

COUNTY COUNCIL OF BEAUFORT COUNTY
ADMINISTRATION BUILDING
BEAUFORT COUNTY GOVERNMENT ROBERT SMALLS COMPLEX
100 RIBAUT ROAD

POST OFFICE DRAWER 1228
BEAUFORT, SOUTH CAROLINA 29901-1228

TELEPHONE: (843) 255-2000

FAX: (843) 255-9401

www.bcgov.net

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AGENDA
NATURAL RESOURCES COMMITTEE

Monday, September 19, 2016

3:00 p.m.

Executive Conference Room, Administration Building
Beaufort County Government Robert Smalls Complex
100 Ribaut Road, Beaufort

Committee Members:
Brian Flewelling, Chairman
Alice Howard, Vice Chairman
Gerald Dawson
Steve Fobes
William McBride
Jerry Stewart
Roberts "Tabor" Vaux

Staff Support:
Anthony Criscitiello, Planning Director
Gary James, Assessor
Eric Larson, Division Director
Environmental Engineering
Dan Morgan, Division Director
Mapping & Applications

1. CALL TO ORDER – 3:00 P.M.
2. SOUTHERN BEAUFORT COUNTY MAP AMENDMENTS FOR R600 040 000 0209 0000, R600 040 000 0824 0000, AND R600 040 000 0825 0000 (THREE (3) PROPERTIES KNOWN AS EXECUTIVE GOLF COURSE, TOTALING 20.99 ACRES LOCATED ALONG BLUFFTON PARKWAY BETWEEN HILTON HEAD NATIONAL DRIVE AND KELLIE COURT); OWNER/APPLICANT: SILVER ROCK BP LLC: AGENT: MICHAEL KRONIMUS: ([backup](#))
 - Future Land Use Map Amendment: from Rural (in the Growth Area) to Neighborhood Mixed Use, and
 - Zoning Map Amendment/Rezoning Request: from T2-Rural District to T4-Neighborhood Center District
3. TEXT AMENDMENTS TO THE STORMWATER MANAGEMENT ORDINANCE (CHAPTER 99): ([backup](#))
 - Amend Article II, Stormwater Management (for changes related to the MS4 permit implementation);
 - Add Article III, Regulatory General Provisions;
 - Add Article IV, Stormwater Management Standards to be Applied;
 - Add Article V, Illicit Discharges and Connections to the Stormwater System; and
 - Add Article VI, Inspection, Enforcement, and Correction.
4. CONSIDERATION OF REAPPOINTMENTS AND APPOINTMENTS
 - A. Zoning Board of Appeals
5. ADJOURNMENT

2016 Strategic Plan Committee Assignment

Stormwater Management Program
Creek Restoration: Progressive Projects for Saltwater, Quality, Recommendations
Tree Ordinance: Evaluation Report, Revision
Affordable / Workforce Housing
Pepper Hall Plantation Site
Comprehensive Plan: Update
Park Potential Development
Community Development Code: Refinements





MEMORANDUM

TO: Natural Resource Committee of County Council
FROM: Anthony Criscitiello, Beaufort County Planning Director
DATE: August 8, 2016
SUBJECT: **Zoning Map Amendment/Rezoning Request of The Executive Golf Club, 20.99 acres from T2-Rural to T4-Neighborhood Center**

PLANNING COMMISSION RECOMMENDATION from the excerpt of its July 7, 2016, draft minutes:

Mr. Randolph Stewart has recused himself from the discussion of this project. Mr. Rick Sweet, citizen, requested the reason for the recusal. Mr. Semmler noted that it was sufficient to say that Mr. Stewart did recuse himself.

Mr. Anthony Criscitiello briefed the Commissioners on the map amendments/rezoning request.

Applicant's Comments: Mr. Michael Kronimus, agent for the applicant, noted that the 21-acre property was next to the Hilton Head National Golf Course. The property was a par 3 golf course (formerly known as Executive Golf) that no longer exists. He provided a power point presentation to the Commissioners regarding both the future land use map and the zoning map amendments. The preliminary Traffic Impact Analysis (TIA), performed by Ms. Jennifer Bihl, noted that at this time a traffic light is not needed, but the property owner along with Tanger believe a traffic light would be in the best interest of the area. He noted an abundance of natural buffers and that the property was along Bluffton Parkway. He also noted that the owners of both properties--the Hilton Head National Golf Course and Executive Golf--are talking to each other about how their respective properties would relate to each other.

Discussion by the Commissioners included clarification of the property location, the status of the bird nest on the site, querying about traffic lighting, and querying the relationship of the Hilton Head National property and the Bluffton Parkway flyover to Hilton Head Island.

Mr. Robert Merchant briefed the Commissioners on the Planning staff report. He provided a power point presentation. One of the main arguments is that there had been a change of conditions such as the Bluffton Parkway, which provides full frontage rather than the property being far behind Highway 278. The staff supports the future land use change to Neighborhood Mixed-Use and the zoning change to T4 Neighborhood Center for the property. He agrees with Mr. Kronimus that a traffic light would be warranted if more development occurred in the neighborhood. The TIA shows the road as failing once development occurs; however, a traffic light would solve the condition. Staff wants to insure that future traffic light coordination occurs before further development along Bluffton Parkway, including the access point between Tanger Outlet 2 and Hilton Head National Golf Course.

Further discussion by the Commission included concern with traffic management for the development of the properties of the former Executive and Hilton Head National golf courses (*Mr. Merchant noted that the Old South development comes off Buckingham Plantation Road and would not affect this intersection*), clarification on the assumption of the likely scenario of the Executive Golf property, clarification of the Old South Planned Unit Development (PUD) development plans (*Mr. Merchant noted that he had not received any plans; however, the capacity was not built out.*), ideal coordination of the

Executive Golf and the Hilton Head National properties, notifying the Town of Bluffton on project, an explanation of the submittal process by the Planning staff where legal problems may occur if the two properties are looked at as one, concern with property coordination, and having the Executive Golf property serve as a buffer for the Hilton Head National property.

Public Comment: Mr. Rick Sweet, a resident of Heritage Lakes, has attended the charrettes that have been put on by Mr. Kronimus regarding Hilton Head National. He has seen Hilton Head National's plan. They mentioned 56,000 trips daily from Hilton Head National. It is a domino effect, one will affect the other. Mr. Kronimus knows what the plans are for both properties. During the charrette, we could not pin out what they would be doing on the properties. Their plans include a 4-lane, instead of the existing 2-lane, road. With the flyover, this is going to be a major project. At the last meeting, Mr. Kronimus said the number one problem was the Heritage Lakes entrance. I understand your concerns. I am begging you to deny or delay the request. Once you see Hilton Head National, you will see what they are planning and it will be an eye opener. Use common sense. They are not going to sue you. Consider the community at large and how their lifestyle will be affected. Who asked for the flyover? The road ends. Is Bluffton expected to be Myrtle Beach South? *(Mr. Semmler asked for clarification of Heritage Lakes to Executive Golf and how Mr. Sweet heard of the project.)*

Mr. Kronimus noted that Hilton Head National was a separate project. Both projects (Executive Golf and Hilton Head National Golf) will work together for the one traffic light. He stated he does represent both owners. Residential, a hotel, and outparcels are proposed for the Executive Golf property. He does not believe the Commission can hold the Executive Golf property hostage because of Hilton Head National. Discussion with Mr. Kronimus included a clarification on whether the Executive Golf TIA had considered Hilton Head National *(Mr. Kronimus replied no.)*, a clarification on the TIA recommendation, and stormwater management concerns. Mr. Kronimus said the project will follow the Community Development Code (CDC) when the rezoning is approved. Both owners have talked about connectivity between the two properties. Whether septic or sewer is proposed, Mr. Kronimus said sewer was proposed.

Further discussion by Commissioners included a procedural process that may include a 30-day delay, a denial, or an approval to County Council *(a caution for due process and equal protection of the law for the applicants per Mr. Criscitiello)*; looking at the project on its own merits despite the concern of additional future development nearby; an explanation of the development approval process *(Mr. Criscitiello indicated that the Staff Review Team would insure the development met the CDC standards once the rezoning was approved)*; clarification on the 1994 Act regarding authority to return items to staff for rework *(Mr. Criscitiello believes such authority refer to County Council, not the Planning Commission.)*; and the ramifications of a Planning Commission 30-day delay on the applicant/agent *(Mr. Kronimus indicated that the owner was not in a rush to build but would not like to be tied to another property owned by someone else)*.

Motion: Mr. Marque Fireall made a motion, and Ms. Diane Chmelik seconded the motion, to recommend approval to County Council on the Southern Beaufort County Future Land Use Map Amendment for R600 040 000 0209 0000, R600 040 000 0824 0000, and R600 040 000 0825 0000 (Three (3) Properties formerly known as Executive Golf, totaling 20.99 acres) from Rural (in the Growth Area) to Urban Mixed Use, as recommended by the Planning staff. No further discussion occurred. The motion carried (FOR: Chmelik, Fermin, Fireall, Hinchey, Mitchell, Pappas, and Semmler, RECUSED: Stewart; ABSENT: Walsnovich).

Motion: Mr. Marque Fireall made a motion, and Mr. Harold Mitchell seconded the motion, to recommend approval to County Council on the Southern Beaufort County Zoning Map Amendment / Rezoning Request for R600 040 000 0209 0000, R600 040 000 0824 0000, and R600 040 000 0825 0000 (Three (3) Properties formerly known as Executive Golf, totaling 20.99 acres) from T2-Rural District to T4-Neighborhood Center District, with the condition to monitor the growth intersection, as was recommended by the Planning staff. The motion carried (FOR:

Chmelik, Fermin, Fireall, Hinchler, Mitchell, Pappas, and Semmler; and RECUSED: Stewart; ABSENT: Walsnovich).

Motion: Mr. Semmler made a motion, and Ms. Caroline Fermin seconded the motion, **to recommend to County Council the following that will result in complete streets constructed on a connected transportation network that meets the intent of the Community Development Code:**

- **by coordinating the access needs and traffic control between Executive Golf, Hilton Head National, and Tanger 2 to ensure that appropriate safe access meets the County's Access Management Ordinance by constructing and providing appropriate spacing of traffic signals when warranted; and**
- **by including sufficient connectivity between adjacent developments to ensure distribution of trips away from problematic intersections and encouraging multi-modal trips.**

The motion **carried (FOR: Chmelik, Fermin, Fireall, Hinchler, Mitchell, Pappas, and Semmler; RECUSED: Stewart; ABSENT: Walsnovich).**

Mr. Semmler commented that as Southern Beaufort County is developed, the community should be included in the development plans. He applauded Mr. Kronimus for reaching out to the community with the charrettes that were held prior to submitting the map amendment applications.

STAFF REPORT:

A. BACKGROUND:

Case No.	ZMA-2016-05
Owner/Applicant:	Silver Rock BP, LLC
Property Location:	Located on the south side of Bluffton Parkway approximately 1,000 feet west of the intersection with Buckingham Plantation Drive
District/Map/Parcel:	R600 040 000 0209 0000; R600 040 000 0825 0000; and R600 040 000 0824 0000
Property Size:	20.99 acres
Current Future Land Use Designation:	Rural
Proposed Future Land Use Designation:	Neighborhood Mixed-Use
Current Zoning District:	T2 Rural
Proposed Zoning District:	T4 Neighborhood Center

B. SUMMARY OF REQUEST:

The applicant is proposing to take two actions on the subject property. The first is to change the future land use designation in the Comprehensive Plan from Rural to Neighborhood Mixed-Use. The second action is to change the zoning of the property from T2 Rural to T4 Neighborhood Center. The subject property was the home to the Executive Golf Club, a par 3 course. This golf course was accessed from Hilton Head National Drive which has access off of US 278. The land was designated as Rural in the 1997 and 2010 Comprehensive Plans due to its recreational land use. The extension of the Bluffton Parkway approximately 5 years ago greatly improved access to the property and placed it directly across the parkway from the Tanger 2 Outlets and the Lakes at Edgewater, a multi-family housing community. The property is bound by the Old South Golf Course to the south, and the Hilton Head National Golf Course to the west.

- C. TRAFFIC IMPACT ANALYSIS (TIA):** The TIA for this site assumes the following development projections for this property – 20,000 sf of retail, 125 residential units and 120 hotel rooms. The TIA assumes two access points along Bluffton Parkway, one located directly across from Tanger 2, and the other located across from the entrance to the Lakes at Edgewater. The estimated completion date of the proposed development is 2020. The TIA assumed completion of the flyover which is anticipated to direct more traffic onto Bluffton Parkway. The TIA anticipates that the intersection located at Tanger 2 will be at LOS F at peak hours with the addition of access to these parcels. However, the intersection is controlled by a stop sign and delays are common at this type of intersection. The other access point is projected to operate at acceptable levels during peak times. The TIA recommends that the first access point provide a left-hand turn lane. The TIA also recommends to monitor the development of adjoining parcels (mainly Tanger 2 and Hilton Head National) to determine when a signalized intersection is warranted and to coordinate the location of this intersection and provide connectivity to serve the access needs of each of the developments.
- D. COMPREHENSIVE PLAN AMENDMENT ANALYSIS:** Section 7.3.20 of the Community Development Code states that when determining whether to adopt or deny the proposed amendment, the County Council shall consider the following factors:
1. ***Whether capital investments, population trends, land committed to development, density, use, or other conditions have changed that justify the amendment:*** The extension of the Bluffton Parkway gave this property direct access to a minor arterial approximately 5 years ago. The pending completion of Bluffton Parkway (Phase 5B) is anticipated to bring more vehicles to the parkway and increase the commercial viability of the area. The Bluffton Parkway is also a major cycling and pedestrian corridor that links this site to many of the residential communities, shopping areas, recreation, employment and schools in the Bluffton area south of US 278. The availability of multiple modes of transportation support makes the site more suitable to walkable mixed-use development.
 2. ***Whether the proposed amendment is consistent with the Comprehensive Plan's goals and policies:*** The Comprehensive Plan designates growth areas for areas in Southern Beaufort County that have adequate infrastructure and a supporting road network.
 3. ***Whether the proposed amendment is necessary to respond to state and/or federal legislation:*** Not applicable.
 4. ***Whether the proposed amendment would result in development that is compatible with surrounding land uses:*** The subject property is located directly across the Bluffton Parkway from the Tanger 2 Outlets and from the Lakes at Edgewater, a multi-family housing development. Allowing for a mix of commercial and moderate density development on the subject property would be consistent with surrounding uses.
 5. ***Whether and the extent to which the proposed amendment would affect the capacities of public facilities and services, including roads, utilities, law enforcement, fire, EMS, schools, parks and recreation, solid waste, and drainage facilities:*** The site has adequate public facilities. The applicant has received letters from the Beaufort County Sheriff's Office, the Bluffton Fire District, the Beaufort County School District, Hargray, Palmetto Electric Cooperative, SCE&G, and the Beaufort Jasper Water Sewer Authority. The Bluffton Parkway provides adequate road access to the site.
 6. ***Whether, and the extent to which, the proposed amendment would result in negative impacts to natural resources:*** The increased density of the property will have an impact on natural resources. These impacts will need to be addressed through adherence to the natural resource and stormwater standards in the Community Development Code.

