-hydraulic studies shall use the following land use conditions. Existing land use data shall be taken from the most recent aerial photography and field checked and updated.
    - i. For the design of the facility outlet structure, use developed land use conditions for the area within the proposed development and existing land use conditions for upstream areas draining to the facility.
    - ii. For any analysis of flood flows downstream from the proposed facility, use existing land use conditions for all downstream areas.

- iii. All stormwater management facilities emergency spillways shall be checked using the 100-year storm and routing flows through the facility and emergency spillways. For this analysis, developed land use conditions shall be used for all areas within the analysis.
      - iv. The effects of existing upstream detention facilities can be considered in the hydrologic-hydraulic study.
    - c. The expected timing of flood peaks through the downstream drainage system shall be assessed when planning the use of detention facilities.
    - d. In determining downstream effects from stormwater management structures and the development, hydrologic-hydraulic engineering studies shall extend downstream to a point as determined by the stormwater manager.
    - e. If the land disturbance plan and/or design report indicates that there may be a drainage or flooding problem at the exit to the proposed development or at any point downstream as determined by the stormwater manager, the stormwater manager may require:
      - i. Water surface profiles plotted for the conditions of pre- and post-development for the two (2)-year through 100-year design storm; and
      - ii. Elevations of all structures potentially damaged by the two (2)-year through 100-year flows.
  2. All land disturbance plans must outline requirements for construction site operators to implement appropriate erosion and sediment control BMPs and to control waste at construction sites that may cause adverse impacts to water quality. Examples of waste include discarded building materials, concrete truck washouts, chemicals, litter, and sanitary waste. All materials are to be disposed of in accordance with OSHA/DHEC guidelines for storage of hazardous materials and disposal of waste.
  3. Any and all site land disturbance permits may be revoked at any time if the construction of stormwater management facilities is not in strict accordance with approved plans.
  4. As part of the maintenance plan, the owner of a stormwater management facility shall specifically agree to be responsible for permanent maintenance. In order to transfer maintenance responsibility, a letter of acceptance by the entity accepting permanent maintenance responsibility shall be filed with the stormwater manager.
  5. Prior to the approval of the disturbance plan, the applicant shall submit a proposed staged construction and inspection control schedule. This plan shall indicate a phase line for approval otherwise the construction and inspection control schedule will be for the entire drainage system.
  6. No stage work, related to the construction of stormwater management facilities, shall proceed until the preceding stage of work, according to the sequence specified in the approved staged construction and inspection control schedule, is inspected and approved.
  7. The permittee shall notify the stormwater manager before commencing any work to implement the disturbance plan and upon completion of the work.
  8. The permittee shall provide record drawings certified by a professional engineer registered in the State of South Carolina to be submitted upon the completion of the stormwater management facilities included in the disturbance plan. The registered professional engineer shall certify that:
    - a. The facilities have been constructed as shown on the approved plan, and
    - b. The facilities meet the approved disturbance plan and specifications or achieves the function for which they were designed.
  9. Acceptable record plans shall be submitted prior to:
    - a. The use or occupancy of any commercial or industrial site.
    - b. Final acceptance of any road for maintenance by the Town of Fort Mill.
    - c. Release of any bond held by the Town.
    - d. Approval and/or acceptance for recording of map, plat or drawing, the intent of which is to cause a division of a single parcel of land into two or more parcels.

- e. A final inspection shall be conducted by the stormwater manager upon completion of the work included in the approved disturbance plan to determine if the completed work is constructed in accordance with the plan.
- E. A permittee is required to provide a financial guarantee in the form of a surety or cash bond, irrevocable letter of credit, or other means of security acceptable to the stormwater manager, made payable to the Town of Fort Mill, prior to the issuance of any building and/or land disturbance permit for construction of a development requiring a permanent stormwater management facility. The amount of the security shall not be less than \$3,000.00 per acre of disturbed area or as amended in the stormwater manager's fee schedule, as published and approved by the Town council. The required bond shall include provisions relative to forfeiture for failure to complete work specified in the approved land disturbance plan, compliance with all the provisions of this article and other applicable laws and regulations, and any time limitations. The bond shall not be fully released without a final inspection of completed work by the stormwater manager, submission of record plans, and certification of completion by the owner/developer of the stormwater management facility as being in compliance with the approved plan and the provisions of this article. A provision may be made for partial release of the amount of the bond pro-rata upon completion and acceptance of the various stages of development as specifically delineated and scheduled on the approved plans and specifications. The developer shall notify the stormwater manager upon completion of each stage that is ready for inspection.

