

## TOWN COUNCIL

### STAFF REPORT

#### Projects and Watershed Resilience Department



<b>MEETING DATE:</b>	January 28, 2025
<b>PROJECT:</b>	Discussion of Proposed Amendments to the Southern Lowcountry Stormwater Design Manual's Fee-In-Lieu Program
<b>PROJECT MANAGER:</b>	Andrea Moreno, MS4 Program Manager

**REQUEST:** To provide direction on the proposed amendments to the Southern Lowcountry (SoLoCo) Stormwater Design Manual as it pertains to Fee-In-Lieu (FIL) as it relates to Maximum Extent Practicable (MEP) Analysis as it relates to Maximum Extent Practicable (MEP) Analysis.

**BACKGROUND:** Maximum Extent Practicable (MEP) is the language of the Clean Water Act that sets the standards to evaluate efforts pursued to achieve pollution reduction to the Waters of the United States. As a MS4, the Town must require controls to reduce the discharge of pollutants to the MEP. The MEP may be met through stormwater best management practices, control techniques and system, and design and engineering methods, which is accomplished through the use of the Town's Unified Development Ordinance and SoLoCo Stormwater Design Manual.

As part of the SoLoCo Stormwater Design Manual, developers may submit for MEP when the proposed development site has constraints or limitations which prevent SoLoCo Stormwater Design Manual requirements from being met, specifically stormwater retention volume (SWRv) requirements. SWRv is the volume of stormwater runoff that a stormwater management system can store and treat to improve water quality. The MEP submittal must provide documentable evidence of the process the applicant has performed that demonstrates the restrictions to the use and implementation of the Best Management Practices (BMPs) to meet the SWRv requirements.

When a development project cannot accommodate the required SWRv due to on-site constraints identified in the approved MEP analysis, the developer could opt to pay a Fee-In-Lieu (FIL) to the Town of Bluffton for the shortfall according to the FIL fee schedule to be adopted as part of the FY26 budget Master Fee Schedule. Funds collected through FIL payments would then be used by the Town to fund other qualified uses that protect water quality within the same watershed as the original project including:

- The construction and maintenance of impervious restoration program water quality BMPs;
- Purchase of land for increased conservation areas, application of Better Site Design to the approved Master Plan, buffers, undisturbed open space, and natural resource of significance areas, and
- Purchase of development rights.

FIL payment would be based and equal to a unit of SWRv in cubic feet or designating a conservation area/easement area that protects a qualified natural resource that would otherwise require the same SWRv treatment if developed. The monetary value for a unit of SWRv would be based on the current and typical costs for land as well as associated costs for design, construction, construction management, Town program management, post-construction inspection, and ongoing maintenance of water quality BMPs. The SWRv FIL rate would be found as part of the Town's Master Fee Schedule, under Section VII "Stormwater Management Fees," allowing for annual review and updates as needed based on the Consumer Price Index (CPI) or based on updated information regarding the cost of water quality BMP construction and maintenance, changes in the

construction industry, availability of supplies, etc. If the developer and/or private property owner take responsibility for maintaining the BMP or provide land, then the associated cost for a unit of SWRv could be lessened accordingly.

**CONSIDERATIONS:** Below is a list of items for Town Council consideration, should you choose to move forward with amending the SoLoCo Stormwater Design Manual.

- a. Consider monetary basis for Fee-in-Lieu?
- b. Consider Fee-in-Lieu qualified uses?
- c. Do you want to include a Fee-in-Lieu fee schedule as part of the Town's FY26 Master Fee Schedule?
  - If so, staff will make sure to include the Fee-in-Lieu rate fee as part of the Town's FY26 Master Fee Schedule.
- d. Do you want to exempt Public Projects from Fee-in-Lieu?
  - If so, staff will make sure to include specific exemptions within the proposed amendments to the SoLoCo Stormwater Design Manual.

If so, Staff will move forward with amendments to the Southern Lowcountry Stormwater Design Manual. The design manual was adopted as a Resolution. Below is a tentative timeline:

- a. Planning Commission – November 20, 2024
- b. Watershed Action Plan Advisory Committee – December 5, 2024
- c. Town Council Workshop – January 28, 2025
- d. Town Council Adoption by Resolution – March 11, 2025

**ATTACHMENTS:**

1. Workshop Presentation
2. SOLOCO Edits Redline