E. ZONING MAP AMENDMENT ANALYSIS: Section 7.3.40 of the Community Development Code states that a zoning map amendment may be approved if the proposed amendment:

1. ***Is consistent with and furthers the goals and policies of the Comprehensive Plan and the purposes of this Development Code:*** Staff supports an amendment to the Comprehensive Plan Future Land Use Map for the subject property. See Item D above.
2. ***Is not in conflict with any provision of this Development Code, or the Code of Ordinances:*** The proposed zoning change will foster development in this area that will be consistent with other parcels along Bluffton Parkway.
3. ***Addresses a demonstrated community need:*** The proposal does not address a demonstrated community need.
4. ***Is required by changing conditions:*** The proposal is not required by changing conditions.
5. ***Is compatible with existing and proposed uses surrounding the land subject to the application, and is the appropriate zone and uses for the land.***
The subject property is located directly across the Bluffton Parkway from the Tanger 2 Outlets and from the Lakes at Edgewater, a multi-family housing development. Allowing for a mix of commercial and moderate density development on the subject property would be consistent with surrounding uses.
6. ***Would not adversely impact nearby lands.***
Rezoning this property to T4NC would foster development that would be consistent with the mix of land uses on nearby parcels.
7. ***Would result in a logical and orderly development pattern.***
See item 6 above.
8. ***Would not result in adverse impacts on the natural environment – including, but not limited to, water, air, noise, storm water management, wildlife, vegetation, wetlands, and the natural functioning of the environment.***
The increased density of the property will have an impact on natural resources. These impacts will need to be addressed through adherence to the natural resource and stormwater standards in the Community Development Code.
9. ***Would result in development that is adequately served by public facilities (e.g. streets, potable water, sewerage, storm water management, solid waste collection and disposal, schools, parks, police, and fire and emergency facilities)***
The site has adequate public facilities. The applicant has received letters from the Beaufort County Sheriff's Office, the Bluffton Fire District, the Beaufort County School District, Hargray, Palmetto Electric Cooperative, SCE&G, and the Beaufort Jasper Water Sewer Authority. The Bluffton Parkway provides adequate road access to the site.

F. STAFF RECOMMENDATION:

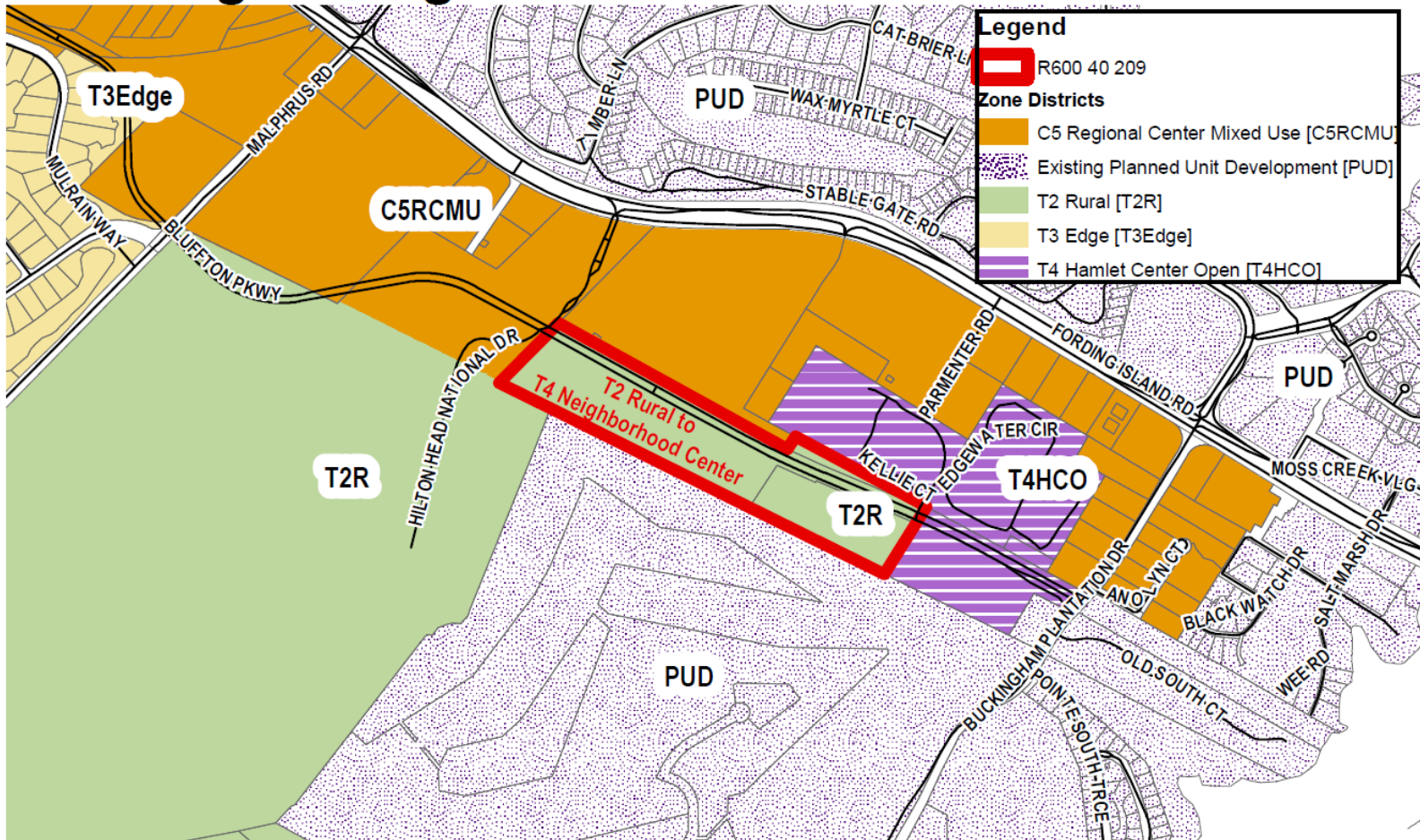
1. Staff recommends that the future land use designation of the subject parcels be changed from Rural to Urban Mixed-Use rather than Neighborhood Mixed-Use. This land use designation is more consistent with the intent of the Comprehensive Plan, the character of the neighboring properties, and the mix of uses that are being proposed for the site.
2. Staff recommends that the zoning of the property be amended from T2 Rural to T4 Neighborhood Center.
3. Staff recommends coordinating access needs and traffic control between Executive Golf, Hilton Head National and Tanger 2 to ensure appropriate safe access that meets the County's Access Management Ordinance is constructed and provided with appropriate spacing of traffic signals when warranted. This should include sufficient connectivity between adjacent developments to

ensure distribution of trips away from problematic intersections and encouragement of multi-modal trips. This will result in complete streets constructed on a connected transportation network that meets the intent of the CDC. (revised by Beaufort County Traffic & Transportation Engineer, Colin Kinton)

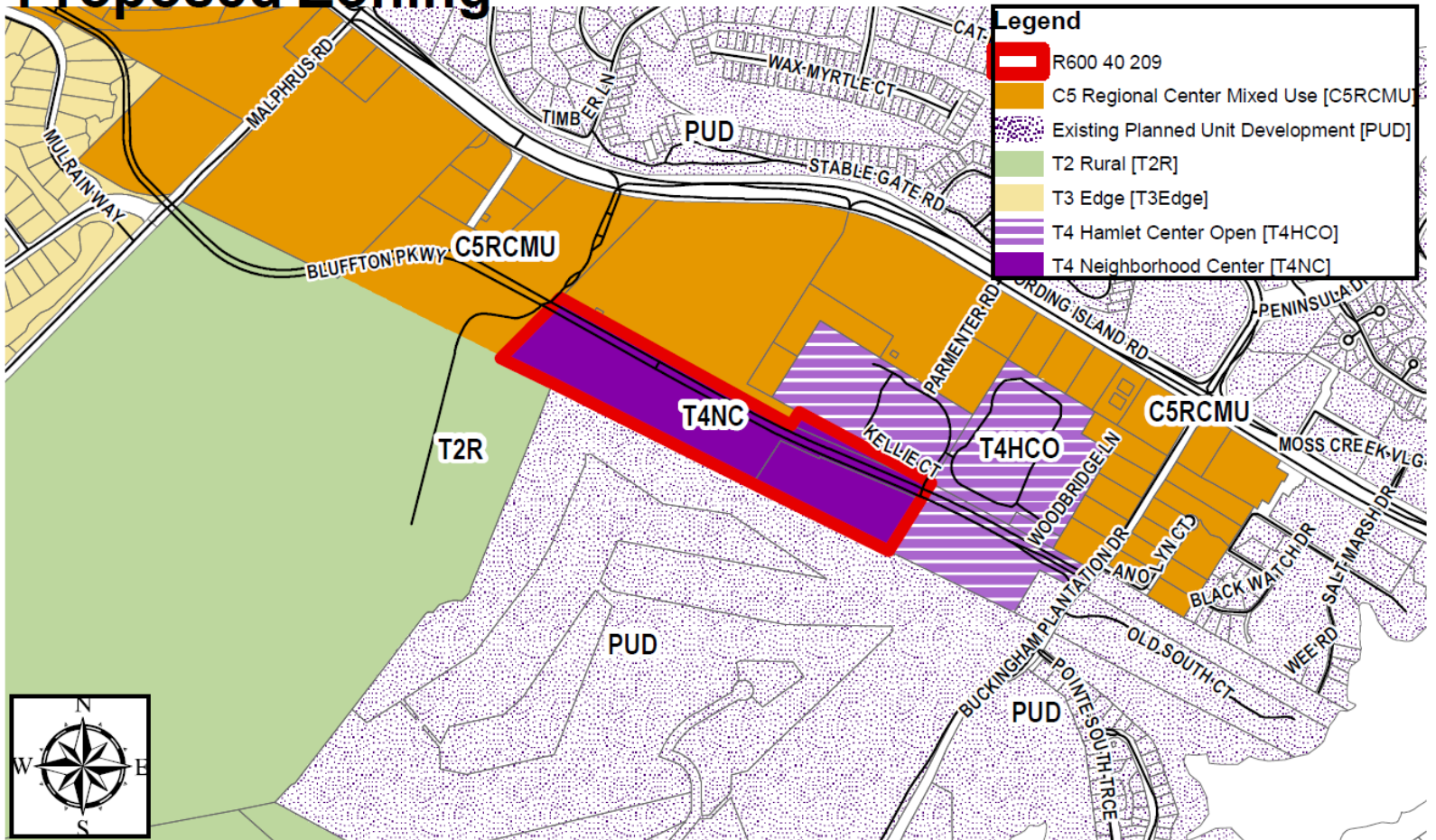
G. ATTACHMENTS:

- Comprehensive Plan Future Land Use (existing and proposed)
- Zoning Map (existing and proposed)
- Application

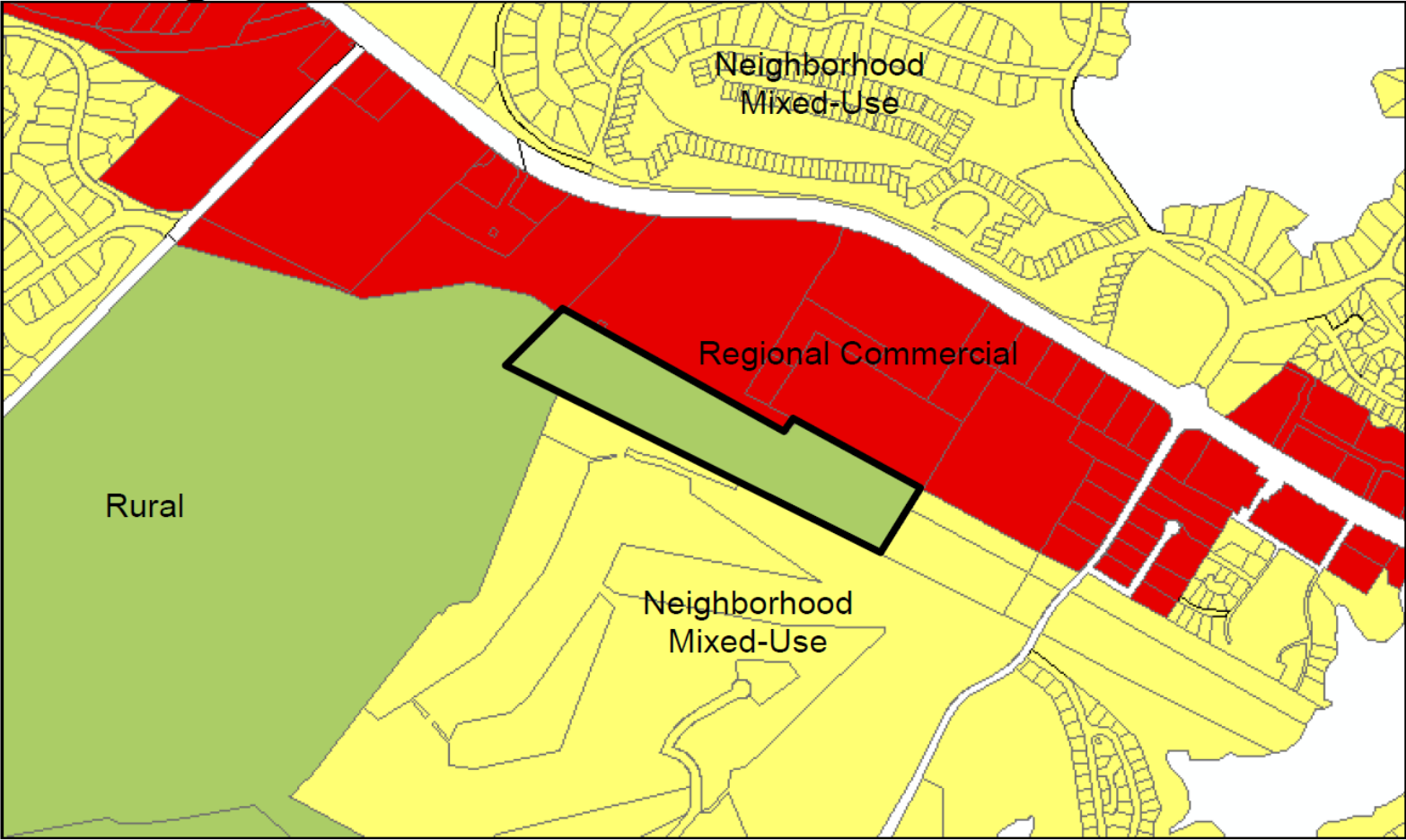
Existing Zoning



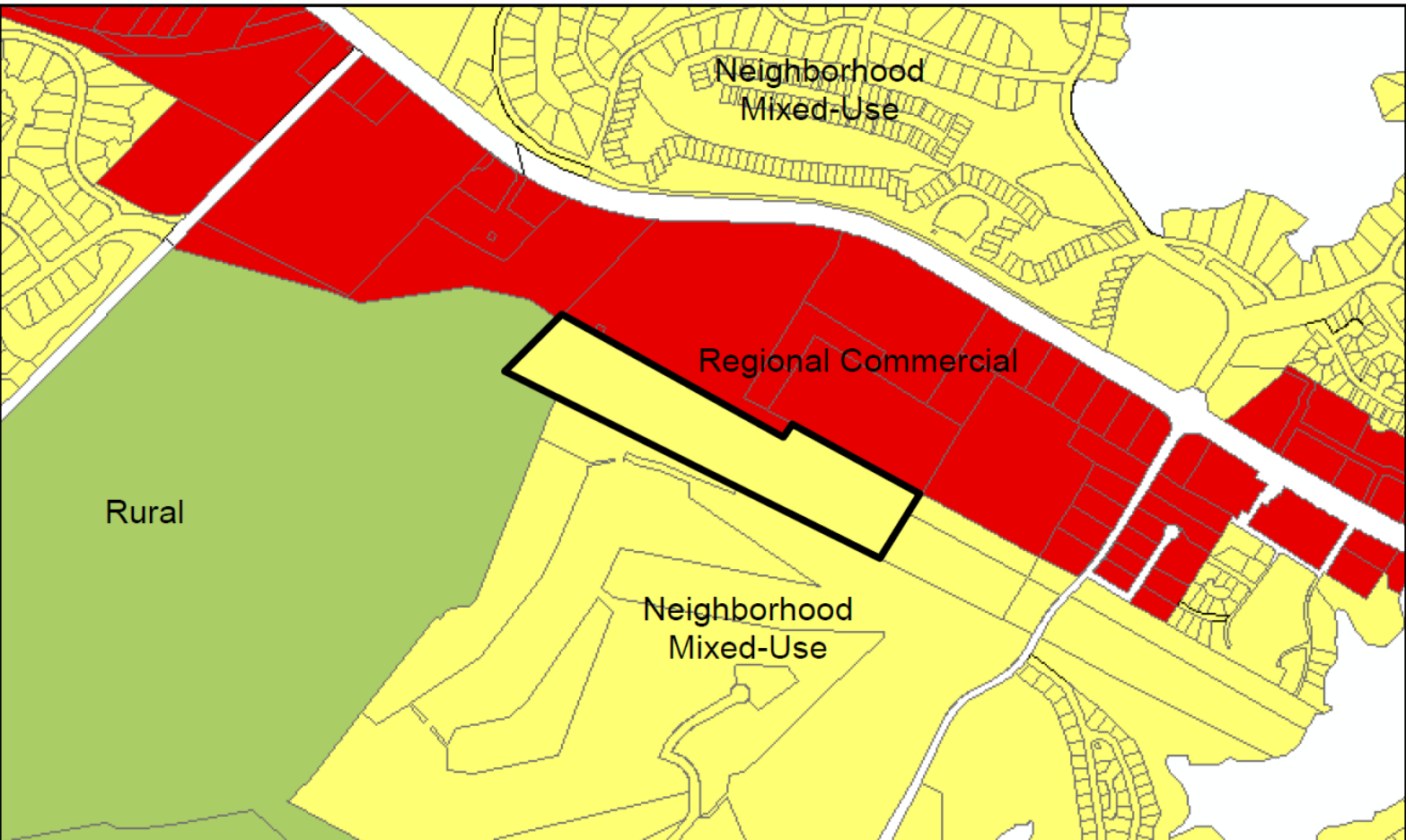
Proposed Zoning



Existing Future Land Use



Proposed Future Land Use



BEAUFORT COUNTY, SOUTH CAROLINA
PROPOSED COMPREHENSIVE PLAN TEXT AMENDMENT
OR FUTURE LAND USE MAP AMENDMENT APPLICATION

TO: The Chairman & Members of Beaufort County Council

The undersigned hereby respectfully requests that the Beaufort County Zoning/Development Standards Ordinance (ZDSO) be amended as described below:

1. This is a request for a change in the (check as appropriate):
() Future Land Use Map Designation (X) Comprehensive Plan Text Amendment

2. Give exact information to locate the property for which you propose a map change:
Tax District Number: R600, Tax Map Number: 040, Parcel Number(s): 0209 0824 0825
Size of subject property: 20.99 Acres Square Feet/Acres (circle one)
Location: Parcels 1,2 & 3 - south side Bluffton Parkway across from the Tanger Outlets and adjacent to Hilton Head National

3. How is this property presently designated on the Future Land Use Map? (Check one)

Within the Growth Area:	Outside the Growth Area:
Residential:	
() Urban Mixed Use	() Rural (outside the growth area)
(X) Neighborhood Mixed Use	() Rural Community Preservation
() Air Installation Compatible Use Zone/AICUZ	() Resource Conservation
(X) Rural (in the growth area)	
Commercial:	Overlays:
() Core Commercial	() Cultural Protection Overlay
() Regional Commercial	() Commercial Fishing Village Overlay
() Community Commercial	() Corridor Overlay
Light Industrial:	() Preserved Lands
() Light Industrial	() Military
() Research & Development	

4. What new Future Land Use Map designation do you propose for this property?
T4NC Neighborhood Center Neighborhood Mixed Use (Under Item 10 explain the reason(s) for your map amendment request.)


5. Do you own all of the property proposed for this amendment? (X) Yes () No
Only property owners or their authorized representative/agent can sign this application. If there are multiple owners, each property owner must sign an individual application and all applications must be submitted simultaneously. If a business entity is the owner, the authorized representative/agent of the business must attach: 1- a copy of the power of attorney that gives him the authority to sign for the business, and 2- a list of all owners of the business.

6. If this request involves a proposed text change in the Beaufort County Comprehensive Plan, the section(s) affected are: _____
(Under Item 10 explain the proposed text change and reasons for the change.)

7. The following section of the Beaufort County ZDSO should be addressed by the applicant and attached to this application form: Section 106-494, Standards for Comprehensive Plan amendments.

8. Explanation (continue on separate sheet if needed): _____

It is understood by the undersigned that while this application will be carefully reviewed and considered, the burden of proof for the proposed amendment rests with the owner.



Signature of Owner
Printed Name: Herb Chase
Telephone Number: (310) 734-2017
Date: May 1, 2018
Address: 15322 Antioch Street #702, Pacific Palisades CA 90272
Agent (Name/Address/Phone): Michael Kronimus - KRA, Inc. 2 Verdier Plantation Road, Bluffton SC 29910

FOR MAP AMENDMENT REQUESTS, THE PLANNING OFFICE WILL POST A NOTICE ON THE AFFECTED PROPERTY AS OUTLINED IN SEC. 106-402(D) OF THE BEAUFORT COUNTY ZDSO.

UPON RECEIPT OF APPLICATIONS, THE STAFF HAS THREE (3) WORK DAYS TO REVIEW ALL APPLICATIONS FOR COMPLETENESS. THE COMPLETED APPLICATIONS WILL BE REVIEWED FIRST BY THE BEAUFORT COUNTY PLANNING COMMISSION SUBCOMMITTEE RESPONSIBLE FOR THE AREA WHERE YOUR PROPERTY IS LOCATED. MEETING SCHEDULES ARE LISTED ON THE APPLICATION PROCESS (ATTACHED). COMPLETE APPLICATIONS MUST BE SUBMITTED BY NOON FOUR (4) WEEKS PRIOR FOR PLANNED UNIT DEVELOPMENTS (PUDs) OR THREE (3) WEEKS PRIOR FOR NON-PUD APPLICATIONS TO THE APPLICABLE SUBCOMMITTEE MEETING DATE.

PLANNED UNIT DEVELOPMENT (PUD) APPLICANTS ARE REQUIRED TO SUBMIT FIFTEEN (15) COPIES TO THE PLANNING DEPARTMENT. CONSULT THE STAFF PLANNER FOR DETAILS.

CONTACT THE PLANNING DEPARTMENT AT (843) 255-2140 FOR EXACT APPLICATION FEES.

FOR PLANNING DEPARTMENT USE ONLY:

Date Application Received:
(place received stamp below)

Date Posting Notice Issued: 5/26/16
Application Fee Amount Received: \$250⁰⁰
Receipt No. for Application Fee: 16601

BEAUFORT COUNTY, SOUTH CAROLINA
PROPOSED ZONING AND DEVELOPMENT STANDARDS ORDINANCE (ZDSO)
ZONING MAP / TEXT AMENDMENT / PUD MASTER PLAN CHANGE APPLICATION

TO: Beaufort County Council

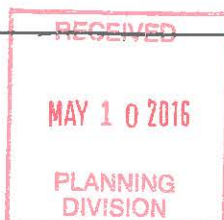
The undersigned hereby respectfully requests that the Beaufort County Zoning/Development Standards Ordinance (ZDSO) be amended as described below:

1. This is a request for a change in the (check as appropriate): ☐ PUD Master Plan Change
☒ Zoning Map Designation/Rezoning ☐ Zoning & Development Standards Ordinance Text
2. Give exact information to locate the property for which you propose a change:
Tax District Number: R600, Tax Map Number: 040, Parcel Number(s): 0209, 0824, 0825
Size of subject property: 20.99 acres Square Feet / Acres (circle one)
Location: Parcels 1 & 2 - south side Bluffton Parkway across from Tanger Outlets and adjacent to Hilton Head National
3. How is this property presently zoned? (Check as appropriate)

<input type="checkbox"/> Urban/U	<input type="checkbox"/> Community Preservation/CP	<input type="checkbox"/> Light Industrial/LI
<input type="checkbox"/> Suburban/S	<input type="checkbox"/> Commercial Regional/CR	<input type="checkbox"/> Industrial Park/IP
<input checked="" type="checkbox"/> Rural/R	<input type="checkbox"/> Commercial Suburban/CS	<input type="checkbox"/> Research & Development/RD
<input type="checkbox"/> Rural Residential/RR		
<input type="checkbox"/> Rural Business/RB	<input type="checkbox"/> Planned Unit Development/PUD	<input type="checkbox"/> Resource Conservation/RC
4. What new zoning do you propose for this property? T4NC - T4 Neighborhood Center
(Under Item 9 explain the reason(s) for your rezoning request.)
5. Do you own all of the property proposed for this zoning change? ☒ Yes ☐ No
Only property owners or their authorized representative/agent can sign this application. If there are multiple owners, each property owner must sign an individual application and all applications must be submitted simultaneously. If a business entity is the owner, the authorized representative/agent of the business must attach: 1- a copy of the power of attorney that gives him the authority to sign for the business, and 2- a copy of the articles of incorporation that lists the names of all the owners of the business.
6. If this request involves a proposed change in the Zoning/Development Standards Ordinance text, the section(s) affected are: _____
(Under Item 9 explain the proposed text change and reasons for the change.)
7. Is this property subject to an Overlay District? Check those which may apply:

<input type="checkbox"/> AOD - Airport Overlay District	<input type="checkbox"/> MD - Military Overlay District
<input type="checkbox"/> COD - Corridor Overlay District	<input type="checkbox"/> RQ - River Quality Overlay District
<input type="checkbox"/> CPOD - Cultural Protection Overlay District	
8. The following sections of the Beaufort County ZDSO (see attached sheets) should be addressed by the applicant and attached to this application form:
 - a. Section 106-492, Standards for zoning map amendments.
 - b. Section 106-493, Standards for zoning text amendments.
 - c. Sections 106-2441 and 106-2442, General and Special Considerations for Planned Unit Developments (PUDs)
 - d. Section 106-2450, Traffic Impact Analysis (for PUDs)

Rev. 1/31/14



ZMA
2016-05
FILE NO: 2016-05 // Initiated by: STAFF / OWNER
(Circle One)

9. Explanation (continue on separate sheet if needed): _____

It is understood by the undersigned that while this application will be carefully reviewed and considered, the burden of proof for the proposed amendment rests with the owner.

Signature of Owner (see Item 5 on page 1 of 1) May 1, 2016
Date
Printed Name: Herb Chase Telephone Number: (310) 734-2017

Address: 15332 Antioch Street #702, Pacific Palisades CA 90272

Email: hchase@mshotelmanagement.com

Agent (Name/Address/Phone/email): Michael Kronimus - KRA, Inc. 2 Verdier Plantation Road, Bluffton SC 29910

UPON RECEIPT OF APPLICATIONS, THE STAFF HAS THREE (3) WORK DAYS TO REVIEW ALL APPLICATIONS FOR COMPLETENESS. THE COMPLETED APPLICATIONS WILL BE REVIEWED FIRST BY THE BEAUFORT COUNTY PLANNING COMMISSION SUBCOMMITTEE RESPONSIBLE FOR THE AREA WHERE YOUR PROPERTY IS LOCATED. MEETING SCHEDULES ARE LISTED ON THE APPLICATION PROCESS (ATTACHED). COMPLETE APPLICATIONS MUST BE SUBMITTED BY NOON THREE WORKING DAYS AND FOUR (4) WEEKS PRIOR FOR PLANNED UNIT DEVELOPMENTS (PUDs) OR THREE (3) WEEKS PRIOR FOR NON-PUD APPLICATIONS TO THE APPLICABLE PLANNING COMMISSION MEETING DATE.

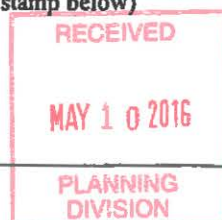
PLANNED UNIT DEVELOPMENT (PUD) APPLICANTS ARE REQUIRED TO SUBMIT FIFTEEN (15) COPIES TO THE PLANNING DEPARTMENT. CONSULT THE APPLICABLE STAFF PLANNER FOR DETAILS.

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CONTACT THE PLANNING DEPARTMENT AT (843) 255-2140 FOR EXACT APPLICATION FEES.

FOR PLANNING DEPARTMENT USE ONLY:

Date Application Received:
(place received stamp below)



Date Posting Notice Issued:

Application Fee Amount Received: \$250.00

Receipt No. for Application Fee:

Rev. 1/31/14

FILE NO: 2016-05 // Initiated by: STAFF/OWNER
(Circle One)

Property Owners Notified of FLU/Zoning Map Amendments/Rezoning Request For R600-40-209, -824 and -825 *

(3 properties totaling 20.99 acres located along Bluffton Parkway between Hilton Head National Drive Kellie Court)

PIN	Owner1	MailingAdd	City	State	ZIP
R600 040 1	ALAN A ULMER REVOCABLE TRUST	177 ULMER RD	BLUFFTON	SC	29910
R600 040 0449	BEAUFORT-JASPER WATER & SEWER AUTHOR	6 SNAKE RD	OKATIE	SC	29909
R600 041 0160	BLUFFTON CUBE PARTNERS LLC	4064 COLONY RD #430	CHARLOTTE	NC	28211
R600 041 0155	BLUFFTON OS THREE LLC	21 HIGHLAND CIR	NEEDHAM	MA	02494
R600 041 163B	BLUFFTON OS TWO LLC	21 HIGHLAND CIR 3RD FL	NEEDHAM HEIGHTS	MA	02494
R600 041 053A	BNC HOLDINGS LLC	22 BALLYBUNION WAY	BLUFFTON	SC	29910
R600 041 0172	CARMEN PROPERTIES LLC	138 MOORING BUOY	HILTON HEAD ISLAND	SC	29928
R600 040 0208	COROC/HILTON HEAD II LLC % BLACKSTON	3200 NORTHLINE AVE STE 360	GREENSBORO	NC	27408
R600 040 001E	MAY RIVER GOLF CLUB ASSOC	200 MAIN STREET SUITE 201	HILTON HEAD ISLAND	SC	29926-0107
R600 041 0153	PALMETTO ELECTRIC COOP INC	PO BOX 23619	HILTON HEAD ISL	SC	29925
R600 041 0058	PITTSBURGH HILTON HEAD ASSOCIATES %	6301 FORBES AVE STE 220	PITTSBURGH	PA	15217
R600 040 001C	SCRATCH GOLF COMPANY % ACCOUNTING DE	1005 GLENWAY AVE	BRISTOL	VA	24201-3473
R600 40 209, 824, 825	SILVER ROCK BP LLC	270 MOSS CREEK DR	HILTON HEAD ISLAND	SC	29926
R600 040 142A	SLD-HILTON HEAD LP	1628 JFK BLVD STE 2300	PHILADELPHIA	PA	19103
* Notes:					
FLU Map Amendment: From Rural (in the growth area), To Neighborhood Mixed Use					
Zoning Map Amendment/Rezoning Request: From T2-Rural District, To T4-Neighborhood Center District					
Owner/Applicant: Silver Rock BP LLC, Agent: M. Kronimus					

ORD. 2016 / ____, __-__- 2016

AN ORDINANCE TO AMEND THE STORMWATER MANAGEMENT UTILITY ORDINANCE AS ADOPTED SEPTEMBER 26, 2016 TO PROVIDE FOR THE ADDITION OF ARTICLES III, IV, V, AND VI RELATED TO ADOPTION OF STORMWATER MANAGEMENT STANDARDS TO MEET MUNICIPAL SEPARATE STORMSEWER SYSTEM (MS4) PERMIT REQUIREMENTS

WHEREAS, Act 283 of 1975, The Home Rule Act, vested Beaufort County Council with the independent authority to control all acts and powers of local governmental authority that are not expressly prohibited by South Carolina law; and

WHEREAS, Chapter 99, Article II, "Stormwater Management Utility" was adopted on August 27, 2001 and was modified by Ordinance on August 22, 2005, September 28, 2015, and September 26, 2016; and

WHEREAS, Stormwater Management Utility was established for the purpose of managing, acquiring, constructing, protecting, operating, maintaining, enhancing, controlling, and regulating the use of stormwater drainage systems in the county;

WHEREAS, to meet the increasing demands on the Stormwater Management Utility in the areas of federally mandated municipal Separate Stormsewer Systems (MS4) permitting, capital project needs, and cost of service of operations and maintenance, as well as an evolving understanding of the impacts of the urban environment on water quality, the Stormwater Management Utility finds it necessary to amend the structure in which rates are determined and adjust the rates charged to the citizens of Beaufort County to meet said demands in a fair and equitable manner; and

WHEREAS, the administrative structure of the Stormwater Management Utility needs to be amended to reflect the organization of the current administration; and

WHEREAS, further amendments are needed to make adjustments to the rate structure to address the differences in taxation and billing for condominiums and parcels affected by standing water or tidal impacts; and

WHEREAS, pursuant to the requirements mandated by the Municipal Separate Stormsewer System (MS4) permit issued by the South Carolina Department of Health and Environmental Control (DHEC) on December 1, 2015, Beaufort County is required to adopt standards related to stormwater management and create a regulatory framework to enforce the same; and

WHEREAS, the Beaufort County Stormwater Utility Board has amended the Manual for Stormwater Best Management and Design Practices (BMP Manual) as the source of the technical stormwater standards used in the development of Stormwater Plans and adopted the same on September 14, 2016; and

WHEREAS, Beaufort County Council believes to best provide for the health, safety, and welfare of its citizens it is appropriate to amend Chapter 99, ~~Article II~~ of the Beaufort County Code and to provide for additional terms to said Article; and

WHEREAS, text that is underscored shall be added text and text ~~lined through~~ shall be deleted text; and

NOW, THEREFORE, BE IT ORDAINED BY BEAUFORT COUNTY COUNCIL, that Chapter 99, ~~Article II~~ of the Beaufort County Code is hereby amended and replaced with the following:

Chapter 99 - STORMWATER MANAGEMENT ~~UTILITY~~

ARTICLE I. - IN GENERAL

Secs. 99-1—99-100. - Reserved.