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## **Section 15.7      Ownership**

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- 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 land disturbance plan.
- C. If it is determined by the stormwater manager that additional storage capacity beyond the applicant's application is necessary, the town may:
  1. Require that the applicant grant necessary easements over, through or under the applicant's property to provide access to or drainage for required facilities.
  2. Require that the applicant attempt to obtain from the owners of property any easements necessary for the construction and maintenance over, through or under where the stormwater management facility is to be located. If the applicant fails to obtain an easement, the town may assist by purchase, condemnation, dedication or otherwise. This assistance is subject to **Section 15.7 D.** and any costs incurred for this action are to be paid by the town.
  3. Participate financially in the construction of the facility to the extent that it exceeds the required on-site stormwater management as determined by the stormwater manager.
- D. To implement this provision both the town and developer must be in agreement with the proposed facility and jointly develop a mutually agreeable cost sharing plan.

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## **Section 15.8      Maintenance, Construction and Inspection**

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- A. Inspections and inspection programs may be established and conducted on any reasonable basis, including, but not limited to, routine inspections, random inspections, inspections based upon complaints, other notice of possible violations, and joint inspections with other agencies.
- B. Inspections may include, but are not limited to, a review of maintenance and repair records; sampling of discharges, surface water, groundwater, and material or water in BMPs; and evaluating the condition of BMPs.

- C. The stormwater manager may enter all properties for the purpose of: inspections, monitoring, observation, measurement, sampling, testing, enforcement of the provisions of this article, and enforcement of a land disturbance plan. The stormwater manager shall duly notify the property owner or the representative on site and the inspection shall be conducted at a reasonable time.
- D. Inspections shall be conducted by permittees as required in the NPDES general permit for stormwater discharges from large and small construction activities and as described in the land disturbance permit application.
- E. No person shall obstruct, hamper or interfere with the stormwater manager while carrying out his or her official duties.
- F. If a property owner refuses entry to the stormwater manager for an inspection, the inspection shall terminate or shall be confined to areas to which no objection is raised. The stormwater manager shall immediately report the refusal and the grounds and promptly seek appropriate legal measures.
- G. If the stormwater manager reasonably believes that discharges from the property into the Town of Fort Mill MS4 poses an imminent and substantial threat to human health or the environment, the inspection may take place at any time and without notice to the owner of the property or a representative on site.
- H. Inspection reports shall be maintained in a permanent file located in the stormwater manager's office.

### **Section 15.9            Detection and Removal of Illicit Connections and Discharges and Improper Disposal**

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- A. **Illicit connections, illicit discharges and improper disposal.**
  - 1. It is unlawful for any person to connect any pipe, open channel, or any other conveyance system that discharges anything except stormwater or unpolluted water into receiving waters.
  - 2. It is unlawful for any person to continue the operation of any illicit connection regardless of whether the connection was permissible when constructed.
  - 3. Connections in violation of this article must be disconnected and redirected, if necessary, to the satisfaction of the stormwater manager and any other Federal, State, or local agencies or departments regulating the discharge.
  - 4. It is unlawful for any person to throw, drain, run or otherwise discharge, or otherwise cause a discharge, into any component of the Town of Fort Mill MS4 or to the waters of the State all matter of any nature, except stormwater or surface water as authorized.
  - 5. The stormwater manager may require controls for or exempt from local regulations the prohibition provisions in paragraphs A.1, 2. and 3; provided, the stormwater manager determines they are not a significant source of pollution, based on the following:
    - a. Unpolluted industrial cooling water, but only under the authorization and direction of the stormwater manager and appropriate NPDES permit.
    - b. Water line flushing performed or required by a government agency, diverted stream flows, rising ground waters, and unpolluted pumped groundwater, and unpolluted groundwater infiltration.
    - c. Unpolluted pumped ground water.
    - d. Discharges from portable water sources, foundation drains, air conditioning condensation, irrigation water, springs, crawl space pumps, footing drains, lawn watering, individual car washing, residential pool back-washing, flows from riparian habitats and wetlands, and street wash water.
    - e. Discharges or flows from firefighting.
    - f. Other unpolluted water.