ARTICLE II. - STORMWATER MANAGEMENT UTILITY

Sec. 99-101. - Findings of fact.

The County Council of Beaufort County, South Carolina, makes the following findings of fact:

- (a) The professional engineering and financial analyses conducted on behalf of and submitted to the county properly assesses and defines the stormwater management problems, needs, goals, program priorities, costs of service, need for interlocal cooperation, and funding opportunities of the county.
- (b) Given the problems, needs, goals, program priorities, costs of service, needs for interlocal cooperation, and funding opportunities identified in the professional engineering and financial analyses submitted to the county, it is appropriate to authorize the establishment of a separate enterprise accounting unit which shall be dedicated specifically to the management, construction, maintenance, protection, control, regulation, use, and enhancement of stormwater systems and programs in Beaufort County in concert with other water resource management programs.
- (c) Stormwater management is applicable and needed throughout the unincorporated portions of Beaufort County, but interlocal cooperation between the county and the incorporated cities and towns within the county is also essential to the efficient provision of stormwater programs, services, systems, and facilities. Intense urban development in some portions of the county has radically altered the natural hydrology of the area and the hydraulics of stormwater systems, with many natural elements having been replaced or augmented by man-made facilities. Other areas of the county remain very rural in character, with natural stormwater systems predominating except along roads where ditches and culverts have been installed. As a result, the specific program, service, system, and facility demands differ from area to area in the county. While the county manages, operates, and improves stormwater programs, services, systems and facilities in the rural as well as urban areas, the need for improved stormwater management is greatest in the urban areas and nearby, including areas within incorporated cities and towns. Therefore, a stormwater utility service area subject to stormwater service fees should encompass, in so far as possible through interlocal agreements, the entirety of Beaufort County and the stormwater management utility service fee rate structure should reflect the amount of impervious area on individual properties and the runoff impact from water quantity and water quality.
- (d) The stormwater needs in Beaufort County include but are not limited to protecting the public health, safety, and welfare. Provision of stormwater management programs, services, systems, and facilities therefore renders and/or results in both service and benefit to individual properties, property owners, citizens, and residents of the county and to properties, property owners, citizens, and residents of the county concurrently in a variety of ways as identified in the professional engineering and financial analyses.

- (e) The service and benefit rendered or resulting from the provision of stormwater management programs, services, systems, and facilities may differ over time depending on many factors and considerations, including but not limited to location, demands and impacts imposed on the stormwater programs, systems, and facilities, and risk exposure. It is not practical to allocate the cost of the county's stormwater management programs, services, systems, and facilities in direct and precise relationship to the services or benefits rendered to or received by individual properties or persons over a brief span of time, but it is both practical and equitable to allocate the cost of stormwater management among properties and persons in proportion to the long-term demands they impose on the county's stormwater programs, services, systems, and facilities which render or result in services and benefits.
- (f) Beaufort County presently owns and operates stormwater management systems and facilities that have been developed, installed, and acquired through various mechanisms over many years. The future usefulness and value of the existing stormwater systems and facilities owned and operated by Beaufort County, and of future additions and improvements thereto, rests on the ability of the county to effectively manage, construct, protect, operate, maintain, control, regulate, use, and enhance the stormwater systems and facilities in the county, in concert with the management of other water resources in the county and in cooperation with the incorporated cities and towns. In order to do so, the county must have adequate and stable funding for its stormwater management program operating and capital investment needs.
- (g) The county council finds, concludes, and determines that a stormwater management utility provides the most practical and appropriate means of properly delivering stormwater management services and benefits throughout the county, and the most equitable means to fund stormwater services in the county through stormwater service fees and other mechanisms as described in the professional engineering and financial analyses prepared for the county.
- (h) The county council finds, concludes, and determines that a schedule of stormwater utility service fees be levied upon and collected from the owners of all lots, parcels of real estate, and buildings that discharge stormwater or subsurface waters, directly or indirectly, to the county stormwater management system and that the proceeds of such charges so derived be used for the stormwater management system.
- (i) The county council finds that adjustments and credits against stormwater utility service fees are an appropriate means to grant properties providing stormwater management program services that would otherwise be provided by the county and will afford Beaufort County cost savings. These reductions will be developed by the Stormwater Manager and will be reviewed on an annual basis to allow for any modifications to practices required by Beaufort County.

The county council finds that both the total gross area and impervious area on each property are the most important factors influencing the cost of stormwater management in Beaufort County and, the runoff impact from water quantity and water quality.

(Ord. No. 2015/24, 9-28-2015)

Sec. 99-102. - Establishment of a stormwater management utility and a utility enterprise fund.

There is hereby established within the Environmental Engineering Division of Beaufort County a stormwater management utility for the purpose of conducting the county's stormwater management program. The county administrator shall establish and maintain a stormwater management utility enterprise fund in the county budget and accounting system, which shall be and remain separate from other funds. All revenues of the utility shall be placed into the stormwater management utility enterprise fund and all expenses of the utility shall be paid from the fund, except that other revenues, receipts, and resources not accounted for in the stormwater management utility enterprise fund may be applied to stormwater management programs, services, systems, and facilities as deemed appropriate by the Beaufort County Council. The county administrator may designate within the stormwater management utility enterprise fund such sub-units as necessary for the purpose of accounting for the geographical

generation of revenues and allocation of expenditures pursuant to interlocal governmental agreements with the cities and towns of Beaufort County.

(Ord. No. 2015/24, 9-28-2015)

Sec. 99-103. - Purpose and responsibility of the utility.

The Beaufort County Stormwater Management Utility is established for the purpose of managing, acquiring, constructing, protecting, operating, maintaining, enhancing, controlling, and regulating the use of stormwater drainage systems in the county. The utility shall, on behalf of the county and the citizens of the county: administer the stormwater management program; perform studies and analyses as required; collect service fees; system development fees, in-lieu of construction fees and other funding as allowed by law, and obtain and administer grants and loans as authorized by the county council; prepare capital improvement plans and designs; perform routine maintenance and remedial repair of the stormwater systems; acquire, construct, and improve stormwater systems; acquire necessary lands, easements, rights-of-way, rights-of-entry and use, and other means of access to properties to perform its duties; regulate the on-site control, conveyance, and discharge of stormwater from properties; obtain federal and state permits required to carry out its purpose; enter into operating agreements with other agencies; allocate funds pursuant to interlocal governmental agreements; educate and inform the public about stormwater management; and perform, without limitation except by law, any stormwater management functions and activities necessary to ensure the public safety, protect private and public properties and habitat, and enhance the natural environment and waters of the county.

(Ord. No. 2015/24, 9-28-2015)

Sec. 99-104. - Limitation of scope of responsibility.

The purpose and responsibility of the stormwater management utility shall be limited by the following legal and practical considerations.

- (a) Beaufort County owns or has legal access for purposes of operation, maintenance, and improvement only to those stormwater systems and facilities which:
 - (1) Are located within public streets, other rights-of-way, and easements;
 - (2) Are subject to easements, rights-of-entry, rights-of-access, rights-of-use, or other permanent provisions for adequate access for operation, maintenance, monitoring, and/or improvement of systems and facilities; or
 - (3) Are located on public lands to which the county has adequate access for operation, maintenance, and/or improvement of systems and facilities.
- (b) Operation, maintenance, and/or improvement of stormwater systems and facilities which are located on private property or public property not owned by Beaufort County and for which there has been no public dedication of such systems and facilities for operation, maintenance, monitoring, and/or improvement of the systems and facilities shall be and remain the legal responsibility of the property owner, except as that responsibility may be otherwise affected by the laws of the State of South Carolina and the United States of America.
- (c) It is the express intent of this article to protect the public health, safety, and welfare of all properties and persons in general, but not to create any special duty or relationship with any individual person or to any specific property within or outside the boundaries of the county. Beaufort County expressly reserves the right to assert all available immunities and defenses in any action seeking to impose monetary damages upon the county, its officers, employees and agents arising out of any alleged failure or breach of duty or relationship as may now exist or hereafter be created.
- (d) To the extent any permit, plan approval, inspection or similar act is required by the county as a condition precedent to any activity or change upon property not owned by the county, pursuant

to this or any other regulatory Ordinance, regulation, or rule of the county or under federal or state law, the issuance of such permit, plan approval, or inspection shall not be deemed to constitute a warranty, express or implied, nor shall it afford the basis for any action, including any action based on failure to permit or negligent issuance of a permit, seeking the imposition of money damages against the county, its officers, employees, or agents.

(Ord. No. 2015/24, 9-28-2015)

Sec. 99-105. - Boundaries and jurisdiction.

The boundaries and jurisdiction of the stormwater management utility shall encompass all those portions of unincorporated Beaufort County, as they may exist from time to time and such additional areas lying inside the corporate limits of those cities and towns in Beaufort County as shall be subject to interlocal agreements for stormwater management as approved by county council and participating municipal councils.

(Ord. No. 2015/24, 9-28-2015)

Sec. 99-106. - Definitions.

Unless the context specifically indicates otherwise, the meaning of words and terms used in this article shall be as set forth in S.C. Code § 48-14-20, and 26 S.C. Code Regulation 72-301, mutatis mutandis.

Abatement. Any action deemed necessary by the county or its officers or agents to remedy, correct, control, or eliminate a condition within, associated with, or impacting a stormwater drainage system or the water quality of receiving waters shall be deemed an abatement action.

Adjustments. Adjustments shall mean a change in the amount of a stormwater service fee predicated upon the determination reached by the Stormwater Manager and referenced to the Adjustments and Credit Manual.

Bill Class. Every property falls into one of several bill classes. The bill class determines the fee calculation of that property.

Condominiums. Properties with individual ownership of a particular dwelling unit in a building and the common right to share, with other co-owners, in the general and limited common elements of the real property.

Countywide Infrastructure Operation and Maintenance and Capital Projects. The County maintains some typically larger infrastructure within each of the four municipalities in addition to within the unincorporated area. The rate structure will allocate the costs for the County to maintain just the countywide drainage infrastructure across the entire rate base in all jurisdictions based on infrastructure linear feet per jurisdiction.

Customers of the stormwater management utility. Customers of the stormwater management utility shall be broadly defined to include all persons, properties, and entities served by and/or benefiting, directly and indirectly, from the utility's acquisition, management, construction, improvement, operation, maintenance, extension, and enhancement of the stormwater management programs, services, systems, and facilities in the county, and by its control and regulation of public and private stormwater systems, facilities, and activities related thereto.

Developed land. Developed land shall mean property altered from its natural state by construction or installation of improvements such as buildings, structures, or other impervious surfaces, or by other alteration of the property that results in a meaningful change in the hydrology of the property during and following rainfall events.

Exemption. Exemption shall mean not applying to or removing the application of the stormwater management utility service fee from a property. No permanent exemption shall be granted based on taxable or non-taxable status or economic status of the property owner.

Fixed costs. Costs associated with the public service provided equally to each property owner. These costs include, but are not limited to the following: billing and collections, data management and updating, programming, and customer support.

Gross Area. Gross area is the acreage of a parcel as identified by the Beaufort County Assessor records.

Hydrologic response. The hydrologic response of a property is the manner whereby stormwater collects, remains, infiltrates, and is conveyed from a property. It is dependent on several factors including but not limited to the size and overall intensity of development of each property, its impervious area, shape, topographic, vegetative, and geologic conditions, antecedent moisture conditions, and groundwater conditions and the nature of precipitation events. Extremely large undeveloped properties naturally attenuate but do not eliminate entirely the discharge of stormwater during and following rainfall events.

Jurisdictional Infrastructure Operations, Maintenance and Capital Projects. Each of the five jurisdictions maintains its own stormwater drainage infrastructure and funds those costs from utility revenue. Revenue from this fee component will be returned to the service provider, the individual jurisdiction.

Impervious surfaces. Impervious surfaces shall be a consideration in the determination of the development intensity factor. Impervious surfaces are those areas that prevent or impede the infiltration of stormwater into the soil as it entered in natural conditions prior to development. Common impervious surfaces include, but are not limited to, rooftops, sidewalks, walkways, patio areas, driveways, parking lots, storage areas, compacted gravel and soil surfaces, awnings and other fabric or plastic coverings, and other surfaces that prevent or impede the natural infiltration of stormwater runoff that existed prior to development.

Minimum Charge. A charge that reflects the minimum amount of demand a property will place on the service provider.

MS4 Permit. Each jurisdiction within Beaufort County will be subject to the federally mandated MS4 permit requirements. Compliance requirements include, but are not limited to monitoring, plan review, inspections, outreach and public education,

Nonresidential properties. Properties developed for uses other than permanent residential dwelling units and designated by the assigned land use code in the Beaufort County tax data system.

Other developed lands. Other developed lands shall mean, but not be limited to, mobile home parks, commercial and office buildings, public buildings and structures, industrial and manufacturing buildings, storage buildings and storage areas covered with impervious surfaces, parking lots, parks, recreation properties, public and private schools and universities, research facilities and stations, hospitals and convalescent centers, airports, agricultural uses covered by impervious surfaces, water and wastewater treatment plants, and lands in other uses which alter the hydrology of the property from that which would exist in a natural state. Properties that are used for other than single family residential use shall be deemed other developed lands for the purpose of calculating stormwater service fees.

Residential dwelling classifications. The following categories will identify the appropriate dwelling unit classifications to be utilized in applying the stormwater utility fee structure to the designations contained in the Beaufort County tax data system:

Single-family

Apartments

Townhouses

Condominiums

Mobile Home

Salt Water Marsh. Those parcels, typically contiguous to water, identified as inundated daily due to tidal action and unbuildable. These properties are 100% below mean high tide and/or beyond established critical line as defined by the South Carolina Department of Health and Environmental Control's Office of Coastal Resource Management. (DHEC-OCRM). The County Tax Assessor's Office shall make this determination based on best available data.

Stormwater management programs, services, systems and facilities. Stormwater management programs, services, systems and facilities are those administrative, engineering, operational, regulatory, and capital improvement activities and functions performed in the course of managing the stormwater systems of the county, plus all other activities and functions necessary to support the provision of such programs and services. Stormwater management systems and facilities are those natural and man-made channels, swales, ditches, swamps, rivers, streams, creeks, branches, reservoirs, ponds, drainage ways, inlets, catch basins, pipes, head walls, storm sewers, lakes, and other physical works, properties, and improvements which transfer, control, convey or otherwise influence the movement of stormwater runoff and its discharge to and impact upon receiving waters.

Stormwater service fees. Stormwater service fees shall mean the service fee imposed pursuant to this article for the purpose of funding costs related to stormwater programs, services, systems, and facilities. These fees will be calculated based upon the impervious and gross area at an 80/20 allocation; storm water service fee categories; any State agricultural exemptions or caps; an account administrative fee, countywide jurisdiction operation maintenance and capital project fees; and jurisdictional operation, maintenance and capital project fee.

Single-family unit (SFU). The single-family unit shall be defined as the impervious area measurements obtained from a statistically representative sample of all detached single-family structures within Beaufort County. The representative value will be 4,906 square feet.

Stormwater service fee categories. The appropriate categories for determining SFUs will be as follows:

	SFU Calculation (SFUs equal)
Tier 1 Single-family Unit ($\leq 2,521$ square feet)	Dwelling units x 0.5
Tier 2 Single-family Unit (2,522 to 7,265 square feet)	Dwelling units x 1
Tier 3 Single-family Unit ($\geq 7,266$ square feet)	Dwelling units x 1.5
Mobile Home	Dwelling units x 0.36
Apartments	Dwelling units x 0.39
Townhouses	Dwelling units x 0.60
Condominiums	Dwelling units x 0.27

Commercial	Impervious area x 4,906 sq. ft.*
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*Commercial billed at a rate of 1 SFU per 4,906 square feet or a portion thereof

Submerged property. Those parcels, typically contiguous to water, identified as eroded due to tidal action and unbuildable. These properties are 100% below mean low tide and/or beyond established critical line as defined by the South Carolina Department of Health and Environmental Control's Office of Coastal Resource Management. (DHEC-OCRM). The County Tax Assessor's Office shall make this determination based on best available data.

Townhomes. See Condominiums.

Variable Costs. An impervious and gross area rate structure that allocates some cost to each of the two variables based on the amount of impervious surface and gross area.

(Ord. No. 2015/24, 9-28-2015; Ord. No. 2016/____, 09-26-2016)

~~Sec. 99-107. -- Reserved Requirements for on-site stormwater systems: enforcement, methods and inspections.~~

- ~~(a) All property owners and developers of real property to be developed within the unincorporated portions of Beaufort County shall provide, manage, maintain, and operate on-site stormwater systems and facilities sufficient to collect, convey, detain, control, and discharge stormwater in a safe manner consistent with all county development regulations and the laws of the State of South Carolina and the United States of America, except in cases when the property is located within an incorporated city or town subject to an interlocal governmental agreement with the county for stormwater management and the city or town has regulations that are more stringent than the county, in which case the city's or town's development regulations shall apply. Any failure to meet this obligation shall constitute a nuisance and be subject to an abatement action filed by the county in a court of competent jurisdiction. In the event a public nuisance is found by the court to exist, which the owner fails to properly abate within such reasonable time as allowed by the court, the county may enter upon the property and cause such work as is reasonably necessary to be performed, with the actual cost thereof charged to the owner in the same manner as a stormwater service fee as provided for in this article.~~
- ~~(b) In the event that the county shall file an action pursuant to subsection 99-107(a), from the date of filing such action the county shall have all rights of judgment and collection through a court of competent jurisdiction as may be perfected by action.~~
- ~~(c) The county shall have the right, pursuant to the authority of this article, for its designated officers and employees to enter upon private property and public property owned by other than the county, upon reasonable notice to the owner thereof, to inspect the property and conduct surveys and engineering tests thereon in order to assure compliance with any order or judgment entered pursuant to this section.~~

~~(Ord. No. 2015/24, 9-28-2015; Ord. No. 2016/____, -2016)~~

Sec. 99-108. - General funding policy.

- (a) It shall be the policy of Beaufort County that funding for the stormwater management utility program, services, systems, and facilities shall be equitably derived through methods which have a demonstrable relationship to the varied demands and impacts imposed on the stormwater program, services, systems, and facilities by individual properties or persons and/or the level of service rendered by or resulting from the provision of stormwater programs, systems and facilities.

Stormwater service fee rates shall be structured so as to be fair and reasonable, and the resultant service fees shall bear a substantial relationship to the cost of providing services and facilities throughout the county. Similarly situated properties shall be charged similar rentals, rates, fees, or licenses. Service fee rates shall be structured to be consistent in their application and shall be coordinated with the use of any other funding methods employed for stormwater management within the county, whether wholly or partially within the unincorporated portions of the county or within the cities and towns. Plan review and inspection fees, special fees for services, fees in-lieu of regulatory requirements, impact fees, system development fees, special assessments, general obligation and revenue bonding, and other funding methods and mechanisms available to the county may be used in concert with stormwater service fees and shall be coordinated with such fees in their application to ensure a fair and reasonable service fee rate structure and overall allocation of the cost of services and facilities.

- (b) The cost of stormwater management programs, systems, and facilities subject to stormwater service fees may include operating, capital investment, and non-operating expenses, prudent operational and emergency reserve expenses, and stormwater quality as well as stormwater quantity management programs, needs, and requirements.
- (c) To the extent practicable, adjustments to the stormwater service fees will be calculated by the Beaufort County Stormwater Manager in accordance with the standards and procedures adopted by the Stormwater Manager's office.
- (d) The stormwater service fee rate may be determined and modified from time to time by the Beaufort County Council so that the total revenue generated by said fees and any other sources of revenues or other resources allocated to stormwater management by the county council to the stormwater management utility shall be sufficient to meet the cost of stormwater management services, systems, and facilities, including, but not limited to, the payment of principle and interest on debt obligations, operating expense, capital outlays, nonoperating expense, provisions for prudent reserves, and other costs as deemed appropriate by the county council.

Beaufort County service fee rate will be based on impervious and gross area at an 80/20 allocation; storm water service fee categories; any State agricultural exemptions or caps; an account administrative fee, countywide jurisdiction operation maintenance and jurisdictional operation, maintenance and capital project fee. The rates are set by the Beaufort County Stormwater Rate Study dated August 18 and adopted August 24, 2015.

The gross area charge for all parcels, EXCEPT master account properties for condominiums, is calculated in equivalent units as follows:

First 2 acres	\$X per acre
For every acres above 2 acres and up to 10 acres	0.5 x \$X
For every acre above 10 acres, and up to 100 acres	0.4 x \$X
For very acre above 100 acres	0.3 x \$X

Condominium accounts will receive a minimum gross area charge of 0.2 x \$X. The master account associated with the condominium subdivision will not receive a gross area charge.

Each municipal jurisdiction may have a different fee predicated upon the municipal jurisdiction's revenue needs. The stormwater service fee rates shall be adopted by the municipal jurisdictions and may be amended from time to time by the individual governing body.

(Ord. No. 2015/24, 9-28-2015; Ord. No. 2016/____, 09-26-2016)

Sec. 99-109. - Exemptions and credits applicable to stormwater service fees.

Except as provided in this section, no public or private property shall be exempt from stormwater utility service fees. No exemption, credit, offset, or other reduction in stormwater service fees shall be granted based on the age, tax, or economic status, race, or religion of the customer, or other condition unrelated to the stormwater management utility's cost of providing stormwater programs, services, systems, and facilities. A stormwater management utility service fee credit manual shall be prepared by the Stormwater Manager specifying the design and performance standards of on-site stormwater services, systems, facilities, and activities that qualify for application of a service fee credit, and how such credits shall be calculated.

(a) Credits. The following types of credits against stormwater service fees shall be available:

- (1) Freshwater wetlands. All properties except those classified as detached single-family dwelling units may receive a credit against the stormwater service fee applicable to the property based on granting and dedicating a perpetual conservation easement on those portions of the property that are classified as freshwater wetlands and as detailed in the stormwater management utility service fee credit manual. The conservation easement shall remove that portion of the subject property from any future development.
- (2) Salt Water Marsh. All properties except those classified as detached single-family dwelling units may receive a credit against the stormwater service fee applicable to the property based on those portions of the property that are classified as salt water marsh and as detailed in the stormwater management utility service fee credit manual.
- (3) Submerged properties. All properties may receive a credit against the stormwater service fee applicable to the property based on those portions of the property that are classified as submerged and as detailed in the stormwater management utility service fee credit manual.
- (4) Those properties that apply for consideration of an adjustment shall satisfy the requirements established by the Beaufort County Stormwater Manager and approved reduced stormwater service fee.

(b) Exemptions. The following exemptions from the stormwater service fees shall be allowed:

- (1) Improved public road rights-of-way that have been conveyed to and accepted for maintenance by the state department of transportation and are available for use in common for vehicular transportation by the general public.
- (2) Improved public road rights-of-way that have been conveyed to and accepted for maintenance by Beaufort County and are available for use in common for vehicular transportation by the general public.
- (3) Improved private roadways that are shown as a separate parcel of land on the most current Beaufort County tax maps and are used by more than one property owner to access their property.
- (4) Railroad tracks shall be exempt from stormwater service fees. However, railroad stations, maintenance buildings, or other developed land used for railroad purposes shall not be exempt from stormwater service fees.
- (5) Condominium boat slips shall be exempt from stormwater service fees.
- (6) Properties determined by the Assessor having 100% of the gross area of the property submerged, salt water marsh, or freshwater wetland will not receive an administrative charge, if applicable in the utility rate structure, AFTER the applicable credit defined in paragraph (a) above has been applied to the account.

(Ord. No. 2015/24, 9-28-2015; Ord. No. 2016/____, 09-26-2016)

Sec. 99-110. - Stormwater service fee billing, delinquencies and collections.

- (a) Method of billing. A stormwater service fee bill may be attached as a separate line item to the county's property tax billing or may be sent through the United States mail or by alternative means, notifying the customer of the amount of the bill, the date the fee is due (January 15), and the date when past due (March 17 - see Title 12, Section 45-180 of the South Carolina State Code). The stormwater service fee bill may be billed and collected along with other fees, including but not limited to the Beaufort County property tax billing, other Beaufort County utility bills, or assessments as deemed most effective and efficient by the Beaufort County Council. Failure to receive a bill is not justification for non-payment. Regardless of the party to whom the bill is initially directed, the owner of each parcel of land shall be ultimately obligated to pay such fees and any associated fines or penalties, including, but not limited to, interest on delinquent service fees. If a customer is under-billed or if no bill is sent for a particular property, Beaufort County may retroactively bill for a period of up to one-year, but shall not assess penalties for any delinquency during that previous unbilled period.
- (b) Declaration of delinquency. A stormwater service fee shall be declared delinquent if not paid within 60 days of the date of billing or upon the date (March 17) of delinquency of the annual property tax billing if the stormwater service fee is placed upon the annual property tax billing or enclosed with or attached to the annual property tax billing.

(Ord. No. 2015/24, 9-28-2015)

Sec. 99-111. - Appeals.

Any customer who believes the provisions of this article have been applied in error may appeal in the following manner and sequence.

- (a) An appeal of a stormwater service fee must be filed in writing with the Beaufort County Stormwater Manager or his/her designee within 30 days of the fee being mailed or delivered to the property owner and stating the reasons for the appeal. In the case of stormwater service fee appeals, the appeal shall include a survey prepared by a registered land surveyor or professional engineer containing information on the impervious surface area and any other feature or conditions that influence the development of the property and its hydrologic response to rainfall events.
- (b) Using information provided by the appellant, the county Stormwater Manager (or his or her designee) shall conduct a technical review of the conditions on the property and respond to the appeal in writing within 30 days. In response to an appeal, the Stormwater Manager may adjust the stormwater service fee applicable to the property in conformance with the general purposes and intent of this article.
- (c) A decision of the county Stormwater Manager that is adverse to an appellant may be further appealed to the county administrator or his designee within 30 days of the adverse decision. The appellant, stating the grounds for further appeal, shall deliver notice of the appeal to the county administrator or his designee. The county administrator or his designee shall issue a written decision on the appeal within 30 days. All decisions by the county administrator or his designee shall be served on the customer personally or by registered or certified mail, sent to the billing address of the customer. All decisions of the county administrator or his designee shall be final.
- (d) The appeal process contained in this section shall be a condition precedent to an aggrieved customer seeking judicial relief. Any decisions of the county administrator or his designee may

be reviewed upon application for writ of certiorari before a court of competent jurisdiction, filed within 30 days of the date of the service of the decision.

(Ord. No. 2015/24, 9-28-2015)

Sec. 99-112. - No suspension of due date.

No provision of this article allowing for an administrative appeal shall be deemed to suspend the due date of the service fee with payment in full. Any adjustment in the service fee for the person pursuing an appeal shall be made by refund of the amount due.

(Ord. No. 2015/24, 9-28-2015)

Sec. 99-113. - Enforcement and penalties.

Any person who violates any provision of this article may be subject to a civil penalty of not more than \$1,000.00, or such additional maximum amount as may become authorized by state law, provided the owner or other person deemed to be in violation has been notified of a violation. Notice shall be deemed achieved when sent by regular United States mail to the last known address reflected on the county tax records, or such other address as has been provided by the person to the county. Each day of a continuing violation may be deemed a separate violation. If payment is not received or equitable settlement reached within 30 days after demand for payment is made, a civil action may be filed on behalf of the county in the circuit court to recover the full amount of the penalty. This provision on penalties shall be in addition to and not in lieu of other provisions on penalties, civil or criminal, remedies and enforcement that may otherwise apply.

(Ord. No. 2015/24, 9-28-2015)

Sec. 99-114. - Investment and reinvestment of funds and borrowing.

Funds generated for the stormwater management utility from service fees, fees, rentals, rates, bond issues, other borrowing, grants, loans, and other sources shall be utilized only for those purposes for which the utility has been established as specified in this article, including but not limited to: regulation; planning; acquisition of interests in land, including easements; design and construction of facilities; maintenance of the stormwater system; billing and administration; water quantity and water quality management, including monitoring, surveillance, private maintenance inspection, construction inspection; public information and education, and other activities which are reasonably required. such funds shall be invested and reinvested pursuant to the same procedures and practices established by Title 12, Section 45-70 of the South Carolina State Code for investment and reinvestment of funds. County council may use any form of borrowing authorized by the laws of the State of South Carolina to fund capital acquisitions or expenditures for the stormwater management utility. County council, in its discretion and pursuant to standard budgetary procedures, may supplement such funds with amounts from the general fund.

(Ord. No. 2015/24, 9-28-2015)

Sec. 99-115. - Responsibilities of the stormwater management utility.

The county stormwater management utility shall perform adequate studies throughout the area served by the utility to determine the following:

- (1) Baseline study of water quality in the receiving waters;
- (2) Identification of pollutants carried by stormwater runoff into the receiving waters;
- (3) Recommended mitigation efforts to address pollutants carried by stormwater runoff into the receiving waters;

- (4) Inventory of the existing drainage system;
- (5) Recommended maintenance practices and standards of the existing drainage system;
- (6) Identification of capital improvements to the system to include construction or installation of appropriate BMPs.
- (7) A five-year spending plan.
- (8) Ensure compliance with the federally mandated MS4 permit requirements
- (9) Efficient utility administration including but not limited to billing, collection, defining rate structures, data management and customer support.

(Ord. No. 2015/24, 9-28-2015)

Sec. 99-116. - Stormwater utility management board.