- g. In the event of an accidental discharge or an unavoidable loss to the Town of Fort Mill MS4 of any pollutant, the person concerned shall inform the Town of Fort Mill stormwater manager within 24 hours of the nature, quantity and time of occurrence of the discharge. The person concerned shall take immediate steps to contain the waste, treat the waste or other actions to minimize effects of the discharge on the MS4 and receiving waters. The person shall also take immediate steps to ensure no recurrence of the discharge.

**B. Detection of illicit connections and improper disposal**

1. The stormwater manager shall take appropriate steps to detect and eliminate illicit connections to the Town of Fort Mill Stormwater System, including the adoption of a program to screen illicit discharges and identify their source or sources.
2. The stormwater manager shall take appropriate steps to detect and eliminate improper discharges, including programs to screen for disposal and programs to provide for public education, public information, and other appropriate activities to facilitate the proper management and disposal of used oil, toxic materials and household hazardous waste.

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**Section 15.10 Enforcement, Penalties and Abatement**

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- A. If it is determined that a violation of this article or the town's SWMP has occurred, the stormwater manager shall give written notice to the violator, either at the property where the violation has occurred or at the address of the permit holder. The notice shall be given within 15 calendar days of the determination and shall specify the nature of the violation, the proposed penalty, and the amount of time in which to correct deficiencies. It shall be sufficient notification to deliver the notice to the person to whom it is addressed, or to deposit a copy of the notice in the United States mail, properly stamped, certified and addressed to the address used for tax purposes.
- B. If a noticed violation has not been corrected within the required time period, the Town of Fort Mill, or its contractor, may enter upon the lot or parcel of land and correct the violation. The costs incurred as a result of the corrective action shall be collected from the bond, if in place and sufficient to cover the incurred costs, or shall become a lien upon the property and collected in the same manner as town taxes.
- C. Any person who proceeds with any work which requires a stormwater permit without obtaining a permit shall have automatically placed on the subject property a stop work order. The violator shall pay to the Town of Fort Mill a fee, as established by the Fort Mill Town Council, which shall be double the normal amount of applicable bond and fees, and payment of any other applicable penalties, prior to lifting of the stop work order. The stop work order may allow or require correction of violations, but no other project related activities. Any person in violation of a stop work order is subject to impoundment of all equipment on the property and payment of all fees, bonds, penalties and payment of impoundment charges prior to retrieving impounded equipment.
- D. If violations remain uncorrected or if a stop-work order is not obeyed, the violator is subject to criminal penalties of not more than \$25,000.00 and civil penalties of not more than \$10,000.00, not to exceed the maximum allowed under South Carolina State Law. No penalty may be assessed until the person alleged to be in violation has been notified in writing of the violation. Each day that a violation continues to exist shall constitute a separate offense. The Town Council may obtain injunctive relief in addition to the violations of this article.
- E. Fort Mill shall determine the amount of the civil penalty to be assessed under this section for violations under its jurisdiction. It shall make written demand for payment upon the person responsible for the violation and set forth in detail the violation for which the penalty has been invoked. If payment is not received or equitable settlement reached within 30 days after demand for payment is made, a civil action may be filed in the court of competent jurisdiction to recover the amount of the penalty.
- F. Fines may be levied for uncorrected violations. Notices of violation may be issued for the following violations if appropriate actions are not taken to correct those violations:

1. Failure to submit record drawings
2. Failure to follow the required notes on the plan
3. Failure to record deed of easements
4. Failure to implement corrective measures
5. Failure to comply with the plan
6. Failure to comply with notice of violation
7. Failure to comply with stop work order

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**G. Additional legal measures**

1. Where the town is fined and/or placed under a compliance schedule by the State or Federal government for violations of its NPDES permit, and the town can identify the responsible party, the town may pass through the penalty and cost of compliance to the responsible party.
2. The town attorney may institute injunctive, mandamus or other appropriate action or proceedings, including criminal conviction, to enforce this article or to correct violations. 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.