- (1) Purpose. In compliance with and under authority of Beaufort County Ordinance 2001/23, the Beaufort County Council hereby establishes the stormwater management utility board (hereinafter referred to as the "SWU board") to advise the council as follows:
 - (a) To determine appropriate levels of public stormwater management services for residential, commercial, industrial and governmental entities within Beaufort County;
 - (b) To recommend appropriate funding levels for provision of services in the aforementioned sectors;
 - (c) To advise the staff of the stormwater management utility on master planning efforts and cost of service/rate studies; and
 - (d) To support and promote sound stormwater management practices that mitigates non-point source pollution and enhances area drainage within Beaufort County.

Municipal councils are encouraged to organize similar boards to advise them on stormwater management programs and priorities within their boundaries.

In keeping with discussions held during the formation of the stormwater utility, it is anticipated that the municipalities will appoint staff professionals as their representative on the advisory board.

- (2) Stormwater districts. Stormwater districts are hereby established as follows:

District 1 - City of Beaufort

District 2 - Town of Port Royal

District 3 - Town of Hilton Head Island

District 4 - Town of Bluffton

District 5 - Unincorporated Sheldon Township

District 6 - Unincorporated Port Royal Island

District 7 - Unincorporated Lady's Island

District 8 - Unincorporated St. Helena Island Islands East

District 9 - Unincorporated Bluffton Township and Daufuskie Island

- (3) Membership.

- (a) The SWU board is formed in accordance with Beaufort County Ordinance 92-28 and shall consist of a total of seven voting representatives from each of the following districts as noted below:

No. of Reps.	Stormwater District	Area
1	5	Unincorporated Sheldon Township
1	6	Unincorporated Port Royal Island
1	7	Unincorporated Lady's Island
1	8	Unincorporated St. Helena Island Islands East
2	9	Unincorporated Bluffton Township and Daufuskie Island
1	—	"At large"

All members of the SWU board will be appointed by county council and shall be residents of those districts or "at large" members from unincorporated Beaufort County.

- (b) The SWU board shall also consist of one nonvoting (ex officio) representative from the following districts:

Stormwater District	Municipality
1	City of Beaufort
2	Town of Port Royal
3	Town of Hilton Head Island
4	Town of Bluffton

All ex officio members from municipalities shall be appointed by their respective municipal councils for four-year terms.

- (c) All citizen members shall be appointed for a term of four years. The terms shall be staggered with one or two members appointed each year.

- (d) While no other eligibility criteria is established, it is recommended that members possess experience in one or more of the following areas: Stormwater management (drainage and water quality) issues, strategic planning, budget and finance issues or established professional qualifications in engineering, construction, civil engineering, architectural experience, commercial contractor or similar professions.
- (4) Officers.
- (a) Officers. Selection of officers and their duties as follows:
 - 1. Chairperson and vice-chair. At an annual organizational meeting, the members of the SWU board shall elect a chairperson and vice-chairperson from among its members. The chair's and vice-chair's terms shall be for one year with eligibility for reelection. The chair shall be in charge of all procedures before the SWU board, may administer oaths, may compel the attendance of witnesses, and shall take such action as shall be necessary to preserve order and the integrity of all proceedings before the SWU board. In the absence of the chair, the vice-chair shall act as chairperson.
 - 2. Secretary. The county professional staff member shall appoint a secretary for the SWU board. The secretary shall keep minutes of all proceedings. The minutes shall contain a summary of all proceedings before the SWU board, which include the vote of all members upon every question, and its recommendations, resolutions, findings and determinations, and shall be attested to by the secretary. The minutes shall be approved by a majority of the SWU board members voting. In addition, the secretary shall maintain a public record of SWU board meetings, hearings, proceedings, and correspondence.
 - 3. Staff. The Stormwater Manager shall be the SWU board's professional staff.
 - (b) Quorum and voting. Four SWU board members shall constitute a quorum of the SWU board necessary to take action and transact business. All actions shall require a simple majority of the number of SWU board members present.
 - (c) Removal from office. The county council, by a simple majority vote, shall terminate the appointment of any member of the SWU board and appoint a new member for the following reasons:
 - 1. Absent from more than one-third of the SWU board meetings per annum, whether excused or unexcused;
 - 2. Is no longer a resident of the county;
 - 3. Is convicted of a felony; or
 - 4. Violated conflict of interest rules according to the county-adopted template Ordinance.Moreover, a member shall be removed automatically for failing to attend any three consecutive regular meetings.
 - (d) Vacancy. Whenever a vacancy occurs on the SWU board, the county council shall appoint a new member within 60 days of the vacancy, subject to the provisions of this section. A new member shall serve out the former member's term.
 - (e) Compensation. The SWU board members shall serve without compensation, but may be reimbursed for such travel, mileage and/or per diem expenses as may be authorized by the SWU board-approved budget.
- (5) Responsibilities and duties.
- (a) Review and recommend to the county council for approval, a comprehensive Beaufort County Stormwater Management Master Plan and appropriate utility rate study which is in accordance with the South Carolina Stormwater Management and Sediment Reduction Act; and

- (b) Review and comment to the county administrator on the annual stormwater management utility enterprise fund budget; and
 - (c) Cooperate with the South Carolina Department of Health and Environmental Control (DHEC), Office of Coastal Resource Management (OCRM), the Oversight Committee of the Special Area Management Plan (SAMP), the Beaufort County Clean Water Task Force as well as other public and private agencies having programs directed toward stormwater management programs; and
 - (d) Review and make recommendations concerning development of a multiyear stormwater management capital improvement project (CIP) plan; and
 - (e) Review and advise on proposed stormwater management plans and procurement procedures; and
 - (f) Provide review and recommendations on studies conducted and/or funded by the utility; and
 - (g) Review and advise on actions and programs to comply with regulatory requirements, including permits issued under the State of South Carolina National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges from Regulated Small Municipal Separate Storm Sewer Systems (MS4).
- (6) Meetings. Meetings of the SWU board shall be held as established by the SWU board on a monthly basis and a calendar will be prepared giving the date, time and location of such meetings. Additionally, meetings may be called by the chairperson or at the request of four SWU board members. The location of all SWU board meetings shall be held in a public building in a place accessible to the public. The following shall apply to the conduct of all meetings:
- (a) Meeting records. The SWU board shall keep a record of meetings, resolutions, findings, and determinations. The SWU board may provide for transcription of such hearings and proceedings, or portions of hearings and proceedings, as may be deemed necessary.
 - (b) Open to public. All meetings and public hearings of the SWU board shall be open to the public.
 - (c) Recommendations or decisions. All recommendations shall be by show of hands of all members present. A tie vote or failure to take action shall constitute a denial recommendation. All recommendations shall be accompanied by a written summary of the action and recommendations.
 - (d) Notice and agenda. The SWU board must give written public notice of regular meetings at the beginning of each calendar year. The SWU board must post regular meeting agendas at the meeting place 24 hours before any meeting. Notices and agenda for call, special or rescheduled meetings must be posted at least 24 hours before such meetings. The SWU board must notify any persons, organizations and news media that request such notification of meetings.

(Ord. No. 2015/24, 9-28-2015)

Article III. – REGULATORY GENERAL PROVISIONS

Sec. 99-200. - Authority

This Ordinance is adopted pursuant to the authority conferred upon the Beaufort County (County) by the South Carolina Constitution, the South Carolina General Assembly and in accordance with Federal Clean Water Act, the South Carolina Pollution Control Act, and regulations promulgated there under.

(Ord. No. 2016/ , - -2016)

Sec. 99-201. - Findings

The County Council makes the following findings:

- (a) Beaufort County's Waters contain some of the few remaining pristine shellfish harvesting areas in the southern coastal counties of South Carolina many of its waters have been designated by the State of South Carolina as an Outstanding Resource Waters. This use has historical and traditional significance to the area. It is in the public interest that the condition of these areas be maintained and preserved for future generations. Uncontrolled stormwater runoff may have significant, adverse impact on the health, safety and general welfare of the County and the quality of life of its citizens by transporting pollutants into receiving waters and by causing erosion and/or flooding. Development and redevelopment may alter the hydrologic response of local watersheds and increases stormwater runoff rates and volumes, flooding, soil erosion, stream channel erosion, non-point pollution, and sediment transport and deposition, as well as reducing groundwater recharge. These changes in stormwater runoff may contribute to increased quantities of water-borne pollutants and alterations in hydrology which are harmful to public health, safety, and welfare, as well as to the natural environment.
- (b) Point source pollution may have significant, adverse impact on the health, safety and general welfare of the County and the quality of life of its citizens by transporting pollutants into receiving waters. The allowance of discharge pipes and outfalls for non-stormwater discharges, illegal dumping, and improper handling of accidental spills and intentional disposals increase the quantities of water-borne pollutants which are harmful to public health, safety, and welfare, as well as to the natural environment.
- (c) The effects of point and non-point source pollution, such as uncontrolled runoff, have shown evidence of degradation of the County's receiving waters; thereby adversely affecting the unique qualities of the County's receiving waters, its recreational opportunities and commercial, oystering, boating and fishing, the ecosystem's ability to naturally reproduce and thrive, and the general ability of the area to sustain its natural estuarine resources.
- (d) These deleterious effects can be managed and minimized by applying proper design and well-planned controls to manage stormwater runoff from development and redevelopment sites, manage existing natural features that maintain hydrology and provide water quality control, and eliminate potential sources of pollution to receiving waters. Public education regarding the cause and effect of these types of pollutions and the implementation of the controls and management policies is key to fundamentally changing public behavior.
- (e) This Ordinance is not in conflict with any development agreements to which the County is a party and does not prevent the development set forth in any development agreement unless impairments to the County's receiving waters is linked to this development.
- (f) This Ordinance is essential to the public health, safety or welfare and shall apply to any development that is subject to a development agreement.
- (g) Laws of general application throughout the County necessary to protect health, safety and welfare are anticipated and are provided for in development agreements.
- (h) Substantial changes in developmental impacts have occurred since the time the development agreements were signed, which changes, if not addressed in this Ordinance would pose a threat to public health, safety or welfare.

(Ord. No. 2016/____, ____ - ____-2016)

Sec. 99-202. - Purpose

- (a) It is the purpose of this Ordinance to guide development in Beaufort County to protect, maintain, and enhance the environment of the County and the short and long-term public health, safety, and general welfare of the citizens of the County by establishing requirements and procedures to control the potential adverse effects of increased stormwater runoff associated with both future development, re-development, and existing developed land. Proper management of stormwater runoff will minimize damage to public

and private property, ensure 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 minimizing associated pollutant, flooding, and drainage impacts.

(b) This Ordinance specifically authorizes and enables the County to:

1. Prohibit Illicit Discharges to the Stormwater System and receiving waters.
2. Define procedures for site plan design, review, inspection, and enforcement relative to stormwater management.
3. Control the discharge of spills, dumping or disposal of materials other than stormwater to the Stormwater System and receiving waters.
4. Address specific categories of non-stormwater discharges and similar other incidental non-stormwater discharges.
5. Control importation of water that adversely impacts our receiving waters.
6. Require temporary erosion and sediment controls to protect water quality to the maximum extent practicable during construction activities, in accordance with current state regulations.
7. Define procedures for receipt and consideration of information submitted by the public.
8. Address runoff, particularly volume, rate, and quality through the control and treatment of stormwater with stormwater management facilities and/or Best Management Practices (BMPs).
9. Develop post-construction stormwater quality performance standards, through enforcement of minimum design standards for BMPs.
10. Ensure effective long-term operation and maintenance of BMPs.
11. Carry out all inspection, surveillance, monitoring, and enforcement procedures necessary to determine compliance and noncompliance with this Ordinance and stormwater permit conditions including the prohibition of Illicit Discharges to the County's Stormwater System and the protection of water quality of the receiving waters.
12. Development, implement, and enforce regulations any and all other programs or policies to comply with the Municipal Separate Stormsewer System (MS4) permit issued by South Carolina Department of Health and Environmental Control (DHEC)

(c) The Ordinance requires prudent site planning, including special considerations for the purposes of preserving natural drainage ways incorporating on-site stormwater detention and infiltration to minimize runoff from individual sites to receiving waters by use of effective runoff management, structural and non-structural BMPs, drainage structures, and stormwater facilities.

(Ord. No. 2016/____, - -2016)

Sec. 99-203. - Definitions

The following definitions shall apply in Articles III, IV, V, and VI this Ordinance. Any term not herein defined shall be given the definition, if any, as is found elsewhere in the Code of Ordinances of Beaufort County, including the Community Development Code (CDC) Ordinance.

Administrators. The Director of Environmental Engineering and Land Management, the Stormwater Manager and other individuals designated by the County Administrator, from time to time, to administer interpret and enforce this Ordinance.

Best Management Practices ("BMP"). Stormwater management practices, either structural, non-structural or natural that has been demonstrated to effectively control movement of Stormwater, pollutants, prevent degradation of soil and water resources, and that are compatible with the planned land use.

BMP Manual. "The Manual for Stormwater Best Management and Design Practices (BMP)" establishes technical standards as referenced and incorporated into the CDC.

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

Community Development Code ("CDC"). A form based code to regulate zoning and development in Beaufort County.

County. The Beaufort County, South Carolina.

County Council. The publicly elected official of Beaufort County, South Carolina.

Department. The Stormwater Department, or any duly authorized representatives thereof as designated by the County Administrator.

Development. All project construction, modification, or use of any lot, parcel, building, or structure on land and on water.

Disconnected Impervious Areas or Disconnected Impervious Surfaces. Those non-contiguous impervious areas or impervious surfaces which produce stormwater runoff that discharges through or across a pervious area or surface (i.e. vegetated cover), of sufficient width to reduce or eliminate pollutants associated with stormwater runoff, prior to discharge to the Stormwater System.

Environment. The complex of physical, chemical, and biotic factors that act upon an ecological community and ultimately determine its form and survival.

Evapotranspiration. The sum of evaporation and plant transpiration from the Earth's land surface to atmosphere.

Excess Stormwater Volume. The additional volume of Stormwater runoff leaving the site over and above the runoff volume which existed pre-development.

Illicit Connection. A connection to the County's Stormwater System or receiving water which results in a discharge that is not composed entirely of stormwater runoff and has a detrimental effect on the Stormwater System or receiving water except those granted coverage by an active NPDES permit.

Illicit discharge. Any activity, which results in a discharge to the County's Stormwater System or receiving waters that is not composed entirely of stormwater except (a) discharge pursuant to an NPDES permit and (b) other allowable discharges as defined and exempted in this Ordinance.

Impervious Surface. As defined in the County's Best Management Practices (BMP) Manual.

Improper disposal. Any disposal through an Illicit Discharge, including, but not limited to the disposal of used oil and toxic materials resulting from the improper management of such substances.

Land Disturbance or Land Disturbing Activity. The use of land by any person that results in a change in the natural vegetated cover or topography, including clearing that may contribute to or alters the quantity and/or quality of stormwater runoff.

Maintenance. 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.

MS4. Municipal Separate Storm Sewer System.

NPDES. National Pollutant Discharge Elimination System (see "Clean Water Act.")

Natural Resources. Land, fish, wildlife, biota, air, water, ground water, drinking water supplies, and other such resources.

Outfall. The point where County's Stormwater System discharges to waters of the United States or the State of South Carolina.

Person. 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, or an agent or employee thereof, or any other legal entity.

Pollutant. Those man-made or naturally occurring constituents that when introduced to a specific environment creates a deleterious effects. Typical pollutants found in stormwater include but are not limited to sediment (suspended and dissolved), nutrients (nitrogen and phosphorus, etc.), oxygen demanding organic matter, heavy metals (iron, lead, manganese, etc.), bacteria and other pathogens, oil and grease, household hazardous waste (insecticide, pesticide, solvents, paints, etc.) and Polycyclic Aromatic Hydrocarbons (PAHs).

Property Owner or Owner. The legal or equitable owner of land.

Receiving Waters. All natural water bodies, including oceans, salt and freshwater marsh areas, lakes, rivers, streams, ponds, wetlands, and groundwater which are located within the jurisdictional boundaries of County. Stormwater management ponds, man-made wetlands, ditches, and swales constructed for the sole purpose of controlling and treating stormwater are not considered Receiving Waters.

Record Drawings. A set of drawings prepared by and certified by a South Carolina registered professional engineer or landscape architect that accurately represents the actual final configuration of the stormwater and other related infrastructure constructed in a development.

Redevelopment. As defined in the County's Best Management Practices (BMP) Manual.

Regulation. Any regulation, rule or requirement and promulgated by the County pursuant to this Ordinance.

Stormwater. Stormwater runoff, precipitation runoff, and surface runoff.

Stormwater management. The collection, conveyance, storage, treatment and disposal of Stormwater 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, Services, Systems Facilities. Those administrative, engineering, operational, regulatory, and capital improvement activities and functions performed in the course of managing the Stormwater systems of the County, plus all services. Stormwater Management Systems and Facilities are those natural and manmade channels, swales, ditches, swamps, rivers, streams, creeks, branches, reservoirs, ponds, drainage ways, inlets, catch basins, pipes, head walls, storm sewers, lakes, and other physical works, properties, and improvements which transfer, control, convey or otherwise influence the movement of Stormwater runoff and it's discharge to and impact upon receiving waters.

Stormwater Management Plan or SWMP. 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.

Stormwater Pollution Prevention Plan or SWPPP. Erosion Prevention and Sediment Control (EPSC). Also See "Stormwater Management Plan".

Stormwater System. The conveyance or system of conveyances (including roads with drainage systems, highways, right-of-way, private streets, catch basins, curbs, gutters, ditches, man-made channels, storm drains, detention ponds, and other stormwater facilities) which is designed or used for collecting or conveying Stormwater.

Structural Best Management Practices ("BMP"). A device designed and constructed to trap and filter pollutants from runoff.

Total Impervious Surface. All impervious surfaces on a site regardless if they are directly connected to another and that is not constructed using permeable pavement technology.

Utility. Beaufort County Stormwater Utility as established by County Ordinance Chapter 99 Article II.

Waiver. The modification of the minimum stormwater management requirements contained in these Articles and the BMP Manual for specific circumstances where strict adherence of the requirements would result in unnecessary hardship and not fulfill the intent of this Ordinance.

Water Quality. Those characteristics of stormwater runoff that relate to the physical, chemical, biological, or radiological integrity of water.

Water Quantity. Those characteristics of stormwater runoff that relate to the rate and volume of the stormwater runoff.

Wetlands. As defined by the Army Corps of Engineers and generally means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar type areas.

Working Day. Monday through Friday, excluding all County-observed holidays.

(Ord. No. 2016/ , -2016)

Sec. 99-204. - Applicability

Beginning with and subsequent to its effective date, this Ordinance shall be applicable to:

(a) All Development and Redevelopment

(b) Any illicit discharges

(c) The provisions of this Ordinance shall apply throughout the unincorporated areas of the County

(Ord. No. 2016/ , -2016)

Sec. 99-205. - Regulations

The County Council, may, in its discretion, amend or change this Ordinance, or adopt additional regulations to implement this Ordinance in order to comply with the State regulations, administer the Stormwater Management Department, or to otherwise further the goal of protecting the quality of the receiving waters into which the Stormwater System discharges.

(Ord. No. 2016/ , -2016)

Sec. 99-206. - County Stormwater Management Administration

Stormwater Management will be administered by the Environmental Engineering and Land Management Division and the Stormwater Department to administer and implement the regulations of this Ordinance as set forth in the CDC and BMP Manual.

(Ord. No. 2016/ , -2016)

Sec. 99-207. - Administrators of Operations, Power and Duties

(a) The Administrators shall administer, implement, and enforce provisions of this Ordinance on behalf of the County.

(b) In addition to the powers and duties that may be conferred by other provisions of the County and other laws, the Administrators shall have the following powers and duties under this Ordinance:

1. To create the BMP Manual.
2. To review and approve, approve with conditions, or disapprove applications for approval of a Stormwater Management Plan pursuant to this Ordinance;
3. To make determinations and render interpretations of this Ordinance;
4. To establish application requirements, schedules and fees for submittal and review of applications and appeals, in accordance with the standards for County Development Permits and Stormwater Permits under the County's CDC Ordinance and this Ordinance;
5. To review and make recommendations to the applications for development or redevelopment approvals;
6. To enforce the provisions of this Ordinance in accordance with its enforcement provisions;
7. To maintain records, maps, and official materials related enforcement, or administration of this Ordinance;
8. To provide expertise and technical assistance;
9. To take any other action necessary to administer the provisions of this Ordinance.

(Ord. No. 2016/ , -2016)

Sec. 99-208. - Coordination with Other Agencies

The Administrators will coordinate the County's activities with other federal, state, and local agencies, which manage and perform functions relating to the protection of receiving waters.

(Ord. No. 2016/_____, ____ - ____ -2016)

Sec. 99-209. - Cooperation with Other Governments

The County 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, and 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 these local governments or of the powers granted to these local governments by the South Carolina Constitution or statutes, including, without limitation, the power to require additional or more stringent stormwater management requirements within their jurisdictional boundaries.

(Ord. No. 2016/_____, ____ - ____ -2016)

Sec. 99-210. - Stormwater Management Standards

(a) *Reference to Best Management Practices (BMP) Manual*

The Administrators shall use the policy, criteria, and information, including technical specifications and standards, in the BMP Manual as the basis for decisions about stormwater plans and about the design, implementation and performance of structural and non-structural stormwater systems. The Stormwater Management Standards shall describe in detail how post-development stormwater runoff will be controlled and managed, the design of all stormwater facilities and practices, and how the proposed project will meet the requirements of this Ordinance. The BMP Manual includes a list of acceptable stormwater treatment practices, including the specific design criteria for each stormwater practice. These standards will be updated as technology improves.

(b) *Relationship of Stormwater Management Standards to Other Laws and Regulations.* If the specifications or guidelines of the Standards are more restrictive or apply a higher standard than other laws or regulations, that fact shall not prevent application of the specifications or guidelines in the Standards.

(Ord. No. 2016/_____, ____ - ____ -2016)

Sec. 99-211. - Review of Stormwater Management Plans

Stormwater Management Plans shall be reviewed as a component of the Development Plan review process by the Administrators. They will be reviewed for compliance with standards in this Ordinance and requirements in the CDC and BMP Manual. Procedures are outlined in BMP Manual. Requests for meetings and submission of plans will be submitted to Stormwater Department. The expected process will be as follows:

(Ord. No. 2016/_____, ____ - ____ -2016)

Sec. 99-212. - Approvals

(a) *Effect of Approval*

Approval authorizes the applicant to go forward with only the specific plans and activity authorized in the plan. The approval shall not be construed to exempt the applicant from obtaining other applicable approvals from local, state, and federal authorities.

(b) *Time Limit/Expiration*

Time limit, expiration and extensions shall be in accordance with the County's CDC Ordinance.

(Ord. No. 2016/ , - -2016)

Sec. 99-213. - Appeals

(a) Scope of Appeal

Any person aggrieved by a decision of the Administrators may appeal the same by filing an interim written notice of appeal, with the Administrators within thirty (30) days of the issuance of said decision or Notice of Violation. The interim notice of appeal must specify with reasonable practicality the grounds of the appeal and relief sought. Stormwater Utility Management Board (SWUB) will review and provide a decision within fifteen (15) day of the next Board Meeting following the appeal. The decision of the SWUB shall be final. Appeals to SWUB's decision shall be processed in accordance with State Law.

(b) Standards

1. The SWUB is limited to the following determinations for an administrative appeal:

(a) The administrators made an error in reviewing whether a standard was met. The record must indicate that an error in judgment occurred or facts, plans, or regulations were misread in determining whether the particular standard was met.

(b) Where conflicting evidence exists, the appeal is limited to determining what evidence or testimony bears the greatest credibility in terms of documentation and qualifications of those making the determination.

(c) The administrators made the decision on standards not contained in this chapter or other county Ordinances, regulations, or state law, or a standard more strict or broad was applied. This chapter does not permit administrators to consider or create standards not officially adopted.

(d) An error in applying a standard or measuring a standard was made.

2. The board, on an appeal, shall not hear any evidence or make any decision based on hardships or special conditions.

(Ord. No. 2016/ , - -2016)

Article IV. – STORMWATER MANAGEMENT STANDARDS TO BE APPLIED

Sec. 99-300. - General Requirements

(a) All development and redevelopment, including highways, shall use site planning, design, construction, and maintenance strategies for the property to maintain or restore, to the maximum extent technically feasible, the predevelopment hydrology of the property with regard to the temperature, rate, volume and duration of flow.

(b) All development shall connect Impervious Surfaces to vegetative surfaces to the maximum extent practicable.

(c) Stormwater runoff shall be controlled in a manner that:

1. Promotes positive drainage from structures resulting from development.

2. Includes the use of vegetated conveyances, such as swales and existing natural channels to promote infiltration and evapotranspiration.

3. Reduces runoff velocities and maintains sheet flow condition to prevent erosion and promote infiltration.

4. Limits its interaction with potential pollutant sources that may become water-borne and create non-point source pollution.

5. Promotes reuse of excess stormwater volume to increase evapotranspiration.
- (d) Natural vegetative buffers play an integral part in minimizing the volume of stormwater runoff by promoting infiltration and increasing evapotranspiration to reduce SW volume to receiving waters and acting as a first line of treatment of water quality pollution. Development shall observe the buffer requirements of the County's CDC Ordinance or if applicable the relevant development agreement, concept plan, and/or approved master plan.

(Ord. No. 2016/____, ____ - ____-2016)

Sec. 99-301. - Stormwater Design Requirements for Development

- (a) Developments which incorporates engineered stormwater collection, conveyance, and storage systems shall be designed to the criteria established in the latest version of County's BMP Manual

(Ord. No. 2016/____, ____ - ____-2016)

Sec. 99-302. - BMP Requirements

- (a) Effectiveness of infiltration practices is dependant on the site conditions. The BMP manual outlines guidance for properly siting infiltration practices and shall be reviewed prior to the design phase.
- (b) The owners of all new developments that receive a Stormwater Permit from the County shall be required to perform stormwater quantity monitoring at their expense to ensure compliance with the provisions of this Ordinance and ensure that volume reduction plans are operated as intended.
- (c) All construction and implementation of erosion and sediment control BMPs shall comply with the requirements of the South Carolina Stormwater Management and Sediment Reduction Act and submit reports in accordance with the BMP manual.
- (d) The County reserves the right to perform other monitoring as it deems appropriate to determine compliance with the State Sediment and Erosion Control Act.

(Ord. No. 2016/____, ____ - ____-2016)

Sec. 99-303. – Reserved.

(Ord. No. 2016/____, ____ - ____-2016)

Sec. 99-304. - Waiver

Individuals seeking a waiver in connection with a Stormwater Plan may submit to the Administrators a request for a waiver from the requirements of this Ordinance if exceptional circumstances applicable to a site exist such that adherence to the provisions of the Ordinance will result in unnecessary hardship and will not fulfill the intent of the Ordinance.

- (a) *Request of Waiver at Staff Level*
- A written request for a waiver is required and shall state the specific waiver sought and the reasons, with supporting data, a waiver should be granted. The request shall include all information necessary to evaluate the proposed waiver. Requests must outline the need for such a waiver, such as site constraints, soil characteristics, or similar engineering limitations. Cost shall not be considered cause for a waiver. The applicant will address the four areas of consideration for waiver approval as follows:
1. What exceptional circumstances to the site are evident?
 2. What unnecessary hardship is being caused?

3. How will denial of the waiver be inconsistent with the intent of the Ordinance?

4. How will granting waiver comply with intent of Ordinance?

(b) Review of Waivers

The Administrators will conduct a review of the request and will issue a decision fifteen within (15) working days of receiving the request.

(c) Appeal of Decision

Any person aggrieved by the decision of the Administrators concerning a waiver request may appeal such decision in accordance with Section 99-213 above.

(Ord. No. 2016/____, ____ - ____-2016)

Sec. 99-305. – Maintenance: General Requirements

(a) Function of BMPs as Intended

The owner of each structural BMP installed pursuant to this Ordinance shall maintain and operate it to preserve and continue its function in controlling stormwater quality and quantity at the degree or amount of function for which the structural BMP was designed.

(b) Right of County to Inspection

Every Structural BMP installed pursuant to this Ordinance shall be made accessible for adequate inspection by the County.

(c) Annual Maintenance Inspection and Report

The person responsible for maintenance of any structural BMP installed pursuant to this Ordinance shall submit to the Administrator(s) an inspection report from a registered South Carolina Professional Engineer. The inspection report, at a minimum, shall contain all of the following:

1. The name and address of the land owner;

2. The recorded book and page number of the lot of each structural BMP or a digital representation of the geographic location of each structural BMP;

3. A statement that an inspection was made of all structural BMPs;

4. The date the inspection was made;

5. A statement that all inspected structural BMPs are performing properly and comply with the terms and conditions of the approved maintenance agreement required by this Ordinance;

6. The original signature and seal of the engineer inspecting the structural BMPs; and

7. Digital photographs of the structural BMPs and pertinent components integral to its operation, including but not limited to inlet/outlet control structures, downstream receiving channel/area, embankments and spillways, safety features, and vegetation.

All inspection reports shall be on forms supplied by the Administrators. An original inspection report shall be provided to the Administrators beginning one year from the date of record drawings certification and each year thereafter on or before the date of the record drawings certification.

(Ord. No. 2016/____, ____ - ____-2016)

Sec. 99-306. - Operation and Maintenance Agreement

(b) Prior to the conveyance or transfer of any lot or building site requiring a structural BMP pursuant to this Ordinance, the applicant or owner of the site must execute an operation and maintenance agreement (see BMP manual for form) that shall be binding on all subsequent owners of the site, portions of the site, and lots or parcels served by the structural BMP. Until the transference of all property, sites, or lots served by the structural BMP, the original owner or applicant shall have primary responsibility for carrying out the provisions of the maintenance agreement.

- (b) The operation and maintenance agreement must be approved by the Administrators prior to plan approval, and it shall be referenced on the final plat and shall be recorded with the county Register of Deeds upon final plat approval. If no subdivision plat is recorded for the site, then the operations and maintenance agreement shall be recorded upon the approval of a certificate of completion with the county Register of Deeds to appear in the chain of title of all subsequent purchasers under generally accepted searching principles. A copy of the recorded maintenance agreement shall be given to the Administrators within fourteen (14) days following its recordation.

(Ord. No. 2016/ , - -2016)

Sec. 99-307. - Deed Recordation and Indications on Plat

The applicable operations and maintenance agreement pertaining to every structural BMP shall be referenced on the final plat and in covenants and shall be recorded with the county Register of Deeds upon final plat approval.

(Ord. No. 2016/ , - -2016)

Sec. 99-308. - Records of Installation and Maintenance Activities

The owner of each structural BMP shall keep records of inspections, maintenance, and repairs for at least five (5) years from the date of the record and shall submit the same upon reasonable request to the Administrator(s).

(Ord. No. 2016/ , - -2016)

Sec. 99-309. - Nuisance

The owner of each stormwater BMP shall maintain it so as not to create or result in a nuisance condition, such as but not limited to flooding, erosion, excessive algal growth, overgrown vegetation, mosquito breeding habitat, existence of unsightly debris, or impairments to public safety and health. Maintenance practices must not lead to discharges of harmful pollutants.

(Ord. No. 2016/ , - -2016)

Article V. - ILLICIT DISCHARGES AND CONNECTIONS TO THE STORMWATER SYSTEM

Sec. 99-400. - Illicit Discharges

No person shall cause or allow the discharge, emission, disposal, pouring, or pumping directly or indirectly to any stormwater conveyance, receiving water, or upon the land in manner and amount that the substance is likely to reach a stormwater conveyance or the receiving waters, any liquid, solid, gas, or other substance(including animal waste), other than stormwater.