**H. Permit suspension and revocation.** A land disturbance permit may be suspended or revoked if one or more of the following violations have been committed:

1. Violations of the conditions of the disturbance plan approval;
2. Construction not in accordance with the letter or intent of the approved plans;
3. Noncompliance with correction notices or stop work orders, or
4. The existence of an immediate danger in a downstream area.

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**Section 15.11 Appeals and Variances**

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- A. The Stormwater Advisory Committee, hereinafter referred to as SWAC, shall have the following powers and duties:
1. To hear and decide appeals of decisions of the stormwater manager, according to the procedures set forth in this section.
  2. To grant variances in specific cases from the terms of this article according to the standards and procedures set forth in this section.
  3. The SWAC shall have all the powers of the stormwater manager from whom the appeal is taken when deciding either an appeal or a variance.
- B. An appeal may be initiated by any aggrieved person affected by any decision, order, requirement, or determination relating to the interpretation or application of this article. A petition for variance from the requirements of this article may be initiated by the owner of the affected property, an authorized agent, or a person having written contractual interest in the affected property.
1. A notice of appeal shall be filed with the stormwater manager within thirty (30) calendar days any order, decision, determination or interpretation rendered by the stormwater manager. The notice shall be accompanied by a nonrefundable filing fee, as well as a list of adjoining properties including tax parcel numbers and the name and address of each owner.
  2. The SWAC may waive or extend the deadline upon request only upon determining that the person filing the notice of appeal received no notice of violation from the stormwater manager. Without a waiver or extension, failure to file notice of appeal and the associated fee shall constitute a waiver of any rights to appeal under this article.
  3. The stormwater manager shall transmit copies of all administrative papers, records, and other information regarding the subject of the notice of appeal to the SWAC.
  4. The filing of the notice of appeal shall stay any proceedings in furtherance of the contested action. However, the stormwater manager may certify in writing to the SWAC that because of facts stated in the certificate, a stay imposes an imminent peril to life or property or would seriously interfere with the enforcement of this article. The SWAC shall review the certificate and may override the stay of further proceedings.
  5. The SWAC shall hold a public hearing on any appeal or variance petition which comes before it. The SWAC shall mail written notice of the time, place and subject of the hearing to the filer of the notice of appeal, to the owners of the subject property, and to the owners of property adjacent to the subject property. The hearing shall be conducted in the nature of a quasi-judicial proceeding with all findings of fact supported by competent, material evidence.

6. The SWAC may reverse or modify an appeal after finding an error by the stormwater manager based on this article.
7. If the SWAC finds that the stormwater manager has not properly considered mitigating or aggravating factors when setting the amount of a penalty, the SWAC shall either decrease or increase the per day civil penalty within the range allowed by this article. Any decision of the SWAC that modifies the amount of a civil penalty shall include findings as to which mitigating or aggravating factors exist and the appropriate weight that should have been given by the stormwater manager in setting the amount of the civil penalty.
8. Before granting a variance, the SWAC shall have made all the following findings:
  - a. Unnecessary hardships would result from the strict application of this article.
  - b. The hardships result from conditions that are peculiar to the property, such as the location, size or topography of the property.
  - c. The hardships did not result from actions taken by the petitioner.
  - d. The requested variance is consistent with the spirit, purpose, and intent of this article; will secure public safety and welfare; and will preserve substantial justice.
6. The SWAC may impose reasonable and appropriate conditions and safeguards upon any variance it grants.
7. The SWAC shall grant or deny the variance or shall reverse, affirm or modify the order, decision, determination or interpretation under appeal by recording in the minutes of the meeting the reasons that SWAC used and the findings of fact and conclusions of law made by SWAC to reach its decision.
8. The Town of Fort Mill will procure outside technical assistance regarding issue relating to an appeal or petition at the request of the SWAC.
9. SWAC bylaws will determine the number of concurring votes needed to grant an appeal or request for variance.
10. The SWAC shall refuse to hear an appeal or variance petition which has been previously denied unless it finds there have been substantial changes in the conditions or circumstances relating to the matter.
11. Every decision of the SWAC shall be subject to superior court review by proceedings in the nature of certiorari. Petition for review by the superior court shall be filed with the clerk of superior court within 30 days after the later the decision of the SWAC is filed and a written copy of the decision is delivered to every aggrieved party who has previously filed a written request for a copy of the decision.