(Ord. No. 2016/ , - -2016)

Sec. 99-401. - Non-Stormwater Discharges

- (a) Non-Stormwater discharges associated with the following activities are allowed provided that acceptable BMPs are followed:
1. Water line and hydrant flushing;

2. Landscape irrigation, unless it leads to excess SW Volume discharge
 3. Diverted stream flows;
 4. Rising ground waters;
 5. Uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20));
 6. Uncontaminated pumped ground water;
 7. Discharges from potable water sources (with dechlorination BMP utilized);
 8. Foundation drains;
 9. Air conditioning condensation;
 10. Reuse water;
 11. Springs;
 12. Water from crawl space pumps;
 13. Footing drains;
 14. Individual residential car washing;
 15. Flows from riparian habitats and wetlands;
 16. Dechlorinated swimming pool discharges; typically less than one part per million.
 17. Street wash water;
 18. Other non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under EPA authority, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system;
 19. Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety;
 20. Dye testing is an allowable discharge, but requires a verbal notification to the authorized enforcement agency prior to the test; and
 21. Firefighting.
- (b) Prohibited substances include but are not limited to: oil, anti-freeze, chemicals, animal waste, paints, garbage, and litter.

(Ord. No. 2016/____, -2016)

Sec. 99-402. - Illicit Connections

- (a) Connections to a receiving water and/or stormwater conveyance system that allow the discharge of non-stormwater, other than the exclusions described in Section 99-401 (a) above are unlawful. Prohibited connections include, but are not limited to floor drains, waste water from washing machines or sanitary sewers, wash water from commercial vehicle washing or steam cleaning, and waste water from septic systems.
- (b) Where such connections exist in violation of this section and said connections were made prior to the adoption of this Ordinance or any other Ordinance prohibiting such connections, the property owner or the person using said connection shall remove or correct the connection.

(Ord. No. 2016/____, -2016)

Sec. 99-403. - Spills

- (a) Spills or leaks of polluting substances released, discharged to, or having the potential to released or discharged to a receiving water or the stormwater conveyance system, shall be contained, controlled, collected, and properly disposed. All affected areas shall be restored to their preexisting condition.
- (b) Persons in control of the polluting substances shall immediately report the release or discharge to persons owning the property on which the substances were released or discharged, shall within two (2) hours of such an event shall notify the nearest Fire

Department (who will also notify the Administrators), and all required federal and state agencies of the release or discharge. Notification shall not relieve any person of any expenses related to the restoration, loss, damage, or any other liability which may be incurred as a result of said spill or leak, nor shall such notification relieve any person from other liability which may be imposed by State or other law.

(Ord. No. 2016/_____, ____ - ____-2016)

Sec. 99-404. - Nuisance

Illicit discharges and illicit connections which exist within the unincorporated County are hereby found, deemed, and declared to be dangerous and prejudicial to the public health, and welfare, and are found, deemed, and declared to be public nuisances. Such public nuisances shall be abated in accordance with the procedures set forth in Section 99-503 (c) & (d).

Sec. 99-405. – Suspension of a MS4 discharge due to an illicit discharge.

- a) Any person discharging to the MS4 in violation of this Ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The authorized enforcement agency will notify a violator of the proposed termination of its' MS4 access. The violator may petition the authorized enforcement agency for a reconsideration and hearing.
- b) A person commits an offence if the person reinstates MS4 access to premises terminated pursuant to this section, without the prior approval of the authorized enforcement agency.
- c) The Beaufort County, South Carolina staff may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge that presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or Waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the MS4 or Waters of the United States, or to minimize danger to persons.

(Ord. No. 2016/_____, ____ - ____-2016)

Article VI. - INSPECTION, ENFORCEMENT, AND CORRECTION

Sec. 99-500. - Inspections

The County will maintain the right to inspect any and all Stormwater Systems within it jurisdiction as outlined below:

- (a) An Inspector designated by the Administrators, bearing proper credentials and identification, may enter and inspect all properties for regular inspections, periodic investigations, monitoring, observation measurement, enforcement, sampling and testing, to ensure compliance with the provisions of this Ordinance.
- (b) Upon refusal by any property owner to permit an Inspector to enter or continue an inspection, the Inspector may 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 Administrators. The Administrators will promptly seek the appropriate compulsory process.
- (c) In the event that the Administrators or Inspector reasonably believes that discharges from the property into the County's Stormwater System or receiving waters may cause an imminent and substantial threat to human health or the environment, the inspection may take place at any time after an initial attempt to notify the owner of the property or a

- representative on site. The Inspector shall present proper credentials upon reasonable request by the owner or representative.
- (d) The Beaufort County, South Carolina, staff shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility's stormwater discharge.
 - (e) The Beaufort County, South Carolina, staff has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.
 - (f) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the authorized enforcement agency and shall not be replaced. The costs of clearing such access shall be borne by the operator.
 - (g) Unreasonable delays in allowing the Beaufort County, South Carolina, staff access to a permitted facility is a violation of a stormwater discharge permit and of this Ordinance. A person who is the operator of a facility with a NPDES permit to discharge stormwater associated with industrial activity commits an offense if the person denies the authorized enforcement agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this Ordinance.
 - (h) Inspection reports will be maintained in a permanent file at the offices of the County.

(Ord. No. 2016/____, ____ - 2016)

Sec. 99-501. - Notice and Warning.

- (a) Upon the County's attention to a violation of this Ordinance, the Administrators shall investigate the violation and prepare a report concerning the violation. If a violation exists, a warning notice shall be delivered within five (5) working days to any person occupying the property or linked to a discharge, whether the person is the owner, renter, or lessee. If the nature of the violation is not correctable, a stop work order shall be issued immediately. If no one is present or refuses to accept the notice, the Administrators shall post the warning notice on the residence or building entrance.
- (b) The warning notice shall contain the following:
 - 1. The address and legal description of the property.
 - 2. The section of this chapter being violated.
 - 3. The nature and location of the violation and the date by which such violation shall be removed or abated.
 - 4. A notice of the penalty for failing to remove or abate the violation, stating that if the nuisance recurs by the same occupant, owner, or person in charge, a notice of violation, stop work order, or notice to appear will be issued without further notice.
 - 5. The notice shall specify the number of days in which the violation shall be removed or abated, which time shall be not less than three (3) days nor more than ten (10) days, except in emergency cases.

(c) If the violation occurs where the residence or building is unoccupied, the property may be posted as provided in this section. If the property is unimproved, the notice may be placed on a tree or other such object as available.

(d) A written notice containing the same information as the warning notice shall be sent to the owner or any other person having control of the property at the last known address of the owner, or at the address of the person having control, by ordinary mail.

(Ord. No. 2016/ , - -2016)

Sec. 99-502. - Recurring Violations.

Once a notice has been delivered pursuant to County CDC and the same violation recurs on the same lot or tract of land by the same person previously responsible, no further warning notice need be given. Each day a violation continues after the expiration of the warning period to abate such a violation shall constitute a separate offence. Thereafter, the County may issue a notice of violation, stop work order, or such person deemed responsible may be notified to appear in court to answer to the charge against such person.

(Ord. No. 2016/ , - -2016)

Sec. 99-503. - Failure to Act Upon Warning Notice.

Upon neglect or failure to act upon the warning notice of violation, and/or stop work order given as provided in section 99-501 & 502, the County shall issue a notice to appear and shall follow the procedures as follows:

(a) Service of notice to appear. If a warning notice is given and, after the time for removal or abatement has lapsed, the property is reinspected and the County Official finds and determines the violation has not been removed or abated, the County Official shall fill out and sign, as the complainant, a complaint and information form or a notice to appear. The notice to appear shall include the following:

1. Name of the occupant, owner, or person in charge of the property.
2. The address or legal description of the property on which the violation is occurring.
3. This chapter section or other reference the action or condition violates.
4. The date on which the case will be on the court docket for hearing.
5. Any other information deemed pertinent by the County Official.

The original copy of the notice to appear shall be forwarded to the clerk of the court for inclusion on the court's docket for the date indicated on the notice to appear.

(b) Notice to appear; delivery by mail. If no one is found at the property to accept a notice to appear for failure to remove or abate a violation, the County Official shall fill out and sign the notice to appear as the complainant and deliver the original plus one copy to the Clerk of the Court. The Clerk shall verify or insert the date the case has been set for

hearing before the Court. The Clerk shall mail the copy by certified mail to the person named in the notice to appear at that person's last known address.

(c) *Abatement by County; costs assessed to person responsible.* If the occupant, owner, or person in charge of the property for which a warning notice has been given fails to remove or abate the violation in the time specified in the notice, whether on public or private property, the County may, if severe conditions exist that affect health, welfare, safety or severe environmental degradation, remove the violation and thereby abate the violation. If necessary, the County may lawfully enter upon the property on which the violation remains unabated to remove or abate such violation at the cost of the person responsible for creating or maintaining the violation. The violation will be subject to civil fines reflecting the cost to the County, as prosecuted by the County Attorney.

(d) *Payment of costs; special tax bill or judgment.* All costs and expenses incurred by the County in removing or abating any violation on any private property may be assessed against the property as a lien on the property. Alternatively, the cost of removing or abating the violation may be made part of the judgment by the judge, in addition to any other penalties and costs imposed if the person charged either pleads or is found guilty of causing, creating, or maintaining a violation.

(Ord. No. 2016/ , - -2016)

Sec. 99-504. - Penalty for Violation.

(a) Any person, group, firm, association or corporation violating any section of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall pay such penalties as the court may decide, as prescribed by state law, not to exceed \$500.00 or 30 days imprisonment for each violation. Each day during which such conduct shall continue shall subject the offender to the liability prescribed in this article.

(b) In addition to the penalties established and authorized in subsection (a) of this section, the County Attorney shall take other actions at law or in equity as may be required to halt, terminate, remove, or otherwise eliminate any violations of this chapter.

(Ord. No. 2016/ , - -2016)

Sec. 99-505. - Interpretation

(a) *Meaning and Intent*

All provisions, terms, phrases, and expressions contained in this Ordinance shall be construed according to the general and specific purposes set forth in Section 99-202, Purpose. If a different or more specific meaning is given for a term defined elsewhere in County's Code of Ordinances or in an existing development agreement, the meaning and application of the term in this Ordinance shall control for purposes of application of this Ordinance.

(b) *Text Controls in Event of Conflict*

In the event of a conflict or inconsistency between the text of this Ordinance and any heading, caption, figure, illustration, table, or map, the text shall control.

(c) *Authority for Interpretation*

The Administrators have, after consultation with County Attorney, authority to determine the interpretation of this Ordinance. Any person may request an interpretation by submitting a written request to the Administrators who shall respond in writing within thirty

(30) days. The Administrators shall keep on file a record of all written interpretations of this Ordinance.

(d) References to Statutes, Regulations, and Documents

Whenever reference is made to a resolution, Ordinance, statute, regulation, manual (including the BMP Manual), or document, it shall be construed as a reference to the most recent edition of such that has been finalized and published with due provision for notice and comment, unless otherwise specifically stated.

(e) Delegation of Authority

Any act authorized by this Ordinance to be carried out by the County Administrator may be carried out by his or her designee.

(f) Usage

1. Mandatory and Discretionary Terms

The words "shall," "must," and "will" are mandatory in nature, establishing an obligation or duty to comply with the particular provision. The words "may" and "should" are permissive in nature.

2. Conjunctions

Unless the context clearly indicates the contrary, conjunctions shall be interpreted as follows: The word "and" indicates that all connected items, conditions, provisions or events apply. The word "or" indicates that one or more of the connected items, conditions, provisions or events apply.

3. Tense, Plurals, and Gender Words used in the present tense include the future tense. Words used in the singular number include the plural number and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise. Words used in the masculine gender include the feminine gender, and vice versa.

(g) Measurement and Computation

Lot area refers to the amount of horizontal land area contained inside the lot lines of a lot or site.

(Ord. No. 2016/ , - -2016)

Sec. 99-506. - Conflict of Laws

This Ordinance is not intended to modify or repeal any other Ordinance, rule, regulation or other provision of law. The requirements of this Ordinance are in addition to the requirements of any other Ordinance, rule, regulation or other provision of law, and where any provision of this Ordinance imposes restrictions different from those imposed by any other Ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human or environmental health, safety, and welfare, shall control.

(Ord. No. 2016/ , - -2016)

Sec. 99-507. - Severability

If the provisions of any section, subsection, paragraph, subdivision or clause of this Ordinance shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision or clause of this Ordinance.

(Ord. No. 2016/ , - -2016)

This Ordinance will become effective upon approval by Council Council.

Adopted this day of , 2016.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY:

Paul Sommerville, Chairman

APPROVED AS TO FORM:

Thomas Keavney, County Attorney

ATTEST:

Suzanne M. Rainey, Clerk to Council

First Reading:

Second Reading:

Public Hearing:

Third and Final Reading:

(Ord. No. 2005/33, § 17, 8-22-2005; Ord. No. 2009/21, §§ I—VI, 5-26-2009; Ord. No. 2015/24, 9-28-2015; Ord. No. 2016/____, 09-26-2016; Ord. No. 2016/____, - -2016)

Beaufort County Stormwater Ordinance Revision for MS4 Compliance

Summary Presentation
September 19, 2016



Outline

- History of the Ordinance
- Why the revision was needed
- New content
- Approval process and implementation



History of revisions

- 2001
- 2005
- 2015
- 2016, revision 1
- 2016, revision 2



Why the update was needed

- MS4 permit requires
 - Illicit Discharge program
 - Construction runoff standards
 - Construction permitting
 - Post Construction standards
 - Inspection
 - Enforcement



New SW Ordinance

- Chapter 99 Article I – reserved (unused)
- Article II – SW Utility. Defines rate structure, fees, Board
- New – Article III. Regulatory Provisions
- New – Article IV. Design Standards
- New – Article V. Illicit Discharge
- New – Article VI. Inspection, Enforcement



Article III

- Regulatory Authority
 - Established by the EPA Clean Water Act and DHEC Pollution Control Act
 - Enables
 - Authority to set design standards
 - IDDE program
 - Plan review, permitting program
 - Inspection and enforcement program
 - Sets jurisdiction and powers of the Administrator
 - Appeals of the Admin's decisions to SWUB
 - References the BMP Manual as the technical guide



Article IV

- Stormwater Management Standards
 - All development must generally:
 - Convey, store and treat runoff
 - Design to mimic pre-existing hydrology to METF
 - Design, construct, and maintain BMPs
(Specifics in the BMP Manual)
 - Waiver by the Admin. and appeals to the SWUB
 - Annual maintenance and inspections required
 - Recorded “Maintenance Agreements”



Article V

- Illicit Discharges and Connections to the MS4
 - Non-stormwater discharges , illicit connections, and exemptions defined
 - Spill response policy (accidental release)
 - Nuisance abatement
 - Suspension of a permitted discharge due to non-compliance



Article VI

- Inspection, Enforcement, & Correction
 - County's duty for timely inspection, right of entry
 - Escalating enforcement (times & fines)
 - Warning notice
 - Notice of violation
 - Stop work order
 - Civil citation
 - Abatement by the County and reim. of costs
 - Penalty = \$500 /day and/or 30 days in jail
- Interpretations, Conflict w/ other law, Severability



Approval Process and Implementation

- First draft was released June 13, 2016
- Series of 4 Public meetings in June
- Second draft released August 24
- Internal staff review August 31
- Public Comment period closed Sept. 1
- SWIC Sept. 7
- SWUB Sept 14
- NRC Sept. 19
- CC in September & October



Questions?

Recommendation:

Recommend to County Council the September 9, 2016 Stormwater Management Utility Ordinance Amendment as recommended by the Stormwater Utility Board on September 14, 2016

